

MINUTES
ALABAMA REAL ESTATE APPRAISERS BOARD
RSA UNION STREET
SUITE 370
MONTGOMERY, ALABAMA
January 16, 2014

MEMBERS PRESENT:

Mrs. Dot Wood (Chairman)
Mr. Christopher Baker (Vice-Chairman)
Mr. Kenneth D. Wallis, III
Mr. Joseph Lundy
Mr. Fred Crochen
Mr. Chester Mallory
Mr. Edmond G. Eslava, III
Mr. Mark Moody

MEMBERS ABSENT:

Mr. Dennis Key

OTHERS PRESENT:

Mrs. Lisa Brooks, Executive Director
Ms. Neva Conway, Legal Counsel
Mrs. Carolyn Greene, Executive Secretary
Mr. Sam Davis, Investigator
Mr. Joe Dixon, Investigator

GUESTS PRESENT:

Mr. Randy Grayson, Grant, AL
Mrs. Vicki Ledbetter-Metcalf, Appraisal Subcommittee
Mrs. Claire Brooks, Appraisal Subcommittee

- 1.0 With quorum present Mrs. Dot Wood, Chairman, called the meeting to order at 8:25 a.m. Mrs. Carolyn Greene, Executive Secretary, recorded the minutes. The meeting was held in the 3rd Floor Conference Room, 100 North Union Street, Montgomery, Alabama. Prior notice of the meeting was posted on the Secretary of State's website on January 3, 2014 in accordance with the Alabama Open Meetings Act.
- 2.0 The meeting was opened with prayer, led by Mr. Crochen, followed by the Pledge of Allegiance, led by Mr. Moody.
- 3.0 Members present were Mr. Kenneth Wallis, III, Mr. Joseph Lundy, Mr. Fred Crochen, Mrs. Dot Wood, Mr. Mark Moody, Mr. Edmond G. Eslava, III, Mr. Chris Baker and Mr. Chester Mallory. Member absent was Mr. Dennis Key.

Mrs. Wood welcomed the guests present and asked Board Members to introduce themselves.

4.0 On motion by Mr. Mallory and second by Mr. Wallis, the regular minutes for November 21, 2013 were approved as written. Motion carried by unanimous vote.

5.0 Ms. Conway discussed 56-CV-2011-900009.00 (Joshua M. Smith V. Alabama Real Estate Appraisers Board) with the Board. Ms. Conway stated that this case is on appeal for the second time and that she has no news to report on it at this time.

6.0 Mr. Wallis discussed the SB73 with the Board. This Bill adds language to the law to require background checks on all applicants for licensure. Mr. Wallis stated that Senator Dick Brewbaker pre-filed SB73 and that the Bill had its second reading in the Senate on January 15th. Mr. Mallory stated that he is working with Rep. McClammy to file the Bill in the House.

Administrative Rule 780-X-3-.02 (Application for Non-Residents) was presented for permanent adoption by the Board and Ms. Conway asked the Board to approve filing for final adoption of the rules as published in the Administrative Monthly. Mr. Lundy moved for final adoption of the rules as published. Mr. Crochen seconded the motion. Motion carried by unanimous vote.

7.0 On motion by Mr. Lundy and second by Mr. Baker the following applications were voted on as listed. Motion carried by unanimous vote.

7.1 **Trainee Real Property Appraiser applications approved:** Britton R. Falkner, K. Dawn Irvin, Steven Michael Kaiser, Jessica Leigh Karroll, Calvin Powell Perryman and Thomas Patrick Price. **Applications deferred:** None. **Applications denied:** None.

Trainee Real Property Appraiser Experience Logs for Review: Logs approved: Brent Franklin and Leah Pryor. **Logs deferred:** Jonathan Entrekin, Donald Haynes, Denise Hill, Abby E. Jones, Ashley Joseph and John Kenneth Lewis. **Logs denied:** None.

7.2 **State Registered Real Property Appraiser applications approved:** Randy Smyth. **Application deferred:** None. **Application denied:** None.

7.3 **Licensed Real Property Appraiser applications approved:** Paul Shiver. **Application deferred:** None. **Applications denied:** None.

7.4 **Certified Residential Real Property Appraiser applications approved:** Horace Lynn Carter (Recip.)(GA), Suson Darlene Daugherty, Walter Richard Muller, Dillard Richardson (Recip.)(MS), and Jay Courtney Smith (Recip.)(FL). **Application deferred:** Dustin H. Phillips. **Applications denied:** None.

7.5 **Certified General Real Property Appraiser applications approved:** Kevin Dale Branton (Recip.)(FL), Patricia Crowley, Ceiliah P. Epner (Recip.)(FL), Lynn Foster (Recip.)(MS), Henry Bryan Glascock (Recip.)(TN), Paul Joseph Holzschuh (Recip.)(FL), Jason T. Roos (Recip.)(KS), and Richard Smith. **Application deferred:** None. **Applications denied:** None.

7.6 **Mentor applications approved:** Steve Graham, Hayden L. Scott and David C. Singleton. **Applications deferred:** None. **Applications denied:** None.

8.0 Mr. Lundy presented the Finance report and stated that the Board was 25% into Fiscal Year 2014 and 29% into budget expenditures. Mr. Lundy stated that there were no negative trends that could not be reconciled at this time.

On motion by Mr. Mallory and second by Mr. Baker, the Board voted to approve the Financial Report. Motion carried by unanimous vote.

The Investment report was included for Board information.

9.0 On motion by Mr. Lundy and second by Mr. Crochen, the following education courses and instructor recommendations were approved, deferred, or denied as indicated. Motion carried by unanimous vote.

MCKISSOCK, LP

(LIC) 2014-2015 15-Hour National USPAP – 15 Hours – Online
(Instructor: Dan Bradley)

Both Course and Instructor Approved

(CE) Disciplinary Cases – What Not To Do – 7 Hours – Classroom
(Instructor: Steve Maher)

Instructor Approved

(CE) Relocation Appraising: New ERC Summary Appraisal Report – 7 Hours – Classroom
(Instructor: Steve Maher)

Instructor Approved

(CE) FHA for Today's Appraiser – 7 Hours – Classroom
(Instructor: Steve Maher)

Instructor Approved

(CE) Introduction to Complex Appraisal Assignments – 7 Hours – Classroom
(Instructor: Amelia Brown)

Instructor Approved

(CE) Reviewer's Checklist – 7 Hours – Classroom
(Instructor: Steve Maher)

Instructor Approved

(CE) Introduction to Complex Appraisal Assignments – 7 Hours – Classroom

(Instructor: Steve Maher)

Instructor Approved

(CE) Reviewer's Checklist – 7 Hours – Classroom

(Instructor: Amelia Brown)

Instructor Approved

(CE) 2014-2015 National USPAP Update – 7 Hours – Classroom

(Instructor: Steve Maher)

Instructor Approved

(CE) The Green Guide to Appraising – 7 Hours – Classroom

(Instructor: Dan Bradley, Wally Czekalski, Ken Guilfoyle, Chuck Huntoon, Tracy Martin, Larry McMillen, Steve Vehmeier, Susanne Barkalow, Paul Lorenzen and Steve Maher)

Both Course and Instructors Approved

(CE) UAD – Up Close and Personal – 3 Hours – Classroom

(Instructor: Dan Bradley, Wally Czekalski, Ken Guilfoyle, Chuck Huntoon, Tracy Martin, Larry McMillen, Steve Vehmeier, Susanne Barkalow, Paul Lorenzen and Steve Maher)

Both Course and Instructors Approved

NATIONAL ASSOCIATION OF INDEPENDENT FEE APPRAISERS

(CE) 2014-2015 National USPAP Update – 7 hours – Classroom

(Instructor: Mike Orman)

Both Course and Instructor Approved

(CE) Residential Appraising in a Changing Market – 7 hours – Classroom

(Instructor: Mike Orman)

Both Course and Instructor Approved

REQUEST FOR CONTINUING EDUCATION CREDIT

Mrs. Brooks discussed a request from Mr. John Fitzgerald for credit for attending the Marshall & Swift Commercial Cost Training course. On motion by Mr. Lundy and second by Mr. Wallis, the Board voted to grant 7 hours continuing education credit to Mr. Fitzgerald. Motion carried by unanimous vote.

Mr. Eslava made a motion to grant Mrs. Brooks and the Education Chair the ability to approve education outside a normal Board meeting under special circumstances. Mr. Wallis seconded the motion. Motion carried by unanimous vote.

The Board reviewed the following disciplinary reports.

AB-11-29 – On November 21, 2013, the Board approved a Consent Settlement Order with Hubert Chapman, R00732 where Licensee agreed to pay an administrative fine of \$2250 to the Board, completion a 30 hour Board approved course sales comparison approach. The violations in the report are as follow: Licensee reports that “Market conditions within the area are stable”; “sales of homes competitive to the subject were limited over the last twelve months.” Single family prices range from a low of \$60,000 to a high of \$290,000 with an average price of \$125,000. These statements are contradicted by a Market Conditions report generated by the investigator utilizing the local MLS for the 12 months preceding the effective date of the appraisal. Investigation showed that in the immediate area of the subject in the 12 months prior to the appraisal the lowest sale was \$29,500 and the highest was \$121,500; that there were a total of 24 sales with a median sale price of \$65,100; that median comparable sale prices are decreasing. Of the 24 sales, 14 were REO sales or non-Market Value transactions and the remaining 10 sales ranged from a low of \$94,900 to a high of \$121,500 averaging \$112,200; the number of comparable sales, absorption rate, active listings, and median sales price as a percentage of list prices were all decreasing; Days on the market were increasing. These factors do not indicate a stable market. The use of comparable sales from areas outside of the subject’s competitive market area gave a misleading representation of the condition of the subject’s market area. Licensee fails to use the best comparable sales that were available at the time of the appraisal. Licensee utilized sales from outside the subject’s competitive market area when there were sales very similar to the subject located in the competitive market area and in close proximity to the subject property. The licensee utilized six comparable sales in the report. Three were higher valued sales from areas outside of the subject’s competitive market area that greatly altered a reader’s impression of the area. The three sales utilized by the licensee from outside the competitive market area sold from \$144,000 up to \$185,000 and the three sales that were located in the subject competitive area sold from \$106,000 to \$120,000. Licensee states that comparable 1 has no finished basement area, when the local MLS for the sale the licensee was using clearly states that there is a den in the basement. It is also noted that MLS listings for a sale on 5/14/10 also indicates the basement den area, an MLS listing for a sale dated 7/13/07 indicates the basement den area and an MLS listing of the property on 3/8/04 indicates the basement den area. The licensee listed the wrong MLS number for comparable sale 6. On Page 1 of the report the licensee list the low price of houses in the market area as \$60,000 when it is actually \$29,500. On page 1 of the report the licensee list the high price of houses in the market area as \$290,000 when it is actually \$121,500. On page 1 of the report the licensee list the average price of houses in the market area as \$125,000 when it is actually \$65,100. Licensee did not verify the comparable sales utilized in the sales comparison approach with a party to the transaction. The licensee did not analyze the agreement of sale, only listed facts that were in the contract such as sales price, date of the contract and sales concessions.

There was no analysis as to the motivation of buyer or seller, no analyses if both parties were well informed or well advised, no analyses as to reasonable exposure to the open market or if the price was influenced by special or creative financing. The licensee's written appraisal report is based on unsupported opinions and conclusions and therefore is not accurate and is misleading to a reader of the report. Licensee's report contained misleading information about the market conditions in the subject neighborhood that could not be supported with market data. The licensee utilized comparable sales from areas outside of the subject's competitive market area that were misleading to readers of the report and gave a misleading representation of the market in the subject's market area. The report is based on unsupported opinions and conclusions. Licensee's report contained misleading information about the market conditions in the subject neighborhood that could not be supported with market data. **Violation: Ethics Rule-Conduct Section; Standards Rules 1-1(a), 1-1(b), 1-1(c), 1-4(a), 1-5(a), 1-5(b), 2-1(a), 2-1(b), 2-2(b)(viii), USPAP, 2010-11 Edition.**

A Letter of Warning was issued on the following investigation for the discrepancies indicated. This disciplinary action will be considered in any future discipline proceedings:

AB 13-13 A Letter of Warning was issued and Licensee was assessed a \$250 administrative fine for the appraisal of a single family dwelling where Licensee did not having market based data or other justification for the adjustments utilized in the licensee's Sales Comparison Approach. Licensee did not having market based data or other justification for the adjustments utilized in the licensee's Sales Comparison Approach. **Violation: Standard 1-1, 2-1(b), USPAP, 2012-2013 Ed.**

Ms. Conway discussed with the Board the investigative status charts. Ms. Conway informed the Board 11 new complaints were received since the November 2013 Board meeting, 7 complaints were dismissed, and 2 complaints were settled, leaving a total of 45 open complaints.

11.0 The Board reviewed Probable Cause Report **AB-13-31**: With Mrs. Wood and Mr. Baker recusing, on motion by Mr. Lundy and second by Mr. Moody, the Board voted probable cause does not exist and to issue a Letter of Counsel. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-13-32**: With Mr. Baker recusing, on motion by Mr. Lundy and second by Mr. Moody, the Board voted to accept the Disciplinary Committee's recommendation that probable cause does exist and to set this case for a hearing. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-13-33**: With Mr. Wallis and Mr. Baker recusing, on motion by Mr. Lundy and second by Mr. Moody, the Board voted to accept the Disciplinary Committee's recommendation that probable cause does exist and to set this case for hearing. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-13-34 companion to AB-13-35**: With Mr. Lundy and Mr. Baker recusing, on motion by Mr. Mallory and second by Mr. Moody, the Board voted to accept the Disciplinary Committee's recommendation that probable cause does exist and to set this case for hearing. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-13-35 companion to AB-13-34**: With Mr. Lundy and Mr. Baker recusing, on motion by Mr. Mallory and second by Mr. Moody, the Board voted to accept the Disciplinary Committee's recommendation that probable cause does exist and to set this case for hearing. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-13-40**: With Mr. Lundy and Mr. Baker recusing, on motion by Mr. Crochen and second by Mr. Moody, the Board voted probable cause does not exist and to issue a Letter of Counsel. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-13-41**: With Mr. Crochen recusing, on motion by Mr. Moody and second by Mr. Baker, the Board voted probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-13-42**: With Mr. Crochen recusing, on motion by Mr. Mallory and second by Mr. Moody, the Board voted probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-13-48**: With Mr. Crochen recusing, on motion by Mr. Lundy and second by Mr. Mallory, the Board voted probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-13-49**: With Mr. Crochen recusing, on motion by Mr. Moody and second by Mr. Wallis, the Board voted probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

12.0 The Board reviewed the Consent Settlement Order on **AB-12-23 and AB-12-25 (Roger M. Pugh, G00162)**. With Mr. Baker recusing, on motion by Mr. Lundy and second by Mr. Mallory, the Board voted to approve this Consent Settlement Order. Motion carried by unanimous vote.

13.0 The following reciprocal licenses were issued since last meeting: Kevin Dale Branton ('G' FL), Horace Lynn Carter ('R' GA), Ceilliah P. Epner ('G' FL), Lynn Foster ('G' MS), Henry Bryan Glascock ('G' TN), Paul Joseph Holzschuh ('G' FL), Dillard Richardson ('R' MS), Jason T. Roos ('G' KS), and Jay Courtney Smith ('R' FL).

14.0 The Temporary Permit report was provided to the Board for their information.

15.0 The Appraisal Management report was provided to the Board for their information.

16.0 At this time Mrs. Claire Brooks, from the Appraisal Subcommittee, reported to the Board the findings of the review that she and Mrs. Ledbetter-Metcalf completed on the Board:

- Regarding Statutes and Regulations:
 - AQB Criteria requires that Supervisory Appraisers shall not have been subject to any disciplinary action within any jurisdiction within the last 2 years that affects the Supervisory Appraiser's legal eligibility to engage in appraisal practice. Alabama's Administrative Code has no such requirement.
 - Alabama's reciprocal policy does not comply with the requirements of Title XI and ASC Policy Statement 5.
- There were no compliance issues found with the Temporary Permit process.
- There were no compliance issues found with the National Registry.
- Regarding the processing of applications:
 - AQB Criteria requires experience claimed by an appraiser applicant must include, in the experience log, the number of actual work hours performed by the applicant on each assignment. Alabama relies on a point system for experience logs and applicants are instructed to record points as well as actual hours on experience logs. An applicant was granted an upgrade from licensed classification to certified classification but the actual hours claimed on the experience log did not total the 500 hours required by the AQB.
- Regarding Reciprocity:
 - Alabama's reciprocal policy does not comply with the requirements of Title XI and ASC Policy Statement 5. Alabama's reciprocal application requires the applicant to be from a State that has a reciprocal agreement listed on their website.
- There were no issues found with Education processing.
- Regarding Enforcement:
 - By policy, the Board dismissed complaints involving appraisals that were more than 5 years old based on the Record Keeping Rule in USPAP, which specifies that appraisers must retain their workfile for at least 5 years.

Mrs. Brooks discussed a memorandum from Thomas L. White, Jr., State Comptroller, announcing that the travel mileage rate for 2014 decreased to 56 cents per mile.

Mrs. Brooks discussed the tentative Board meeting schedule for 2014 with the Board. On motion by Mr. Eslava and second by Mr. Moody, the Board voted to meet on the 3rd Thursday of every other month. Motion carried by unanimous vote.

The Board discussed the Temporary Permit Fee. On motion by Mr. Lundy and second by Mr. Moody, the Board voted to increase the Temporary Permit Fee to \$250 per assignment. Motion carried by unanimous vote.

- 17.0 Mr. Eslava discussed the AMC fee study. Further discussion will be held at the March Board meeting.

The Board discussed creating an Inactive Status for licensees. On motion by Mr. Lundy and second by Mr. Wallis, the Board voted to create an Inactive Status. Licensees wishing to put their license in an Inactive Status would have to apply for that status before September 30th, pay \$175 annually and meet all educational requirements due at that renewal. A licensee could only remain in the Inactive Status for 3 renewal cycles. Mrs. Wood and Mr. Mallory opposed the motion. Board members in favor were Mr. Lundy, Mr. Wallis, Mr. Baker, Mr. Moody, Mr. Crochen and Mr. Eslava. Motion carried. The Board will discuss this matter further at the May Board meeting.

- 18.0 Mr. Baker discussed the distance that Trainee appraisers can travel to perform commercial appraisals. On motion by Mr. Baker and second by Mr. Crochen, the Board voted to waive the limit of 50 miles for Trainees who are performing commercial appraisals. Motion carried by unanimous vote.

- 19.0 At 10:47 a.m., on motion by Mr. Baker and second by Mr. Moody, the Board voted to adjourn the regular Board meeting. Motion carried by unanimous vote. The Board's meeting schedule for the remainder of 2014 is March 20, 2014, May 15, 2014, July 17, 2014, September 18, 2014 and November 20, 2014 in the 3rd Floor Conference Room, 100 North Union Street, Montgomery, Alabama.

Sincerely,

Carolyn Greene
Executive Secretary
/cg

APPROVED: _____
Dot H. Wood, Chairman