

REAL ESTATE APPRAISER BOARD

MINUTES OF MEETING

August 16, 2011

The Real Estate Appraiser Board met at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia. The following Board members were present:

Diane Quigley, Chair
H. Glenn James, Vice-Chair
Richard Pruitt
John C. Harry
Sandra Johnson
Betsy Critzer
Laura Sanchez del Solar

Board member not present:

Ryan A. Myers
Michael Miller

DPOR Staff present for all or part of the meeting included:

Nick Christner, Deputy Director
Mark Courtney, Deputy Director
Christine Martine, Executive Director
Kevin Hoeft, Board Administrator
Bonnie Rhea Adams, Director of Complaint
Analysis & Resolution
Earlyne Perkins, Legal Analyst
Emily Trent, Administrative Assistant

Chair Diane Quigley called the meeting to order at 10:05 AM.

Call to Order

A motion was made by Mr. Pruitt and seconded by Ms. Critzer to approve the agenda. The motion passed unanimously. Members voting "Yes" were Critzer, Harry, James, Johnson, Pruitt, Quigley and Sanchez del Solar.

Approval of Agenda

A motion was made by Mr. Harry and seconded by Mr. Pruitt to approve the following minutes: May 4, 2011, Board Meeting; June 9,

Approval of Minutes

2011, Informal Fact-Finding Conference; and June 29, 2011, Informal Fact-Finding Conference. The motion passed unanimously. Members voting "Yes" were Critzer, Harry, James, Johnson, Pruitt, Quigley and Sanchez del Solar.

Jayne Allen addressed the Board regarding the UAD format. No action was taken by the Board.

Public Comment

Heather Fox addressed the Board regarding the UAD format. No action was taken by the Board.

Pat Turner addressed the Board regarding the AMC law passed in 2010, asking the Board to support the VAR efforts to request the Office of the Attorney General's office in perusing cease and desist orders, where applicable. No action was taken by the Board.

In the matter of **File Number 2011-04438, Robert Allen Garrett**, the Board reviewed the application file, the transcript, and exhibits from the Informal Fact-Finding (IFF) Conference, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. A motion was made by Mr. Harry and seconded by Mr. Pruitt to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to deny Mr. Garrett' application for a Certified General Real Estate Appraiser Instructor Certificate. The Board denies the application based upon the record. After reviewing the facts, the Board thoroughly considered the record, the Summary of the IFF and Recommendation, and after a review of the record, the Board determines that Garrett's license has not been in good standing for a minimum of two (2) years as required by the Board's regulation, therefore the Board denies the application at this time. The motion passed unanimously. Members voting "Yes" were Critzer, Harry, Johnson, Pruitt, Quigley and Sanchez del Solar.

File Number 2011-04438,
Robert Allen Garrett

As the presiding Board member, Mr. James did not vote or participate in this matter.

In the matter of **File Number 2011-04696, David Sangree**, the Board reviewed the application file, the transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. A motion was made by Mr. Harry and seconded by Mr. Pruitt to accept the recommendation contained in the Summary of the Informal Fact-

File Number 2011-04696,
David Sangree

Finding Conference to approve Mr. Sangree's application for a Certified General Real Estate Appraiser license. The motion passed unanimously. Members voting "Yes" were Critzer, Harry, Johnson, Pruitt, Quigley and Sanchez del Solar.

As the presiding officer, Mr. James did not vote or participate in this matter.

In the matter of **File Number 2011-03583, Barry S. Sacks**, the Board reviewed the Consent Order as seen and agreed to by Mr. Sacks. A motion was made by Ms. Johnson and seconded by Ms. Sanchez del Solar to accept the proposed Consent Order wherein Mr. Sacks admits a violation of 18 VAC 130-20-180.K.4 (Count 1) of the Board's 2008 Regulations, and a violation of 18 VAC 130-20-180.K.5 (Count 2) of the Board's 2008 Regulations, and agrees to no monetary penalty for the violation contained in Count 1, \$400.00 for the violation contained in Count 2, as well as \$150.00 in Board costs, for a total of \$550.00. In addition, for violation of Counts 1 and 2, Sacks agrees to two (2) year probation of his license as of the effective date of this order. During this two (2) year probation, Sacks agrees to: (1) Not be in violation of any rules and regulations of the Real Estate Appraiser Board for transactions occurring after the effective date of this order; (2) Not be involved in any lawsuits that arise from conduct related to its licensure with the Board/Department; (3) Provide to the Board, on a quarterly basis, a written statement and supporting documentation that he in compliance with terms listed above. If Sacks violates any terms of this probation, his license shall be automatically suspended until such time as there is complete satisfactory compliance. Sacks understands the right to have this suspension considered in an informal fact-finding conference and/or formal hearing under Sections 2.2-4019, 2.2-4020, and 2-2.4021 of the Code of Virginia, and knowingly and voluntarily waives any rights to these proceedings. The motion passed unanimously. Members voting "Yes" were Critzer, Harry, James, Johnson, Quigley and Sanchez del Solar.

File Number 2011-03583,
Barry S. Sacks

As the Board member who reviewed the file, Mr. Pruitt did not vote or participate in this matter.

In the matter of **File Number 2011-03042, Charles W. Philbrick**, the Board reviewed the Consent Order as seen and agreed to by Mr. Philbrick. A motion was made by Mr. James and seconded by Ms. Critzer to accept the proposed Consent Order wherein Mr. Philbrick

File Number 2011-03042,
Charles W. Philbrick

admits to a violation of 18 VAC 130-20-180.D (Count 1) of the Board's 2008 Regulations, and admits to a violation of 18 VAC 130-20-180.E (Count 2) agrees to a monetary penalty of \$200.00 for the violation contained in Count 1, \$200.00 for the violation contained in Count 2, as well as \$150.00 in Board costs for a total of \$550.00. In addition, for violation of Counts 1 and 2, Philbrick is required to complete a classroom Upper Level Residential Appraisal Course approved by The Appraisal Foundation or the Board within six (6) months of the execution of this Order. Such course shall be a minimum of fifteen (15) classroom hours and shall not be a distance education course ("*distance education*" means an educational process based on the geographical separation of provider and student, i.e., CD-ROM, on-line learning, correspondence courses, etc.). Upon successful course completion, Philbrick shall provide the Board with proof of passing the exam. It is acknowledged that satisfactory completion of the above-referenced course will not count towards any continuing or pre-license education requirements needed for license renewal, reinstatement, or upgrade. The motion passed unanimously. Members voting "Yes" were Critzer, Harry, James, Johnson, Quigley and Sanchez del Solar.

As the Board member who reviewed the file, Mr. Pruitt did not vote or participate in this matter.

In the matter of **File Number 2011-03540, Diarra K. Hall**, the Board reviewed the Consent Order as seen and agreed to by Ms. Hall. A motion was made by Ms. Sanchez del Solar and seconded by Ms. Johnson to accept the proposed Consent Order wherein Ms. Hall admits a violation of 18 VAC 130-20-180.K.5 (Count 1) of the Board's 2008 Regulations, and agrees to no monetary penalty for the violation contained in Count 1, as well as \$150.00 in Board costs for a total of \$150.00. The motion passed unanimously. Members voting "Yes" were Critzer, Harry, James, Johnson, Quigley and Sanchez del Solar.

File Number 2011-03540,
Diarra K. Hall

As the Board member who reviewed the file, Mr. Pruitt did not vote or participate in this matter.

In the matter of **File Number 2011-03256, Steven B. Hagy**, the Board reviewed the Consent Order as seen and agreed to by Mr. Hagy. A motion was made by Mr. James and seconded by Ms. Sanchez del Solar to accept the proposed Consent Order wherein Mr. Hagy admits a violation of 18 VAC 130-20-180.E (Count 1) of the Board's 2008 Regulations, a violation of 18 VAC 130-20-180.D (Count 2) of the

File Number 2011-03256,
Steven B. Hagy

Board's 2008 Regulations, a violation of 18 VAC 130-20-180.D (Count 3) of the Board's 2008 Regulations, a violation of 18 VAC 130-20-180.E (Count 4) of the Board's 2008 Regulations, and a violation of 18 VAC 130-20-180.D (Count 5) of the Board's 2008 Regulations and agrees to a monetary penalty of \$500.00 for the violation contained in Count 1, \$500.00 for the violation contained in Count 2, \$500.00 for the violation contained in Count 3, \$500.00 for the violation contained in Count 4, \$500.00 for the violation contained in Count 5, as well as \$150.00 in Board costs for a total of \$2,650.00. The motion passed unanimously. Members voting "Yes" were Critzer, Harry, James, Johnson, Pruitt, Quigley and Sanchez del Solar.

In the matter of **File Number 2011-02885, David Tyler Bland**, the Board reviewed the Consent Order as seen and agreed to by Mr. Bland. A motion was made by Mr. Harry and seconded by Mr. Pruitt to accept the proposed Consent Order with an amendment to the education hours wherein Mr. Bland admits a violation of 18 VAC 130-20-180.D (Count 1) of the Board's 2008 Regulations, a violation of 18 VAC 130-20-180.D (Count 2) of the Board's 2008 Regulations, a violation of 18 VAC 130-20-180.D (Count 3) of the Board's 2008 Regulations, and a violation of 18 VAC 130-20-180.J (Count 4) of the Board's 2008 Regulations, agrees to a monetary penalty of \$750.00 for the violation contained in Count 1, \$750.00 for the violation contained in Count 2, \$750.00 for the violation contained in Count 3, \$750.00 for the violation contained in Count 4, as well as \$150.00 in Board costs for a total of \$3,150.00. Also, for violation of Counts 1 - 4, Bland is required to complete a classroom Upper Level Residential Appraisal Course approved by The Appraisal Foundation or the Board within six (6) months of the execution of this Order. Such course shall be a minimum of 30 classroom hours and shall not be a distance education course ("*distance education*" means an educational process based on the geographical separation of provider and student, i.e., CD-ROM, on-line learning, correspondence courses, etc.). Upon successful course completion, Bland shall provide the Board with proof of passing the exam. It is acknowledged that satisfactory completion of the above-referenced course will not count towards any continuing or pre-license education requirements needed for license renewal, reinstatement, or upgrade. Further, for violation of Counts 1 - 4, Bland agrees to one (1) year probation of his license as of the effective date of this order. During this one (1) year probation, Bland agrees to: (1) Not be in violation of any rules and regulations of the Real Estate Appraiser Board for transactions occurring after the effective date of this order; (2) Not

File Number 2011-02885,
David Tyler Bland

be involved in any lawsuits that arise from conduct related to its licensure with the Board/Department; (3) Submit three (3) appraisals each quarter for review. If Bland violates any terms of this probation, his license shall be automatically suspended until such time as there is complete satisfactory compliance. Bland understands the right to have this suspension considered in an informal fact-finding conference and/or formal hearing under Sections 2.2-4019, 2.2-4020, and 2-2.4021 of the Code of Virginia, and knowingly and voluntarily waives any rights to these proceedings. The motion passed unanimously. Members voting "Yes" were Critzer, Harry, Johnson, Pruitt, Quigley and Sanchez del Solar.

As the Board member who reviewed the file, Mr. James did not vote or participate in this matter.

In the matter of **File Number 2011-01190, Ronald H. Bozeman**, the Board reviewed the investigative file, the transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. A motion was made by Ms. Critzer and seconded by Ms. Johnson to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 130-20-180.K.4 (Count 1), of the Board's 2008 Regulations, and a violation of 18 VAC 130-20-180.K.5 (Count 2), of the Board's 2008 Regulations. The motion passed unanimously. Members voting "Yes" were Critzer, Harry, James, Johnson, Pruitt, Quigley and Sanchez del Solar.

File Number 2011-01190,
Ronald H. Bozeman

A motion was made by Ms. Critzer and seconded by Ms. Johnson to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to impose a monetary penalty of \$1,000.00 for the violation contained in Count 2, for a total of \$1,000.00. The Board also imposes the following sanctions: In addition, for Count 1 and Count 2, Bozeman's license will be suspended until he provides evidence acceptable to the Board that his Maryland license has been reinstated. The motion passed unanimously. The motion passed unanimously. Members voting "Yes" were Critzer, Harry, James, Johnson, Pruitt, Quigley and Sanchez del Solar.

A motion was made by Mr. Harry and seconded by Ms. Critzer to approve the filing of an Exempt Action Final Regulation to update the Board's Regulations to comply with federal requirements. The Appraisal Subcommittee's individual appraiser biennial National

Administrative Issues

Registry Fee is being increased from \$50 to \$80 and the Appraisal Foundation's biennial Uniform Standards of Professional Appraisal Practice book fee is being increased from \$21 to \$30. These changes go into effect on January 1, 2012. The motion passed unanimously. The motion passed unanimously. Members voting "Yes" were Critzer, Harry, James, Johnson, Pruitt, Quigley and Sanchez del Solar.

A motion was made by Mr. Pruitt and seconded by Ms. Critzer to approve Dennis N. Bunker, III's request that the Board amend his September 13, 2010, Certified General Real Estate Appraiser License Agreement for Licensure (File Number 2010-04981). Mr. Bunker requested that the Board allow him to submit the ten (10) remaining commercial appraisal reports cited in the Agreement for Licensure beginning October 1, 2011, and no later than December 31, 2012. A minimum of two reports per quarter must be provided to the Board for the next five quarters beginning with the quarter ending on December 31, 2011. The motion passed unanimously. Members voting "Yes" were Critzer, Harry, Johnson, Pruitt, Quigley and Sanchez del Solar. Mr. James abstained from voting on the matter.

The Board discussed the subject of Uniform Appraisal Dataset (UAD) forms addressed during the Public Comment period. A motion was made by Mr. Harry and seconded by Ms. Critzer to have staff draft a letter expressing concerns about conflicts between USPAP and the UAD to be sent to the Office of the Attorney General's office for review, then forward to the federal authorities asking to delay implementation of the UAD. In addition, the letter should copy Senator Warner and Senator Webb. The motion passed unanimously. The motion passed unanimously. Members voting "Yes" were Critzer, Harry, James, Johnson, Pruitt, Quigley and Sanchez del Solar.

Old Business

The Board discussed the acceptance of demonstration appraisal submitted by license applicants. Kevin Hoeft, Board Administrator, will work with Mr. James on a Guidance Document to clarify what constitutes sample appraisal report and demonstration appraisals.

The Board members completed Conflict of Interest training.

Conflict of Interest Training

There being no further business, the meeting adjourned at 12:45 P.M.

Adjourn

Diane Quigley, Chair

Gordon Dixon, Secretary

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