

REAL ESTATE APPRAISER BOARD

MINUTES OF MEETING

May 1, 2007

The Real Estate Appraiser Board met at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. The following Board members were present:

John C. Harry, III, Chairman
Janet Fuller (departed at 2:15 PM)
Sandra Johnson (arrived at 10:23 AM,
departed at 2:40 PM)
Harry Lewis, Jr.
Douglas Mullins, Jr. (departed at 2:35 PM)
Richard Pruitt
Diane Quigley
Pat Turner, Jr. (departed at 2:10 PM)

The following Board members were not present: Gina Burgin

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

David Ashe, Chief Deputy Director
Karen O'Neal, Deputy Director
Nick Christner, Deputy Director
Christine Martine, Executive Director
Tammie Hall-Jones, Regulatory Board
Administrator
Earlyne Perkins, Legal Analyst
Chris Olson, Administrative Assistant

Elisabeth Peay from the Attorney General's office was present. Jenny Tidwell and Kristi Klamet, from the Appraisal Subcommittee were present.

Chairman Harry called the meeting to order at 10:05 AM.

Call to Order

A motion was made by Ms. Fuller and seconded by Mr. Lewis to approve the agenda. The motion passed unanimously. Members voting "Yes" were Fuller, Harry, Lewis, Mullins, Pruitt, Quigley, and Turner.

Approval of Agenda

A motion was made by Mr. Lewis and seconded by Ms. Quigley to approve the following minutes: February 15, 2007 Informal Fact-Finding Conferences; February 20, 2007 Board Meeting; March 16, 2007, Informal Fact-Finding Conferences; March 29, 2007, Informal Fact-Finding Conferences; April 3, 2007, Informal Fact-Finding Conferences; and April 5, 2007 Informal Fact-Finding Conferences. The motion passed unanimously. Members voting “Yes” were Fuller, Harry, Lewis, Mullins, Pruitt, Quigley, and Turner.

Approval of Minutes

No one addressed the Board during the **Public Comment** Period.

Public Comment

In the matter of **File Number 2007-03792, Jermaine Clemons**, the Board reviewed the record, which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. A motion was made by Mr. Pruitt and seconded by Ms. Fuller to accept the recommendation and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Mr. Clemons’ application for a Real Estate Appraiser Trainee License. The motion passed by majority vote. Members voting “Yes” were Fuller, Harry, Lewis, Mullins, Pruitt, and Quigley. Member voting “No” was Turner.

**File Number 2007-03792,
Jermaine Clemons**

In the matter of **File Number 2007-03663, Ronald Cole**, the Board reviewed the record, which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. A motion was made by Mr. Pruitt and seconded by Mr. Turner to accept the recommendation and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Mr. Cole’s application for a Real Estate Appraiser Trainee License. The motion passed unanimously. Members voting “Yes” were Fuller, Harry, Lewis, Mullins, Pruitt, Quigley, and Turner.

**File Number 2007-03663,
Ronald Cole**

In the matter of **File Number 2006-02544, Robert Cole**, the Board reviewed the record which consisted of the disciplinary file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. Brian Lytle, attorney for the respondent, was present and addressed the Board. A motion was made by Mr. Turner and seconded by Ms. Quigley to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find violations of 18 VAC 130-20-180.E (Count 1), 18 VAC 130-20-180.D (Count 2), and 18 VAC 130-20-60.4 (Count 3) of the Board’s 2003 regulations. The

**File Number 2006-02544,
Robert Cole**

motion passed unanimously. Members voting “Yes” were Fuller, Harry, Lewis, Mullins, Quigley, and Turner.

A motion was made by Mr. Turner and seconded by Mr. Lewis to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and impose a monetary penalty of \$1,000.00 for each violation contained in Counts 1-3 for a total of \$3,000.00. In addition, for the violations contained in Counts 1-3, the Board imposed probation of Mr. Cole’s license until such time that he completes a fifteen (15) hour USPAP course offered/sponsored by a provider that is a member of the Appraisal Foundation (no online courses) and provides evidence of satisfactory completion, including proof of passing an examination, within 180 days of the effective date of this order. The motion passed unanimously. Members voting “Yes” were Fuller, Harry, Lewis, Mullins, Quigley, and Turner.

As the presiding Board member at the Informal Fact-Finding Conference, Mr. Pruitt did not participate in the discussion or vote related to this matter.

Board Member Sandra Johnson arrived at 10:23 AM.

Arrival of Board Member

In the matter of **File Number 2006-02416, John A. Ruff**, the Board reviewed the record which consisted of the disciplinary file, transcript and exhibits of the presiding officer. Derrick Rosser, attorney for the respondent, and Mr. Ruff, the respondent, were present and addressed the Board.

**File Number 2006-02416,
John A. Ruff**

The Board recessed from 11:25 AM to 11:37 AM.

Break

At 11:38 AM. Mr. Turner made a motion which was seconded by Ms. Quigley, that the Board recess and the Board immediately reconvene in closed meeting for the purpose of deliberation on disciplinary case resulting from Informal of Formal Hearings in order to reach a decision as permitted by § 2.2-3711.A.28 of the *Code of Virginia*. The following non-members will be in attendance to reasonably aid the consideration of the topic: Christine Martine, Earlyne Perkins, David Ashe, Jenny Tidwell, Kristi Klamet, and Elizabeth Peay.

Closed Session

This motion is made with respect to the matter(s) identified as agenda item(s):

6. File Number 2006-02416 – John A Ruff

At 1:25 PM., a motion was made by Mr. Turner and seconded by Mr. Lewis that the Board reconvene in open session.

WHEREAS, the Real Estate Appraiser Board has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

Certification

WHEREAS, §2.2-3712 of the Code of Virginia requires a certification by this Real Estate Appraiser Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Real Estate Appraiser Board hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Real Estate Appraiser Board.

VOTE: 8-0

AYES Fuller, Harry, Johnson, Lewis, Mullins, Pruitt, Quigley, and Turner

NAYS: None

ABSENT DURING THE VOTE:

ABSENT DURING THE MEETING: Burgin

In the matter of **File Number 2006-02416, John A. Ruff**, a motion was made by Ms. Fuller and seconded by Mr. Lewis to find a violation of 18 VAC 130-20-180.K.1 (Count 1) of the Board's 2003 Regulations. The Board voted to find a violation of the regulation as the evidence shows that Ruff failed to provide adequate supervision. The regulations provide that the trainee supervisor, to among other things, personally inspect each appraisal property with the trainee until the supervisor determines the trainee is competent. Mr. Morris told the Board's agent that Mr. Ruff never inspected any

File Number 2006-02416,
John A. Ruff

properties with him. Mr. Ruff also admitted at the Informal Fact-Finding Conference that he never went with Mr. Morris on any inspections. The motion passed unanimously. Members voting "Yes" were Fuller, Harry, Lewis, Mullins, Quigley, and Turner.

A motion was made by Mr. Lewis and seconded by Mr. Turner to find a violation of 18 VAC 130-20-180.K.1 (Count 2) of the Board's 2003 Regulations. The Board voted to find a violation of the regulation as electronic records such as Vamanet and e-neighborhoods, access to MLS, and personal telephone calls do not adequately ensure professional competency. Mr. Ruff lives in Bedford which is more than 200 miles from the Tidewater area. No evidence in the record shows that Mr. Ruff spent sufficient time in the Tidewater area to understand the nuances of the local market and the supply and demand factors relating to the specific property type and location involved. The motion passed unanimously. Members voting "Yes" were Fuller, Harry, Lewis, Mullins, Quigley, and Turner.

A motion was made by Ms. Johnson and seconded by Mr. Pruitt to find a violation of 18 VAC 130-20-180.K.1 (Count 3) of the Board's 2003 Regulations. The Board voted to find a violation of the regulation as the evidence shows that Mr. Ruff failed to provide adequate supervision. Mr. Ruff admits he never inspected any properties with Mr. Morris. Exhibit S-6g, a report prepared by Mr. Morris and reviewed by Mr. Ruff shows that Mr. Ruff stated he inspected the property himself when he admits he did not. The motion passed unanimously. Members voting "Yes" were Fuller, Harry, Lewis, Mullins, Quigley, and Turner.

A motion was made by Ms. Quigley and seconded by Ms. Fuller to find a violation of 18 VAC 130-20-180.K.1 (Count 4) of the Board's 2003 Regulations. The Board voted to find a violation of the regulation as the evidence shows that Mr. Ruff failed to provide adequate supervision. The regulations provide that the trainee supervisor, to among other things, personally inspect each appraisal property with the trainee until the supervisor determines the trainee is competent. Ms. Hockman told the Board's agent that Mr. Ruff never inspected any properties with her. Mr. Ruff also admitted at the Informal Fact-Finding Conference that he never went with Ms. Hockman on any inspections. The motion passed unanimously. Members voting "Yes" were Fuller, Harry, Lewis, Mullins, Quigley, and Turner.

A motion was made by Mr. Mullins and seconded by Mr. Pruitt to find a violation of 18 VAC 130-20-180.K.1 (Count 5) of the Board's 2003 Regulations. The Board voted to find a violation of the regulation as electronic records such as Vamanet and e-neighborhoods, access to MLS, and personal telephone calls do not adequately ensure professional competency. Mr. Ruff lives in Bedford which is more than 140 miles from Fredericksburg and the surrounding areas. No evidence in the record shows that Mr. Ruff spent sufficient time in Fredericksburg and the surrounding areas to understand the nuances of the local market and the supply and demand factors relating to the specific property type and location involved. The motion passed unanimously. Members voting "Yes" were Fuller, Harry, Lewis, Mullins, Quigley, and Turner.

A motion was made by Mr. Turner and seconded by Mr. Lewis to find a violation of 18 VAC 130-20-180.K.1 (Count 6) of the Board's 2003 Regulations. The Board voted to find a violation of the regulation and impose the sanction of license suspension for the violation of the regulation. The Board's ability to discharge its statutory duty to protect the public welfare hinges upon its ability to adequately investigate complaints. Additionally, with the privilege of being granted a license by the Board, comes the regulatory obligation to cooperate in administrative investigations and provide records when requested. By failing to respond to the investigator, Mr. Ruff has exempted himself from his regulatory obligations, and unnecessarily hindered the Board's ability to collect relevant information. It appears from the evidence in the record, Mr. Ruff does not feel the need to cooperate with the Board or honor the requirements of the Board's regulations. The Board assures the public welfare is protected by ensuring licensees comply with the Board's regulations. It is one thing to fail to follow the regulations out of inadvertence or ignorance. It is quite another matter to intentionally flaunt the regulations and repeatedly inhibit the Board's ability to adequately investigate potential violations. The motion passed unanimously. Members voting "Yes" were Fuller, Harry, Lewis, Mullins, Quigley, and Turner.

A motion was made by Mr. Mullins and seconded by Ms. Fuller to impose a monetary penalty of \$2,500.00 for the violation contained in Count 1. The motion passed unanimously. Members voting "Yes" were Fuller, Harry, Lewis, Mullins, Quigley, and Turner.

A motion was made by Ms. Quigley and seconded by Ms. Fuller to impose a monetary penalty of \$2,500.00 for the violation contained in Count 2. The motion passed unanimously. Members voting "Yes" were Fuller, Harry, Lewis, Mullins, Quigley, and Turner.

A motion was made by Mr. Turner and seconded by Ms. Fuller to impose a monetary penalty of \$2,500.00 for the violation contained in Count 3. The motion passed unanimously. Members voting "Yes" were Fuller, Harry, Lewis, Mullins, Quigley, and Turner.

A motion was made by Mr. Pruitt and seconded by Mr. Turner to impose a monetary penalty of \$2,500.00 for the violation contained in Count 4. The motion passed unanimously. Members voting "Yes" were Fuller, Harry, Lewis, Mullins, Quigley, and Turner.

A motion was made by Ms. Fuller and seconded by Ms. Johnson to impose a monetary penalty of \$2,500.00 for the violation contained in Count 5 for a total monetary penalty of \$12,500.00. The motion passed unanimously. Members voting "Yes" were Fuller, Harry, Lewis, Mullins, Quigley, and Turner.

A motion was made by Mr. Lewis and seconded by Mr. Pruitt to impose the sanction of Suspension of the license for a period of six (6) months for the violation of the regulation. The motion passed unanimously. Members voting "Yes" were Fuller, Harry, Lewis, Mullins, and Quigley. Mr. Turner abstained from voting in the matter.

Elizabeth Peay updated the Board on the use of Automated Valuation Models to obtain an estimated market value of property.

Automated Valuation Models (AVM's)

George Dodd addressed the Board concerning the use of Automate Valuation Models. The Board agreed without dissent to create a committee to review the use of Automated Valuation Models. The committee members will be Pat Turner and Diane Quigley. The Board requested that either Chris Call or Mike Miller be asked to participate on the committee.

Board member Pat Turner departed at 2:10 PM.

Departure of Board Member

Board member Janet Fuller departed at 2:15 PM.

Departure of Board Member

Board member Doug Mullins departed at 2:35 PM.

**Departure of Board
Member**

Board member Sandra Johnson departed at 2:40 PM.

**Departure of Board
Member**

Jenny Tidwell, Appraisal Policy Manager for the Appraisal Subcommittee, gave a Field Review Report to the Board. No action was taken by the Board

ASC Field Review Report

There being no further business, the meeting adjourned at 2:47 PM.

Adjourn

John C. Harry, III, Chairman

Jay W. DeBoer, Secretary