



**BOARD OF REAL ESTATE APPRAISERS MEETING
February 2, 2012**

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MINUTES

BOARD OF REAL ESTATE APPRAISERS

February 2, 2012
Colorado Division of Real Estate
1560 Broadway, Suite 1250C
Denver, CO 80202

A meeting of the Colorado Board of Real Estate Appraisers was held on Thursday, February 2, 2012 at 1560 Broadway, Suite 1250C, Denver, Colorado at 9:00 a.m.

Notice of the meeting was published timely and the meeting was held pursuant to the Colorado Sunshine Laws, Title 24, Article 6, C.R.S., as amended.

ORDER OF BUSINESS BY THE VICE-CHAIR:

Call to Order, Roll call, Determination of a Quorum-

The meeting was called to order at 9:01 a.m. – Chair Robin Anderson made a quorum determination.

Board Members in attendance: Chair-Robin Anderson, Vice Chair-Frank Beltran, Deborah Delaney, Susan Secrest, Wayne Hunsperger and Bruce Willard. Board Member Tony Navarro is absent for the beginning portion of the meeting.

Also attending were Marcia Waters, Division Director; Cary Whitaker, Deputy Director; Hollis Glenn, Investigations Manager; Penny Elder, ESP Program Manager; Eric Turner, Education, Policy & Communications Manager; Lisa Brenner-Freimann, Assistant Attorney General; Heather Flannery, Assistant Attorney General; Doreen Archuleta, Enforcement; Martha Torres-Recinos, Program Support, and several members of the Board's staff. The meeting was open to the public and several members of the public attended.

MINUTES APPROVAL-

The Board deferred approval of the Minutes of the January 5, 2012 meeting until March.

Motion unanimously carried.

ORDER OF BUSINESS:

Policy Matters, Updates and Information

Education Task Force Appointment-

It was moved by Mr. Hunsperger and seconded by Mr. Beltran to approve the appointment of Mr. Kyle Hooper from the Colorado Department of Local Affairs to the Education Task Force Committee for BOREA.

Motion unanimously carried.

Legislative Update-

Director Marcia Waters provided the Board with an update on the beginning of this year's Legislative Session.

- HB12-1110, Concerning the Regulation of Appraisal Management Companies
- HB12-1036, Concerning Exemption from the "Colorado Open Records Act" for Investigative Files. This bill is being sponsored by the Attorney General's Office
- HB12-1119, Concerning Limitations on Fines Imposed by State Agencies for Minor Offenses. This bill could remove the Division of Real Estate's authority to fine for non-compliance issues.

At the request of Ms. Anderson, Director Waters will review Congressional Senator Bennett's bill called "Project Green", regarding the building of energy efficient homes.

Citizen Participation:

Lee Ormiston addressed the Board. Mr. Ormiston is representing the Colorado Coalition of Appraisers, the Colorado Association of Assessors and the Colorado Association of Tax Appraisers.

NOTE: Mr. Tony Navarro arrives for the meeting at 9:18 a.m.

COMPLAINT INVESTIGATIONS:

Case No. 2011091057 (Bob Skinner, Investigator)

Mr. Glenn presented this matter to the Board.

Complaint No. 2011091057 the report alleged violations of: §12-61-710(1)(i), C.R.S., subject to discipline from another state; Board Rule 8.6, Providing contact information; Board Rule 13.5, Requirement to disclose discipline; Board Rule 13.4, Requirement to respond to a complaint; and Board Rule 13.9, Requirement to respond to Board request.

The Board received notice from the Iowa Appraisal Board in September, 2011, that the respondent's license had been indefinitely suspended on November 17, 2009 due to respondent's failure to comply with the terms of a December 2008 consent order resulting from respondent's repeated failure to adhere to appraisal standards, exercise reasonable diligence, and incompetence in appraisal practice. The Iowa Board also charged respondent with public harm and repeatedly demonstrating a lack of qualifications. The respondent filed one written response to Colorado Staff's complaint notice that was not responsive to the complaint allegations. Respondent has not kept his contact information current and has not responded to multiple additional attempts by Staff to elicit a response that speaks to the allegations.

Mr. Hunsperger moved and Mr. Beltran seconded that the Board finds that reasonable grounds exist to believe that violations of appraisal law occurred in Case Number 2011091057. The Board voted to refer back to Staff for a settlement offer consistent with Staff recommendations of Level 4 discipline including revocation of respondent's real estate appraiser's license, and a \$3,000 fine.

Motion unanimously carried.

Case No. 2011060765 (John Fausett, Contract Investigator)
Mr. Glenn presented this matter to the Board.

Complaint No. 2011091057 the report alleged violations of: USPAP – Ethics Rule: Record Keeping Section; Competency Rule; Scope of Work Rule; Standard 1; Standards Rule 1-1(a), 1-1(b), and 1-1(c); Standards Rule 1-2(c) and 1-2(h); Standards Rule 1-4, 1-4(a), and 1-4(b); Standards Rule 1-5(a); Standards Rule 1-6(a) and 1-6(b); Standard 2; Standards Rule 2-1(a) and 2-1(b); and Standards Rule 2-2(b)(v), 2-2(b)(vii), 2-2(b)(viii), and 2-2(b)(x); and §12-61-710(1)(g), C.R.S.

The respondent appraised a townhome that was in the process of being built. The scope of work included an interior inspection, however the respondent was unable to gain access to the interior. As result, the respondent took interior photographs of another unfinished townhome and included them in his appraisal report. In addition to this issue, the respondent did not use recognized methods and techniques in the development of his appraisal, did not appropriately verify comparable sales data, did not reconcile the data used in the sales comparison approach, did not clearly and accurately report the assignment results in a manner that was not misleading, and did not retain documentation in support of his opinions and conclusions in his work file. The respondent currently has an appraisal practice in California where he resides.

Ms. Delaney moved and Mr. Beltran seconded that the Board finds that reasonable grounds exist to believe that violations of appraisal law occurred in Case Number 2011060765. The Board voted to refer back to Staff for a settlement offer consistent with Staff recommendations of Level 3 discipline including a Stipulation for Diversion; a \$1,500 fine; supervision of three appraisals in three months; 15-hour USPAP; 15 hours of Residential Appraiser Site Valuation and Cost Approach; and 7 hours in Sales Comparison. .

Mr. Tony Navarro is opposed. **Motion carried.**

LICENSING AND OTHER MATTERS:

No matters presented.

EXPEDITED SETTLEMENT PROGRAM (ESP):

ESP Matter, OAC Case APR2006-0001-
Penny Elder presented this matter to the Board.

The Board was requested to reconsider discipline from the respondent in OAC Case APR2006-0001. The respondent has requested that the disciplinary icon be removed in connection with his license. After discussion, it was moved by Mr. Beltran and seconded by Ms. Delaney to approve the removal of the disciplinary icon.

Motion unanimously carried.

ESP Matter, Complaint #2010111238 was removed from consideration.

EXECUTIVE SESSION

At 9:46 a.m., Ms. Anderson moved that the Board of Real Estate Appraisers enter into executive session pursuant to Colorado Revised Statutes section 24-6-402(3)(a)(II) for the purpose of receiving legal advice on specific legal questions regarding the scope of the attorney client privilege and the sunset review process. Mr. Navarro seconded the motion and the Board entered into Executive Session.

Motion unanimously carried.

The Board re-entered open session at 10:25 a.m.

Executive Session Matter – Sunset Review Process/Attorney Client Privilege-

After discussion, it was moved by Ms. Anderson and seconded by Mr. Hunsperger to determine on a case-by-case basis whether the Board will waive the attorney client privilege to allow the sunset review staff to be present during executive session. Sunset review staff will be excluded from executive session during the period of time deemed appropriate for discussions involving attorney client privilege, and will be welcomed back for other matters not invoking the attorney client privilege.

Motion unanimously carried.

ADJOURN:

The regular meeting of the Colorado Board of Real Estate Appraiser's meeting adjourned at 10:41 a.m. on February 2, 2012.

Robin Anderson, Chair

Frank Beltran, Vice-Chair

Deborah Delaney

Wayne Hunsperger

Anthony Navarro

Susan Secrest

Bruce Willard

Marcia Waters, Director
Colorado Division of Real Estate

EXECUTIVE SESSION MINUTES

After a two-thirds majority vote and pursuant to §24-6-402(3)(A)(II), C.R.S., the Colorado Board of Real Estate Appraisers held Executive Sessions during its regular public meeting held on February 2, 2012. The Board publicly announced the subject matter of the Executive Sessions, which was to confer with the Board's attorney regarding the status and strategy of disciplinary cases referred to the alternative diversion program, expedited settlement procedure or hearing by the Board and that are the subject of pending or imminent litigation, continuing education issues and other attorney-client privileged communications.

ATTESTATIONS

Pursuant to § 24-6-402(2)(d.5)(I)(B), C.R.S., as counsel for the Board, I attest that it is my opinion that all matters discussed during the executive sessions of the Colorado Board of Real Estate Appraiser's meeting held on February 2, 2012, constituted privileged attorney-client communications and, therefore, the contents of such discussions neither are reflected within these minutes nor is the content of such discussions maintained in electronically recorded format.

Lisa Brenner-Freimann
Assistant Attorney General
Attorney for the Colorado Board of Real
Estate Appraisers

Pursuant to §24-6-402(2)(d.5)(I)(B), C.R.S., as Board Chair I attest that the executive sessions of the Colorado Board of Real Estate Appraisers held on February 2, 2012 was confined to the topic authorized for discussion pursuant to §24-6-402(3)(a)(II), C.R.S.

Robin Anderson, Chair
Colorado Board of Real Estate Appraisers



Division of Real Estate
Marcia Waters
Director

John W. Hickenlooper
Governor

Barbara J. Kelley
Executive
Director

MINUTES BOARD OF REAL ESTATE APPRAISERS RETREAT

February 2, 2012
Division of Real Estate
1560 Broadway, Suite 1250-C
Denver, CO 80202

The Colorado Board of Real Estate Appraisers held a retreat at the Division of Real Estate on February 2, 2012. Board members in attendance were Chair Robin Anderson, Vice-Chair Frank Beltran, Deborah Delaney, Wayne Hunsperger, Anthony Navarro, Susan Secrest and Bruce Willard.

Also attending were Marcia Waters, Division Director; Cary Whitaker, Deputy Director; Hollis Glenn, Investigations Manager; Penny Elder, ESP Program Manager; Eric Turner, Education, Policy & Communications Manager; Melissa Phipps, Assistant Attorney General; Heather Flannery, Assistant Attorney General; Doreen Archuleta, Enforcement; Martha Torres-Recinos, Program Support, and several members of the Board's staff. The meeting was open to the public and several members of the public attended.

Notice of the meeting was timely published and the meeting was held pursuant to the Colorado Sunshine Laws, Title 24, Article 6, C.R.S., as amended.

The meeting was called to order at 11:06 a.m. on February 2, 2012.

Topics for Discussion Included:

- Executive Director Barbara Kelley
- USPAP Presentation by Dennis Badger, Appraisal Standards Board
- FNMA (Fannie Mae) Form, Tom Perlinger
- UAD (Uniform Appraisal Data), Lee Ormiston
- Supervision
- Delegations of Authority
- Legal Issues for Board Members Including Open Meetings Law, Open Records Act, Conflicts of Interest/Recusal, Ex Parte Communications, Board Immunity, Administrative Procedures Act and Due Process



Delegations of Authority-

It was moved by Mr. Beltran and seconded by Mr. Navarro to approve the Delegations of Authority as amended with regard to counter-offers.



Board Delegation of Authority 2 2 12.pdf

Motion unanimously carried.

ADJOURN:

The retreat meeting of the Colorado Board of Real Estate Appraiser's meeting adjourned at 3:09 p.m. on February 2, 2012.

Robin Anderson, Chair

Frank Beltran, Vice-Chair

Deborah Delaney

Wayne Hunsperger

Anthony Navarro

Susan Secret

Bruce Willard

Marcia Waters, Director
Colorado Division of Real Estate