



BOARD OF REAL ESTATE APPRAISERS MEETING
January 14, 2010

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MINUTES BOARD OF REAL ESTATE APPRAISERS

**January 14, 2010
Colorado Division of Real Estate
1560 Broadway, Suite 925
Denver, CO 80202**

A meeting of the Colorado Board of Real Estate Appraisers was held on Thursday, January 14, 2010, at 1560 Broadway, Suite 925, 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 CHAIR:

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

The meeting was called to order at 9:00 a.m. Chair Thomas Fellows made a quorum determination.

Board Members in attendance: Chair Thomas Fellows, Robin Anderson, Wayne Hunsperger, Tony Navarro, Leslie Mitchell, and Susan Secrest.

Board Member not in attendance: Frank Beltran

Also attending were Marcia Waters, Investigations and Compliance Director; Susan Scholl, Appraiser Program Manager; Jeannine Miller, Assistant Attorney General; and several members of the Board's staff. The meeting was open to the public, and several members of the public attended.

Minutes Approval:

After review, Ms. Mitchell moved and Mr. Navarro seconded the motion to approve the Minutes of November 13, 2009.

Motion unanimously carried.

Executive Session Minutes:

After review, the Board acknowledged and approved the Executive Session Minutes from November 13, 2009 meeting.

Permanent Rulemaking Hearing: Marcia Waters, Investigations and Compliance Director, Colorado Division of Real Estate

The permanent rule making hearing was called to order by Chair Fellows to hear oral testimony and to accept written submission related to the proposed rule referenced in the Colorado Code of Regulations known as 4 CCR 725-2 and more commonly known as permanent rule 16.1 Affidavit for Conservation Easement Appraisals.

This was a permanent rule making hearing pursuant to the process set forth in the Administrative Procedure Act. Pursuant to the Act, Board heard testimony in regards to the permanent rule. The public record consists of all oral testimony as well as any written information submitted within the allowable time frame. Therefore, in addition to all public testimony and comments at rulemaking hearing, the Division reviewed all written materials in order to make a final decision on the content of the regulations. Public record for the regulation closed at the end of the hearing.

EXECUTIVE SESSION

Mr. Navarro moved that the Board of Real Estate Appraisers enter into executive session pursuant to Colorado Revised Statutes Section 24-6-402(3)(a)(II) and (III) to discuss with the Board's attorney 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 and other attorney-client privileged communications at 9:17 a.m. Ms. Mitchell seconded the motion and the Board entered into Executive Session.

Motion unanimously carried.

The Board re-entered open session at 10:00 a.m.

ORDER OF BUSINESS:

Policy Matters, Updates and Information

Ms. Erin Toll, Division of Real Estate Director and Ms. Waters formally introduced Staff to the Government Appointees, Mr. Hunsperger and Ms. Susan Secret. Mr. Wayne Hunsperger is a Certified General Appraiser. Susan Secret serves as a member of the public. Mr. Tony Navarro was reappointed and also serves as a member of the public.

Ms. Waters discussed the Affidavit for Conservation Easement Appraisals. The Affidavit is finalized and Staff requested Board approval. After further discussion, Mr. Navarro moved to adopt the Affidavit for Conservation Easement Appraisals and Ms. Mitchell seconded the motion.

Ms. Waters reported on the USPAP Audit. For 2009, there were 1074 licensees scheduled for renewal at this renewal cycle. Of those 1074 licensees, 457 were non-compliant and of the 457, 235 did not respond. A fine was assessed for USPAP non-compliance. Licensees have until January 30, 2010 to renew. Past the renewal due date, licensees will then require license reinstatement. The Home Valuation Code of Conduct (HVCC) and Appraisal Management Companies (AMC's) also had an impact on license renewals.

Ms. Waters addressed Legislation as it pertains to the AMC's. Staff assisted with drafting regulations. The draft is modeled in some regards after the Real Estate Brokerage Licensure. It will include finger printing, background checks, and ownership provisions. Once finalized, the Bill will be introduced to Legislation.

Ms. Waters stated that Mr. Michael Morton was not reappointed to the Board. The Division will miss his contribution and commitment. Mr. Morton served as the Vice Chair and also served on the Education Task Force. Staff requested that the Board nominate an interim Vice Chair until the Officer Appointment in June. Ms. Anderson was nominated by Ms. Mitchell and the motion was unanimously carried by the Board. Mr. Hunsperger was nominated to serve on the Education Task Force.

Ms. Waters discussed the status of the Real Estate Manual. The Division and Bradford Publishing are discussing the terms for publishing the manual. Due to current publishing issues, adjustments to the manual will be applied. Staff will update the Board once the modifications are finalized.

Citizen Participation:

Mr. James Bowlus spoke regarding the licensure process and fees.

Mr. Ray Brienza discussed Continuing Education approval process and fees.

COMPLAINT INVESTIGATIONS:

Case Nos. 2009020305, 2009020307, and 2009020308 (Carl Hegewald, Investigator)

Susan Scholl presented this matter to the Board.

The reports alleged violations of USPAP, including the Ethics Rule: Conduct Section, the Scope of Work Rule, the Scope of Work Rule; Standard 1 and 2; and Standards Rules 1-1(a), 1-1(b), 1-1(c), 1-2(e), 1-2(h), 1-4 and Comment, 1-4(a), 1-4(b)(i), 1-4b(ii), 1-4(c)(i), 1-4(c)(ii), 1-4(c)(iv), 2-1(a), and 2-2(a)(iii), and 2-2(a)(viii).

Mr. Hunsperger recused himself from discussion and voting on Case Nos. 2009020305, 2009020307, and 2009020308.

Ms. Anderson moved and Ms. Mitchell seconded that the Board find that reasonable grounds exist to believe that violations of appraisal law occurred in Case Numbers 2009020305, 2009020307, and 2009020308. The Board voted to refer back to Staff for a settlement offer consistent with Level 4 to Level 5 discipline.

Motion unanimously carried.

Case No. 2009030401 (Future Davis, Investigator)

Susan Scholl presented this matter to the Board.

The reports alleged violations of USPAP, including the Competency Rule, the Scope of Work Rule, the Record Keeping Section of the Ethics Rule; Standard 1 and 2; Standards Rule 1-1(a), 1-1(b), 1-1(c), 1-2(h), 1-4, 1-4(a), 2-1(a), 2-1(b), and 2-2(b)(viii), and Board Rule 13.4 and 8.6.

Mr. Navarro moved and Ms. Anderson seconded that the Board find that reasonable grounds exist to believe that violations of appraisal law occurred in Case Number 2009030401. The Board voted to refer back to Staff for a settlement offer consistent with up to Level 5 discipline.

Motion carried by a vote of 4 to 2.

Case No. 2009010030 (Chris Stanley, Investigator)

Susan Scholl presented this matter to the Board.

The report alleged violations of the Stipulated Agreement dated April 27, 2009, relating to complaints numbered 2007111518 and 2008050595; and USPAP, including the Ethics Rule, Competency Rule, Scope of Work Rule, and Supplemental Standards Rule; Standard 1 and 2; and Standards Rule 1-1(a), 1-2(e)(i), 1-2(h), 1-4, 1-4(a), 1-6(a), 1-6(b), 2-1(a), 2-1(b) and 2-2(b)(viii).

Mr. Navarro moved and Ms. Mitchell seconded that the Board find that reasonable grounds exist to believe that violations of appraisal law occurred in Case Number 2009010030. The Board voted to refer back to Staff for a settlement offer consistent with Level 6 to Level 7 discipline.

Motion unanimously carried.

Case No. 2008121557 (Chris Stanley, Investigator)

Susan Scholl presented this matter to the Board.

The report alleged violations of USPAP, including the Ethics Rule, the Competency Rule, the Scope of Work Rule, Standard 1 and 2; and Standards Rule 1-1(a), 1-1(b), 1-1(c), 1-2(e), 1-2(e)(i), 1-2(h), 1-4, 1-4(a), 1-5(a), 1-5(b), 2-1(a), 2-1(b), 2-2(b)(iii), and 2-2(b)(vii).

Ms. Anderson moved and Mr. Navarro seconded that the Board find that reasonable grounds exist to believe that violations of appraisal law occurred in Case Number

2008121557. The Board voted to refer back to Staff for a settlement offer consistent with Level 6 discipline.

Motion unanimously carried.

Case No. 2008111509 (Chris Stanley, Investigator)

Susan Scholl presented this matter to the Board.

The report alleged violations of USPAP, including the Ethics Rule: Conduct and Record Keeping sections, the Competency Rule, the Scope of Work Rule, the Supplemental Standards Rule; Standard 1 and 2; and Standards Rules 1-1(a), 1-1(b), 1-1(c), 1-2 (e)(i), 1-2(h), 1-3(a), 1-4, 1-4(a), 1-4(b)(i), 1-4b(ii), 1-4(g), 1-6(a), 2-1(a), 2-1(b), and 2-2(b)(iii), (vii), and (viii).

Ms. Mitchell moved and Mr. Navarro seconded that the Board find that reasonable grounds exist to believe that violations of appraisal law occurred in Case Number 2008111509. The Board voted to refer back to Staff for a settlement offer consistent with Level 7 discipline.

Motion unanimously carried.

Case No. 2008111508 (Chris Stanley, Investigator)

Susan Scholl presented this matter to the Board.

The report alleged violations of USPAP, including the Ethics Rule: Conduct and Record Keeping sections, the Competency Rule, the Scope of Work Rule, the Supplemental Standards Rule; Standard 1 and 2; and Standards Rule 1-1(a), 1-1(b), 1-1(c), 1-2(e)(i), 1-2(h), 1-3(a), 1-4, 1-4(a), 1-4(b)(i), 1-4b(ii), 1-4(g), 1-6(a), 2-1(a), 2-1(b), and 2-2(b)(iii), (vii), and (viii).

Ms. Mitchell moved and Mr. Navarro seconded that the Board find that reasonable grounds exist to believe that violations of appraisal law occurred in Case Number 2008111508. The Board voted to refer back to Staff for a settlement offer consistent with Level 6 discipline.

Motion unanimously carried.

Case No. 2009010007 (Chris Stanley, Investigator)

Susan Scholl presented this matter to the Board.

The report alleged violations of USPAP, including the Ethics Rule: Conduct and Record Keeping sections, the Competency Rule, the Scope of Work Rule; Standard 1 and 2; and Standards Rule 1-1(a), 1-1(b), 1-1(c), 1-2(h), 1-4, 1-4(a), 1-4(b)(ii), 1-5(a), 1-5(b), 1-6(a), 2-1(a), 2-1(b), and 2-2(b)(vii) and (viii).

Mr. Hunsperger moved and Mr. Navarro seconded that the Board find that reasonable grounds exist to believe that violations of appraisal law occurred in Case

Number 2009010007. The Board voted to refer back to Staff for a settlement offer consistent with Levels 5 to Level 6 discipline.

Motion unanimously carried.

Licensing and Other Matters:

License Application for Board Action - Applicant A
Susan Scholl presented this matter to the Board.

After further review of the proposed findings, Mr. Navarro moved and Ms. Mitchell seconded the motion for a submission of a Sample USPAP Compliance Report.

Motion unanimously carried.

ADJOURN:

The Colorado Board of Real Estate Appraiser's meeting adjourned at 1:40 p.m. on January 14, 2010.

Thomas Fellows, Chair

Robin Anderson, Vice-Chair

ABSENT

Frank Beltran

Wayne Hunsperger

Leslie Mitchell

Tony Navarro

Susan Secrest

Erin Toll, 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 January 14, 2010. 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 January 14, 2010, 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.

Jeannine Miller
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 January 14, 2010 was confined to the topic authorized for discussion pursuant to §24-6-402(3)(a)(II), C.R.S.

Thomas Fellows, Chair
Colorado Board of Real Estate Appraisers