



BOARD OF REAL ESTATE APPRAISERS MEETING
November 13, 2009

MINUTES – INDEX

	<u>PAGE #</u>
ADJOURN	8
COMPLAINT INVESTIGATIONS:	4
Case # 2009020305, 2009020307, and 2009020308	
Case # 2008091204	
Case # 2008111417	
Case # 2008111418	
Case # 2008081043, 2008081040, and 2009101544	
Case # 2009040765	
Case # 2009040766	
EXECUTIVE SESSION	
Minutes Approval – October 8, 2009	2
November 13, 2009	8
Minutes and Attestations	9
ORDER OF BUSINESS BY THE CHAIR:	
Call to Order, Roll call, Determine Quorum	2
Minutes Approval	2
Citizen Participation	4
POLICY MATTERS:	
General Updates	3

MINUTES

BOARD OF REAL ESTATE APPRAISERS

November 13, 2009
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 Friday, November 13, 2009, 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 9:01 a.m. Chair Thomas Fellows made a quorum determination.

Board Members in attendance: Chair Thomas Fellows, Vice-Chair Michael Morton, Robin Anderson, Frank Beltran, Tony Navarro, and Leslie Mitchell.

Also attending were Marcia Waters, Investigations and Compliance Director, 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. Morton seconded the motion to approve the Minutes of October 8, 2009.

Motion unanimously carried.

Executive Session Minutes:

After review, the Board acknowledged and approved the Executive Session Minutes from October 8, 2009 meeting.

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

The permanent rule making hearing is 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 rules 1.34 Draft Appraisal Definition, 1.35 Amendment Definition, 13.10 Exceptions and Board Review of Initial Decisions, 16.2 Conservation Easement Appraisals: Draft Appraisal, and 16.3 Conservation Easement Appraisals: Prescribed Fee.

This is a permanent rule making hearing pursuant to the process set forth in the Administrative Procedure Act. Pursuant to the Act, Board may hear testimony in regards to the permanent rule. The public record will consist 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 will review 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.

ORDER OF BUSINESS:

Policy Matters, Updates and Information

Ms. Waters informed the Board that the Division will be hosting a staff in-house 7 Hour National UPSAP Update course on December 4, 2009.

Ms. Waters discussed 2010 fee settings. Original license fees remained the same and renewal fees decreased. The budget, revenue, and the number of current licensees are taken into factor in determining fee setting.

Ms. Waters discussed DORA's sponsored legislation to include regulation of appraisal management companies and registration of mortgage companies. The Division is also in the process of reviewing legislation on appraisal management companies in other states. Discussion also included Conservation Easement Board Rule and Bill 1014 which assisted with the problematic issues with conservation easement appraisals. Staff will continue to monitor legislation and will inform the Board accordingly.

Ms. Waters proposed BOREA's 2010 meeting dates. The following dates were scheduled;

January 14, 2010	July 8, 2010
February 11, 2010	August 12, 2010
March 11, 2010	September 9, 2010
April 8, 2010	October 14, 2010
May 13, 2010	November 4, 2010
June 10, 2010	December 9, 2010

Mr. Glenn Hollis, Conservation Easement Program Manager, discussed the Conservation Easement Affidavit revisions. The Division is fine-tuning the appraisal review process. The affidavit was originally designed to be the initial first screening of the appraisal to catch any 'red-flags'. However, it has not been very effective as additional details are required for effectiveness. The revised affidavit was presented for Board comments. The revised affidavit will include a section referencing the IRS as a client, if applicable. The Division is setting an effective date of December 2009 in order to support the high volume of submittals during that time-frame.

Citizen Participation:

Mr. Arthur Alarcon discussed penalty fees and the license renewal process.

Ms. Claudia Klein discussed penalty fees, renewal process, and continuing education audit.

Mr. Lou Garone discussed the Division's audit process and the Appraisal Subcommittee's guidelines pertaining to the 7 Hour USPAP Update course.

Mr. Ray Brienza and Mr. David Ehrnstein discussed the 7 Hours USPAP Update course and continuing education.

COMPLAINT INVESTIGATIONS:

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

Marcia presented this matter to the Board.

The reports allege violations of Standard 1-1(a), 1-1(b), 1-1(c), 1-2(e)(i), 1-2(h), 1-4(a), 1-4(b)(i), 1-4(b)(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. Navarro moved and Mr. Morton seconded the motion to defer Case Numbers 2009020305, 2009020307, and 2009020308 to December 10, 2009 Board Meeting.

Motion unanimously carried.

Case No. 2008091204 (Harold Ovsowitz, Investigator)

Marcia Waters presented this matter to the Board.

The reports allege violations of Standard 1-1(a), 1-1(b), 1-1(c), 1-2(e)(i), 1-4(a), 1-4(b)(i), 1-5 (a), 1-5(b), 2-1(a), 2-1(b), 2-1(c), and 2-2(b)(viii).

Mr. Morton moved and Ms. Anderson seconded that the Board find that reasonable grounds exist to believe that violations of appraisal law occurred in Case Number 2008091204. The Board voted to refer back to Staff for a settlement offer up to a Level 4 disciplinary case (up to \$2,000 fine, appropriate coursework and work reviews by a supervisor approved by the Board).

Motion unanimously carried.

Case No. 2008111417 (Future Davis, Investigator)

Marcia Waters presented this matter to the Board.

The reports allege violations of Standard 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).

Mr. Morton moved and Ms. Mitchell seconded that the Board find that reasonable grounds exist to believe that violations of appraisal law occurred in Case Number 2008111417. The Board voted to refer back to Staff for a settlement offer consistent with a Level 4 disciplinary case (up to \$2,000 fine, appropriate coursework, and work reviews by a supervisor approved by the Board).

Motion unanimously carried.

Case No. 2008111418 (Future Davis, Investigator)

Marcia Waters presented this matter to the Board.

The reports allege violations of Standard 1-1(a), 1-1(b), 1-1(c), 1-2(e)(i), 1-2(f) and Comment, 1-4, 1-4(a), 2-1(a), 2-1(b), and 2-2(b)(ix).

Ms. Mitchell moved and Mr. Morton seconded that the Board find that reasonable grounds exist to believe that violations of appraisal law occurred in Case Number 2008111418. The Board voted to refer back to Staff for a settlement offer consistent with a Level 5 disciplinary case (up to \$14,000 fine, up to 75 hours of appropriate coursework, and work reviews by a supervisor approved by the Board).

Motion unanimously carried.

Case Nos. 200801043 and 2009040765 (Chris Stanley, Investigator)

Marcia Waters presented this matter to the Board.

The reports allege violations of Standard Rules 1-1(a), 1-1(b), 1-1(c), 1-2(e), 1-2(h), 1-4, 1-4(a), 1-4(b)(i), 1-4(b)(ii), 1-4(b)(iii), 1-6(a), 2-1(a), 2-1(b), 2-2(b)(vii), 2-2(b)(viii), and 2-3.

Mr. Morton moved and Ms. Mitchell seconded that the Board find that reasonable grounds exist to believe that violations of appraisal law occurred in Case Numbers 200801043. The Board voted to refer back to Staff for a settlement offer consistent with a level between 5 - 6 disciplinary case (up to \$14,000 fine,

suspension, up to 75 hours of appropriate coursework, and up to 20 appraisals under a supervisor approved by the Board).

Motion unanimously carried.

Case No. 2008081040 (Chris Stanley, Investigator)

Susan Scholl presented this matter to the Board.

The reports allege violations of Standard Rules 1-1(a), 1-1(b), 1-1(c), 1-2(e)(i), 1-2(h), 1-4, 1-4(a), 1-4(b)(i), 1-4(b)(ii), 1-6(a), 2-1(a), 2-1(b), 2-2(b)(vii), 2-2(b)(viii), and 2-3.

Ms. Mitchell moved and Mr. Beltran seconded that the Board find that reasonable grounds exist to believe that violations of appraisal law occurred in Case Number 2008081040. The Board voted to refer back to Staff for a settlement offer consistent with a level 6 disciplinary case (up to \$14,000 fine, suspension, up to 75 hours of appropriate coursework, and up to 20 appraisals under a supervisor approved by the Board).

Motion unanimously carried.

Case No. 2009101544 (Chris Stanley, Investigator)

Susan Scholl presented this matter to the Board.

The reports allege violations of Standard Rules 1-1(a), 1-1(b), 1-1(c), 1-2(h), 1-4, 1-4(a), 1-4(b)(i), 1-4(b)(ii), 1-6(a), 2-1(a), 2-1(b), 2-2(b)(vii), 2-2(b)(viii), and 2-3.

Ms. Mitchell moved and Mr. Beltran seconded that the Board finds no appraisal law violation and dismiss Case Number 2009101544.

Motion unanimously carried.

Case No. 2009040766 (Chris Stanley, Investigator)

Susan Scholl presented this matter to the Board.

The reports allege violations of Standard Rules 1-1(a), 1-1(b), 1-1(c), 1-2(h), 1-4, 1-4(a), 1-4(b)(i), 1-4(b)(ii), 1-6(a), 2-1(a), 2-1(b), 2-2(b)(vii), 2-2(b)(viii) and 2-3.

Mr. Morton moved and Mr. Beltran seconded that the Board finds no appraisal law violation and dismiss case Number 2009040766.

Motion unanimously carried.

EXECUTIVE SESSION

Mr. Fellows 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 11:55 p.m. Mr. Morton seconded the motion and the Board entered into Executive Session.

Motion unanimously carried.

The Board re-entered open session at 12:24 p.m.

ADJOURN:

The Colorado Board of Real Estate Appraiser's meeting adjourned at 12:25 p.m. on November 13, 2009.

Thomas Fellows, Chair

Michael Morton, Vice-Chair

Robin Anderson

Frank Beltran

Leslie Mitchell

Tony Navarro

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 November 13, 2009. 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 November 13, 2009, 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 November 13, 2009 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