

**BOARD OF REAL ESTATE APPRAISERS MEETING
April 16, 2009**

MINUTES – INDEX

	<u>PAGE #</u>
ADJOURN	8
COMPLAINT INVESTIGATIONS:	4
Case # 2008101266	
Case # 2009010040	
Case # 2008081064	
Case # 2008101399	
Case # 2008101400	
Case # 2008101401	
Case # 2006111130	
Case # 2008070883	
EXECUTIVE SESSION	
Minutes Approval – February 12, 2009	2
April 16, 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	3
POLICY MATTERS:	
General Updates	3

MINUTES

BOARD OF REAL ESTATE APPRAISERS

April 16, 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 Thursday, April 16, 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 9:07 a.m. Chair Thomas Fellows made a quorum determination.

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

Board Members not in attendance: Robin Anderson, Robert Bleiberg, and Tony Navarro.

Also attending were Marcia Waters, Investigations and Compliance Director, Lisa Brenner Freimann, 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. Beltran seconded the motion to approve the Minutes of February 12, 2009.

Motion unanimously carried.

Executive Session Minutes:

After review, the Board acknowledged and approved the Executive Session Minutes from the February 12, 2009 meeting.

Citizen Participation:

John Fausett, a Certified Residential Appraiser, provided public comment regarding Illinois' State Board actions and findings as it relates to appraisers and Appraiser Management Companies (AMC's). Mr. Fausett further discussed USPAP issues and challenges as it relates to the involvement with the AMC's. Mr. Fausett also discussed Freddie Mac's revised rules and guidelines.

Broker Price Opinions (BPOs) were also discussed. Discussion included whether real estate brokers are able to provide BPOs for financing purposes under the Appraiser License Statute.

Based on the concerns listed above, with Board approval, the Division's Newsletter will include an article providing general information regarding AMC's.

Burton Lee from Van Education Center provided public comment on the active role that various State Board's have undertaken with legislation and rulemaking. Mr. Lee also discussed AMC's and their relationship with appraisers and USPAP. Mr. Lee discussed rescheduling the public comment after 'Policy Matters and Updates' enabling public opinion and viewpoints on current matters.

Roy Brienza publicly thanked Erin Toll, Director of the Division of Real Estate and the Board for the Division's position as it pertains to the IRS's licensure request.

ORDER OF BUSINESS:

Policy Matters, Updates and Information

Ms. Waters introduced Robert Bleiberg. Mr. Bleiberg was appointed to the Board of Real Estate Appraisers in January 2009. He is the Executive Director of Mesa Land Trust with experience in Conservation Easements.

Ms. Waters introduced Barbara Walker, Executive Director of Independent Bankers of Colorado. Ms. Walker spoke on seeking regulatory relief based on the Federal Banking Regulations that apply to banks and thrifts. In rural areas, because of lack of appraisal resources, it's impairing the ability to lend. Independent Bankers is seeking an amendment to the Statute. Ms. Walker will provide a write up/updates to the Board on the amendment.

Ms. Waters discussed the registered appraiser exam. A group of educators and industry professionals met in February with the registered appraiser exam vendor to discuss the exam. The vendor has removed the problematic questions and they are in the process of drafting new questions geared to the register appraiser. The Division is also working on supervision requirements. After obtaining the Board's

legal counsel opinion, the Division is able to proceed with setting the supervision requirements.

Ms. Waters discussed the Appraisal Subcommittee's (ASC) letter. They are pleased with the Division even though the one year requirement remains a concern. Ms. Waters spoke with ASC policy managers and was informed that they are looking at revising the one year deadline.

Ms. Waters requested that the IRS letter be discussed during Executive Session.

Ms. Waters discussed the Appraiser Education Task Force Appointments. The Division received a large response to the email blast and website. After application review, the most appropriate candidates were selected. There are 15 qualified candidates. Currently there are eight members. With the high volume of Continuing Education Applications and the ASC's involvement, the Division recommends that the 15 be appointed. Mr. Morton moved and Ms. Mitchell seconded that the Division appoint the 15 members.

Ms. Waters discussed the Board Rules. A few rules are not consistent with AQB guidelines. Currently, we are allowing licensees to renew on inactive status if non-complaint with continuing education. The AQB does not allow renewal on an inactive status. Board Rule 7.19 USPAP Compliance requires USPAP every other year and the AQB states every calendar year. Board Rule 7.2 reiterated the requirement of 7.19. Consequently, the Board Rules will be amended accordingly for Division and AQB consistency. The Division is also working on a rule on the licensing issue entailing the renewal and licensure upgrade and fees.

Ms. Waters provided an update on the hiring freeze. The Governor granted exemptions on the Compliance Investigator II, Compliance Investigator I and on a contractor position to assist with the Conservation Easement Program. Harold Ovsowitz has accepted the position as Compliance Investigator II. Also, the freeze has been lifted on the Appraiser Program Manager.

Ms. Waters discussed legislation that will increase criminal penalties for real estate appraisers that violate specific portions of the License Law Statutes.

COMPLAINT INVESTIGATIONS:

Case No. 2008101266 (Future Davis, Investigator)

Case No. 2009010040 (Future Davis, Investigator)

The reports allege violations of Standard 1-1 (a), 1-1 (b), 1-4 (a), and 2-1 (a).

Marcia Waters presented this matter to the Board.

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

2008101266 and Case Number 2009010040. The Board voted to refer the case to hearing with a settlement offer consistent with a Level 6 disciplinary case (up to 6 month suspension, up to \$14,000 fine, up to 75 hours of qualifying education within allotted timeframe, up to 20 appraisals under a supervisor approved by the Board).

Motion unanimously carried.

Ms. Mitchell recused herself from discussion and voting on Case Nos. 2008101399, 2008101400 and 2008101401.

Case No. 2008101399 (Carl Hegewald, Investigator)

Case No. 2008101400 (Carl Hegewald, Investigator)

Case No. 2008101401 (Carl Hegewald, Investigator)

Marcia Waters presented this matter to the Board.

The report alleges violations of Standard 1-1 (e) and 1-4 (d).

Mr. Morton moved and Mr. Beltran seconded that the Board refer back to staff disposition/dismissal on Case Nos. 2008101399, 2008101400, and 2008101401.

Motion unanimously carried.

Case No. 2008081064 (Future Davis, Investigator)

Marcia Waters presented this matter to the Board.

The report alleges violations of Standard 1-1 (a), 1-1 (b), 1-4, and 2-1 (a).

Mr. Beltran moved and Mr. Morton seconded that the Board find that reasonable grounds exist to believe that violations of appraisal law occurred in Case Number 2008091140. The Board voted to refer the case to hearing with a settlement offer consistent with a Level 6 disciplinary case (up to 6 month suspension, up to \$14,000 fine, up to 75 hours of qualifying education within allotted timeframe, up to 20 appraisals under a supervisor approved by the Board).

Motion unanimously carried.

Case No. 2006111130 (Harold Ovsowitz, Investigator)

Marcia Waters presented this matter to the Board.

The report alleges violations of Standard 1-1(c), 1-2(e), 1-4(a), 1-4(b), 1-5, 2-1(a), 2-1(b), 2-2(b)(vii) and 2-2(b)(viii).

Mr. Beltran moved and Ms. Mitchell seconded that the Board find that reasonable grounds exist to believe that violations of appraisal law occurred in Case Number 2006111130. The Board voted to refer the case to hearing with a settlement offer consistent with a Level 6 disciplinary case (up to 6 month suspension, up to

\$14,000 fine, up to 75 hours of qualifying education within allotted timeframe, up to 20 appraisals under a supervisor approved by the Board).

Motion is amended to include education component be consistent with qualifying education for a Residential Certified General level and include passing the licensure exam. Mr. Beltran moved and Ms. Mitchell seconded the amended motion.

Motion unanimously carried.

Case No. 2008070883 (Chris Stanley, Investigator)

Marcia Waters presented this matter to the Board.

The report alleges violations of Standard 1-1 (a), 1-1 (b), 1-1(c), 1-2 (e), 1-2 (e)(i), and 1-4 (a).

Mr. Beltran moved and Mr. Morton seconded that the Board find that reasonable grounds exist to believe that violations of appraisal law occurred in Case Number 2008070883. The Board voted to refer the case to hearing with a settlement offer consistent with a Level 7 disciplinary case (revocation and up to \$15,000 fine).

Motion unanimously carried.

OTHER COMPLAINT MATTERS:

Case No. 2005080664 (8065026)

Marcia Waters presented this matter to the Board.

Recommendation: Imposition of Original Discipline

Mr. Morton moved and Mr. Beltran seconded that the Board grant imposition of original discipline in Case No. 2005080664 (8065026).

Motion unanimously carried.

License Application for Board Action – Licensee A

Marcia Waters presented this matter to the Board.

After further review of the proposed findings, Mr. Beltran moved and Ms. Mitchell seconded the motion for denial of licensure upgrade.

Motion unanimously carried.

Case No. 2008081039 – Counter Offer
Mary Kanaly presented this matter to the Board.

After further review of the counter offer for Case No. 2008081039, Mr. Morton moved and Ms. Mitchell seconded the motion for denial of counter offer.

Motion unanimously carried.

Case No. 2008030353 – Counter Offer
Mary Kanaly presented this matter to the Board.

After further review of the counter offer for Case No. 2008030353, Mr. Morton moved and Mr. Beltran seconded the motion to table counter offer and refer for legal counsel.

EXECUTIVE SESSION

Ms. Mitchell 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 12:00 p.m. Mr. Morton seconded the motion and the Board entered into Executive Session.

Motion unanimously carried.

The Board re-entered open session at 12:50 p.m.

ADJOURN:

The Colorado Board of Real Estate Appraiser's meeting adjourned at 12:51 p.m. on April 16, 2009.

Thomas Fellows, Chair

Michael Morton, Vice-Chair

ABSENT
Robin Anderson

Frank Beltran

ABSENT
Robert Bleiberg

Leslie Mitchell

ABSENT
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 April 16, 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 April 16, 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.

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 April 16, 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