West Virginia Real Estate Appraiser Licensing and Certification Board

MINUTES

APRIL 15, 2015

The West Virginia Real Estate Appraiser Licensing and Certification Board held a meeting on April 15, 2015 in the 4th floor Conference Room at 405 Capitol Street, Charleston, WV 25301.

The following Board Members were in attendance: Glenn Summers, Chair; David Shields, Vice-Chair; Dale Dawson-Clowser; The Honorable Anthony Julian, Mary Beth Aliveto and Linda York. The following staff members were in attendance: Sandy Kerns, Executive Director; Darlene Washington, Legal Counsel; Chasidy Minor and Courtney Buskirk, board staff.

The meeting was called to order at 10:17 am.

Reading of the Minutes

Mr. David Shields, Vice Chair, brought the meeting to order by reviewing the minutes from February 11, 2015. Several items from the February 11, 2015 minutes were presented for corrections and corrections were made prior to the meeting's adjournment. A motion was made by Honorable Judge Julian to approve the February 11, 2015 Board Minutes as amended. Mary Beth Aliveto seconded the motion. Motion carried.

Committee Reports

Standard Committee:

The Standard Committee met on March 3, 2015 and April 7, 2015. Committee recommendations were presented for the following complaints.

Complaint Number 14-014: On the 2014-15 Renewal Application the appraiser failed to disclose any current complaints or charges pending against him in response to question number 4, which lack of disclosure implies that no complaint or charges were pending. Subsequent information was obtained that revealed that there were indictments for two counts of felony possession of a controlled substance with intent to deliver that was not disclosed on the Renewal Application. A motion was made by the Honorable Judge Julian that there is probable cause to believe the appraiser violated the Appraiser Practice Act and that disciplinary action be initiated. Further, that should the appraiser wish to resolve the matter without a full administrative hearing the appraiser be offered a consent decree of a reprimand plus reimbursement of Board cost and an admonishment that all charges or complaints pending must be disclosed on future renewal applications. Mary Beth Aliveto seconded the motion. Motion carried.

Complaint Number 14-015: Complaint alleged the Appraiser engaged in unethical or unprofessional conduct by failing to disclose to the client current or prospective interested in the subject property. A motion was made by the Honorable Judge Julian that there is probable cause to believe that the appraiser violated the Appraiser Practice Act, and that disciplinary action be initiated. Further, that should the appraiser wish to resolve the matter without a full administrative hearing that the appraiser be offered a consent decree of a reprimand plus reimbursement of Board cost. Mary Beth Aliveto seconded the motion. Motion carried.

Complaint Number 14-016: Complaint alleged multiple concerns: Appraiser violated USPAP Standards due to sales not being close in proximity to the subject and the Hospital near the subject, taxes are reported incorrectly, present use is not accurately reported, zoning is incorrect and sales were adjusted with no improvements. An informal conference was held on April 7, 2015. A motion was made by the Honorable Judge Julian that there is probable cause to believe the appraisers violated the Appraiser Practice Act and that disciplinary action be initiated. However, should the appraiser wish to resolve the matter without further litigation the appraiser will be offered a pre-charge diversion agreement in which he shall complete a 7 hour valuation class, maintain a log of all his appraisals to be inspected at the discretion of the board plus reimbursement of Board cost. Mary Beth Aliveto seconded the motion. Motion carried.

Complaint Number 15-001: Complaint alleged appraiser decreased value of property significantly below the original appraisal value that was completed by another appraiser even though there have been many updates to the property since the original appraisal. A motion was made by the Honorable Judge Julian that the complaint be dismissed due to the appraisal complaint being based on the value of the subject property. The motion was seconded by Mary Beth Aliveto. Motion carried.

Complaint Number 15-004: On the 2014-15 Renewal Application, the appraiser failed to disclose information about two arrest charges from 2014. A motion was made by the Honorable Judge Julian that there is probable cause to believe that the appraiser violated the Appraiser Practice Act, and that disciplinary action be initiated. Further, that should the appraiser wish to resolve the matter without a full administrative hearing the appraiser will be offered a consent decree of a reprimand plus reimbursement of Board cost and an admonishment that all charges or complaints pending must be disclosed on future renewal applications. Mary Beth Aliveto seconded the motion. Motion carried.

Upgrade Committee

The Upgrade Committee did not meet in March 2015. Three applications for Supervisor Certification were held over until the May 2015 Upgrades Committee meeting.

Executive Director's Report

Ms. Kerns presented a roster of fully registered appraisal management companies (AMCs). The roster includes the AMC License Number, Company Name, Address, City, State, Zip, Phone Number and Controlling Persons name. A motion was made by Linda York to add the email address of all the AMC's log as well because that is mostly their form of communication. The motion was seconded by David Shields. Motion carried.

Glenn Summers arrived at 10:53 a.m.

Ms. Kerns provided financial statements for the period of July 2014-March 2015 and OASIS reports for February and March 2015. Ms. Kerns provided the Board with a FY 2015 Expenditure/Revenue Report as of March 31, 2015. A motion was made by The Honorable Judge Julian to accept the Financial Reports as presented. Ms. Dawson-Clowser seconded the motion. Motion carried.

Financial Statements indicated funding was available to purchase iPads or laptop computers that would enable the Board and/or Standards Committee to function more efficiently. After discussion, a motion was made by David Shields to purchase the iPads or computers. The motion was seconded by Mary Beth Aliveto. Motion carried.

Mrs. Kerns provided Board members with a update regarding the legislative status of Title 190, Series 5, Requirements for Registration and Renewal of Appraisal Management Companies.

Ms. Kerns provided an update on the status of the Board's annual report.

Ms. Kerns provided the Board with a Purchasing Card Report for transactions occurring through April 28, 2015. A motion was made by Mary Beth Aliveto that the Purchasing Card Report presented was more detailed than needed and in the future only the Citi Statement should be presented for review. The Honorable Judge Julian seconded the motion. Motion carried.

Legal Update

The WV Freedom of Information Act has been amended. The new FOIA law clarifies what a public agency may charge for requested information, broadens the definition of "public record" and requires all FOIA requests be sent to the Secretary of State's office. A copy of a recent Charleston Gazette article provided an easy readable description of the new FOIA law and was provided to the Board members for their review.

The Board was presented an issue regarding a reciprocal licensee who allowed his WV license to lapse for a period of more than 2 years. The appraiser holds valid licenses in several other states. After a detailed discussion, a motion was made by the Honorable Judge Julian to renew the appraiser's reciprocal license and seconded by Dale Dawson-Clowser. Motion carried.

Complaint Number 07-016: The Board was presented, for approval and entry, a Consent Decree and Order signed by David Bunch. Mr. Bunch agreed to attend an Appraisal Institute Course and reimburse the Board for cost incurred. Motion was made by David Shields to accept the terms of the Decree. Motion was seconded by the Honorable Judge Julian. Motion carried.

Complaint Number 13-017: The Board was presented, for approval and entry a Consent Decree and Order signed by Rock Garton. Mr. Garton's supervisory abilities are revoked. He is prohibited from performing any appraisal until he completes, with exam, the 15-Hour National USPAP course and reimburses the Board for cost incurred. A motion was made by David Shields to accept the terms of the Decree. Motion was seconded by the Honorable Judge Julian. Motion carried.

Complaint Number 13-014: Joe Holt hearing is scheduled for May 7, 2015.

Old Business

A discussion took place at the February 11, 2015 Board meeting regarding how often supervisors should be required to take the AQB-required Apprentice-Supervisor Course. A recommendation was made that because a Supervisor Certificate is good for five (5) years that a supervisor

should be required to take the course every five (5) years. A motion was made by Ms. Dawson-Clowser to accept this recommendation and seconded by the Honorable Judge Julian. Motion carried. This will become *Board Policy* effective July 1, 2015.

Ms. Kerns reminded Board members that any changes to the 190 Series 2 and Series 3 legislative rules are required to be filed with the Secretary of State's Office by July 1, 2015. No suggested revisions have been submitted to Ms. Washington or Ms. Kerns at this time.

New Business

Ms. Kerns presented Board members with a copy of the Appraisal Subcommittee's Preliminary Compliance Review. In response to the report, the Board agreed there is room for improvement on resolving complaints filed against appraisers within one year (12 months) of the complaint filing date in the absence of special documented circumstances. ASC logs will continue to be submitted quarterly, as well as the Board continuing to work on resolving the issue.

Ms. Kerns presented Board Members with copies of the National Identity Services (NIS) Audit, recently conducted by the FBI. The FBI Criminal Justice Information Services Division uses the NIS Audit to assess how agencies with access to the national criminal history record information comply with federal laws and regulations associated with use and dissemination of information.

Ms. Kerns further presented the procedures for obtaining background checks, West Virginia State Police name searches and FBI name searches.

Ms. Kerns presented the Board with the WV Purchasing Division Inspection Report for Fiscal Year 2014. After a review was completed of issues found within the report, a summary was presented giving an overview of the findings as well as a percentage grading the transactions reviewed. The Board's total global result was 84.2%. A motion was made by Linda York to accept the Purchasing card Report and the motion was seconded by the Honorable Judge Julian.

Ms. Kerns and Ms. Washington advised Board that a discrepancy exists between the renewal form and legislative rules. 190-3, Renewal of Licensure and Certification, neither specifies that 7 hours of continuing education must be taken in the classroom, nor that the 7- hour USPAP (Uniform Standards of Professional Appraisal Practice) must be taken in the classroom. Ms. Kerns was directed to research other states rules regarding their CE requirements for online versus classroom requirements and to present the findings at the June Board meeting. Because of this discrepancy, the requirement should not be stated on the 2015-16 license renewal.

Board members additionally discussed when USPAP should be taken. It is required by the Appraiser Qualifications Board (AQB) to be taken every two years and can currently be taken by West Virginia licensees anytime during the two-year period. The motion was made by Linda York that the USPAP Course should be taken by West Virginia licensees within the first year of the update cycle. Motion was seconded by the Honorable Judge Julian. Motion carried.

Ms. Kerns proposed printing pocket cards from a different source this year.

1. Cards can currently be printed on only the tractor/ single feed printer by one person.
2. It would be more practical for multiple people/printers to be able to print pocket cards.
3. The current printer is at risk for problems and may not be fixable.

Ms. Kerns presented the Fiscal Year 2016 Expenditure & Revenue Budget. Discussion was held regarding the proposed budget. Ms. Kerns was directed to amend several expenditure line items prior to submitting the budget, including OASIS Expenditure Code 3206 (contracts), which would allow for a possible raise for the Board's legal counsel. A discussion was then held regarding the possible raise for legal counsel and the mechanism for such. The Board directed Ms. Kerns to communicate with the AG's Office and to report findings to the Board. A motion approving the budget was made by Linda York and seconded by Ms. Dawson-Clowser. Motion carried.

Being no further business, the meeting adjourned at 3:10 pm.

Glenn Summers, Chair

June 10, 2015
Date