West Virginia Real Estate Appraiser Licensing and Certification Board

MINUTES

August 20, 2014

A meeting of the West Virginia Real Estate Appraiser Licensing and Certification Board was held on August 20, 2014.

The following were in attendance in the Board's Office: Glenn Summers Acting-Chair, The Honorable Anthony Julian, Mary Beth Aliveto, Dale Dawson-Clowser, Darlene Ratliff Washington - Counsel, Sandy Kerns - Executive Director, Karen Hudson - Executive Assistant and, Brenda Ashworth - Administrative Assistant.

The following Board members were in attendance via conference call: Linda York.

Absent: David Shields

Mr. Summers called the meeting to order at 9:25 am. Ms. York joined the meeting at 10:05 am.

Lin Elbert, Solicitor General and Zack Ritchie, Assistant Attorney General, of the Appellate Division of the WV Office of the Attorney General were introduced to the Board. Mr. Lin stated that Mr. Ritchie will be arguing on behalf of the Board before the WV Supreme Court of Appeals the case of the Board versus David Bunch.

Legal Update

The Board reviewed the invoice for Attorney fees in the *Linda York v. WV Real Estate Appraisers Board,* Docket No.: 13-0827 per the recent Supreme Court decision in this matter along with information submitted to Linda York's attorney regarding certain believed adjustments fees contained in the invoice. Upon review motion was made by The Honorable Judge Julian to process the adjusted invoice. Ms. Dawson-Clowser seconded the motion. Motion carried.

A motion was made by The Honorable Judge Julian authorizing Ms. Ratliff-Washington to draft an Order dismissing the complaint cases filed against Ms. York. Ms. Aliveto seconded the motion. Motion carried.

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Complaint Number 13-012 The Board was presented, for approval and entry, of a Consent Decree and Order signed by Samantha Lusher. A motion was made by The Honorable Judge Julian to accept the signed Consent Decree. Ms. Aliveto seconded the motion. Motion carried.

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Ms. Ratliff-Washington presented a report regarding the following complaints:

Complaint Number 13-014 A Consent Decree is currently being drafted.

Complaint Number 13-018 A Consent Decree was sent to the appraiser.

Complaint Number 13-019 A Complaint for Injunction will be brought on for hearing before the Circuit Court of Monongalia County on September 3, 2014.

On April 14, 2014 the Board received an application to renew the appraiser's license for the current 2013-2014 license renewal period. Motion was made by The Honorable Judge Julian to deny the application pending the outcome of the Complaint for Injunction Ms. Aliveto seconded the motion. Motion carried.

Executive Director's Report

Sandy Kerns, Executive Director, presented the following to the Board for review:

1. An updated list of Pre-Registered Appraisal Management Companies. Currently ninety-six Appraisal Management Companies have Pre-Registered with the Board.

2. Estimated Revenues and Expenditures – Appraisal Management Companies

3. Information Regarding Recruiting an Investigator for Standards – The matter will further be discussed at the next scheduled Board Meeting.

4. A letter from Mr. Douglas Walker regarding clarification on the licensing of Appraisal Management Companies

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The issue of hiring a part-time office employee was discussed. The matter will further be discussed at the next scheduled Board Meeting.

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The Appraisal Management Company Registration Application was presented to the Board for review. The Board discussed mostly stylistic issue with the form, but noted a few areas that needed expansion per the Appraisal Practice Act. Motion was made by Ms. Aliveto to accept the form and to grant Ms. Kerns the authority to proceed with completion per comments of the Board. The Honorable Judge Julian seconded the motion. Motion carried.

The deadline for Appraisal Management Companies to submit the Appraisal Management Company Registration Application is October 1, 2014.

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Old Business

The Board reviewed pending Complaints, in conjunction with the Supreme Court ruling in *Linda York v. WV Real Estate Appraisers Board* Docket No. 13-0827 and WV Code § 30-1-5(c) which require the Board to follow the procedural requirements set forth by statute and its procedural rule.

Complaint Number 05-012, 07-006 and 10-004 involved appraisals prepared in 2005, 2007 and 2008. Based on a review of the procedural requirements along with the facts in these matters, the Board finds that since the time the complaints were filed, no other complaints have been received against the appraiser. Motion was made by The Honorable Judge Julian that the complaints be dismissed. Ms. Aliveto seconded the motion. Motion carried.

Complaint 06-021 The appraiser license's was the subject of an immediate revocation by the Board based upon allegation in which he subsequently was convicted of aiding and abetting wire fraud in federal court and sentenced to 18 months of incarceration. In early 2014, the appraiser was released. Motion was made by The Honorable Judge Julian that the matter be referred to legal counsel for a final resolution. Ms. Dawson-Clowser seconded the motion. Motion carried.

Complaint Number 08-010 Based on a review of the procedural requirements in conjunction with the facts in this matter, the Board finds that since the time the complaint was filed, no other complaints have been received against the appraiser. Motion was made by The Honorable Judge Julian that the complaint be dismissed. Ms. Dawson-Clowser seconded the motion. Motion carried.

Complaint 09-003. An emergency board meeting was held on July 8, 2009, wherein the Board unanimously to immediately revoke the appraisers license. Due to several health issues a hearing has not been scheduled. Motion was made by The Honorable Judge Julian that the matter be referred to legal counsel for a final resolution. Ms. Dawson-Clowser seconded the motion. Motion carried.

Complaint Numbers 09-017 and 11-016 involved appraisals prepared between 2005 and 2008. Based on a review of the procedural requirements along with the facts in these matters, the Board finds that since the time the complaints were filed, no other complaints have been received against the appraiser. Motion was made by The Honorable Judge Julian that the complaints be dismissed. Ms. Dawson-Clowser seconded the motion. Motion carried.

Complaint Numbers 09-020, 10-011 and 11-007 involved appraisals prepared between 2004 and 2007. Based on a review of the procedural requirements along with the facts in these matters, the Board finds that since the time the complaints were filed, no other complaints have been received against the appraiser. Motion was made by The Honorable Judge Julian that the complaints be dismissed. Ms. Dawson-Clowser seconded the motion. Motion carried.

Complaint Numbers 10-010 and 11-008 involved appraisals prepared between 2004 and 2007. Based on a review of the procedural requirements along with the facts in these matters, the Board finds that since the time the complaints were filed, no other complaints have been received against the appraiser. Motion was made by The Honorable Judge Julian that the complaints be dismissed. Ms. Dawson Clowser seconded the motion. Motion carried.

Complaint Number 11-009 involved an appraisal prepared in 2010. Based on a review of the procedural requirements along with the facts in this matter, the Board finds that since the time the complaint was filed, no other complaints have been received against the appraiser. Motion was made by The Honorable Judge Julian that the complaint be dismissed Ms. Aliveto seconded the motion. Motion carried.

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A draft of the new Series 5 Rules pertaining to Appraisal Management Companies was given to Board members for further review and discussion. A motion was made by The Honorable Judge Julian to approve the rules. Ms. Dawson-Clowser seconded the motion. Motion carried.

New Business

Ms. Kerns notified Board members that the next AARO meeting would be held October 17-20, 2014 in Washington, D.C. A motion was made by Ms. Aliveto authorizing Board members and staff to attend the meeting. Ms. Clowser-Dawson seconded the motion. Motion carried.

Executive Session

At 12:31 p.m. motion was made by Ms. Aliveto that the Board move for the purpose of discussing Standards and Personnel matters. Ms. Aliveto seconded the motion. Motion carried. Ms. Kerns, Ms. Ashworth and Ms. Hudson left the meeting.

At 12:55 p.m. a motion was made by Ms. Aliveto that regular session be reconvened. The Honorable Judge Julian seconded the motion. Motion carried. Ms. Kerns, Ms. Ashworth and Ms. Hudson joined the meeting.

Complaint Number 13-017 The Standards Committee recommended that the Appraiser be charged and sanctioned for numerous USPAP violations and to proceed with disciplinary action. A motion was made by Ms. Aliveto that a disciplinary action be commenced. Ms. Dawson-Clowser seconded the motion. Motion carried.

Complaint Number 14-005 The appraiser had prepared appraisals on three separate properties for the appraiser's client. Each property had been previously appraised by three separate appraisers. The three separate appraisals were reviewed along with the appraisal and complaint herein. A motion was made by The Honorable Judge Julian that an educational letter would be appropriate and the complaint should be dismissed and, to open a complaint against the three original appraisers. Ms. Aliveto seconded the motion. Motion carried.

Complaint Number 14-006 This complaint involves a BPO by a realtor. A motion was made by The Honorable Judge Julian that a Cease and Desist be sent. Ms. Dawson-Clowser seconded the motion. Motion carried.

Complaint Number 14-007 There were no violations of the Appraiser's Practice. A motion was made by The Honorable Judge Julian to dismiss the complaint. Ms. Aliveto seconded the motion. Motion carried.

Complaint Number 14-011 The Appraiser has been convicted of two felony counts of bank fraud. A motion was made by The Honorable Judge Julian to revoke the appraiser's license. Ms. Aliveto seconded the motion. Motion carried.

Due to the regulation of Appraisal Management Companies beginning October 1, 2014 and, the increased volume of work and responsibilities given to staff members, a motion was made by Ms. Aliveto granting a twenty-five percent increase in salary to Sandy Kerns, Brenda Ashworth and Karen Hudson. Ms. Dawson-Clowser seconded the motion. Motion carried.

Due to the usage of their personal cellphones for Board work, a motion was made by The Honorable Judge Julian that the Board reimburse Ms. Kerns and Ms. Ratliff-Washington for their personal cellphone expenses. Ms. Aliveto seconded the motion. Motion carried.

Being no further business to be brought before the Board, Mr. Summers declared the meeting adjourned at 1:40 pm.

Glenn Summers, Vice-Chair