

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BUREAU OF COMMERCIAL SERVICES – LICENSING DIVISION
2501 Woodlake Circle, Okemos, Michigan 48864-5955

BOARD OF REAL ESTATE APPRAISERS

BOARD MEETING MINUTES

June 19, 2007

In accordance with the Open Meetings Act, 1976 PA 267, as amended, the Board of Real Estate Appraisers met in Regular Session on June 19, 2007, at the Department of Labor & Economic Growth, Bureau of Commercial Services, 2501 Woodlake Circle, Conference Room 1, Okemos, Michigan. The business meeting was called to order by Chairperson, David Molenaar, at 9:15 a.m., immediately following the public hearing regarding appraiser rule set 2007-013.

ROLL CALL

Present:	Andrew Chamberlain	- Professional Member
	Darius Dynkowski	- Public Member
	Donn Fresard	- Public Member
	Beth Graham	- Professional Member
	Craig Hufnagel	- Professional Member
	David Molenaar	- Professional Member
	John Snyder	- Professional Member
Absent:	Robert Schellenberg, Jr.	- Public Member
Staff:	Joseph Campbell	- Licensing Administrator
	Jean Boven	- Licensing Division Director
	Felicia Badger	- Assistant Licensing Administrator
	Sharon Murphy	- Recording Secretary
	Bill Wilhelm	- Compliance/Legal/FOIA Unit
	Stephen Gobbo	- Compliance/Legal/FOIA Manager
	Archie Millben	- Enforcement Division Director
	Foye Longworth	- Testing & Education Services
	Peggy Waugh	- Testing & Education Services
	Kristie Pfeifer	- Enforcement Division
	Ann Paruk	- Enforcement Division
	Forrest Maher	- Enforcement Division
Visitors:	Stephen Eipper	- Licensed Appraiser
	Kathie Feldpausch	- MAR

RESIGNATION OF BOARD MEMBER

Reagan Schwarzlose of Novi resigned his position as a professional board member effective June 1, 2007, as he is no longer employed by a financial institution as a certified general appraiser, which this particular board position required. The board and department staff expressed their gratitude for the professional contributions given by Mr. Schwarzlose.

APPROVAL OF PREVIOUS MINUTES HELD MARCH 27, 2007

MOTION: Mr. Snyder moved to approve the minutes of March 27, 2007. Ms. Graham seconded the motion, which carried unanimously.

PETITION

Sean Donnelly, Probationary Limited Real Estate Appraiser License Review

On December 5, 2006, the board and department granted a probationary limited appraiser license based upon Mr. Donnelly's demonstration of rehabilitation and the likelihood that he would serve the public in a fair, honest and open manner, with the following conditions: prior to renewing his license in July 2007, Mr. Donnelly is required to meet with the board and department in June 2007 to provide written documentation from his supervisor, Daniel Weaver, demonstrating his satisfactory performance and full-time employment including a description of the duties he performs. Provided the review of his progress is satisfactory, and there are no complaints filed with the department against his limited appraiser license or further criminal activity, Mr. Donnelly will be allowed to renew his limited appraiser license. If Mr. Donnelly does not meet with the board and department as specified, his file will be referred to the enforcement division for a disciplinary action review regarding his probationary limited real estate appraiser license. Mr. Donnelly was not present at the meeting today. Department staff advised the board that further criminal activity had recently been reported and that Mr. Donnelly's file will be referred to the enforcement division for further review and possible disciplinary action against his probationary limited real estate appraiser license.

MOTION: Mr. Chamberlain moved to deny renewal of Mr. Donnelly's probationary limited appraiser license based upon his failure to comply with the terms of his probation by failing to appear before the board today and provide written documentation from his supervising appraiser, and based upon the findings by the department of recent criminal activity by Mr. Donnelly. Ms. Graham seconded the motion, which carried unanimously. The department concurred.

STIPULATIONS

Nicholas David Nader, 12-01-002110, C#86309

The board reviewed the stipulation in the matter of Nicholas David Nader who admitted to failure to exercise reasonable diligence in developing or communicating appraisals.

In accordance with the stipulation, the respondent consents to pay a fine of \$10,000.00 to the department with two equal installments of \$5,000.00 each, the first installment due within sixty (60) days from the date of mailing of the final order, and the final installment due within six months from the sixtieth day from the date of mailing of the final order. It is further stipulated that respondent shall not perform appraisal services of any nature for any federally insured mortgage transactions for a period of five (5) years effective the mailing date of the final order and shall file with the department's compliance monitoring unit every real estate appraisal document for purposes other than federally insured mortgage transactions within thirty (30) days after the execution of that document. Failure to file a real estate appraisal document within the thirty (30) day period after the execution date of that appraisal document shall result in a fine of \$1,000.00 per failure to file, and the execution of a real estate appraisal document for a federally insured mortgage transaction within a period of five (5) years from the mailing date of the final order shall immediately impose a revocation of respondent's appraiser license effective the execution date of that federally insured mortgage transaction in violation of this stipulation. It is further stipulated that respondent be subject to a permanent limitation effective immediately that respondent shall not supervise limited real estate appraisers in the course of his appraiser licensure practice. Failure to comply with all terms and conditions set forth in the stipulation shall result in a suspension of all licenses and denial of any future applications for licensure, relicensure, or renewal until full compliance is made.

MOTION: Mr. Snyder moved to accept the stipulation. Mr. Chamberlain seconded the motion, which carried by a majority vote, with Ms. Graham abstaining and Mr. Fresard opposed.

Bruce Glenn Richardson, 12-01-069283, C#300353

The board reviewed the stipulation in the matter of Bruce Glenn Richardson who admitted to violating a rule of conduct in practicing an occupation.

In accordance with the stipulation, the respondent consents to pay a fine of \$500.00 to the department, which shall be due sixty (60) days from the date of mailing of the final order, and successfully complete a 7 hour Scope of Appraisal course, which may be applied to the continuing education requirement for licensure renewal, within six months from the date of signing the stipulated agreement on May 4, 2007, and shall provide to the department within the same six months a certificate documenting such attendance and successful completion of the above required course. Failure to comply with all terms and conditions set forth in the stipulation shall result in a suspension of all licenses and denial of any future applications for licensure, relicensure, or renewal until full compliance is made.

MOTION: Mr. Chamberlain moved to accept the stipulation. Mr. Hufnagel seconded the motion, which carried by a majority vote, with Mr. Snyder abstaining.

John Carlyle Sims, 12-01-005094, C#299138

The board reviewed the stipulation in the matter of John Carlyle Sims who admitted to failure to identify the characteristics of the property that were relevant to the purpose and

intended use of the appraisal; failure to analyze all sales of the subject property that occurred within three years prior to the effective date of the appraisal; and failure to exercise reasonable diligence in developing or communicating the appraisal.

In accordance with the stipulation, the respondent consents to pay a fine of \$5,000.00 to the department, which shall be due sixty (60) days from the date of mailing of the final order, and successfully complete 14 hours of continuing education courses consisting of 7 hours on the topic of Ethics, and 7 hours on the topic of Scope of Work to be completed within six (6) months from the date of mailing of the final order, and shall provide proof to the department within six months from the date of mailing of the final order certificates documenting such attendance and successful completion of the above required courses which shall not be applied to the continuing education required for licensure renewal. It is further stipulated that respondent shall provide complete cooperation if requested involving any underlying factual or other matter involving real estate appraisal practice activities or the related conduct of parties involved in real estate mortgage brokerage, and failure to provide complete cooperation with state or federal investigative authorities shall constitute a limitation on respondent's appraiser license for one license renewal cycle. Failure to comply with all terms and conditions set forth in the stipulation shall result in a suspension of all licenses and denial of any future applications for licensure, relicensure, or renewal until full compliance is made.

MOTION: Ms. Graham moved to accept the stipulation. Mr. Chamberlain seconded the motion, which carried by a majority vote, with Mr. Snyder abstaining.

Christine Dianne Mays, 12-01-006050, C#301692, C#302543, C#304359, C#305322, C#305179, (5 complaints consolidated), Docket #2007-337

The board reviewed the five stipulations in the matter of Christine Dianne Mays who admitted to failure to correctly employ recognized methods and techniques necessary to produce a credible appraisal; committed substantial errors of omission or commission that significantly affected the appraisal; rendered appraisal services in a careless or negligent manner; failed to analyze all agreements of sale, options or listings of the subject property current as of the effective date of the appraisal; failed to analyze all sales of the subject property that occurred within the three years prior to the effective date of the appraisal; failed to reconcile the quality and quantity of data available within the approaches used; failed to clearly and accurately set forth the appraisal report in a manner that was not misleading; failed to exercise reasonable diligence in developing or communicating the appraisal; and violating provisions for which penalties are not otherwise prescribed.

In accordance with the stipulations, the respondent consents to pay a fine of \$2,500.00 to the department, which shall be due sixty (60) days from the date of mailing of the final order, and immediate revocation of respondent's appraiser license. Upon compliance with the terms in these stipulations, statements of complaint numbers 302543, 304359, 305179, and 305322 are considered resolved with complaint number 301692. Failure to comply with all terms and conditions set forth in the stipulations shall result in revocation or continued revocation of all licenses or in the denial of any license renewal and the denial of

future applications for licensure, relicensure, or renewal until compliance is made with the terms of these stipulations.

MOTION: Mr. Chamberlain moved to accept the five stipulations. Mr. Dynkowski seconded the motion, which carried by a majority vote, with Mr. Molenaar abstaining.

Joseph Metzger, 12-01-007618, C#301406

The board reviewed the stipulation in the matter of Joseph Metzger who admitted to failure to exercise reasonable diligence in developing or communicating the appraisal.

In accordance with the stipulation, the respondent consents to pay a fine of \$5,000.00 to the department, which shall be due sixty (60) days from the date of mailing of the final order, and successfully complete 25 hours of continuing education courses consisting of 15 hours National Uniform Standards of Professional Appraisal Practice course, the 2 hour Michigan Law & Rules Update course, and the 8 hour Business Practices and Ethics course, to be completed within six (6) months from the signature date of this stipulated agreement on May 18, 2007, and shall provide proof to the department within the same six month period certificates documenting such attendance and successful completion of the above required courses which shall not be applied to the continuing education required for licensure renewal. Failure to comply with all terms and conditions set forth in the stipulation shall result in a suspension of all licenses and denial of any future applications for licensure, relicensure, or renewal until full compliance is made.

MOTION: Mr. Hufnagel moved **to reject the stipulation** based upon the seriousness of violations committed and recommends suspension of Mr. Metzger's real estate appraiser license for at least six months in addition to the above listed sanctions agreed upon by the department and Mr. Metzger. Ms. Graham seconded the motion, which carried by a majority vote, with Mr. Molenaar abstaining.

HEARING REPORT

MOTION: Mr. Fresard moved to receive the following hearing report. Ms. Graham seconded the motion, which carried unanimously.

The following actions were taken on the hearing report presented to the Board:

Nancy L. Dancy-Clark, 12-01-001104, C#303039, Docket No. 2006-1164

The board reviewed the hearing report in the matter of Nancy L. Dancy-Clark for failure to demonstrate good moral character.

MOTION: Mr. Fresard moved to accept the administrative law judge's recommendation to assess a fine of \$2,000.00 to the department, which shall be due within sixty (60) days from the date of mailing of the final order, and immediate revocation of respondent's appraiser license. Mr. Snyder seconded the motion, which carried by a majority vote, with Mr. Hufnagel abstaining.

EDUCATION COMMITTEE REPORT

Mr. Campbell introduced Ms. Waugh from Testing & Education Services who reviews and coordinates approval for course offerings from education sponsors, replacing Dianne Bailey's position since January 2007.

The board received three Education Committee Reports as follows: March 2007, April 2007, and May 2007.

MOTION: Ms. Graham moved to accept the Education Committee reports as presented. Mr. Chamberlain seconded the motion, which carried unanimously.

Mr. Hufnagel discussed a recent continuing education update course he had taken that presented outdated information from two years ago, and he wanted to know if there is a way to ensure that education sponsors are referencing current information. Mr. Campbell stated that the new administrative rules contain a three year limitation for approval of courses after which the sponsor must seek course approval once again from the department. Ms. Boven asked Ms. Waugh if law and rule updates could be sent to current education sponsors, which Ms. Waugh stated is already in practice. Ms. Graham stated that the department had provided an online power point presentation for sponsors to access and use, but it is not currently on the department's web page. Ms. Boven explained that the power point was removed because not everyone had software to use the presentation. Following further discussion regarding the benefit of the power point presentation availability online, Ms. Boven stated the division will replace the power point presentation and have the same information available in Word format.

Ms. Graham asked about the monitoring of classes by the department in regard to instructors leaving the classroom while students are completing the final exam at the end of the course. Ms. Waugh and Ms. Boven stated that the department needs a written complaint outlining specific details for further investigation by the enforcement division.

ITEMS FOR CONSIDERATION FROM BOARD MEMBERS/STAFF

Minimum Recommended Sanctions Review – The appraiser sanctions committee met with department staff on April 23, 2007, to discuss proposed changes to the minimum sanctions recommended by the board when assessing sanctions. The proposed changes were presented to the board today for their review and consideration.

MOTION: Mr. Fresard moved to accept the proposed minimum sanctions recommended by the committee. Ms. Graham seconded the motion, which carried unanimously. The following minimum sanctions were adopted:

BOARD OF REAL ESTATE APPRAISERS

MINIMUM SANCTIONS

- 1. BOOKS AND RECORDS VIOLATIONS/FAILURE TO MAKE AVAILABLE TO DEPT.**
Any or all of the following
Minimum Sanctions:

 - A. Up to \$500 Fine
 - B. Provide books and records, when available
 - C. 30 day suspension, if willful intent.
 - D. Education

- 2. VIOLATION OF STANDARD FOR DEVELOPING AND COMMUNICATION OF REAL PROPERTY APPRAISAL. FAILURE TO EXERCISE REASONABLE DILIGENCE.**
Any or all of the following
Minimum Sanctions:

 - A. Up to \$1,000 Fine
 - B. Education – May be over and above required continuing education courses.
 - C. 30 day suspension

- 3. UNLICENSED ACTIVITY. PERFORMING WITH AN EXPIRED LICENSE. PERFORMING OUTSIDE THE SCOPE OF A LICENSE.**
Any or all of the following
Minimum Sanctions:

 - A. \$5,000 Fine
 - B. Education
 - C. 30 day suspension

- 4. FRAUD, DECEIT, OR DISHONESTY IN PRACTICING AN OCCUPATION.**
One or both of the following
Minimum Sanctions:

 - A. \$10,000 Fine
 - B. Revocation

- 5. FRAUD OR DECEIT IN OBTAINING A LICENSE.**
One or both of the following
Minimum Sanctions:

 - A. \$10,000 Fine
 - B. Revocation

- 6. ADVERTISING VIOLATIONS.**
One or both of the following
Minimum Sanctions:

 - A. \$5,000 Fine
 - B. Revocation

- 7. VIOLATES A RULE OF CONDUCT OF AN OCCUPATION. COMMITS AN ACT WHICH DEMONSTRATES INCOMPETENCE.**
One or both of the following
Minimum Sanctions:

 - A. Up to \$1,000 Fine
 - B. Education – May be over and above required continuing education courses.

- 8. DEMONSTRATION OF A LACK OF GOOD MORAL CHARACTER.**
One or both of the following
Minimum Sanctions:

 - A. \$5,000 Fine
 - B. Revocation

- 9. GROSS NEGLIGENCE.**
One or both of the following
Minimum Sanctions:

 - A. \$5,000 Fine
 - B. Revocation

*The minimum fine is per violation for each of the nine categories.

Disciplinary Action Reporting – Mr. Chamberlain suggested the department establish a criterion when reporting disciplinary action to the public, identifying major versus minor violations. He stated that once an appraiser is identified with disciplinary action taken against their license, they are no longer considered for future business by many lenders. Mr. Chamberlain stated that with the current reporting system, small mistakes affect an individual as much as major violations. Mr. Hufnagel stated that complaint history information should not remain on a licensee's record indefinitely. Mr. Molenaar stated it

was his understanding it would require a legislative change to limit disciplinary action reporting. Mr. Millben stated that reporting disciplinary action is statutory, and that the Disciplinary Action Report (DAR) isn't the issue, but how the report is being used by the industry. Mr. Fresard stated that the list is to protect the public from violators and asked if the offenses could be classified. Mr. Millben asked if classifying violations would really solve this problem, as it was previously suggested that the fine amounts assessed would be an indicator of seriousness. Mr. Dynkowski suggested that the sanctions outlined as "up to" a certain amount could be listed as a zero fine for technical errors. Mr. Fresard suggested a process whereby "minor violation" cases are eliminated or utilize a mediation process. Mr. Millben stated that those methods are not appropriate for the appraiser board due to statutory requirements and he suggested that a statutory change be pursued or the department and board develop a subcommittee to work with Mr. Gobbo's staff in developing a reporting method that could resolve this issue. Mr. Millben stated that although the department is required by statute to report disciplinary action, the reporting format could be revised and he is willing to work with the board to resolve this issue. Mr. Fresard suggested the matter be referred to the sanctions committee and volunteered to join that committee. Mr. Molenaar asked the committee to set a time to meet with Mr. Gobbo's staff, Mr. Campbell to also meet. Mr. Chamberlain suggested that the committee meet immediately following the board meeting in September 2007. The committee members who will meet to discuss this issue with department staff are Andrew Chamberlain, Beth Graham, Darius Dynkowski, and Donn Fresard.

Case Review Backlog Update – Mr. Molenaar reviewed outstanding case reviews with board members, reminding them to complete their reviews and return files to the enforcement division within 30 days of receiving them. Mr. Molenaar stated that there are outstanding files from November 2006 assigned to Mr. Hufnagel who stated that he will complete and return them as soon as possible. Mr. Millben advised board members that the referral process for case reviews has changed due to staffing, and Mr. Wilhelm and Mr. Valenti will be reviewing cases and Mr. Carr will be referring cases to appropriate board members. Mr. Millben also stated that the contract position for a licensed appraiser to review cases for the department has been approved and scheduled to begin by the end of June 2007, thereby relieving some of the burden on board members. Mr. Millben stated he has committed additional staff and resources to handle appraiser complaint issues in order to comply with the Appraisal Subcommittee's mandate to resolve disciplinary cases within a 12 month period.

Mr. Molenaar asked Ms. Badger about the backlog for license upgrade applications. Ms. Badger stated a large number are referred to the experience committee for review, and since the resignation of Reagan Schwarzlose, she is relying heavily on Mr. Snyder's assistance for experience review. Ms. Badger estimated that 90% of incoming applications are for an upgrade in licensure, which often requires additional information from the applicant and review by the experience committee.

PUBLIC COMMENT

Stephen Eipper, Licensed appraiser, addressed the board and department regarding his concerns with the disciplinary reporting system for appraiser licensees. He stated that he had a

minor technical violation about two years ago which recently resulted in disciplinary action being taken against his Michigan appraiser license. His concern is that the State of Michigan website for disciplinary reporting will indefinitely show that disciplinary action was taken against his appraiser license. He stated he was concerned that lenders will no longer use his services once they access the Disciplinary Action Report (DAR) online. He spoke with his legislator regarding this concern, but was referred back to the board and department for resolution. He asked that the board and department advise the legislative body of future changes or actions regarding this issue, as it has drastically affected his ability to conduct business and earn a living as an appraiser since four lenders have now dropped him from their list due to their procedural requirements to eliminate fraud. He also asked the board and department to advise him of any way to rectify this situation.

Mr. Millben stated that Mr. Eipper had 60 days to appeal the case to circuit court, which time period has now expired. Mr. Fresard advised Mr. Eipper to consult an attorney experienced in administrative law. Mr. Chamberlain stated that Mr. Eipper's case represents the very problem the board and department are attempting to resolve, and they sympathize with his situation. Mr. Chamberlain also stated that the committee, as discussed today, will be meeting with department staff in September 2007 to explore possible revisions to disciplinary action reporting, but this could be a long process.

Mr. Campbell provided a list of pending legislation prepared by Amy Shell for legislative information to the board.

NEXT MEETING DATE

The next regularly scheduled meeting of the Board of Real Estate Appraisers will be held on September 18, 2007.

ADJOURNMENT

There being no further business to be brought before the Board at this time, the meeting was adjourned at 11:15 a.m.

David Molenaar /s/ _____
Board Chairperson

9/18/2007 _____
Date

Sharon Murphy /s/ _____
Recording Secretary

9/18/2007 _____
Date