

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 20, 2006

In accordance with the Open Meetings Act, 1976 PA 267, as amended, the Board of Real Estate Appraisers met in Regular Session on June 20, 2006, 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, Terrell Oetzel, at 9:10 a.m.

ROLL CALL

Present:	Darius Dynkowski	- Public Member
	Donn Fresard	- Public Member
	Beth Graham	- Professional Member
	Craig Hufnagel	- Professional Member
	John E. Miller	- Professional Member
	David Molenaar	- Professional Member
	Terrell Oetzel	- Professional Member
	Robert Schellenberg, Jr.	- Public Member
Absent:	Andrew Chamberlain	- Professional Member
Staff:	Joseph Campbell	- Licensing Administrator
	Sarah Rock	- Assistant Licensing Administrator
	Sharon Murphy	- Recording Secretary
	Dianne Bailey	- Testing & Education Services
	Bill Wilhelm	- Compliance/Legal/FOIA Unit
	Stephen Gobbo	- Compliance/Legal/FOIA Manager
	Jim Nelson	- Support Services Unit Manager
	Tom Byrne	- Testing & Education Services Manager
	Amy Shell	- Policy Specialist
	Kristie Pfeifer	- Enforcement Division Analyst
Visitors:	Andrea Bates	- MAR
	Michael Crowe	- Petitioner
	Jerry Holloway	- Holloways Institute
	Fred VanderWal	- State Licensed Appraiser

AMENDMENTS TO AGENDA

The following items were added to the agenda:

- 8.c. Amy Shell – Rules and AQB 2008 Criteria
- 8.d. David Molenaar – Experience Credit and Case Reviews
- 8.e. Terry Oetzel – Legislative Reports
- 8.f. Education Sponsor Requirements

INTRODUCTIONS/COMMENDATIONS

Craig Hufnagel of Shelby Township, succeeding John Lyman of Onekama, for a term expiring June 30, 2008, representing state licensed real estate appraisers was appointed to the board for a term commencing April 6, 2006.

APPROVAL OF PREVIOUS MINUTES HELD MARCH 28, 2006

MOTION: Ms. Graham moved to approve the minutes of March 28, 2006. Mr. Molenaar seconded the motion, which carried unanimously.

PETITIONS

Michael Crowe, 12-01-000603, Certified General License Denial

On December 28, 2004, Mr. Crowe applied for a Certified General Appraiser license. The department denied the application on April 19, 2006, as Mr. Crowe did not meet the experience requirements by failing to comply with applicable federal standards. A petition for review was received on May 10, 2006. Mr. Crowe was present at the meeting today and addressed the board. The board reviewed the petition, supporting documents, and heard the petitioner's statements.

MOTION: Mr. Dynkowski moved to uphold the denial issued by the department based upon Mr. Crowe's failure to meet the minimum experience requirement by failing to comply with applicable federal standards. Mr. Fresard seconded the motion, which carried unanimously. The department concurred.

Ali Sobh, 12-01-008160, Certified Residential License Denial, GMC

On December 1, 2005, Mr. Sobh applied for a Certified Residential Appraiser license. The department denied the application on February 16, 2006, for lack of good moral character. A petition for review was received on March 17, 2006. Mr. Sobh was not present at the meeting today. The board reviewed the petition and supporting documents.

MOTION: Mr. Fresard moved to uphold the license application denial issued by the department based upon Mr. Sobh's inability to demonstrate rehabilitation and the propensity to serve the public in a fair, honest and open manner. Mr. Dynkowski seconded the motion, which carried unanimously. The department concurred.

STIPULATIONS

Daniel Johnson, 12-01-005729, C#96749

The board reviewed the Stipulation in the matter of Daniel Johnson who admitted to failure to identify the characteristics of the property that were relevant to the purpose and intended use of the appraisal including its location and physical, legal and economic attributes including the neighborhood value range and effective age of the property.

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. 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. Molenaar moved to accept the Stipulation. Mr. Miller seconded the motion, which carried by a majority vote, with Mr. Oetzel abstaining.

Ruth Langkawl, 12-01-004739, C#686

The board reviewed the Stipulation in the matter of Ruth Langkawl who admitted to incorrectly identifying the county, the map reference, and the condition of the property which was marked "as is" and "subject to completion per plans and specifications."

In accordance with the Stipulation, the respondent consents to pay a fine of \$400.00 to the department, which shall be due sixty (60) days from the date of mailing of the Final Order; suspension of licensure for one month beginning on the effective date of the Final Order; probation for six months beginning on the effective date of the Final Order, during which time respondent must submit at least six (6) completed appraisals to the department for review; and successfully complete 17 hours of continuing education courses for real estate appraisers with credit for continuing education courses respondent has taken since the complaint was filed, including national USPAP (15 hours), Appraising from Plans and Specifications, and Appraising Manufactured Housing. 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. Miller moved to accept the Stipulation. Mr. Molenaar seconded the motion, which carried unanimously.

Elizabeth Livingston, 12-01-005499, C#94815

The board reviewed the Stipulation in the matter of Elizabeth Livingston who admitted to failure to identify the characteristics of the property that were relevant to the purpose and intended use of the appraisal including its location and physical, legal and economic attributes in that the neighborhood was not adequately described and defined, the price range of homes was not defined or discussed, and updates to the property were not mentioned in the appraisal.

In accordance with the Stipulation, the respondent consents to pay a fine of \$200.00 to the department, which shall be due sixty (60) days from the date of mailing of the Final Order; and successfully complete at least seven (7) hours of continuing education on the topic of Narrative Report Writing, which shall be applied to respondent's continuing education requirement for licensure renewal. Ms. Livingston paid the fine in full and submitted proof of completion of a 15 hour Narrative Report Writing course on April 14, 2005.

MOTION: Mr. Miller moved to accept the Stipulation. Mr. Molenaar seconded the motion, which carried by a majority vote, with Mr. Oetzel abstaining.

Athanasios Maroulitsas, 12-01-007129, C#94472

The board reviewed the Stipulation in the matter of Athanasios Maroulitsas who admitted to committing substantial errors of omission or commission that significantly affected the appraisal; failure to identify the characteristics of the property that were relevant to the purpose and intended use of the appraisal; and failure to clearly and accurately set forth the appraisal report in a manner that was not misleading.

In accordance with the Stipulation, the respondent consents to pay a fine of \$1,500.00 to the Department, which shall be due sixty (60) days from the date of mailing of the Final Order. 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. Fresard moved to accept the Stipulation. Ms. Graham seconded the motion, which carried by a majority vote, with Mr. Oetzel abstaining.

Dennis McLellan, 12-01-001521, C#301128

The board reviewed the Stipulation in the matter of Dennis McLellan who admitted to signing an appraisal report when not qualified to do so; performing appraisal services for which he was not licensed; the appraisal report did not contain the signature of a supervisory appraiser; and 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, restitution in the amount of \$250.00 to be paid to the complainant within sixty (60) days from the date of mailing of the Final Order; and voluntary revocation of his limited appraiser license. It was agreed that the revocation of respondent's limited real estate appraiser license shall not cause the revocation of respondent's real estate associate broker license.

MOTION: Mr. Fresard moved to accept the Stipulation. Ms. Graham seconded the motion, which carried by a majority vote, with Mr. Oetzel abstaining.

Robert Willey, 12-01-001361, C#85046

The board reviewed the Stipulation in the matter of Robert Willey who admitted to failure to reconcile the quality and quantity of data available and analyzed within the approaches used and the applicability or suitability of the approaches used in the appraisal.

In accordance with the Stipulation, the respondent consents to pay a fine of \$3,000.00 to the Department, which shall be due sixty (60) days from the date of mailing of the Final Order. 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. Miller moved to accept the Stipulation. Mr. Hufnagel seconded the motion, which carried unanimously.

Gordon Cable, 12-01-005978, C#96232

The board reviewed the Stipulation in the matter of Gordon Cable who admitted to failure to identify the characteristics of the property that were relevant to the purpose and intended use of the appraisal including its physical attributes in the appraisal; and failure to summarize information sufficient to identify the real estate involved in the appraisal including the physical and economic property characteristics relevant to the assignment in the appraisal.

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 seven (7) hour continuing education course on the topic of Scope of Work, and a two (2) hour course entitled Michigan Law Update, for a total of nine (9) hours, to be completed within a six (6) month period from the mailing date of the Final Order, which shall not be applied to respondent's continuing education requirement for licensure renewal. Respondent shall provide to the department certificates documenting attendance and successful completion of the required nine (9) hours of real estate appraisal education courses within a six (6) month period from the mailing date of the Final Order. 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. Schellenberg moved to accept the Stipulation. Ms. Graham seconded the motion, which carried by a majority vote, with Mr. Molenaar abstaining.

Michael Campbell, 12-01-007845, C#96488

The board reviewed the Stipulation in the matter of Michael Campbell who admitted to committing substantial errors of omission or commission that significantly affected the appraisal; and failure to reconcile the quality and quantity of data available and analyzed within the approaches used in developing the appraisal.

In accordance with the Stipulation, the respondent consents to pay a fine of \$1,000.00 to the Department, which shall be due sixty (60) days from the date of mailing of the Final

Order, and successfully complete a fifteen (15) hour 2006 Edition Uniform Standards of Professional Appraisal Practice course, and fifteen (15) hours on the topic of Narrative Report Writing within a six (6) month period from the date of mailing of the Final Order, which shall not be applied to respondent's continuing education requirement for renewal, but shall be applied for prelicensure coursework for the purpose of certified residential licensure designation. Respondent shall provide to the department certificates documenting attendance and successful completion of the required thirty (30) hours of real estate appraisal education courses within a six (6) month period from the mailing date of the Final Order. 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. Miller moved to accept the Stipulation. Ms. Graham seconded the motion, which carried by a majority vote, with Mr. Molenaar abstaining.

Deborah Lauer, 12-01-002292, C#92938

The board reviewed the Stipulation in the matter of Deborah Lauer who admitted to failure to identify the characteristics of the property that were relevant to the purpose and intended use of the appraisal; and failure to identify the scope of work necessary to complete the appraisal assignment.

In accordance with the Stipulation, the respondent consents to pay a fine of \$2,000.00 to the department, which shall be due sixty (60) days from the date of mailing of the Final Order; and successfully complete a seven (7) hour continuing education course on the topic of Scope of Work, to be completed within a six (6) month period from the mailing date of the Final Order, which shall be applied to respondent's continuing education requirement for licensure renewal. Respondent shall provide to the department certificates documenting attendance and successful completion of the required seven (7) hours of real estate appraisal education courses within a six (6) month period from the mailing date of the Final Order. 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. Molenaar moved to accept the Stipulation. Mr. Hufnagel seconded the motion, which carried by a majority vote, with Mr. Oetzel abstaining.

Jennie Miller, 12-01-001812, C#95491

The board reviewed the Stipulation in the matter of Jennie Miller who admitted to failure to analyze comparable sales data as available to indicate a value conclusion in the appraisal.

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. 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. Molenaar moved to accept the Stipulation. Ms. Graham seconded the motion, which carried by a majority vote, with Mr. Oetzel abstaining.

Kurt Schmerberg, 12-01-000979, C#90787

The board reviewed the Stipulation in the matter of Kurt Schmerberg who admitted to failure to exercise reasonable diligence in communicating the appraisal.

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 nine (9) hours of continuing education courses including a two (2) hour Michigan Law Update course, to be completed within a twelve (12) month period from the mailing date of the Final Order, which shall not be applied to respondent's continuing education requirement for licensure renewal. Respondent shall provide to the department certificates documenting attendance and successful completion of the required nine (9) hours of real estate appraisal education courses within a twelve (12) month period from the mailing date of the Final Order. 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. Fresard moved to accept the Stipulation, requesting that the department send a letter to respondent recommending that he take a seven (7) hour course on the subject of capitalization. Mr. Hufnagel seconded the motion, which carried unanimously.

Thomas Williams, 12-01-001393, C#297116

The board reviewed the Stipulation in the matter of Thomas Williams who admitted to committing substantial errors of omission or commission that significantly affected the appraisal by failing to correctly identify locations, sites, sales prices of comparables, and failure to inspect and verify the location and sale of a comparable; failure to analyze such comparable sales data as available to indicate a value conclusion in the sales comparison approach; failure to clearly and accurately set forth the appraisal in a manner that was not misleading; 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 \$4,000.00 to the department, which shall be due sixty (60) days from the date of mailing of the Final Order; and successfully complete a fifteen (15) hour Uniform Standards of Professional Appraisal Practice course and seven (7) hours of continuing education on the Sales Comparison Approach, for a total of 22 hours, to be completed within a six (6) month period from the mailing date of the Final Order, which shall be applied to respondent's continuing education requirement for licensure renewal. Respondent shall provide to the department certificates documenting attendance and successful completion of the required 22 hours of real estate appraisal education courses within a six (6) month period from the mailing date of the Final Order. 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. Molenaar moved to accept the Stipulation. Mr. Miller seconded the motion, which carried by a majority vote, with Mr. Oetzel abstaining.

HEARING REPORTS

MOTION: Mr. Molenaar moved to receive the following Hearing Reports. Mr. Miller seconded the motion, which carried unanimously.

The following actions were taken on the Hearing Reports presented to the Board:

Richard Jekel, 12-01-069152, C#96384, Docket No. 2005-913

The board reviewed the Hearing Report in the matter of Richard Jekel for failure to perform an appraisal in compliance with Uniform Standards of Professional Appraisal Practice; violating standards for the development and communication of real property appraisal; failure or refusal without good cause to exercise reasonable diligence in developing or communicating an appraisal; failure to make available to the department upon request books and records required to be kept; performing appraisal services for which the individual is not licensed; violating a rule of conduct; and violating a provision or rule for which a penalty is not otherwise prescribed.

MOTION: Mr. Fresard moved to accept the administrative law judge's recommendation to assess a fine of \$10,000.00 to the department, which shall be due within sixty (60) days from the date of mailing of the Final Order, and continued revocation of license until fine has been paid. Mr. Schellenberg seconded the motion, which carried by a majority vote, with Mr. Miller abstaining.

Vance Lackey, 12-01-069362, C#297371, Docket No. 2006-18

The board reviewed the Hearing Report in the matter of Vance Lackey for failure or refusal without good cause to exercise reasonable diligence in developing or communicating an appraisal; failure to make available to the department upon request books and records required to be kept; performing appraisal services for which the individual is not licensed; and committing fraud, deceit or dishonesty in practicing an occupation.

MOTION: Mr. Miller moved to accept the administrative law judge's recommendation to assess a fine of \$10,000.00 to the Department, which shall be due within sixty (60) days from the date of mailing of the Final Order; restitution of \$450.00 to be paid to complainant within sixty (60) days from the date of mailing of the Final Order, and continued revocation of license until fine has been paid. Ms. Graham seconded the motion, which carried unanimously.

EDUCATION COMMITTEE REPORT

The board received two (2) Education Committee Reports as follows: May 9, 2006, and June 1, 2006.

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

Mr. Byrne of Testing Services stated that board members serving as education committee members may not be educators due to a conflict of interest. Mr. Oetzel was notified that he could no longer review courses submitted to the department for approval as he is an instructor for appraiser courses. Following a lengthy discussion, the board asked if this issue could be reconsidered by the department as the members identified as educators are needed on the committee for course review. It was suggested that education committee members be allowed to refrain from participating in a course review if it is a course that is perceived to involve a conflict of interest for a particular committee member. Mr. Byrne stated that he would pursue this issue further.

ITEMS FOR CONSIDERATION FROM BOARD MEMBERS/STAFF

Mr. Hufnagel was appointed to the Education Committee, replacing Mr. Miller. Mr. Byrne stated the department will reassess whether educators can participate in the committee, and if Mr. Oetzel can continue as a member of the Education Committee.

Dianne Bailey of Testing Services stated that online prelicensure courses are being received for approval due to the rule change allowing distance education for prelicensure coursework.

Amy Shell, Policy Specialist, described the new rules that went into effect June 2, 2006, with the following highlights: Approved prelicensure courses can be taken online; approval of courses must be renewed every three years; and the July 1, 2006 version of USPAP was adopted. Ms. Shell also stated that Senate Bill 1016 which adopts the 2008 AQB Criteria passed the Senate on June 8, 2006 and has gone to the House Regulatory Reform Committee for approval.

Mr. Molenaar and Ms. Graham discussed the 2008 AQB Criteria which states that a limited appraiser must train under a certified residential or certified general appraiser, and any training received under a state licensed appraiser must be completed and submitted prior to January 1, 2008, and approved for examination. It was noted that any experience gained under a state licensed appraiser and not completed and approved for examination prior to January 1, 2008, will not be accepted.

Mr. Molenaar expressed his concern regarding new board members being called upon by the department to perform case reviews without adequate training on how to prepare the review. Mr. Oetzel asked Mr. Gobbo to describe the review process. Mr. Gobbo stated that when a written complaint is received, an initial investigation is conducted by his staff attorney, John Valenti. The case is then referred to a staff analyst to complete documentation to support the investigation. The file is then referred to a board member for review and determination of violations committed. Mr. Gobbo stated if the board member receives a case involving someone they know personally, or if they don't feel qualified to review the case based on the level of work, they should return the case file to the

department with an explanation. Mr. Gobbo stated that a field review should not be conducted; the board member should review the information presented. Mr. Gobbo explained that after the case file is reviewed and returned by the board member with their findings, the department, respondent, and board member that reviewed the case attempt to negotiate all violations and recommend an appropriate sanction using the Recommended Minimum Sanctions outline. If an agreement cannot be made or the board rejects a stipulation, the case is scheduled for an administrative hearing before an administrative law judge. Mr. Molenaar asked if samples of case reviews could be given to new board members to demonstrate how the information is compiled and presented, as each board member uses their own outline to prepare the review. Mr. Oetzel stated that the Appraisal Subcommittee had forwarded guidelines to be used in case reviews and that he would present that information and any appropriate samples to the department for use in training new board members to review cases.

Mr. Oetzel stated that Bev Stanton requested the board to discuss the issue of requiring education instructors to be at least certified residential or certified general. Following a discussion, it was determined that a state license, certified general or certified residential designation is already required for certain prelicensure courses, but continuing education courses can be taught by an instructor with acceptable experience as determined by the sponsor. Ms. Bailey stated that the rules address these requirements. Mr. Oetzel asked that she email these requirements to the board for further discussion, and the education committee may pursue this issue further.

PUBLIC COMMENT

Fred VanderWal, state licensed appraiser, stated his opposition to the 2008 AQB Criteria that will eliminate his ability to teach limited appraisers after January 1, 2008, and any experience not completed and approved for examination prior to January 1, 2008, would not be accepted. Mr. Oetzel responded that the new guidelines are federally imposed and that if the State of Michigan does not adopt the new guidelines, then the federal government would not recognize any federally related transaction reports conducted in Michigan. Mr. Vanderwal asked if he could be grandfathered in to meet new requirements. Mr. Campbell stated that he may apply to upgrade to certified residential or certified general under the current requirements, and if he waits until 2008, the requirements will be much greater. Mr. VanderWal indicated he did not desire to upgrade, but continue training limited appraisers as he has for the last ten years. He also wanted the department and board to acknowledge that they were taking something away from him. Mr. Campbell stated that they are aware that state licensed appraisers will no longer be able to train limited appraisers starting January 1, 2008 due to the Appraisal Qualifications Board (AQB) Criteria.

Mr. Hufnagel asked whether the state website can provide the dates of previous licensure when an upgrade has taken place instead of just listing "null & void". Ms. Rock stated that the current system does not have that capability, but Mr. Hufnagel may contact the licensing office for that information.

NEXT MEETING DATE

The next regularly scheduled meeting of the Board of Real Estate Appraisers will be held on September 19, 2006.

ADJOURNMENT

There being no further business to be brought before the Board at this time, the meeting was adjourned at 11:20 a.m.

David Molenaar /s/
Board Chairperson

9-19-2006
Date

Sharon Murphy /s/
Recording Secretary

9-19-2006
Date