

**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

September 16, 2008

In accordance with the Open Meetings Act, 1976 PA 267, as amended, the Board of Real Estate Appraisers met in Regular Session on September 16, 2008, 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 9:05 a.m.

ROLL CALL

Present:	Donn Fresard	- Public Member
	Beth Graham	- Professional Member
	Craig Hufnagel	- Professional Member
	Patricia Kelly	- Public Member
	David Molenaar	- Professional Member
	John Snyder	- Professional Member
Absent:	Andrew Chamberlain	- Professional Member
	Darius Dynkowski	- Public Member
Staff:	Joseph Campbell	- Licensing Administrator
	Joyce Karr	- Licensing Division Director
	Sarah Rock	- Assistant Licensing Administrator
	Sharon Murphy	- Recording Secretary
	Bill Wilhelm	- Compliance/Legal/FOIA Unit
	Jim Nelson	- Compliance/Legal/FOIA Unit
	Ann Paruk	- Enforcement Division
	Jim Farhat	- Policy Specialist
	Foye Longworth	- Testing & Education Services
Visitors:	Michael French	- State Licensed Real Estate Appraiser
	William Fohey II	- Petitioner
	Keith Spiller	- Petitioner

INTRODUCTIONS

Patricia Kelly of Pinckney was appointed for a term commencing July 18, 2008 and expiring June 30, 2010 representing the general public, succeeding Robert Schellenberg whose term expired; Donn Fresard of Grosse Pointe Woods was reappointed to represent the general public for a term expiring June 30, 2012; and Beth Graham of Lansing was reappointed to represent state licensed appraisers for a term expiring June 30, 2012.

AMENDMENTS TO AGENDA

Add item 8.d. Board Communication

APPROVAL OF PREVIOUS MINUTES HELD JUNE 17, 2008

MOTION: Ms. Graham moved to approve the minutes of June 17, 2008. Mr. Hufnagel seconded the motion, which carried unanimously.

William Fohey II, Limited Real Estate Appraiser License Denial, GMC

On June 12, 2007, Mr. Fohey applied for limited real estate appraiser licensure. The department denied the application on May 2, 2008, for lack of good moral character. A petition for review was received on May 30, 2008. Mr. Fohey was present at the meeting today and addressed the board. The board reviewed the petition, supporting documentation and heard the petitioner's statements.

MOTION: Mr. Fresard moved to accept Mr. Fohey's petition to overturn the denial issued by the department based upon his demonstration of rehabilitation and his propensity to serve the public in a fair, honest and open manner. Mr. Hufnagel seconded the motion, which carried unanimously. The department concurred.

Keith Spiller, Certified General Real Estate Appraiser License Denial

On September 19, 2007, Mr. Spiller applied for a certified general real estate appraiser license. The department denied the application on June 17, 2008 due to lack of acceptable appraisal experience required, specifically the appraisal experience does not comply with USPAP Standard Rule 2-1(a) which requires appraisal reports to clearly and accurately set forth the appraisal in a manner that will not be misleading, and Mr. Spiller's experience does not comply with USPAP Standard Rule 1-4(a) which states, "when a sales comparison approach is applicable, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion." A petition for review was received on July 17, 2008. Mr. Spiller was present at the meeting today and addressed the board. The board reviewed the petition, supporting documentation and heard the petitioner's statements.

MOTION: Mr. Snyder moved to table the petition until the next board meeting on December 2, 2008 to allow Mr. Spiller additional time to submit further documentation demonstrating the three approaches to value—cost, income and sales comparison—specifically, the use of rent comparables and cost approaches used in the sample reports submitted for 6043 14th Street in Detroit, and 2030 S. Averill Ave in Flint. Mr. Hufnagel seconded the motion, which carried unanimously. The department concurred.

STIPULATIONS

Samuel Dekelata, 12-01-007943, C#302534

The board reviewed the stipulation in the matter of Samuel Dekelata who admitted to violating a provision for which penalties are not otherwise prescribed.

In accordance with the stipulation, the respondent consents to pay a fine of \$1,000.00 to the department within sixty (60) days from the date of mailing of the final order, and successfully complete 45 hours of continuing education courses consisting of 30 hours in Residential Sales Comparison and Income Approach courses, and the 15 hour National USPAP course within 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: Ms. Graham moved to accept the stipulation. Mr. Fresard seconded the motion, which carried by a majority vote, with Mr. Molenaar abstaining.

Daniel Frushour, 12-01-000511, C#302756

The board reviewed the stipulation in the matter of Daniel Frushour who admitted to failure to correctly employ recognized methods and techniques necessary to produce a credible appraisal in that he failed to use accurate property size data in the cost and sales comparison approaches; committed substantial errors of omission or commission that significantly affected the appraisal; rendered appraisal services in a careless or negligent manner; failure to clearly and accurately set forth the appraisal report in a manner that was not misleading; failure to provide sufficient information to enable the intended users of the appraisal to understand it properly; failure to summarize the information analyzed, the appraisal procedures followed and the reasoning that supported the analyses, opinions and conclusions; practicing without a license; acting or offering to act as a licensed appraiser when he was not licensed as a state licensed, state certified, or limited appraiser; failure to exercise reasonable diligence in developing or communicating and appraisal; and violating provisions for which penalties are not otherwise prescribed.

In accordance with the stipulation, the respondent consents to immediate revocation of licensure and shall return any wall and pocket licenses to the department. Failure to comply with all terms and conditions set forth in the stipulation shall result in continued revocation of all licenses and denial of any future applications for licensure, relicensure, or renewal until full compliance is made.

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

Gorten Kibner, 12-01-001046, C#304780

The board reviewed the stipulation in the matter of Gorten Kibner who admitted to violating provisions for which penalties are not otherwise prescribed.

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 30 hours of continuing education courses consisting of the 15 hour Residential Market Analysis and Highest and Best Use course, and the 15 hour National USPAP course within sixty (60) days 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: Ms. Graham moved to accept the stipulation. Mr. Hufnagel seconded the motion, which carried by a majority vote, with Mr. Molenaar abstaining.

Daniel Pudlo, 12-01-003003, C#304836

The board reviewed the stipulation in the matter of Daniel Pudlo who admitted to failure to clearly and accurately set forth the appraisal report in a manner that was not misleading in that he failed to use a proper form.

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 7 hours of continuing education courses in Advanced Market Analysis or Report Writing which may be applied to the license renewal requirement, to be completed within six (6) months from the mailing date of the final order. Failure to comply with all terms and conditions set forth in the stipulation shall result in 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. Hufnagel seconded the motion, which carried unanimously.

Gary Slagter, 12-01-002515, C#304888

The board reviewed the stipulation in the matter of Gary Slagter 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. 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. Mr. Snyder seconded the motion, which carried by a majority vote, with Ms. Graham abstaining.

Ravi Subhedar, 12-01-006080, C#304881

The board reviewed the stipulation in the matter of Ravi Subhedar 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; and failure to provide sufficient information to enable the intended users of the appraisal to understand it properly in that he failed to include accurate property data.

In accordance with the stipulation, 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 successfully complete 21 hours of continuing education courses which shall include the 7 hour Scope of Work course, 7 hour Cost Approach course, and 7 hour Advanced Market Analysis course, all of which shall not be taken online and shall not be applied to licensure

renewal, to be completed within six (6) months from the mailing date of the final order; and provide proof of completion of the required 21 hours of courses to the department within six months 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 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. Snyder seconded the motion, which carried unanimously.

Henry Vliek, 12-01-001523, C#307481

The board reviewed the stipulation in the matter of Henry Vliek who admitted to committing fraud, deceit or dishonesty by performing appraisal services while unlicensed; and violating a provision or rule for which a penalty is not otherwise prescribed.

In accordance with the stipulation, the respondent consents to immediate revocation of his appraiser license in lieu of sanctions in this matter. Failure to comply with all terms and conditions set forth in the stipulation shall result in continued revocation 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. Kelly seconded the motion, which carried by a majority vote, with Ms. Graham abstaining.

HEARING REPORTS

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

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

Bryan Cope, 12-01-007390, C#299926, Docket #2007-1655

The board reviewed the hearing report in the matter of Bryan Cope of Westland, Michigan. No violations of the code were found by the administrative law judge, and the matter was dismissed.

Heather Delgado, 12-01-008027, C#302337, Docket #2007-1494

The board reviewed the hearing report in the matter of Heather Delgado for failure to perform an appraisal in compliance with USPAP; and violating standards for the development and communication of real property appraisal.

MOTION: Mr. Hufnagel moved to impose a fine in the amount of \$1,500.00 to be paid to the department within 60 days from the date of mailing of the final order, and successfully complete a 15 hour National USPAP course in addition to the continuing education requirement for renewal, to be completed within six months from the mailing date of the final order. Ms. Graham seconded the motion, which carried by a majority vote, with Molenaar abstaining.

Michael Gray, 12-01-069361, C#304524, Docket #2008-483

The board reviewed the hearing report in the matter of Michael Gray for failure to perform an appraisal in compliance with USPAP; failure to include the statement "appraisers are required to be licensed and are regulated by the Michigan Department of Labor & Economic Growth" in the appraisal; violating standards for the development and communication of real property appraisal; failure or refusal to exercise reasonable diligence in developing or communicating an appraisal; demonstrating incompetence in developing or communicating an appraisal; and violating any other provision of the act or rule for which a penalty is not prescribed.

MOTION: Ms. Graham moved to impose a fine in the amount of \$8,000.00 to be paid to the department within 60 days from the date of mailing of the final order, and immediate revocation of respondent's license. Mr. Hufnagel seconded the motion, which carried unanimously. Mr. Fresard clarified the sanctions were imposed based upon the nature and severity of the violations cited.

Craig Harris, 12-01-006130, C#308001, Docket #2008-476

The board reviewed the hearing report in the matter of Craig Harris for practicing as an appraiser without holding an appraiser license; performing appraisal services for which the individual is not licensed; failure or refusal without good cause to exercise reasonable diligence in developing or communicating an appraisal; committing fraud, deceit or dishonesty in practicing an occupation; and violating any other provision of the act or rule for which a penalty is not prescribed.

MOTION: Mr. Fresard moved to impose a fine in the amount of \$5,000.00 to be paid to the department within 60 days from the date of mailing of the final order; restitution in the amount of \$275.00 to be paid to the complainant within 60 days from the date of mailing of the final order; and immediate revocation of respondent's license based upon the severity of the violations cited. Mr. Hufnagel seconded the motion, which carried unanimously.

Thomas Reinbold, 12-01-000502, C#302364, Docket#2007-1495

The board reviewed the hearing report in the matter of Thomas Reinbold for failure to perform an appraisal in compliance with USPAP; violating standards for the development and communication of real property appraisal; and failure or refusal without good cause to exercise reasonable diligence in developing or communicating an appraisal.

MOTION: Ms. Graham moved to impose a fine in the amount of \$5,000.00 to be paid to the department within 60 days from the date of mailing of the final order, successfully complete a 15 hour National USPAP course in addition to the continuing education requirement for renewal, to be completed within six months from the mailing date of the final order, and suspension of respondent's appraiser license for a period of six months from the date of mailing of the final order based upon the severity of the violations cited. Mr. Hufnagel seconded the motion, which carried by a majority vote, with Mr. Molenaar abstaining.

EDUCATION COMMITTEE REPORT

The board received three Education Committee Reports as follows: June 2008, July 2008, and August 2008.

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

ITEMS FOR CONSIDERATION FROM BOARD MEMBERS/STAFF

Legislative Update – Mr. Campbell stated the department is aware the Michigan statute which states continuing education is not required the first year for license upgrades is contrary to the AQB's interpretation, and the Office of Policy & Legislative Affairs is aware of this discrepancy and will be working on updating the statute as time allows.

Mr. Hufnagel inquired regarding progress towards updating the board composition as outlined in the statute. Mr. Farhat stated he would check the status following the meeting today and provide an update to board members and staff. Post meeting: Mr. Farhat provided to board members and staff via email a link to the legislative web site regarding Senate Bill 1364 in process to amend Section 2603 (2) "Of those board members who are appraisers, 3 shall be certified general real estate appraisers, 1 shall be a certified residential real estate appraiser, and 2 shall be **EITHER** state licensed real estate appraisers **OR ADDITIONAL CERTIFIED RESIDENTIAL REAL ESTATE APPRAISERS**. At least 1 of those appraisers shall be employed by a state or nationally chartered bank, a state or federally chartered savings and loan or savings bank, a state or federally chartered credit union, an entity of the federally chartered farm credit system, or an entity regulated under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684." Mr. Farhat reported that there has been no other activity since the bill was introduced on June 3, 2008.

Testing Services Update – Mr. Longworth presented and discussed examination pass rate statistics, stating the pass rates are improving and should continue to improve with time. Mr. Molenaar asked if national averages were available yet. Mr. Longworth stated he had not received a response to his requests; however, he stated the quarterly national averages should become available online through the national testing group as data becomes available.

Case Review Backlog Update – Mr. Molenaar asked board members to report the status of outstanding case review files for the department. Three board members stated they had outstanding files to review, and Mr. Molenaar advised they complete the reviews and quickly return the files to the department, reiterating the threat of non-recognition proceedings by the federal government if Michigan does not meet the one-year time limit of complaint file disposition.

Board Communication – Mr. Molenaar described a lack of communication between department staff and board members regarding the need for their attendance at hearings, as he was not notified of a hearing cancellation recently and just happened to find out when calling on another matter. Mr. Wilhelm stated it is the department's responsibility to contact board members in the event a hearing is cancelled or rescheduled; however, he advised that board members call first

prior to attending a hearing due to the possibility of cancellation or rescheduling. Mr. Campbell stated he would notify enforcement staff regarding board member notification of hearings and appointment cancellations.

ELECTION (Last Election held September 18, 2007)

Mr. Molenaar was re-elected as board chairperson, and Ms. Graham was re-elected as board vice-chairperson by unanimous votes.

PUBLIC COMMENT

Michael French, state licensed real estate appraiser addressed the board and department regarding his pending application to upgrade to the certified general real estate appraiser license which he submitted in November 2007. He stated two additional work samples were requested in February 2008 and his file had been referred to the experience committee for further review. Mr. French inquired of the status of this review. Mr. Molenaar stated he would contact the experience committee members following the meeting today. Mr. Campbell stated the department would follow up as well to determine the status of Mr. French's application. Post meeting: Mr. Campbell found that more reports were submitted to the experience committee in May 2008 and emailed the experience committee requesting them to expedite Mr. French's review.

NEXT MEETING DATE

The next regularly scheduled meeting of the Board of Real Estate Appraisers will be held on December 2, 2008.

ADJOURNMENT

There being no further business to be brought before the Board at this time, the meeting was adjourned at 10:30 a.m.

David Molenaar /s/
Board Chairperson

12/2/2008
Date

Sharon Murphy /s/
Recording Secretary

12/2/2008
Date