

**West Virginia Real Estate Appraiser  
Licensing and Certification Board**

**MINUTES**

**April 5, 2017**

The West Virginia Real Estate Appraiser Licensing and Certification Board held a meeting on April 5, 2017 in the 4<sup>th</sup> floor Conference Room located at 405 Capitol Street, Charleston, WV 25301.

The following were in attendance: Glenn Summers, Chair; Dean Dawson, Vice Chair; Rachel Phillips, Secretary; Frank DeChiazza; The Honorable Judge Anthony Julian; Nathan Nibert; Ann Worley; Darlene Dunn; Brenda Ashworth, Interim Executive Director; Jennifer Akers, AG Legal Counsel; Courtney Buskirk and Billie Hancock, board staff.

Doug Butcher was absent.

Lee Painter, public attendee.

The meeting was called to order at 10:05 am.

***Remarks from the Public***

Lee Painter attended to observe meeting.

The Honorable Judge Anthony Julian motioned for the Interim Executive Director to send Lee Painter a letter approving his supervisory exemption immediately after the Board meeting. Rachel Phillips seconded the motion. Motion carried.

***Oath and Board Orientation***

All present Board members signed their Oaths.

Jennifer Akers, legal Counsel, went over a brief orientation of the Chapter 30 Code and highlighted key areas: Auditor's training, ethics, complaints, upgrades, elections, executive session protocol.

***New Business***

Rachel Phillips motioned to postpone the election of officers until the next Board meeting. Dean Dawson seconded the motion. Motion carried.

***Executive Session***

Rachel Phillips moved to enter Executive Session to discuss the Executive Director's Position. The Honorable Judge Anthony Julian seconded the motion. Motion carried.

Rachel Phillips motioned to exit Executive Session. Ann Worley seconded the motion. Motion carried.

Darlene Dunn motioned to form a search committee to begin the process of filling the vacancy of the Executive Director's position. The Committee will be Darlene Dunn, Dean Dawson, The Honorable

Judge Anthony Julian; Frank DeChiazza, and Jennifer Akers, legal counsel. The Honorable Judge Anthony Julian seconded the motion. Motion carried.

### ***Reading of the Minutes***

Minutes from the January 25, 2017 meeting were presented to the Board.

Dean Dawson made a motion to approve the January 25, 2017 meeting minutes. The Honorable Anthony Julian seconded the motion. Motion carried.

### ***Executive Session***

Dean Dawson motioned to move into Executive Session to discuss Standards and Upgrades. The Honorable Judge Anthony Julian seconded the motion. Motion carried.

Judge Anthony Julian motioned to exit Executive session. Rachel Phillips seconded the motion. Motion carried.

### ***Committee Reports & Motions***

#### Education

Glenn Summers, Board Chair, gave staff the directive to add class dates, locations, cost and times to the Board website for approved education courses.

Dean Dawson motioned to approve that the Board shall reimburse the cost for any Board member or Standards Committee member that would like to take the Appraisal Institute “*Review Theory – Residential*” education course in Charleston, WV on May 8-10, 2017. And to allow the appraiser members to use the course hours towards their continuing education during renewals. Judge Anthony Julian seconded the motion. Motion carried.

#### Policy

The Policy Committee makes the following recommendations:  
POLICY COMMITTEE RECOMMENDATIONS

1. Recommendation to change the term “complaint” on current form to “allegation” as well as change the current procedural rule 190 C.S.R. 4 “Investigative and Hearing Procedures, replacing the word “complaint” with “allegation” throughout the rule.
2. Recommendation of maintaining the current requirement of fourteen (14) hours of continuing education for license renewal as found in C.S.R. 190-3-4.1.
3. Recommendation to maintain the current requirement that limits a supervisor to the supervision of two (2) apprentices, as found in C.S.R. 190-2-11.8.a.
4. Recommendation to amend the current legislative rule regarding inactive status licensees. The current rule requires an inactive licensee to take the current 7-hour USPAP update course to reactivate his or her license. Recommendation would change that rule to instead require the current 15-hour USPAP course and the current West Virginia law course to reactivate a license.
5. Recommendation to change the current requirement of 150 classroom hours to qualify as an apprentice to 75 classroom hours. See C.S.R. 190-2-11.3.d.

6. Recommendation to contact the West Virginia Attorney General's office regarding enforcement of West Virginia Code § 30-38-1(c). (Broker Price Opinions)
7. Recommendation that the board maintain its policy limiting temporary permits to two (2) per year.
8. Recommendation to amend C.S.R. 190-2-10.2.d., raising the cost of temporary permits from \$250.00 to \$500.00.
9. Recommendation to maintain current policy allowing an appraiser to claim up to 1,000 hours of experience for mass appraisals.
10. Recommendation to amend the experience log forms to include "suburban", "urban" and "review" categories.
11. Recommendation to maintain the current policy using American National Standard Institute (ANSI) as the standard for calculation of square footage.
12. Recommendation to add a "frequently asked questions" section to the complaint/allegation form.
13. Recommendation to amend the policy adopted on June 11, 1998, changing "(T)he board will have one meeting per year in a different part of the state" to "(T)he board may have one meeting per year in a different part of the state."

Rachel Phillips motioned to rescind all policies that have been accepted by the Board but not written into code prior to April 5, 2017 and to accept the recommended policy changes set forth by the Policy Committee. Dean Dawson seconded the motion. Motion carried.

#### Standards

#### **Complaint 16-018A: Allie, Jamil**

Complaint Received: 11/2/2016

Complaint: Complainant alleges that the appraiser did not correctly appraise the property and intentionally misrepresented the type and value of the property.

Recommendation/Status: Committee reviewed all information and spoke with respondent; found several USPAP violations: Scope of Work Rule page 14, line 388 #2. Determine and perform the scope of work necessary to develop credible assignment results. Standard Rule 1-2-E, page 18, line 53: identify the characteristics of the property that are relevant to the type and definition of the value and intended use of the appraisal. Standard Rule 1-2-H, page 19, line 568: determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE. Standard Rule 1-5-A, page 21, line 626: When the value opinion to be developed is market value an appraiser must, if such information is available to the appraiser in the normal course of business (a) analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal. Standards Rule 2-2-A, page 23, The content of an Appraisal Report must be consistent with the intended use of the appraisal and at a minimum, (III) summarize information sufficient to identify the real estate involved in the appraisal, including the physical, legal, and economic property characteristics relevant to the assignment. Standard Rule 2-2-B, page 26: The content of a Restricted Appraisal Report must be consistent with the intended use of the appraisal and at a minimum, (VII) state the scope of work used to develop the appraisal. Committee recommends a consent decree with terms of corrective education, Scope of Work course and exam with passing grade, cannot be used for continuing education, must provide certificate, reimburse the board for fees to be determined by legal counsel and staff, and license suspension for 60 days.

The Honorable Judge Anthony Julian motioned to issue a Consent Decree against Complaint 16-018A with 1 year license suspension, successful completion of the 15-hour National USPAP course and proctored exam, which cannot be used as continuing education during renewals, and the reimbursement of all applicable costs to the Board. Frank DeChiazza seconded the motion. Motion carried.

**Complaint 16-018B: Plott, Ronald**

Complaint Received: 11/2/2016

Complaint: Complainant alleged wrong doing on behalf of respondent. Alleged that property was intentionally appraised incorrectly.

Recommendation/Status: Complainant withdrew complaint. The Committee reviewed all information and spoke to Respondent. Committee found no USPAP violations. Recommends dismissal.

Rachel Phillips motioned to accept the Standard Committee's recommendation and dismiss the complaint. Judge Anthony Julian seconded the motion. Dean Dawson abstained from the vote. Motion carried.

**Complaint 16-017: Fisher, Jim**

Complaint Received: 12/19/2016

Complaint: Lack of professional communication.

Recommendation/Status: Committee found no USPAP of WV Code violations, recommends dismissal.

Ann Worley motioned to accept the recommendation of Standard's Committee and dismiss the complaint. Dean Dawson seconded the motion. Motion carried.

**Complaint 17-001: Waldeck, Kirk**

Complaint Received: 1/17/2017

Complaint: Alleged violations of AMC review audit.

Recommendation/Status: Complainant failed to provide additional information as requested by the committee.

Judge Anthony Julian motioned to accept the recommendation of the Standard's Committee and dismiss the complaint. Dean Dawson seconded. Motion carried.

**Complaint 16-019: Scott, Keith**

Complaint Received: 8/15/2016

Complaint: Appraiser was paid to provide two appraisals. Only provided one. Would not return phone calls or any attempt at communication from the complainant.

Recommendation/Status: Respondent failed to respond to the Board's initial notification. Was given additional 48 hours to respond. Failed to respond in a timely manner with a signed response. Committee found several violations of USPAP ETHICS Rule: page 8 lines 209-213: An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics. An appraiser must comply with USPAP when obligated by law or regulation, or by agreement with the client or intended users. In addition to these requirements, an individual should comply any time that individual represents that he or she is performing the service as an appraiser. 239: must not engage in criminal conduct 241: must not perform an assignment in a grossly negligent manner. Recommend a consent decree with license suspension and reimbursement of fees to be determined by legal counsel and office staff.

Rachel Phillips motioned to dismiss the complaint and remove from Board's docket. Judge Anthony Julian seconded the motion. Motion carried.

**Complaint 16-015: McQuade, Thelma**

Complainant emailed Board office requesting to re-address the complaint. Board dismissed complaint, respondent deceased.

Judge Anthony Julian motioned to take no further action and allow the Board's previous decision to stand. Ann Worley seconded the motion. Motion carried.

### Upgrades

17-003 Supervisor Application: See, Craig; Recommend Approval with the reminder that the state licensing format includes the licensing type/level (CG488 not 488)

17-004 Supervisor Application: Piko, William; Recommend Approval with remarks:

- The report failed to develop and report a credible site value in the Cost Approach.

Standards Rule 1-4

"In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results."

(b) When a cost approach is necessary for credible assignment results, an appraiser must:

(i) "Develop an opinion of site value by an appropriate method or technique."

- Sales Comparison Approach - the report shows adjustments for differences between the subject and comparable sales at a precision level not normally found or reflected by the market.

17-005 Supervisor Application: Garton, Rock; Recommend Denial. Appraiser has been under a consent decree within the previous 3 years. Consent decree completed Feb 2015. Not eligible for Supervisor Certification until February 2018. WV Code Chapter 30, Title 190, Series 2, 11.8

17-006 Supervisor Application: Butler, Edward; Recommend Approval.

17-008 Supervisor Application: Wise, Douglas; Recommend Approval with the following remarks:

- Standard 1-3 (b) requires us to develop an opinion of highest and best use of the real estate when a market value opinion is developed and Standard 2-2(a)(x) states specifically "when an opinion of highest and best use was developed by the appraiser, summarize the support and rationale for that opinion", checking the box without any further discussion is not adequate.

- Marshall & Swift does not include entrepreneurial profit or selling costs. Neither were described as included in the Cost Approach Data Addendum.

- A hypothetical condition was noted "subject to completion per plans and specifications on the basis of a hypothetical condition that the improvements have been completed." The subject is not under construction. Repairs are requested: completion of the basement bathroom grout, basement drop ceiling, and installation of a bathroom faucet. The proper condition would be "subject to the following repairs or alterations on the basis of a hypothetical condition that the repairs or alterations have been completed."

Rachel Phillips motioned to accept the Upgrade Committee's report and recommendations. Frank DeChiazza seconded the motion. Motion carried.

### *Legal*

The Honorable Judge Anthony Julian motioned to deny the two temporary applications from the same applicant due to failure to disclose all previous disciplinary action. Rachel Phillips seconded the motion. Motion carried.

The Honorable Judge Anthony Julian motioned to keep all notary seals on documents, excluding online renewals. Rachel Phillips seconded the motion. Motion carried.

### *Interim Executive Director's Report*

Rachel Phillips and Jennifer Akers are scheduled to attend the ASC Investigator training. Doug Butcher, Brenda Ashworth, Courtney Buskirk, Billie Hancock are scheduled to attend the spring AARO conference.

Board staff meet with Office of Technology team to start planning new database system.

New phone system on hold, due to the structural changes at Office of Technology.

Legislative Performance Audit results still pending.

Appraisal Subcommittee Audit results "Good."

Staff and legal counsel attended 15-Hour USPAP as instructed.

Explanation of State of WV employee leave and increment benefits.

### Licensing Reports

- Number of current licensed appraisers - 598
- Registered Appraisal Management Companies (AMCs) Total- 95
- Temporary Report - 35 Temporary Permits Issued during the two months of February and March

Ann Worley motioned to accept the Interim Executive Director's Financial Report. Judge Anthony Julian seconded the motion. Motion carried.

Three options were presented to the Board for the expansion of the Board office. One: to have plumbing ran for an ice maker refrigerator, two: to lease additional space for a kitchen, and three: to lease additional space for a kitchen and a conference room.

Rachel Phillips motioned to approve the renovation of the Board office to add plumbing for an ice maker and the purchase of a refrigerator. Judge Anthony Julian seconded the motion. Motion carried.

Internal P-Card policies and controls were presented to the Board.

Frank DeChiazza motioned to accept the internal p-card policies and controls. Darlene Dunn seconded the motion. Motion carried.

Being no further business, the meeting adjourned at 3:20pm.



Glenn Summers, Chair