



CANNON BUILDING
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STATE OF DELAWARE
DEPARTMENT OF STATE

DIVISION OF PROFESSIONAL REGULATION

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PUBLIC MEETING MINUTES:	COUNCIL ON REAL ESTATE APPRAISERS
MEETING DATE AND TIME:	Tuesday, September 20, 2011 at 9:30 a.m.
PLACE:	861 Silver Lake Boulevard, Dover, Delaware Conference Room A , 2nd floor of the Cannon Building
MINUTES APPROVED:	October 18, 2011

Members Present

William Diveley, Chair, Professional Member
Stephen Huston, Professional Member
Brad Levering, Professional Member
Richard Wheeler, Public Member
Frank Long, Public Member
Frank Smith, Public Member
Yvonne Rickards, Public Banking Member
Ronald Mandato, Professional Member

Division Staff/Deputy Attorney General

Patricia Davis-Oliva, Deputy Attorney General
Nicole Williams, Administrative Specialist II
Michele Howard, Administrative Specialist II
Kristi Gibbons, Hearing Officer
Jean Betley, Investigator

Members Absent

Gary V. Parker, Vice Chair, Professional Member

Others Present

Vera Stitze, Court Reporter
Andrew Whitehead, Esquire
Kelly L. Leaberry
Barbara Gadbois, Deputy Attorney General
Earl Loomis
Eric Savage

Matthew Hayes
Cheryl Russell
Eddy Parker
Chris Keeler
Hal Godwin
Cathy Berchock
Sheila Ross
Karen Denton

Call to Order

Mr. Diveley called the meeting to order at 9:41 a.m.

Disciplinary Hearing: Kelly L. Leaberry, Complaints

Ms. Davis-Oliva called the hearing to order for Kelly Lynn Leaberry's hearing. The Council introduced themselves for the record. The other Counsel present, Mr. Whitehead and Ms. Gadbois, introduced themselves for the record. Mr. Levering and Mr. Mandato recused themselves from the hearing. Ms. Gadbois stated that the Council will be having an abbreviated hearing as Ms. Leaberry admitted to all allegations of the complaints. The Council heard testimony concerning the appropriate disciplinary action for this case from the State's proposed consent agreement. The State provided its opening statement.

Ms. Davis-Oliva marked State Exhibit 1 for the record as the complaint file on Ms. Leaberry by the State.

Mr. Whitehead provided his argument. Ms. Leaberry was sworn in for testimony. Ms. Leaberry provided testimony for the record. Mr. Whitehead entered Respondent's Exhibit 1 for the record as a letter from Lisa Glacken, a friend of the Respondent. Mr. Whitehead entered Respondent's Exhibits 2 for the record as a collective group of continuing education certificates.

The State questioned Ms. Leaberry. The Council questioned Ms. Leaberry. Mr. Whitehead provided his closing statement and requested the Council to consider the discipline provided in the original consent agreement. The State provided its closing statement and requested that no suspension be imposed on Ms. Leaberry but rather a longer period of probation with quarterly reports and samples submitted to the Council for review.

The Council went off the record at 10:25 a.m. for deliberations. The Council went back on the record at 10:50 a.m.

Mr. Huston made a motion to impose an immediate four month suspension of Ms. Leaberry's license, a probationary period of two years immediately following the four month suspension and during the probationary period submission of one appraisal report sample quarterly for a total of eight appraisal report samples during the two-year probationary period, a civil penalty of \$2,500 to be paid to the Division due within the first six months of the probationary period, nine hours of remedial education in appraising in addition to the required 28 hours of continuing education for Delaware licensure to be taken before the end of the two-year probationary period plus a MLS

INNOVIA Training course as offered by the Sussex County Board of Realtors to be completed as soon as possible, seconded by Ms. Rickards. The motion passed my majority vote as Mr. Levering and Mr. Mandato were recused from the vote.

The hearing adjourned at 10:52 a.m.

Ms. Davis-Oliva advised that the final order will be reviewed and signed at the October meeting and all disciplinary actions will take effect at that time.

Review and Approval of Minutes

The Council reviewed the minutes from the July meeting. Mr. Long made a motion to approve the minutes as submitted, seconded by Mr. Huston. Motion carried unanimously.

Unfinished Business

Additional Public Comments for the July 19, 2011 Rules and Regulations Hearing: Written Response from R. Douglas Sensabaugh, New Castle County

Ms. Davis-Oliva stated that the Rules and Regulations hearing will be properly noticed again for the October meeting to allow for additional public comment and written comments.

Appraisal Log Matrix

The Council tabled this agenda item until the next meeting.

Requirement of Criminal Background Checks for Licensure: Update from Other States

Ms. Williams stated that the States of PA, NJ, DC, MD, and VA do not currently require criminal background checks for licensure and that the Appraisal Qualifications Board is currently proposing to make this a requirement as stated in their fourth exposure draft. Ms. Williams provided the Council with a copy of the criminal background check section of that exposure draft by the AQB. The Council decided to add this agenda item back to the October agenda for additional discussion after review of the exposure draft.

Hearing for Ted Ganderton Noticed for the October meeting

Ms. Williams stated that the State and Mr. Ganderton are working on a consent agreement for the Council to review at their next meeting. There was no further discussion.

New Business

New Complaints

Complaint 19-07-11 of Kent County was assigned to Mr. Diveley.

Complaints 19-08-11 and 19-09-11 of New Castle County were assigned to Mr. Levering.

Review of Applications: Criminal and/or Discipline History

Terence Tener: Ms. Davis-Oliva stated that Mr. Tener entered into a consent agreement in the State of PA in 1998 for non-compliance to PA's continuing education requirement. Mr. Tener's license in PA and all other States in which he is currently licensed is in good standing. Mr. Huston made a motion to waive the disqualification

and granted Mr. Tener for the temporary practice permit, seconded by Mr. Diveley. Motion carried unanimously.

Sean Stoner: Ms. Davis-Oliva stated that Mr. Stoner received a past criminal charge that is not substantially related to the profession of appraising. Mr. Huston made a motion to approve Mr. Stoner's application for licensure as a Certified General Real Property Appraiser, seconded by Mr. Long. Motion carried unanimously.

Randy Neal: Ms. Davis-Oliva stated that Mr. Neal received past criminal charges not substantially related to the profession of appraising and that the State of West Virginia Real Estate Commission filed a complaint against Mr. Neal and offered a consent agree in regards to Mr. Neal's real estate license, not his appraiser license. The Council discussed the application. Mr. Huston made a motion to approve Mr. Neal for licensure as a Certified Residential Real Property Appraiser, seconded by Ms. Rickards. Motion carried unanimously.

Review of Application to Sit for Exam

Thomas R. Amatuzio: The Council tabled this agenda item until the next meeting for further review.

Timothy D. Layton: Mr. Mandato reviewed Mr. Layton's application and made a motion to approve Mr. Layton to sit for the exam, seconded by Mr. Long. Motion carried unanimously.

Review of Applications for Exemption to Rule 4.2.3

Gregory Sachs and Kelli M. Holman: Mr. Diveley reviewed the applications and made a motion to approve the exemptions for Mr. Sachs and Mr. Holman, seconded by Mr. Huston. Motion carried unanimously.

Ratification of Issued Licenses

Mr. Diveley made a motion to ratify the listing of licenses issued to Jahn Noonan, Robert Szymanski, Robert Kaltman, Paul Sopenoff, George Frizzell, Stacy Harman, Chris Mieczkowski, and Robert Redner, seconded by Mr. Huston. Motion carried unanimously.

Ratification of Approved Continuing Education Activities

Mr. Diveley made a motion to ratify the approved education activities listing, seconded by Mr. Huston. Motion carried unanimously.

Review of Temp Applications for discussion only

Mr. Diveley read the list of names approved for temporary permits. There was no discussion by the Council.

Scope of Practice for Appraisal Reports

The Council tabled this agenda item until the next meeting.

Trainee Checklist for the Appraisal Experience Log

The Council tabled this agenda item until the next meeting.

Assessor Examination

Ms. Williams stated to the Council that currently there is not test center that offers an assessor examination. Ms. Williams will contact other States and regulatory agencies to obtain additional information about an assessor examination.

Allied Business Schools Certified Residential and General Certificate Programs

Ms. Williams stated that Allied Business Schools submitted information pertaining to a Certified Residential Appraiser Certificate Program and a Certified General Appraiser Certificated Program which is a program taken at their parent university, Allied University. They are requesting approval of both certificate programs from the Council in lieu of the semester hour's requirement for licensure. The Council advised to submit a letter to them stating that the Council does not approve programs as they will need to seek approval through an accreditation organization or the Appraisal Qualifications Board.

Other Business before the Council (for discussion only)

Ms. Williams updated the Council regarding the Appraisal Subcommittee's field review final determination. The ASC declared the State of Delaware to be in full compliance as they took the appropriate corrective actions to resolve the noted deficiencies/ concerns by the ASC during their field review.

Mr. Huston commented on the annual seminar for the Real Estate Commission that he had attended regarding the language for CMA's and BPO's and suggested that the Council work toward scheduling their next annual seminar.

Public Comment

Mr. Loomis addressed the Council and stated that he will submit a letter with his concerns for review at the November meeting.


Next Meeting

The next meeting is scheduled for October 18, 2011 at 9:30 a.m. in Conference Room A second floor, Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

Adjournment

Mr. Huston made a motion, seconded by Mr. Smith to adjourn the meeting. There being no further business before the Council, the meeting adjourned at 11:18 a.m.

Respectfully submitted,



Nicole M. Williams
Administrative Specialist II