



Executive Summary
State Board of Certified Real Estate Appraisers
2601 North Third Street, Harrisburg
September 10, 2009

Present at the regular meeting of the Board were: Chairman Robert McRae, Daniel Bradley, Joseph Jacobs, Paul Kauffman, Richard Lam, Martha Brown (Secretary of the Commonwealth's Designee), John Abel (Attorney General's Designee) and Paul Wentzel (Department of Banking Designee). Also present were Board Counsel Christopher McNally and Board Administrator Heidi Weirich.

The following key discussions/actions were taken:

1. The July minutes were approved.
2. Report of Prosecution
 - Seriaika Gatta (File No. 06-70-06894). The respondent's license is currently inactive and the respondent is incarcerated for conspiracy to commit wire fraud. The Commonwealth recommends that the respondent's license be revoked immediately. The Commonwealth is not seeking civil penalties, because the respondent had to pay over \$500,000 as part of his conviction. The consent agreement presented by the prosecution was deliberated by the Board in executive session and was approved.
 - (File No. 06-70-01886 and 07-70-12463). The respondent completed an appraisal report with serious USPAP violations. The subject property is a small building in Western PA that was converted from a commercial property into a residence. The comparables used were located in a residential neighborhood and no concessions were made for the fact that the subject property is located in a commercial area with metered parking. The respondent admitted that the lender wanted the property appraised as a single family home and gave him a target value to reach. The Commonwealth recommends \$2,000 civil penalties, \$500 investigative costs, and 30-hours continuing education comprised of a 15-hour USPAP course and 15-hour market analysis course. In addition, the Commonwealth recommends an 18-month suspension with a minimum one month active suspension. The respondent has two cases open at this time. The consent agreement presented by the prosecution was deliberated by the Board in executive session and it was provisionally denied.
 - Michael Deseuyers (File No. 05-70-05458). The respondent is a licensed residential appraiser who completed an appraisal in May 2005 that was found to be noncompliant with USPAP. The report had false information regarding the subject property and comparables that lead to an inaccurate price. The respondent has been disciplined by the Board previously for a similar violation. The Commonwealth recommends a 12-month probation during which time the Board can review two reports of the Board's choosing. In addition, the Commonwealth recommends \$4,000 civil penalties, \$1,000 investigative costs, and completion of a 7-hour remedial education course and a residential comparison approach course. The consent agreement presented by the prosecution was deliberated by the Board in executive session and was approved.

- Peter Kovach, Ray Michalowski and Jacqueline Pfursich reported on the conference that they attended with investigative groups from across the nation. They would like to implement the following three ideas:
 - Change the investigative report format to create a more concise, fact-driven report. Remove the jurisdiction requirement, which would allow experts to do an investigative report instead of a review report.
 - During appraisal cases, teach experts to question witnesses and to pair up with investigators to assist in creating a more investigative report. There are large portions of the Commonwealth that do not currently have an expert for investigative purposes. The Board approved soliciting non-instructors as experts.
 - Hold pre-hearing settlement/compliance conferences between the prosecutorial division and the defense prior to a hearing. This will hopefully shorten the length of the hearing by removing frivolous charges and create a more polished hearing for the Board. In addition, some cases may be dismissed dependant on the case of the defense.

The Board asked the prosecutorial division to research the logistics of implementing these suggestions and to discuss the ideas with other departments that will be affected by the changes. There will be another presentation to the Board at the October meeting at which time the Board will deliberate and give their final opinion on the implantation of these changes.

3. Report of Board Counsel

- Andrea Koury (File No. 08-70-05474). The Board conducted deliberations during executive session and granted the Commonwealth motion for judgment and to issue an adjudication order based upon these deliberations.
- Rhoda Crawford (File No. 07-70-11748). The Board conducted deliberations during executive session and granted the Commonwealth motion for judgment and to issue an adjudication order based upon these deliberations.
- Certified Pennsylvania Evaluator Application of William Gregory Rothman. This application was deliberated in executive session and was approved.
- State-Certified Real Estate Appraiser Reciprocal Application of Kevin Donaldson. This application was deliberated in executive session and was approved.

4. Chairman's Report

- Chairman McRae introduced new Board member Joseph Jacobs.

5. Administrator's Report

- Heidy asked the Board whether or not they want to arrange a meeting in Erie next year. The Board will pursue a meeting in Erie in May.

6. Regulations

- Steve Wennberg, Esq. reported that the Regulations Package has been approved by the Policy office and has been given to the IRCC and House and Senate Professional Licensure committees for approval. The new regulations will be printed in the *Pennsylvania Bulletin* on September 19th and the public comment period will run through November 19th. The Board will need to authorize final rulemaking at the December meeting. The projected implementation date is April 1, 2010. Individuals already working

as appraiser assistants will be given an extra three months, until July 1, to become licensed.

- Steve Wennberg Esq. reminded the group of the Common Court decision that allowed a non-appraiser to testify in regards to the real value of a property. The Board asked for a change in regulation to add a definition of “non-federally related transaction” to attempt to remedy this problem. A sample definition drafted by Vice-Chairman Dan Bradley was distributed and the Board deliberated the pros and cons of seeking this regulatory change. The main concerns/comments were:
 - The court case in question regards condemnation proceedings, not all non-federal transactions.
 - By changing the Board’s regulations, the court decision will not be reversed. It will still provide precedence.
 - The act of giving verbal testimony, versus a written report on the value of a real estate property, does not fall under the scope of practice. The Board cannot mandate who gives verbal testimony, this must be decided by the court, but if a written report is required as a pre-requisite when testifying in court the Board can react.
 - The definition needs to ensure that the Board can regulate if someone prepares a written appraisal in a condemnation case without proper certification and/or if a certified appraiser prepares an inaccurate report and testifies to its regard.
 - Is it more effective to add this definition to the regulations or seek a legislative fix to this problem?

Steve Wennberg, Esq. will research the pros and cons of fixing this issue through regulatory changes versus legislatively and present to the Board at the October meeting. At that time the Board will make a final determination.

7. Matters for Discussion

- Richard Lam noted that he was contacted by an appraiser who was pressured by an Appraisal Management Company (AMC) and wants to file a complaint. Unfortunately, since Independent Valuation Protection Institute (IVPI) was never created through the Home Valuation Code of Conduct (HVCC), and because AMCs do not fall under the jurisdiction of the Board, there is no real outlet for appraisers to file grievance against an AMC or lender. There are many appraisers wanting to file a complaints regarding being placed on a “do not use” list as well. Currently, the only recourse is for the appraiser to send a letter to the Banking Department and/or the Attorney General’s office.
- Michelle Bradley reported that a Pennsylvania Association of REALTORS® (PAR) task force, in collaboration with Representative Stevenson and members of the Appraisal Institute, have created a piece of draft legislation that will grant the Board jurisdiction over AMCs. The legislation will come before PAR’s Board of Directors later this month for approval. If approved, PAR members will come before the Board to provide testimony.
- John Abel noted that it would be beneficial if a file was started of consumer complaints involving AMCs. Unfortunately, many consumers do not understand how to file a complaint.
- Paul Kauffman reported that his speech at the National Bar Association went well. Most of the questions he was asked related to how changes in banking regulations affect appraisers.

8. Next Meeting – October 8, 2009

The foregoing represents the author's best interpretation of the significant actions and discussions of the Board. Aside from the meeting agenda, the author receives no supporting documentation or materials in advance or during the meeting, nor is the author present during any executive sessions of the Board. Therefore, this summary may not accurately reflect official actions or positions taken. Official minutes of the proceedings may be secured by contacting the Bureau of Professional & Occupational Affairs.

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For further information, contact Sylvia Lacerda, Government Affairs Specialist