

**REAL ESTATE APPRAISERS BOARD  
MINUTES  
MAY 19, 2010**

**PRESENT:** Marla Britton, Sharon Fiedler, Micquel Hoffmann (connected via phone),  
Lawrence Nicholson, Edward Potter

**EXCUSED:** Jose Perez, Henry Simon

**STAFF:** Angela Arrington, Bureau Director; Michele Miller Hayes, Legal Counsel;  
Kimberly Wood, Bureau Assistant

**GUESTS:** Debbi Conrad, Wisconsin Realtors Association (WRA)

**CALL TO ORDER**

Marla Britton, Chair, called the meeting to order at 9:13 a.m. A quorum of five (5) members was confirmed.

Angela Arrington informed the Board that Gail Sumi was unable to attend today's meeting and stated that she would be assuming the role of Bureau Director for this meeting.

**APPROVAL OF AGENDA**

**Amendments to the Agenda:**

- After Item "B" (open session) Under the item titled "Administrative Report" ADD:
  - Thanks to Karen Scott and Welcome Lawrence Nicholson
- Before Item "H" (closed session) ADD: Deliberation on Proposed Stipulations or Any Submitted After Mailing of the Agenda

**MOTION:** Sharon Fiedler moved, seconded by Edward Potter, to approve the agenda as amended. Motion carried unanimously.

## **APPROVAL OF MINUTES OF FEBRUARY 24, 2010**

### **Amendments to the Minutes**

- Page 6 of the Agenda: Under the item titled: “Administrative Report” sub-titled “John Lease, Administrator, Division of Board Services” insert the word “to” in the first sentence as follows: “John Lease introduced himself **to** the Board...”

**MOTION:** Edward Potter moved, seconded by Sharon Fiedler, to approve the minutes of February 24, 2010 as amended. Motion carried unanimously.

## **ADMINISTRATIVE REPORT**

### **Thanks to Karen Scott & Welcome Larry Nicholson**

Angela Arrington announced the appointment of Lawrence Nicholson to the position previously occupied by Karen Scott. The Board welcomed Lawrence Nicholson and introductions were exchanged.

Angela Arrington then announced that the Board would be recognizing Karen Scott for her service to the Board at today’s meeting. She informed the Board that either Secretary Celia Jackson or Deputy Secretary Barbara Wyatt Sibley would be presenting a plaque from Governor Jim Doyle to Karen Scott at 12:30 p.m.

### **Welcome new Legal Counsel and Other New DRL Staff**

Angela Arrington informed the Board of the following staff updates:

- Michele Miller Hayes has been hired as Legal Counsel to the Board. Ms. Miller Hayes provided an introduction to the Board.
- Jim Parker, formerly Department Budget Director, has been appointed as Administrator for the Division of Enforcement (DOE).
- Heather Curnutt has been hired as the DOE Attorney Supervisor – Business Professions.
- Peter McCombs has been hired as a DOE Attorney.
- Lydia Thompson has been hired as a DOE Attorney.

### **“Live Meeting” and Teleconference Opportunities**

Angela Arrington informed the Board that the Department is now utilizing Microsoft Live Meeting technologies for the purposes of conducting meetings. Director Arrington advised the Board that the utilization of this technology will help the Department to curb a number of expenses related to conducting board meetings.

### **Discussion of the Membership of the REA Application Advisory Committee**

Angela Arrington informed the Board that the Department needs two additional members to serve on the Real Estate Appraisers Application Advisory Committee. She indicated that the Department is seeking appraisal professionals with the certified general credential. The Department needs to diversify the geographic diversity of its membership and Angela Arrington indicated that individuals from the northeast, northwest and southwest portions of the state are being sought. Angela Arrington indicated that any recommendations for appraisal professionals should be directed to Gail Sumi.

The Board was advised by Heather Curnutt that the Department secures appraisal professionals with the certified general credential so that there is more versatility in the types of reviews these individuals can conduct.

The Board reviewed a roster of the individuals serving on the Real Estate Appraisers Application Advisory Committee. Kelly Niesen, Credentialing Specialist, informed the Board of the number of meetings conducted and the workload currently addressed by the Committee. The Board recommended that contact be made with the Appraisal Institute – Wisconsin Chapter and the Wisconsin Realtors Association requesting that Committee member recruitment information be circulated.

### **Thank you to the REA Education and Experience Advisory Committee**

Angela Arrington informed the Board that the Real Estate Appraisers Education and Experience Advisory Committee has been dissolved. A thank you letter, which was addressed to former Board and Committee member, Mark Kowbel, was distributed to the Board for its review.

## **BOARD ELECTION FOR SECRETARY**

**NOMINATION:** Sharon Fiedler nominated Edward Potter for the Office of Secretary.

Marla Britton, Chair called for other nominations three (3) times.

The nomination carried by unanimous vote.

Edward Potter was elected as Secretary.

## **RESULTS OF 2008-2009 CONTINUING EDUCATION**

Nicole Wissbaum, Office of Education and Examination, appeared before the Board to review the results of a continuing education audit conducted of the 2008-2009 biennium. Ms. Wissbaum informed the Board that an audit was conducted of 10 % of each registration type (licensed appraisers, certified residential appraisers and certified general appraisers). A total of 190 credential holders were audited for the 2008-2009 biennium. She indicated that one (1) credential holder was found to be out of compliance with the Board's continuing education requirement as they failed to complete the 7 hour USPAP course. Nicole Wissbaum informed the Board that the non-compliant credential holder has been referred to the Division of Enforcement for follow-up.

### **DIVISION OF ENFORCEMENT PROCESS AND CASE ADVISORY RESPONSIBILITY – 9:30 A.M. APPEARANCE BY JIM PARKER, DOE DIVISION ADMINISTRATOR AND HEATHER CURNUTT, DOE SUPERVISING ATTORNEY, BUSINESS TEAM**

Jim Parker, Administrator, Division of Enforcement (DOE), appeared before the Board with Heather Curnutt, DOE Supervising Attorney, and Peter McCombs, DOE Attorney, to discuss the Department's "Case Advisory Policy" and the responsibilities related to this new policy.

Jim Parker explained that the case advisor policy was developed by the Department in an effort to improve existing processes. He indicated that the Department wanted to give the Board special attention with reference to the new case advisor policy because of the federal guidelines which dictate timeframes for case resolution of appraisal professionals. Mr. Parker indicated that the Department currently contracts credential holders for the review of appraisal reports to gauge USPAP compliance and indicated that the Department would like to move to a system where appraisal reviews are conducted only by contractors thus allowing the members of the Board to focus on Board business. He stated that the Department has adjusted its budget to provide an additional \$20,000 towards this project.

In addition to the increased use of contracted individuals for appraisal reviews the Department is working to secure a long term, full time, limited term employment (LTE) position for a certified general appraiser. Jim Parker indicated that this LTE could review appraisals in addition to the use of contractors. He explained that the request for this new LTE position has been submitted to the Department of Administration (DOA) for approval and informed the Board that the approval of this position is undergoing review by the DOA's Centralized Position Review (CPR) process. He explained that the CPR process was developed to thoroughly review the need for any new positions because of the deficit in the state's budget. The Board noted its preference for a permanent part time position as opposed to a long term full time LTE position for the purposes of continuity. Board discussion of this position ensued.

Jim Parker informed the Board that Peter McCombs has put together a comprehensive spreadsheet outline the status of pending cases and reviews. Peter McCombs addressed the Board informing them that last year's federal audit raised concerns about the number of cases pending. He noted that there is a one year deadline for case resolution. Peter McCombs indicated that in October 2010 a federal auditor will be checking status of pending appraisal cases in Wisconsin and will review the process changes we have made to address these issues in preparation for next year's audit. He informed the Board that the report he provided covers all of the Board's cases. 117 cases are currently open, 82 of these cases will be beyond 1 year in October. The DOE is focusing on the 82 cases that are beyond the federal deadline for resolution.

Peter McCombs indicated that the Appraisal Subcommittee and federal regulators require cases to be resolved within one year. Marla Britton indicated that a significant delay in the resolution of a case is respondent delay and stated that in order to meet federal requirements the Board and Department need respondent cooperation. It was noted that cases in hearing were previously a barrier to case resolution because of workload issues experienced by legal counsel who were also acting as administrative law judges. Angela Arrington indicated that she was employed in the DOE during the last federal audit. She conveyed that the audit indicated significant improvement with respect to the closure of cases especially in light of resource and staffing issues experienced by the Department. The Board was informed that only 2 states were in compliance with their federal audit last year due to a significantly low number of cases. Designations for case closings were discussed and are being provided to Secretary Jackson for approval, pending federal approval.

**MOTION:** Sharon Fiedler moved, seconded by Edward Potter, to adopt the Department's case advisor recommendation as stated in the May 22, 2010 correspondence. Motion carried unanimously.

**MOTION:** Lawrence Nicholson moved, seconded by Edward Potter, to indicate that if respondent that has not replied to a request by the Department within forty-five (45) days a formal complaint will be filed. Motion carried unanimously.

**DISCUSSION OF REQUIRING SUBMISSION OF APPRAISALS FOR REVIEW IN ORDERS – 9:45 A.M. APPEARANCE BY PATARA HORN AND SHARON HENES, DRL MONITORS**

Sharon Henes and Patara Horn, Department Monitors, appeared before the Board to discuss the requirement for review of appraisal reports after completing continuing education as a condition for meeting monitoring requirements. Sharon Henes introduced Patara Horn who is a new employee and will be handling monitoring matters for the Board. Ms. Henes indicated that she has concerns relating to the delays presented with the requirement for appraisal review. She

indicated that the Board requires its monitored licensees, who are required to complete continuing education courses, to submit appraisal reports for review and determination of whether that person learned from said courses. She stated that the problem is that the appraisal reports received will be reviewed but will be found to have issues which will then prompt a request for additional reports. Ms. Henes indicated that in these cases additional reports are typically requested and in some cases are requested again several times before they are found to be satisfactory. This scenario can continue on for some time and prevent licensees from reaching compliance with their board order. Ms. Henes stated that action is not taken for additional issues identified in appraisal reports.

Sharon Henes informed the Board that Lara Herman and she had previously discussed this issue and in turn brought this concern to the attention of Marla Britton. She noted that the Board should select education specific to the disciplinary situation, have that education approved by the Board's monitoring liaison and have faith that they will apply such education to their appraisal work. Ms. Henes requested that the Board no longer request appraisal reports for review as a standard practice rather that they only request reports in cases of an egregious violation.

During Board discussion of options for addressing this concern Marla Britton made a recommendation that all appraisal reports go to the monitoring liaison for review and that this individual should not be contacted with inquiries regarding complaints. The Board determined that they will address this matter at their next meeting in order to allow time to consider the Board options.

#### **REPORT FROM THE 2009 ASSOCIATION OF APPRAISER REGULATORY OFFICIALS (AARO) CONFERENCES**

The Board deferred this report until its August meeting.

#### **PRESENTATION OF PROPOSED STIPULATIONS BY DIVISION OF ENFORCEMENT OR ANY SUBMITTED AFTER PRINTING OF THE AGENDA**

None.

**CONSIDERATION OF FINAL STATUS OF AND CORRESPONDENCE RELATED TO  
AB 472/SB 339, RELATING TO CERTIFICATION AND LICENSURE OF REAL  
ESTATE APPRAISERS AND REQUIREMENTS FOR APPRAISAL REPORTS  
AND GRANTING RULEMAKING AUTHORITY**

Angela Arrington updated the regarding AB 472 and SB 339 and indicated that these bills are back at a starting point. The Board noted that there are some good examples of how language can be crafted for the next legislative session.

**CONSIDERATION OF CORRESPONDENCE REGARDING COMMERCIAL BROKER  
OPINIONS OF VALUE**

The Board reviewed and discussed correspondence it received regarding commercial price opinions being provided by commercial brokers. Marla Britton noted that until she read this correspondence she wasn't aware that this was an accepted practice in any profession of lending. Angela Arrington indicated that from the real estate enforcement perspective this is this is something that has not been seen previously and noted that she would be sharing this information with the Real Estate Board at a future meeting.

**UPDATE ON CHAPTER RL 80, RELATING TO ADOPTION OF RL 80 AND 87,  
MINIMUM STANDARDS CONSISTENT WITH USPAP**

Angela Arrington indicated that she does not have an update from Gail Sumi relating to this topic. The Board indicated that it had previously discussed a series of the RL rules, from Ruby Jefferson-Moore. The Board indicated that Ruby Jefferson-Moore had began to finalize changes requested by the Board prior to her departure. Michele Miller Hayes indicated Gail Sumi and herself have been working to identify and prioritize what work needs to be pursued for the Boards they staff and that in light of today's conversation and as the Board has already adopted the RL changes the rules will need to be forwarded to the rules committee for pursuit.

Marla Britton stated that one of the more significant changes that will result from the RL rule promulgation will open the door for professionals, other than an appraiser, to conduct appraiser continuing education courses.

## LEGISLATION AND ADMINISTRATIVE RULES

None.

## PRACTICE ISSUES

None.

## BOARD MEMBER ACTIVITY

Marla Britton indicated that the Board will honor Karen Scott at 12:30 p.m. for her dedication and years of service not only to the Board but to the appraisal profession.

## NEW BUSINESS

None.

## PUBLIC COMMENTS

None.

## CONVENE TO CLOSED SESSION

**MOTION:** Edward Potter moved, seconded by Sharon Fiedler, to convene to Closed Session to deliberate on cases following hearing (s. 19.85(1) (a), Stats.; to consider licensure or discipline (s. 19.85(1)(b), Stats.; to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats. Motion carried by roll call vote: Marla Britton-yes, Sharon Fiedler-yes; Micquel Hoffmann-yes; Lawrence Nicholson-yes; and Edward Potter-yes.

Open Session recessed at 11:13 a.m.

**RECONVENE TO OPEN SESSION**

**MOTION:** Sharon Fiedler moved, seconded by Edward Potter, to reconvene into Open Session. Motion carried unanimously.

Open session reconvened at 12:12 p.m.

**VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON  
IN CLOSED SESSION**

**DELIBERATION ON THE PETITIONS FOR SUMMARY SUSPENSION OR ANY  
SUBMITTED AFTER PRINTING OF THE AGENDA**

None.

**DELIBERATION ON PROPOSED STIPULATIONS OR ANY SUBMITTED AFTER  
MAILING OF THE AGENDA**

None.

**PROPOSED DECISIONS AND ORDERS**

**SHAWN R. SEEWALD  
(DHA CASE # DRL-09-0089)**

**MOTION:** Sharon Fiedler moved, seconded by Lawrence Nicholson, to defer deliberation of the matter concerning Shawn R. Seewald, Respondent (DHA Case # DRL-09-0089). Motion carried. Abstained: Edward Potter

**MICHAEL L. DAVIS**  
**(DHA CASE # DRL-09-0100)**

**MOTION:** Sharon Fiedler moved, seconded by Lawrence Nicholson, to accept the Findings of Fact, Conclusions of Law, and Order in the matter of disciplinary proceedings against Michael L. Davis, Respondent (DHA Case # DRL-09-0100). Motion carried unanimously.

**AMBER FIELDS**  
**(DHA CASE # DRL-09-0124)**

**MOTION:** Edward Potter moved, seconded by Sharon Fiedler, to accept the Findings of Fact, Conclusions of Law, and Order in the matter of disciplinary proceedings against Amber Fields, Respondent (DHA Case # DRL-09-0124). Motion carried unanimously.

**THOMAS P. PONIK**  
**(DHA CASE # DRL-09-0125)**

**MOTION:** Sharon Fiedler moved, seconded by Edward Potter, to accept the Findings of Fact, Conclusions of Law, and Order in the matter of disciplinary proceedings against Thomas P. Ponik (DHA Case # DRL-09-0125). Motion carried unanimously.

**MARK TELLEN**  
**(DHA CASE # DRL-09-0127)**

**MOTION:** Edward Potter moved, seconded by Sharon Fiedler, to accept the Findings of Fact, Conclusions of Law, and Order in the matter of disciplinary proceedings against Mark Tellen, Respondent (DHA Case # DRL-09-0127). Motion carried unanimously.

**DELIBERATION ON PROPOSED ADMINISTRATIVE WARNINGS OR ANY  
RECEIVED AFTER PRINTING OF AGENDA**

None.

**DELIBERATION ON PROPOSED DECISIONS OR ANY SIGNED AFTER PRINTING  
OF AGENDA**

None.

**CASE CLOSINGS, CITATIONS, AND CASE STATUS REPORT OR ANY RECEIVED  
AFTER MAILING OF AGENDA**

**09 APP 041**

**MOTION:** Sharon Fiedler moved, seconded by Edward Potter, to close case 09 APP 041 for no violation. Motion carried unanimously.

**09 APP 003**

**MOTION:** Edward Potter moved, seconded by Sharon Fiedler, to close case 09 APP 003 for prosecutorial discretion (P5). Motion carried unanimously.

**09 APP 061**

**MOTION:** Lawrence Nicholson moved, seconded by Micquel Hoffmann, to close case 09 APP 061 for insufficient evidence. Motion carried unanimously.

**09 APP 029**

**MOTION:** Micquel Hoffmann moved, seconded by Edward Potter, to close case 09 APP 029 for prosecutorial discretion (P2). Motion carried unanimously.

**09 APP 033**

**MOTION:** Sharon Fiedler moved, seconded by Edward Potter, to close case 09 APP 033 for prosecutorial discretion (P1). Motion carried unanimously.

**09 APP 028**

**MOTION:** Micquel Hoffmann moved, seconded by Sharon Fiedler, to close case 09 APP 028 for no violation. Motion carried unanimously.

**09 APP 034**

**MOTION:** Edward Potter moved, seconded by Lawrence Nicholson, to close case 09 APP 034 for prosecutorial discretion (P1). Motion carried unanimously.

**10 APP 005**

**MOTION:** Sharon Fiedler moved, seconded by Edward Potter, to close case 10 APP 005 for no violation. Motion carried unanimously.

**MONITORING**

**SUSAN BUCHHOLZ  
REQUESTING FULL REINSTATEMENT**

**MOTION:** Sharon Fiedler moved, seconded by Edward Potter, to grant Susan Bochholz's request for full reinstatement of license. Motion carried unanimously.

**DELIBERATION ON DISCIPLINARY ACTIONS SIGNED AFTER PRINTING OF  
AGENDA**

None.

**PETITIONS FOR REHEARING RECEIVED AFTER THE MAILING OF AGENDA**

None.

**REINSTATEMENT REQUESTS OR ANY SUBMITTED AFTER PRINTING OF  
AGENDA**

None.

**EXAMINATION ISSUES**

None.

**CONSULTING WITH LEGAL COUNSEL**

None.

**OTHER ITEMS AS AUTHORIZED BY LAW**

None.

**DOE – SIGNATURES FOR PROPOSED STIPULATIONS, ORDERS, AND  
ADMINISTRATIVE WARNINGS**

Signatures were collected for all required documentation.

**ADJOURNMENT**

**MOTION:** Edward Potter moved, seconded by Micquel Hoffmann, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:18 p.m.

**THE NEXT SCHEDULED MEETING IS AUGUST 25, 2010**