

**STATE COMMISSION OF REAL ESTATE APPRAISERS, APPRAISAL
MANAGEMENT COMPANIES, AND HOME INSPECTORS
BUSINESS MEETING MINUTES**

DATE: April 9, 2019

TIME: 10:42 a.m.

PLACE: 500 N. Calvert Street
2nd Floor Conference Room
Baltimore, Maryland 21202

PRESENT: Commissioner Anatol Polillo, Acting Chair
Commissioner George Fair, Vice-Chair
Commissioner Joseph Berk
Commissioner Michelle Marzullo
Commissioner James Smith
Commissioner Harold Huggins
Commissioner Helen Won
Commissioner Terry Dunkin

ABSENT: Commissioner John Hamilton

DLLR STAFF PRESENT: Victoria Wilkins, Commissioner, Division of Occupational and
Professional Licensing
Todd Blackistone, Executive Director
Sloane Fried Kinstler, Assistant Attorney General
Michael Szlachetka, Administrative Specialist
Raquel M. Meyers, Administrative Officer

Call to Order

Commissioner George Fair, Vice Chair, called the business meeting of the Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors to order at 10:42 a.m.

Approval of Minutes

The minutes of the business meeting held on December 11, 2018 were reviewed and considered. By Motion made by Commissioner Higgins, seconded by Commissioner Smith and carried by a unanimous vote, the minutes of the December 11, 2018 business meeting be approved without correction.

Real Estate Appraiser Complaint Committee Report

Commissioner Dunkin reported to the Commission that the Appraiser Complaint Committee met prior to the public meeting and reviewed several items of business placed before the Committee. The disposition of which was as follows:

Complaints - 7 cases were reviewed;
5 cases were dismissed; and
1 referred for precharge review
1 were tabled.

The Appraiser Complaint Committee met prior to the public meeting in a closed session that included less than a quorum of members of the Commission. A Motion was made by Commissioner Smith and seconded by Commissioner Huggins that the Commission accept the report and recommendations of the Appraiser Complaint Committee. This motion passed by a unanimous vote.

Appraiser Education Committee Report

Commissioner Dunkin reported that the Appraiser Education Committee met on this date and reviewed 13 courses and approved 13 courses. A Motion was made by Commissioner Smith, seconded by Commissioner Huggins and unanimously carried that the Commission accept the recommendations of the Real Estate Appraiser Education Committee.

Home Inspector Complaint Committee Report

Commissioner Fair reported that the Home Inspector Complaint Committee met prior to the public meeting and reviewed 15 items of business placed before the Committee. The disposition of which was as follows:

Complaints - 12 cases were closed; and
3 cases were tabled.

The Home Inspector Complaint Committee met prior to the public meeting in a closed session that included less than a quorum of members of the Commission. A Motion was made by Commissioner Berk, seconded by Commissioner Marzullo and unanimously carried that the Commission accept the recommendations of the Home Inspector Complaint Committee.

Review of Examination Statistics and License Totals

Mr. Blackistone reported that the Commission has 257 licensed appraisers, 1,083 certified residential, 814 certified general 173 appraiser trainees, 1,125 home inspectors and 146 appraisal management companies. There are currently 3,598 active licensees.

Old Business

There was no Old Business to discuss.

New Business

Home Inspector Hearing Board

Mr. Blackistone requested that the Commission establish a home inspector Hearing Board in preparation for a license application anticipated proceeding. He stated that an e-mail will be sent to the eligible Commission members, including home inspector and consumer members, to arrange a

mutually convenient date. The Commission has a home inspector license applicant whose application was denied upon the Commission's initial review. The applicant has requested a hearing in Case No.: 19-INSP-16 before the Commission take final action on the license application, in accordance with Business Occupations and Professions Article, Annotated Code of Maryland, §16-602. AAG Kinstler explained that in compliance with Business Occupations and Professions Article, Annotated Code of Maryland, §16-210.1, a Home Inspector Hearing Board, composed of two (2) home inspector members and one (1) consumer member of the Commission will hear the case. Commissioner Dunkin inquired why this case would be presented to a Hearing Board and not the full Commission. AAG Kinstler stated that the full Commission has the discretion to hear such proceedings, but the law gives several boards and commissions the authority to delegate such responsibilities to a smaller hearing board for efficiency and for the convenience of the members of the regulatory body.

Commissioner Huggins stated that the Commission determines who serves on the Real Estate Appraiser Hearing Board consisting of a financial member, consumer member, and an appraiser member who holds a level of licensure or certification at least equal to the subject of the hearing. Business Occupations and Professions Article, Annotated Code of Maryland, §16-210. AAG Kinstler explained that the Hearing Board composition can be set, as needed, on a case-by-case basis. The Hearing Board may determine the date and time of the hearing and, in the past, had the authority of the Commission to make factual findings, legal conclusions, and render a decision on its behalf. AAG Kinstler suggested to allow 2.5 hours for this hearing. If a hearing is scheduled and the parties request subpoenas for numerous witnesses, then Mr. Blackistone will consult with the attorney assigned to the case and the Hearing Board about whether to delegate the hearing authority to the Office of Administrative Hearings (OAH). Mr. Blackistone confirmed that he will circulate potential dates to the Commission prior to the next scheduled meeting.

Home Inspector Educational Course Providers

Commissioner Polillo stated that he had some concerns regarding the approval process for home inspector educational course providers. Some courses were submitted indicating the use of videos to inspect waste line and mold-related issues, which are outside the scope of a home inspection. Additionally, a provider submitted a 16-hour online course for renewal on the topic of exterior inspections. The provider submitted an approval letter from Patricia Schott, former Executive Director. Mr. Szlachetka cannot find the original documentation. Commissioner Wilkins stated that she believed that Ms. Schott had personally approved most of the provider courses recently. AAG Kinstler stated that the approval process was handled by a Committee including at least one industry member of the Commission in the past. Commissioner Polillo and Mr. Szlachetka have been working through this process. Commissioner Polillo requested for volunteers to assist him.

Commissioner Fair inquired about new member appointments to the Commission. Commissioner Wilkins stated that she expected new home inspectors and appraisers will be coming soon and this is a priority. Commissioner Fair stated that he and Commissioner Polillo have been reviewing materials for course provider approval, considering the nature of the education, how it is offered, and subject matter covered. Commissioner Dunkin stated that in the past, appraisal courses were approved by former Executive Director Ms. Schott and that former Commissioner Steven O'Farrell was consulted on occasion. Counsel suggested that other boards she counsels approve education and training after reviewing the course outline or syllabus, how the training is presented, and the credentials of the instructor. She also advised that, historically, the home inspector members of the Commission disqualified courses or course hours devoted to certain areas, such as marketing a

home inspection business and limiting liability and focused its approval of subject matter that is directly related to home systems or the provision of home inspection services.

Counsel advised that the criteria the Commission has set for continuing professional competency training is set forth in COMAR 09.36.08.01—.05 but neither the applicable law or regulations address inspection of a home inspector training facility. Commissioner Polillo stated that permission to observe training is specified on the course approval application. Counsel cautioned the Commission to treat all applicants equally but that random, visitation to observe the training and the facility could be appropriate under certain circumstances. AAG Kinstler stated that there is no specific criteria or limitation for home inspectors regarding hours devoted for online courses like appraisers which require 8.0 hours of coursework. Counsel also stated that the Commission has limited appraisal instructions to no more than 8-hours per day. Counsel also advised that other boards have limited the amount of instruction that must be obtained in a classroom setting as compared to online education, but that determination must be based on the availability of qualifying training in those settings. Commissioner Polillo stated that he will give Mr. Blackistone course provider applications to review moving forward.

Upgrade Appraiser Licensed to Certified

AAG Kinstler stated that the Commission received a request from a licensed appraiser who wants to sit for the certified residential exam but does not hold a bachelor's degree. Ms. Kinstler explained that applicable educational requirements changed in 2015 and required an individual to have earned a bachelor's degree to sit for the real estate appraiser license or certification examinations. The Commission's FAQs on its website are contradictory because conflicting information is provided as to the education required to qualify to sit for the residential appraiser certification exam. In one section, it is indicated that an associate's degree is required and, in another, it states that a bachelor's degree is required. Commissioner Dunkin stated that the Commission had agreed with the educational changes a while ago and voted the hours including college degree requirement to sit for the exam. AAG Kinstler advised that in compliance with COMAR 09.19.02.01A(2), as of January 1, 2015, an associate's degree is required for the licensed appraiser category, but, in accordance with 09.19.02.01B and C, a bachelor's degree is required for the residential real estate appraiser and general real estate appraiser license and certification categories, respectively. Commissioner Dunkin confirmed that the bachelor degree is required to sit for the certified residential exam. Commissioner Dunkin requested that the FAQs on the Commission's website be corrected to accurately reflect the educational requirements. AAG Kinstler asked whether the appraiser members of the Commission were aware of a practice or authorization by which licensed appraisers in the industry could be "grandfathered" to allow them to take the examination required for the a higher license or certification category without a bachelor's degree. Commissioner Dunkin stated, and Mr. Huggins agreed, that they are not aware of any policy, from an official with oversight authority of the Commission's licensing program, that would allow an applicant to sit for a residential or general appraiser exam without a bachelor's degree based on some "grandfathering" provision. AAG Kinstler stated that she will prepare on behalf of Mr. Blackistone a response to the appraiser seeking to upgrade a license.

Election of Officers

Mr. Blackistone recommended that with the resignation of its former Chair, the Commission members should nominate a Chair and Vice Chair. AAG Kinstler stated that the Chair elected by the Commission could be a home inspector, appraiser, AMC or consumer member of the

Commission. However, in compliance with Business Occupations and Professions Article, Annotated Code of Maryland, §16-203(a), if the elected chair is an appraiser, the vice chair must be a home inspector member and, conversely, if the elected chair is a home inspector member, the vice chair must be an appraiser member of the Commission.

Vice Chair Fair suggested that Commissioner Anatol Polillo be nominated as Commission Chair. By Motion made by Commissioner Marzullo and a second by Commissioner Dunkin, the Commission unanimously voted to elect Commissioner Polillo as Chair of the Commission.

Commissioner Dunkin nominated Commissioner Huggins as Vice-Chair. A Motion was made by Commissioner Dunkin, seconded by Commissioner Smith, and unanimously carried that the Commission voted to approve Commissioner Huggins and Vice Chair of the Commission.

Counsel Kinstler clarified that in the absence of the Chair, Commissioner Polillo, Commissioner Huggins as Vice Chair would preside over a meeting.

Chair's Report

No Report of the Chair was offered.

Assistant Attorney General's Report

AAG Kinstler stated that she must consult with the Commission members in a closed session concerning an administrative proceeding and a license upgrade request.

Executive Director's Report

Mr. Blackistone stated he included in the Commission packets two Senate Bills SB 20 and SB 69 for review that passed during the 2019 legislative session. Commissioner Wilkins confirmed that she had testified in the house committee regarding these bills. She thanked the Commission for their professionalism. She mentioned the Commission was very engaged and an active group. She was impressed and appreciative for their efforts in making the transition to a new Executive Director very positive. She was thankful to have Mr. Blackistone join the agency as the new Executive Director for the Commission. She also thanked AAG Kinstler for her patience with her office and responsiveness to questions.

Closed Session

A Motion was made by Commissioner Smith, seconded by Commissioner Huggins, and unanimously carried that the Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors meet in a closed session at 11:41 a.m. in the 2nd floor conference room, 500 N. Calvert Street, Baltimore, MD 21202, pursuant to General Provisions Article, Maryland Annotated Code, § 3-305(b)(2), (7) and (8) to seek the advice of counsel regarding a contested administrative case and to consider the credentials of a licensee seeking to sit for an examination for an upgraded license.

Explanation of Complaint Process

Assistant Attorney General Kinstler summarized the complaint process for new members and explained

that a board or commission may delegate hearing authority to the Office of Administrative Hearings for a matter to be heard by an Administrative Law Judge.

AAG Kinstler advised that upon consideration of an Administrative Law Judge's Proposed Decision, containing factual findings, legal conclusions, an analysis and, a recommended sanction, if warranted, a board or commission must determine whether to adopt the ALJ's findings and recommendations or whether it will modify those findings and conclusions in some way and, if so, the reasons therefore. Counsel cautioned that a board or commission is bound by factual findings supported by a substantial evidence in the record, but may modify the legal conclusions or impose an order that alters the recommendations of the ALJ as long as a board or commission identifies the reasons for such modification.

Case No.: 18-INSP-11

AAG Kinstler presented a home inspector case for which an Administrative Law Judge (ALJ) had conducted a hearing on the merits of a complaint and subsequently issued a Proposed Decision containing factual findings, legal conclusions, and a recommended order. The Commission considered the ALJ's Proposed Decision finding that a licensed home inspector had violated COMAR 09.36.06.02B and Business Occupations and Professions Article, Annotated Code of Maryland, § 16-701.1(a)(6) and (7). After reviewing the evidence in the record, the ALJ's findings and conclusions, Counsel Kinstler presented the ALJ's findings, legal conclusions, analysis of the evidence, and recommended sanction.

A Motion was made by Commissioner Huggins, seconded by Commissioner Marzullo, and unanimously carried that the Commission approve and adopt the factual findings, legal conclusions and recommendations of the ALJ, including that the licensed home inspector be reprimanded and that the Commission order the licensee to pay a civil monetary penalty in the amount of \$1,500.00. The Commission instructed Counsel to prepare a Proposed Order reflecting the Commission's determination in the matter.

A Motion was made by Commissioner Smith, seconded by Commissioner Huggins, and unanimously carried that the Commission reconvene its regular meeting at 12:07 p.m. A Motion was made by Commissioner Huggins, seconded by Commissioner Marzullo, and unanimously carried that the Commission accept the decisions rendered in the April 9, 2019 closed session.

Adjournment

There being no further business to discuss, a Motion was made by Commissioner Smith, seconded by Commissioner Won, and unanimously carried that the meeting adjourn. The meeting adjourned at 12:10 p.m.

Approved without corrections

Approved with corrections

Signature on file
Commissioner Anatol Polillo, Chair

6/11/19
Date