

NEVADA COMMISSION OF APPRAISERS OF REAL ESTATE

MINUTES

DECEMBER 3, 2014

HENDERSON CITY HALL
COUNCIL CHAMBERS CONFERENCE ROOM
240 WATER STREET
HENDERSON, NEVADA 89015

The meeting was called to order at 9:05 AM.

1-A) INTRODUCTION OF COMMISSIONERS IN ATTENDANCE

Stephen Johnson, President; Cynthia Hoonhout; Daniel Walsh; Debbie Huber; and Glenn Anderson
Commission Counsel: Rose Marie Reynolds

1-B) INTRODUCTION OF DIVISION STAFF IN ATTENDANCE

Brenda Kindred-Kipling, Appraisal Officer; Teralyn Thompson, Legal Administrative Officer;
Rebecca Hardin, Commission Coordinator; Craig Reynoldson, Investigator
Division Counsel: Colleen Platt, Deputy Attorney General

2) PUBLIC COMMENT

None.

5-1) NRED v. DUSTIN HUGHES CASE NO. AP14.036.S

5-2) NRED v. DUSTIN HUGHES CASE NO. AP14.037.S

Commissioner Anderson recused himself, because Mr. Hughes' counsel was a client.

Parties Present

Deputy Attorney General Colleen Platt was present representing the Division.

Dustin Hughes was present.

Michael Stein was present representing the Respondent.

Preliminary Matters:

Ms. Platt stated that there was a settlement agreement.

Ms. Platt read the Factual Allegations, Violations of Law, and Stipulation for Settlement into the record.

Commissioner Huber moved to accept the stipulation. Commissioner Walsh seconded. Motion carried unanimously.

5-4) NRED v. ROBERT SHEARER CASE NO. AP14.043.S

Parties Present

Deputy Attorney General Colleen Platt was present representing the Division.

Robert Shearer was present.

Hearing

State's witness Brenda Kindred-Kipling testified.

State's exhibit 1 was admitted into evidence, with no objection.

State's exhibit 2 was admitted into evidence, with no objection.

State's exhibit 3 was admitted into evidence, with no objection.

State's exhibit 4 was admitted into evidence, with no objection.

State's exhibit 5 was admitted into evidence, with no objection.

State's exhibit 6 was admitted into evidence, with no objection.

Mr. Shearer stated his case.

Ms. Platt questioned Mr. Shearer.

The Commission questioned Mr. Shearer.

Hearing closed.

Factual Allegations

Commissioner Walsh moved that all of factual allegations as stated in case # RES 14-043.S were proven. Commissioner Hoonhout seconded. Motion carried unanimously.

Claims for Relief

Commissioner Huber moved that the first, second, third and fifth Claims for relief had been proven. Commissioner Hoonhout seconded. Motion carried unanimously.

Commissioner Huber moved that the fourth claim for relief had not been proven. Commissioner Anderson seconded. Motion carried unanimously.

The Commission decided to hear Mr. Shearer's case # AP15.001.S before considering discipline.

5-5) NRED v. ROBERT SHEARER CASE NO. AP15.001.S

Parties Present

Deputy Attorney General Colleen Platt was present representing the Division.

Robert Shearer was present.

Hearing

State's witness Brenda Kindred-Kipling testified.

State's exhibit 1 was entered into evidence, with no objection.

State's exhibit 2 was entered into evidence, with no objection.

Ms. Platt requested that factual allegation 9 be removed.

President Johnson agreed to remove factual allegation 9 with no objections. Commissioner Huber questioned Ms. Kindred-Kipling.

Mr. Shearer stated his case.

The Commission questioned Mr. Shearer.

Ms. Platt made her closing statement.

Mr. Shearer made his closing statement.

Hearing closed.

Factual Allegations

Commissioner Anderson moved that factual allegation 1 had been proven. Commissioner Huber seconded. Motion carried unanimously.

Commissioner Walsh moved to revise factual allegation 2 as follows:

Ms. Basner inspected and conducted an appraisal of a property located at 1110 Clairville Street, Las Vegas, Nevada 89110, ("subject property") and Respondent prepared an appraisal report for the property with an effective date of June 6, 2014.

Commissioner Huber seconded. Motion carried unanimously.

Commissioner Anderson moved that factual allegation 3 be reworded as follows:

Respondent prepared the appraisal report of the subject property and signed the report.

Commissioner Walsh seconded. Motion carried unanimously.

Commissioner Huber moved that factual allegation 4 had been proven. Commissioner Anderson seconded. Motion carried unanimously.

Commissioner Hoonhout moved that factual allegation 5 be reworded as follows:

The original appraisal report did not include Ms. Brasner's signature.

Commissioner Anderson seconded. Motion carried unanimously.

Commissioner Hoonhout moved to accept factual allegation 6 amended as follows:

Respondent did not disclose in the original appraisal report that he did not physically inspect the subject property.

Commissioner Walsh seconded. Motion carried unanimously.

Commissioner Hoonhout moved to accept factual allegation 7, amended as follows:

Respondent signed the original appraisal report certifying that he performed a complete visual inspection of the interior and exterior of subject property.

Commissioner Walsh seconded. Motion carried unanimously...

Commissioner Hoonhout moved that factual allegation 8 had been proven. Commissioner Anderson seconded. Motion carried unanimously.

Violations of Law

Commissioner Walsh moved that the claims for relief 1-5 had not been proven. The motion died for lack of a second.

Commissioner Anderson moved that the first, second, third and fifth claims for relief had been proven. Commissioner Huber seconded. Motion carried 4-1 with Commissioner Walsh opposing.

Commissioner Anderson moved that the fourth claim for relief had not been proven. Commissioner Walsh seconded. Motion carried unanimously.

Discipline Recommended by the Division for both cases:

- 15 hours of a National USPAP course, take and pass the exam within six months. The hours will not count toward the Respondent's continuing education requirements.
- 3 hours of a Nevada Law course, take within six months. The hours will not count toward the Respondent's continuing education requirements.
- Cost of investigation and hearing of \$1,522.27 to be paid within one year.
- \$2,000 fine if the Commission finds that the violations were ethical in nature, to be paid in one year. No fine (costs only) if the Commission found the violations were educational issues.

Discipline Approved by the Commission:

Commissioner Anderson moved to accept the following:

- 15-hour USPAP class, take and pass the test. The hours will not count toward the Respondent's continuing education requirements.
- 3-hour Nevada law class. The hours will not count toward the Respondent's continuing education requirements.
- Pay the cost of the hearing \$1,522.27
- All of the above to be done within 12 months

Commissioner Hoonhout seconded.

Commissioner Walsh asked to include a payment plan in the motion.

Commissioner Anderson modified the motion to include the option for the Respondent to make monthly payments of \$126.86 for 12 months, with the first payment due within 30 days after the issuance of the order.

Commissioner Hoonhout seconded the amended motion. Motion carried unanimously.

6-1) NRED v DAVID GEORGE (Advisory Review Committee Recommendations) CASE NO. AP14.029.N

Brenda Kindred-Kipling read the Committee Report into the record.

Ms. Kindred Kipling stated that the Respondent agreed with the committee's recommendations.

Commissioner Walsh moved to accept the Stipulation for Settlement of Disciplinary Action.

Commissioner Hoonhout seconded. Motion carried unanimously.

6-2) NRED v MARCO PAULETTO (Advisory Review Committee Recommendations) CASE NO. AP14.002.N

Brenda Kindred-Kipling read the Committee Report into the record.

Ms. Kindred Kipling stated that the Respondent agreed with the committee's recommendations.

Commissioner Anderson moved to accept the Stipulation for Settlement of Disciplinary Action.

Commissioner Huber seconded. Motion carried unanimously.

3-C) ADMINISTRATOR'S REPORT

Terilyn Thompson presented this report. Ms. Thompson extended Mr. Decker's apology for his absence.

3-C-1) ADMINISTRATOR'S REPORT ON REORGANIZATION OF THE DIVISION

Terilyn Thompson stated that Mr. Decker's goal was to realign Division staff to support the Division's new priorities and to achieve the administrator's new goals.

3-C-2) ADMINISTRATOR'S REPORT ON VACANT POSITIONS

Terilyn Thompson stated that the Deputy Administrator position was currently vacant and recruitment for that position was in progress. Ms. Thompson stated that all of the positions at the Division were being reevaluated and aligned to maximize contributions toward achieving the agency's goals.

3-C-3) ADMINISTRATOR'S REPORT ON CHANGES TO PROCESSES

Terilyn Thompson stated that Mr. Decker was result-oriented. Ms. Thompson stated that Mr. Decker was focusing on how to achieve positive resolutions.

3-C-4) ADMINISTRATOR'S CONSTITUENT SERVICES

Terilyn Thompson stated that Mr. Decker was focused on constituent services such as licensing and continuing education processes being streamlined.

3-C-5) ADMINISTRATOR'S REPORT ON PROPOSAL FOR THE DIVISION TO BECOME SELF-FUNDED

Teralyn Thompson stated this proposal would allow the Division to use licensee fees to improve services.

3-K) DISCUSSION AND POSSIBLE ACTION TO APPROVE MINUTES OF THE AUGUST 12, 2014 MEETING

Commissioner Anderson moved to approve the minutes of the August 12, 2014 meeting. Commissioner Huber seconded. Motion carried unanimously

5-3) NRED v. RICHARD ROMANO CASE NO'S. AP13.034.S and AP14.009.S

Parties Present

Deputy Attorney General Colleen Platt was present representing the Division.

Richard Romano was present.

Don Bennion was present representing Mr. Romano.

Preliminary Matters

Ms. Platt stated that an oral settlement had been agreed upon, as follows:

- Factual allegations 1-16 in the complaint deemed to be true.
- Violations of Law
 - ◆ Claim for relief 1-7 occurred.
 - ◆ Claim for Relief 8 was removed.
 - ◆ Claim for relief 9-10 occurred.
 - ◆ Claim for Relief 11 as applied to subject property two occurred.
 - ◆ Claim for Relief 12-13 occurred.
 - ◆ Claim for Relief 14 was removed.
 - ◆ Claim for Relief 15 occurred.
 - ◆ Claims for Relief 16-19, as applied to subject property two, occurred.
- \$9,000 fine to be paid within 24 months first payment due 30 days from the effective date of the Order, with subsequent payments due on the 15th of the month thereafter.
- Education to be completed within twelve months with no continuing education credit.
 - ◆ 15 hour USPAP course, take and pass the exam
 - ◆ 3-hour Nevada Law course
 - ◆ Not less than 15 hours in Residential Case Studies course

Mr. Bennion asked for a few moments to consider the settlement agreement.

7) EDUCATION

CONSENT AGENDA

- 1. Allterra Group**
 - a. Appraising of Single Family Residential New Construction, 7 hours**
 - b. A Practical Guide to Appraisal Review, 7 hours**
- 2. American Society of Appraisers**
 - a. ARM 201 Appraisal Review and Management, 27 hours**
 - b. ARM 204 Appraisal Review and Management, 27 hours**

3. **Appraisal Institute**
 - a. **Unraveling the Mystery of Fannie Mae Appraisal Guidelines, 4 hours**
 - b. **Residential Market Analysis and Highest & Best Use, 15 hours**
4. **Appraisal Institute, Northern California Chapter**
 - a. **2014 Annual Fall Conference, 6 hours**
5. **Dynasty**
 - a. **New Construction-A Residential Valuation, 8 hours**
6. **McKissock**
 - a. **Appraisal of Fast food Facilities, 7 hours**
 - b. **Appraisal of Land Subject to Ground Leases, 7 hours**
 - c. **A Review of Disciplinary Cases, 3 hours**
 - d. **Fundamentals Concepts of Analysis, 7 hours**
 - e. **Expert Witness for Commercial Appraiser, 12 hours**

Commissioner Huber moved to approve the education consent agenda. Commissioner Hoonhout seconded. Motion carried unanimously.

7. **Appraisal Institute**
 - a. **Supervisory Appraiser / Trainee Appraiser Course, 4 hours**

Brenda Kindred-Kipling asked that approval be contingent upon her approval of the Nevada statute portions of the course.

Commissioner Hoonhout moved to approve the course with the provision that final approval be based on Ms. Kindred-Kipling's review of the applicable Nevada law. Commissioner Walsh seconded. Motion carried unanimously.

8. **American Society of Farm Managers & Rural Appraisers**
 - a. **2014 Fall Conference – Sustainable Agriculture, 3 hours**
 - b. **2014 Fall Conference – Central Coast AG Tour, 5 hours**
 - c. **2014 Fall Conference – Water Seminar, 4 hours**

Commissioner Anderson moved to approve the course. Commissioner Hoonhout seconded. Motion carried unanimously.

5-3) NRED v. RICHARD ROMANO CASE NO'S. AP13.034.S and AP14.009.S

Mr. Bennion stated that he and his client reviewed the standard language and were in agreement with the settlement.

Commissioner Anderson moved to accept the agreed upon settlement for cases # AP13.034.S and AP14.009.S as presented. Commissioner Huber seconded. Motion carried unanimously.

3-A) DISCIPLINE REPORT

Teralyn Thompson presented this report.

3-B) ATTORNEY GENERAL CASE STATUS REPORT

Colleen Platt stated that there were three pending cases at the Attorney General's Office.

3-D) APPRAISAL OFFICER'S REPORT ON COMPLIANCE CASE LOAD FOR FISCAL YEAR 2015 YEAR-TO-DATE

Brenda Kindred-Kipling presented this report. Ms. Kindred-Kipling stated that changes were in case aging. Ms. Kindred-Kipling stated that the five cases that were 13-24 months old were taken care of at the current Commission meeting and all other cases were within 12 months.

3-E) CUSTOMARY AND REASONABLE FEES IN REGARD TO THE DODD-FRANK ACT.

Brenda Kindred-Kipling stated that the West Virginia study was a very complete study but it was already out of date.

Commissioner Walsh summarized the West Virginia study.

3-F) THE SMALL BUSINESS ADMINISTRATION (SBA) REQUIREMENT THAT ONLY CERTAIN DESIGNATIONS, WHICH INCLUDES NON-REAL ESTATE PROFESSIONALS, WILL BE ACCEPTABLE TO VALUE GOING CONCERNS WHICH MAY INCLUDE REAL ESTATE COMPONENTS FOR SBA FINANCING.

Commissioner Anderson stated that there was nothing new to report and that this agenda item can be removed

3-G) RESIDENTIAL VALUATION SERVICES RVS NEW EVALUATION FORMS AND REQUIREMENTS OF THE EVALUATOR.

Brenda Kindred-Kipling stated that there was nothing new on this item and that this agenda item can be removed.

3-H) RESULTS OF THE MAY 19-21, 2014 APPRAISAL SUBCOMMITTEE COMPLIANCE REVIEW OF NEVADA'S APPRAISER REGULATORY PROGRAM.

Brenda Kindred-Kipling stated one area of concern was the reciprocal credentials policy which the Division calls the endorsement program. Ms. Kindred-Kipling stated that there were some housekeeping issues with the statute but the Division was not out of compliance and the regulations were correct.

3-I) IMPLEMENTATION OF THE APPRAISER QUALIFICATIONS BOARD 2015 REAL PROPERTY APPRAISER QUALIFICATION CRITERIA.

Brenda Kindred-Kipling talked about changes that would be effective as of January 1, 2015.

3-J) POLICIES AND PROCEDURES OF THE APPRAISAL ADVISORY REVIEW COMMITTEE (AARC).

Brenda Kindred-Kipling explained that the current Commission policy is that only one AARC hearing would be allowed and further violations would automatically go before the Commission.

Commissioner Walsh suggested that more than one AARC hearing be allowed.

The Commission agreed that Ms. Kindred-Kipling should make the determination on whether a complaint should go before the Advisory Review Committee more than once and removed the one time only policy.

3-L) DATE, TIME, PLACE AND AGENDA ITEMS FOR UPCOMING MEETING(S).

The Commission agreed to the following 2015 meeting dates proposed by Teralyn Thompson:

March 24-26, 2015
August 11-13, 2015
November 4-5, 2015

3-M) COMMISSIONER COMMENTS.

None.

4) PETITION TO AMEND REGULATIONS

NOTES: Pursuant to NAC 645C.475 "Any person may by petition request the Commission to adopt, file, amend or repeal a regulation. The Commission will review a petition at the next feasible scheduled meeting following receipt of the petition."

- A. Donald Sonneman requested that the Commission amend the continuing education provisions found in NAC 643C.345(1) to include authors of an approved online course, to increase the hours of credit from 1 hour to 2 hours per each hour of approved course credit, and to increase the limit of hours of credit per applicable period of licensing from 15 to 30 hours**

Brenda Kindred-Kipling stated that the Division does not have an issue with this change, but 10 hours would be more appropriate. Ms. Kindred-Kipling stated that this would require a regulation change and the State is in a blackout period until July 2015. Ms. Kindred-Kipling suggested that the Commission have further discussion and advise Ms. Kindred-Kipling so that she will be prepared.

President Johnson requested that Ms. Kindred-Kipling draft the change with the limitation of no more than 15 hours.

Sophia Long stated that a motion would be required and a letter had to be sent to the petitioner.

Commissioner Anderson moved to authorize Division staff to draft language for discussion at a future meeting for regulation change that would allow continuing education credit for a course developer of not more than 15 hours. Commissioner Huber seconded. Motion carried unanimously.

8) PUBLIC COMMENT

None.

9) ADJOURNMENT

The meeting was adjourned at 1:22 PM on December 3, 2014.