

NEVADA COMMISSION OF APPRAISERS OF REAL ESTATE MEETING
JULY 18, 2023, MINUTES

VIA IN PERSON AND WEBEX VIRTUAL MEETING
JULY 18, 2023

Nevada State Business Center
3300 W. Sahara Avenue
4th Floor, Nevada Room
Las Vegas, Nevada 89102

The meeting was called to order at 9:00 A.M.

1-A) Introduction of Commissioners in Attendance

Timothy O'Brien, John Wright, John Ivey, Larry Michael Gandy Jr., and Scott Krueger.

Commission Counsel: Deputy Attorney General, Ziwei Zheng.

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Shareece Bates, Administration Section Manager; Christy Staffen, Appraisal Program Manager; James Silva, Compliance Audit Investigator; Kelly Valadez, Commission Coordinator; and Maria Gallo, Commission Coordinator.

Phil Su, Senior Deputy Attorney General, and Christal Keegan, Deputy Attorney General representing the Division. Darin Gonzalez, Intern - Attorney General Office.

2) Public Comment

Richard Scott Dugan, certified general appraiser gave comment. Mr. Dugan stated he wanted to bring to the Commissioners attention ongoing violations of state statute by individuals not licensed as appraisers in Nevada and acting in the capacity as an Appraiser under NRS. Mr. Dugan stated he filed a complaint in August of 2022 against an individual and never heard anything from the Division. Mr. Dugan stated in March of 2023 he contacted the Real Estate Division, and they said they never received the original complaint. Mr. Dugan stated he refiled the complaint and within 5 days he received a letter from Christy Staffen stating the complaint was dismissed. Mr. Dugan questioned how the complaint could be investigated and dismissed in a short time given the seriousness of the complaint and allegations. Mr. Dugan stated he refiled the complaint with letters from past Commissioners stating the merit of the complaint. Mr. Dugan stated he received a letter dated July 6, 2023, the letter stated the Real Estate Division had received the refiled complaint and because a parallel court case had not yet been decided the Division should not interfere with pending legal matters, therefore no further action is appropriate. Mr. Dugan stated he filed the complaint because a local broker performed a Broker Price Opinion (BPO) for a court case and is testifying as to the market value of a listing and the quality of work of the appraiser. Mr. Dugan stated the broker is acting as an appraisal reviewer, is charging a fee for his review and BPO, and is acting as an appraiser per NRS. Mr. Dugan stated per NRS, brokers can only prepare BPO's if they obtain the listing, in this case the broker did not obtain the listing and is testifying as to the market value of a property for a fee and rendering an opinion of the reliability of an appraisal. Mr. Dugan stated the broker is not licensed as an appraiser nor qualified to review an appraisal. Mr. Dugan stated in 2008 the Division issued a memorandum on this issue and the memo stated when a BPO

should and should not be used. Mr. Dugan stated the Division has taken the position to wait until the court proceeding finishes, as opposed to advising the broker and the court that the broker violated NRS. Mr. Dugan stated the Division is not protecting the public trust by not taking steps to alert the broker and the court. Mr. Dugan stated the court is unaware that the broker is not permitted to render an opinion and represent the opinion as an appraisal or appraisal review. Mr. Dugan stated that the Board of Equalization, of which he has been a member for 30 years and is the current chair, also addresses such issues. Mr. Dugan stated he felt the need to bring this to the Commissions attention so that they can confer with staff privately regarding the issues he has raised.

Patrick Egger, certified general appraiser gave comment. Mr. Egger stated he wanted to follow up on Mr. Dugan's comments and state that as a member of the Board of Equalization, real estate agents come before the Board representing a client for a fee, to argue market value with the Assessors Office. Mr. Egger stated real estate agents are not supposed to do that. Mr. Egger stated the Board advises the agents if they are collecting a fee and presenting a Broker Price Opinion (BPO) as market value as opposed to price opinion, they are in violation of state law. Mr. Egger stated it was a problem back in the housing crisis. Mr. Egger stated attorney's also come before the Equalization Board representing clients talking about market value and comps. Mr. Egger stated the Division should remind individuals what they are and are not permitted to do under NRS relative to valuations.

3-A) Discussion and Possible Action Regarding Advisory Review Committee Informal Conference Recommendation:

3-A) NRED v. KRISTINA ALLAN (AKA BIENEK), for possible action
Case No. 2020-915 AP21.016.S
License No. A.0005276-CR (Active)

Parties Present

No parties present.

Ms. Staffen read the Committee report into the record.

President O'Brien asked if any of the Commissioners had any questions.

Commissioner Krueger asked if the education required to be taken by the Respondent is available to be completed within the 6-month period.

Ms. Staffen stated the courses are standard and should be available.

Commissioner Gandy moved to approve the settlement of disciplinary action for case no. 2020-915 AP21.016.S. Seconded by Commissioner Krueger. Motion carried.

4-A) Discussion and Possible Action Regarding Respondent's Petition for Reconsideration of Disciplinary Terms:

4-A) NRED v. ALFONSO A. CAMINO, for possible action
Case No. 2017-989 AP17.032.S
License No. A0001257-CR (Active)

Parties Present

Phil Su, Senior Deputy Attorney General was present representing the Division.
Alfonso Camino was present virtually.

Mr. Su stated the request from Mr. Camino is for a 6-month extension of disciplinary terms due to health reasons.

Mr. Camino stated that he is asking for a 6-month extension due to a medical crisis.

President O'Brien moved to approve a 6-month extension of disciplinary terms for Case No. 2017-989 AP17.032.S. Seconded by Commissioner Gandy. Motion carried.

5) Disciplinary Action: Discussion and Possible Action by the Commission:

5-A) NRED v. DON E. BEEBE JR., for possible action

Case No. 2020-638 AP21A.007.S

License No. A0004097-CR (Active)

Parties Present

Christal Keegan, Deputy Attorney General and second chair Darin Gonzales was present representing the Division.

Don Beebe was present.

Preliminary Matters

Ms. Keegan stated the parties have stipulated to the Division's bates stamped documents 0001 – 0117 and be admitted into evidence.

President O'Brien asked Mr. Beebe if he had any objections to the documents being admitted into evidence.

Mr. Beebe stated he did not have any objections to the documents being admitted into evidence.

President O'Brien stated that the bates stamp documents 0001-0117 are admitted.

Opening Statements

Ms. Keegan gave her opening statement.

Mr. Beebe gave his opening statement.

State's Witness

James Silva testified.

Mr. Beebe did not have any questions for Mr. Silva

Christina Chipman testified.

Mr. Beebe cross-examined Ms. Chipman.

The Commission questioned Ms. Chipman.

Ms. Chipman was dismissed.

Lauren Chavez testified.

Mr. Beebe cross-examined Ms. Chavez.

The Commission questioned Ms. Chavez.

Ms. Chavez was dismissed.

Ms. Keegan stated the State rests.

Mr. Beebe stated his case.

Ms. Keegan cross-examined Mr. Beebe.

The Commission questioned Mr. Beebe.

The Commission questioned Mr. Silva.

Closing Statements

Ms. Keegan gave her closing statement.

Mr. Beebe gave his closing statement.

Factual Allegations

Commissioner Gandy moved that factual allegations 1-5 have been proven. Seconded by Commissioner Krueger. Motion carried.

Violations of Law

President O'Brien read the first violation of law regarding the Record Keeping Rule into the record.

Commissioner Krueger stated he does not believe this violation was proven.

Commissioner O'Brien stated the second portion which references the opinions and conclusions within the appraisal report is included in the violation.

Commissioner Kruger stated he would defer to the other Commissioners comments for this violation.

Commissioner Gandy stated the workfile was incomplete.

Commissioner Wright stated he agreed that the workfile was incomplete.

President O'Brien stated he also agreed the workfile was incomplete. President O'Brien stated USPAP is very clear you need to be able to support your work and if your workfile is called upon from another entity it must be complete.

President O'Brien moved that the first violation of law has been proven. Seconded by Commissioner Gandy. Motion carried.

President O'Brien read the second violation of law regarding USPAP Standards Rule 1-1(b) and 1-1 (c) into the record.

President O'Brien stated COVID was a difficult time in the appraisal industry. President O'Brien stated in his opinion, Mr. Beebe did the report correctly as ordered. President O'Brien stated a band aid process was used by the industry because of COVID, as opposed to unprofessional conduct.

Commissioner Krueger stated there was clear intent and nothing was meant to mislead by the inconsistency of the extent of the inspection.

Commissioner Gandy stated an addendum was needed because the pre-printed form was misleading. Commissioner Gandy stated he did one of these types of appraisals and it was a daunting experience to strip out all the information that could be misleading.

President O'Brien and Commissioner Krueger left the meeting.

Commissioner Wright stated the intended user was the client, the client requested an exterior inspection, and therefore would not have been misled by the appraisal.

Commissioner Wright moved that the second violation of law has been proven.

Commissioner Gandy stated he now agrees with Commissioner Wright's premise, that the intended user would not have been misled by the appraisal. Commissioner Gandy stated he was looking at subsection b of the violation "not commit a substantial error of omission or commission that significantly affects an appraisal". Commissioner Gandy stated there are weaknesses, however, did they significantly affect the appraisal.

Commissioner Ivey stated that as an appraiser you are responsible for the boilerplate language, and an effort should have been made to better clarify the language. Commissioner Ivey stated that it did not significantly affect the outcome of the appraisal.

Commissioner Wright retracted his motion.

Commissioner Gandy moved that the second violation of law has not been proven. Seconded by Commissioner Ivey. Motion passed 2:1 with Commissioner Wright opposed.

Commissioner Wright read the third violation of law regarding the Standards Rule 1-4(a) into the record.

Commissioner Gandy stated the violation has been proven and self-admitted.

Commissioner Wright agreed with Commissioner Gandy's statement.

Commissioner Gandy moved that the third violation of law has been proven. Seconded by Commissioner Ivey. Motion passed 3:0.

Commissioner Wright read the fourth violation of law regarding the Standards Rule 2-1(a) into the record.

Commissioner Gandy stated the boilerplate language is misleading and the violation has been proven.

Commissioner Wright stated the only person that can be misled is the intended user of the appraisal, they are the only person the appraisal is written for. Commissioner Wright stated he did not think the intended user was misled by the appraisal report. Commissioner Wright stated he did not think it was misleading to the intended user, because the intended user knew what went on.

Commissioner Ivey moved that the fourth violation of law has been proven. Seconded by Commissioner Gandy. Motion passed 2:1 with Commissioner Wright opposed.

Ms. Staffen read the discipline authorized under NRS 645C.

James Silva, Compliance Audit Investigator stated the Respondent does not plan to continue practicing in Nevada, so requiring continuing education is not necessary. Mr. Silva stated there can be a stipulation that if the respondent wants to practice in Nevada, he will have to complete some education. Mr. Silva stated the respondent was found in violation of 3 violations of law and the Commission should decide how egregious the violations are to figure out the fine. Mr. Silva stated the Division should at least be reimbursed for their fees and costs of \$5,252.14.

Commissioner Krueger rejoined the meeting.

The Commission discussed discipline action for the respondent.

Commissioner Wright moved that for case 2020-638, AP21A.007.S respondent Don E. Beebe, Jr. reimburse the State for fees and costs in the amount of \$5,252.14 and respondent's license be suspended until such time as the fine has been paid and the respondent has taken a 7-hour residential report writing and a 4-hour minimum workfile class. Seconded by Commissioner Gandy. Motion passed 3:1 with Commissioner Krueger opposed.

Commissioner Wright amended the motion.

Commissioner Wright moved that for case 2020-638, AP21A.007.S respondent Don E. Beebe, Jr. reimburse the State for fees and costs in the amount of \$5,252.14 payable in equal installments over 24 months beginning September 01, 2023, and respondent's license be suspended until such time as the fine has been paid and the respondent has taken a 7-hour residential report writing and a 4-hour minimum workfile class. Seconded by Commissioner Gandy. Motion passed 3:1 with Commissioner Krueger opposed. President O'Brien left the meeting.

6-F) Discussion regarding Appraisal Subcommittee 2023 federal compliance reviews including a presentation by Policy Manager, Jenny Tidwell.

Ms. Tidwell gave an overview of what the Appraisal Subcommittee oversees. Ms. Tidwell stated she wanted to talk about the Property Appraisal and Valuation Equity (PAVE) taskforce and the PAVE dashboard. Ms. Tidwell stated the taskforce was directed to evaluate the causes, extent, and consequences of appraisal bias and to establish a set of recommendations to root out racial and ethnic bias in home valuations. Ms. Tidwell stated the 13 member agencies of the taskforce are committed to a set of actions to help ensure everyone can have a chance to build generational wealth through home ownership. Ms. Tidwell stated the PAVE action plan highlighted the barriers to the appraisal profession and contribute to the shortages of appraisers in the rural areas and make it more difficult for underrepresented groups included people of color and women to access the profession. Ms. Tidwell stated according to the Department of Labor Bureau of Labor Statistics, the Appraiser/Assessor profession is 92.4% white and 45.5 % female, making appraisers one of the least diverse professions in the country. Ms. Tidwell stated that states have the discretion to have standards that are above the Appraiser Qualification Board (AQB). Ms. Tidwell stated the PAVE dashboard shows when states have imposed additional requirements and hopes that states would review where they exceed the AQB's standards and determine if they should revise these additional requirements and reduce barriers into the appraisal profession. Ms. Tidwell stated Nevada had a few ways they exceed AQB's standards. Ms.

Tidwell stated in recent legislative sessions Nevada did reduce the educational and college barrier but still has the experience barrier. Ms. Tidwell stated there are testing, training and supervising restrictions that also exist. Ms. Tidwell stated she wanted to point out where Nevada exceeds the AQB standards because in about a year NRED staff will have an opportunity to submit a bill for a statutory change. Ms. Tidwell stated she also wanted staff to look at the regulations and see where we no longer need to exceed the AQB standards. Ms. Tidwell stated an onsite compliance review was completed and gave their findings and recommendations verbally to the staff. Ms. Tidwell gave an overview of the compliance review process. Ms. Tidwell opened the discussion up to the Commissioners for questions.

Commissioner Krueger questioned Ms. Tidwell about the current Nevada regulations allowing trainees to have only one Supervisor Appraiser, because as far as he knew an intern could have more than one supervisor.

Ms. Tidwell responded that her understanding of the regulations is that the supervisor is listed on the trainee's certificate, further certifying that they are assigned to one individual.

Commissioner Wright stated that his understanding and what occurs in practice, was that a trainee could work under multiple supervisors however the trainee would have to have a separate license under each supervisor.

Ms. Tidwell thanked Commissioner Wright for the clarification of practice.

6-A) Discussion regarding the Administrator's report.

Sharath Chandra thanked Ms. Tidwell and her team for helping the Division with the audits. Mr. Chandra stated the Division is looking forward to some feedback on the audits and with regulations. Mr. Chandra stated the last time it was discussed that the Division is in the process of developing some regulations that they will bring to the Commission and part of it includes Ms. Tidwell's recommendations. Mr. Chandra stated in about 6-9 months the Division will have an opportunity to do a Bill Draft Request "BDR" to clean up some regulatory language. Mr. Chandra stated the Division has given the Governor's office a report on some of the items we want to streamline and improve in the regulations. Mr. Chandra stated the technology fee to improve the licensing system is still in development due to the first vendor not being able to come through with results. Mr. Chandra stated getting some appraisal reviews completed and with help from the AG's office taking care of the backlog cases, will help the appraisal program. Mr. Chandra opened the discussion up to the Commissioners for questions.

Commissioner Wright asked if there was anything the Commission could do to help the Division staff.

Mr. Chandra stated being a sounding board for Division staff is important, especially when it comes to statutes and regulations.

Commissioner Wright stated that he is willing to give his personal feedback to staff, because he was around when USPAP first came to be and knows what the basis of NRS was.

Commissioner Gandy asked if any more thought has been given to the Property Data Collector item.

Mr. Chandra stated "Yes" they did look at it. Mr. Chandra stated it is a new concept and the Division stance is to let this play out with discussions, public comment, and more information in writing to gain a better understanding of it, because we are on the front end of it.

Commissioner Gandy stated there is a report from another state that a Property Data Collector was hired even though he was a convicted felon awaiting sentencing. Commissioner Gandy stated to protect the public trust they should be licensed, even the person who cuts his hair is required to be licensed.

Mr. Chandra stated this matter needs to be discussed further, however industry feedback and research is needed, and we will always continue the discussion.

Commissioner Krueger stated there is hypocrisy in that a registered intern is required to complete pre-licensing education and as part of their experience the first 50 appraisals cannot be done alone, they must be done with a license supervisory appraiser. Commissioner Krueger stated it is an unfair playing field to allow other people that do not have any license to do the same aspect of an appraisal assignment. Commissioner Krueger stated we need to keep pursuing this and be proactive.

Commissioner Krueger stated the public comment given at the beginning of the meeting was alarming and asked Mr. Chandra if there is a policy in place when there is clear evidence submitted to the Division that there is unlicensed appraisal activity happening.

Mr. Chandra stated the Division wants to focus on the education piece of it. Mr. Chandra stated each Commission keeps the Division aware of industry practices, because we are not practitioners. Mr. Chandra stated there can be a disconnect between how the Division looks at things because we look at complaints and statutes to see if there are activities going on that are not clearly defined in regulation or statute that are happening. Mr. Chandra stated it is important to create some sort of educational framework which restates and reinforces what is in statute and what roles and duties are licensed and unlicensed. Mr. Chandra stated a workgroup that is ongoing would be useful, because if there are changes in statute that are necessary to clarify something that is now industry practice that is not in statute or regulation. Mr. Chandra stated the only way we could achieve that is through some sort of consensus, whether it is a real estate taskforce or appraisal taskforce that talks about these issues and comes forward with a recommendation then the Division could take over. Mr. Chandra stated re-educating individuals as to what is considered licensed and unlicensed activity is important.

6-B) Disciplinary Report

Shareece Bates presented this report. The Commission was provided with the report in the meeting packet.

6-C) Appraisal Program Officer's Report on the compliance caseload.

Christy Staffen presented this report. The Commission was provided with the report in the meeting packet.

6-D) For possible action: Discussion, nomination, and election of officers for FY24 pursuant to NAC645C.200.

Commissioner Krueger moved to nominate Commissioner Wright for President, Commissioner Gandy for Vice President, and Commissioner Ivey for Secretary. Seconded by Commissioner Gandy. Motion carried.

6-E) For possible action: Discussion and possible action to approve the minutes of the April 04, 2023, meeting.

Commissioner Krueger moved to approve the minutes for the April 04, 2023, meeting. Seconded by Commissioner Ivey. Motion carried.

7) For possible action: Discussion and decision on date, time place and agenda items for upcoming meeting(s).

Next CARE meeting October 3-5, 2023.

Commissioner Gandy requested the Property Data Collectors be an agenda item.

Commissioner Wright requested PAREA be an agenda item.

Commissioner Wright requested regulation and statute discussion be an agenda item.

8) Public Comment:

None

7) For Possible action: adjournment

The meeting adjourned at 3:53 PM.

Minutes Prepared by: _____
Maria Gallo, Commission Coordinator