

**NEVADA COMMISSION OF APPRAISERS OF REAL ESTATE
MEETING
JULY 23, 2024, MINUTES**

**VIA IN PERSON AND WEBEX VIRTUAL MEETING
JULY 23, 2024**

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

VIDEO CONFERENCE TO:
Nevada Division of Insurance
1818 East College Parkway
Suite 103
Carson City, Nevada 89706

1) Commission/Division Business:

A) President Wright called the meeting to order at 9:02 A.M.

Introduction of Commissioners in Attendance: John Wright, Larry Michael Gandy Jr., Scott Krueger, Timothy O'Brien, and John Ivey, a quorum was established.

Commission Counsel: Chief Deputy Attorney General, Rosalie Bordelove.

B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Shareece Bates, Administration Section Manager; Rebecca Bruce, 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.

Joseph Ostunio, Deputy Attorney General and Arjan Luhar, Intern, Attorney General's Office.

2) Public Comment

Terry Farr stated he has two items that he would like to discuss. Mr. Farr stated because there is a shortage of appraisers, he would therefore like the Commission to increase the number of interns an appraiser can supervise from two interns to three, to align with the national average. Mr. Farr stated he is an adjunct professor at UNLV and the "Real Estate Valuation" course does not receive any credit for basic appraisal principles and basic appraisal procedures, even though UNLV has AQB approval. Mr. Farr stated that any real estate student that takes the "Real Estate Valuation" course should receive credit to satisfy the 60 hours credit in appraisal principles and appraisal procedures.

Scott DiBiasio, with the Appraisal Institute, inquired about the status of Nevada approving Practical Application of Real Estate Appraisal (PAREA). Mr. DiBiasio stated the topic has been up for discussion for quite some time and it has been over a year since the Administrator talked about convening a workshop. Mr. DiBiasio stated that PAREA has been in the marketplace for almost a year

and has been successful and there is a waiting list for the Appraisal Institutes PAREA program. Mr. DiBiasio stated some participants will be finishing up their program and sitting for their exams. Mr. DiBiasio stated the program is proving to be much more difficult than anticipated, which is a good thing, because it shows that the participants are being challenged. Mr. DiBiasio stated he wanted the Commission to move this issue forward so that PAREA can be offered in the state of Nevada.

3) FOR POSSIBLE ACTION: DISCUSSION AND DECISION REGARDING RESPONDENT'S PETITION FOR MOTION TO MODIFY REVOCATION ORDER:

A. NRED v. THOMAS L. WITHERBY, for possible action

Case No. 2020-492, AP21.045.S

License No. A.0001528-CR (REVOKED)

Parties Present

Christal Keegan, Deputy Attorney General was present representing the Division.

Ellsie Lucero, Esq., was present representing the Respondent.

Thomas Witherby, Respondent, was present virtually.

Preliminary Matters

Ms. Keegan stated that this is Mr. Witherby's motion, and the parties have fully briefed their arguments however, the State has a pending "Motion to Dismiss" because the Commission lacks jurisdiction in this matter. Ms. Keegan stated she wanted the Commission to consider the jurisdictional issue first because that would decide whether to proceed to hear the merits of the petition. Ms. Keegan stated the State filed a "Supplement" where the relevant laws are cited to assist the Commission.

Rosalie Bordelove stated there are pending motions and that can be addressed as you go. Ms. Bordelove stated her advice to the Commission is, there was some miscommunication from the past meeting on how procedurally to handle this request. Ms. Bordelove stated the Commission retains jurisdiction over its licensees and over discipline the Commission issued, and her advice is not to make any modifications to the existing order. Ms. Bordelove stated there is a plea for leniency in front of the Commission as a discretionary function, the Commission can choose to modify discipline in a new Order. Ms. Bordelove stated if the parties are not in agreement the Commission can hear their arguments on that issue. Ms. Bordelove stated procedurally the Commission should treat this as a motion to modify the discipline in a new Order in a plea for leniency.

Ms. Lucero stated she does not have a problem with this preceding as a "Motion for Leniency" and a new Order.

Ms. Keegan stated she did have some questions for Commission Counsel before deciding if the State will oppose the motion. Ms. Keegan stated it was her understanding that the Commission cannot act on an item that was not listed on the agenda. Ms. Keegan stated a "Motion for Leniency" was not on the agenda.

Ms. Bordelove stated that in her opinion, the Commission can hear this Motion because the Commission has jurisdiction over its licensees. Ms. Bordelove stated that if the parties wish to brief this further, this issue can be delayed again. Ms. Bordelove stated this issue occurs in many Boards, where the licensee returns asking for leniency in their discipline because they cannot work.

Ms. Keegan stated it is not the State's preference to delay this case any further and see an expeditious resolution to this case and is prepared to move forward.

Ms. Lucero stated her client has spent significant resources on this matter and she is also prepared to move forward.

Ms. Lucero stated she wanted to call Mr. Witherby as a witness and had additional evidence she wished to present that was not originally submitted with the original Commission Order. Ms. Lucero stated the additional evidence was the deed to the property showing that the property was sold at the price that Mr. Witherby appraised the property for, showing there was no harm done to the Complainant. Ms. Lucero stated the discipline imposed is not appropriate for the lack of harm in this manner and is asking for some leniency because of the impact of the severity of the discipline imposed on the Respondent. Ms. Lucero stated she wanted Mr. Witherby to speak about how the severity of discipline that was imposed has affected his ability to work.

Respondents Witness

Mr. Witherby testified.

Mr. Witherby was cross-examined by Ms. Keegan

Mr. Witherby was re-examined by Ms. Lucero

Closing Statements

Ms. Keegan gave a closing statement.

Ms. Lucero gave a closing statement.

Ms. Keegan stated that Mr. Witherby has not paid anything towards his fine that was due on April 08, 2024.

The Commissioners questioned Mr. Witherby, Ms. Lucero, and Ms. Keegan.

The Commissioners deliberated over what action to take towards the Motion for Leniency.

Commissioner O'Brien moved that in Case # 2020-492, the Commission issue a new Order that the Respondent pay the fees and costs of \$3,897.22 payable within 36 months and this order does not modify any other parts of any previous Orders. Seconded by Commissioner Gandy. Motion carried.

4) FOR POSSIBLE ACTION: DISCUSSION AND DECISION REGARDING RESPONDENT'S PETITION FOR RE-HEARING:

A) NRED v. BRADLEY W. CORN, for possible action

Case No. 2021-512, AP21.038.N

License No. A.0005827-CR (INACTIVE)

Parties Present

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

Richard Blower, Esq., was present virtually representing the Respondent.

Bradley Corn, Respondent, was present virtually.

Preliminary Matters

Mr. Blower stated the Commission issued a finding based on a default, and a Petition for Re-Hearing was filed by the Respondent in a timely manner. Mr. Blower stated the petition outlined that the Respondent had attempted to connect with Mr. Su, however, was unable to do so until the morning of

the hearing. Mr. Blower stated the Respondent was then informed the Commission had found him in default. Mr. Blower stated there was a misunderstanding or miscommunication about the Respondent's need to appear at the April meeting, and there are sufficient grounds to request a re-hearing.

Respondent's Witness

Mr. Corn testified.

Mr. Corn was cross-examined by Mr. Su.

The Commissioners questioned Mr. Su and Mr. Corn.

The Commissioners deliberated regarding Respondent's Petition for Re-Hearing.

Commissioner Kruger moved in Case # 2021-512 to grant Respondent's Petition for Re-Hearing and set aside the default ruling. Seconded by Commissioner Gandy. Motion carried.

5) DISCUSSION AND POSSIBLE ACTION REGARDING ADVISORY REVIEW COMMITTEE INFORMAL CONFERENCE RECOMMENDATION:

A) NRED v. BONNIE M. ARCELLA, for possible action
Case No. 2022-36, AP22.018.S
License No. A.0207063-CR (ACTIVE)

Rebecca Bruce read the proposed discipline into the record.

President Wright stated he did not think the Commission could recommend a specific class or course they could only recommend the topic of the class. President Wright stated the Commission should not show preference to one provider when recommending education for discipline, the topic should be generic i.e. adjustments.

Ms. Bordelove stated the Commission could give conditional approval with changes that say "or similar" regarding the type of class to take with the required number of hours. Ms. Bordelove stated the Respondent would also have to agree to the changes or the case would have to come back before the Commission.

President Wright stated all the time he was a part of AARC they were counseled not to recommend a specific class by a specific provider and to keep the topic more generic so the Respondent could select the class they thought was more beneficial.

President Wright moved to accept the AARC recommendation for Case # 2022-36, apart from on page 2 where it lists the classes that they all still be a minimum of 4 hours each, however the course or courses "of similar content" approved by the Division can be utilized, subject to agreement by the Respondent. Seconded by Commissioner Krueger. Motion carried.

6) Commission/Division Business:

A) Discussion Regarding the Administrators report.

Sharath Chandra stated the Division is gearing up for the next legislative session to seek approval for self-funding and are also continuing to work on the technology project, so the Division can process more transactions online. Mr. Chandra stated that being self-funded makes the Division more stable instead of relying on the general fund, which budgets can fluctuate depending on if there is a crisis. Mr. Chandra

stated the Division will work on Appraisal regulations and start a temporary file with LCB and after the legislative session the Division will make it permanent. Mr. Chandra stated there is a running list of regulations that need to be addressed such as the number of interns, PAREA, education and experience requirements. Mr. Chandra stated that lining up with federal guidelines will streamline the process of becoming licensed and open the pool of appraisers. Mr. Chandra stated there may be enough time to have a regulation draft scheduled for the next Commission meeting. Mr. Chandra stated a special meeting could also be called just to go through a regulation workshop.

President Wright stated he thought Nevada and one other state had not yet adopted PAREA.

Mr. Chandra stated the Division wanted to have an informed opinion before Nevada adopted PAREA. Mr. Chandra stated other states adopted PAREA during that time, now we are left behind, but the Division is looking to address PAREA and other regulatory issues soon.

Commissioner O'Brien stated that 2 Commissioners appointments run out at the end of this year, and another runs out in the middle of next year. Commissioner O'Brien asked what the timeline is for filling these vacancies and recruiting to fill these vacant positions.

Mr. Chandra stated that the Division is looking to receive some recommendations however it is ultimately the Governors discretion on who gets appointed to the Boards and Commissions. Mr. Chandra stated the Division wanted to get this process started early because it does take time for processing paperwork for appointments by the Governor.

Commissioner O'Brien stated he wanted to make sure there was a plan in place because, potentially there could be a Commission meeting without a quorum if the Commission vacancies are not filled in a timely manner.

F) Discussion regarding valuation of short-term rentals.

Mr. Chandra stated there has been some great public comment and some back-up information on this item. Mr. Chandra stated he wanted the Commission to discuss this matter on very general terms and just educate the Division on what issues are out there regarding short-term rentals. Mr. Chandra stated, the Division can do some research and consult with the Attorney General's Office and come back with some recommendations.

Commissioner O'Brien stated the intent of having this issue on the agenda is for educational purposes and recently Fannie Mae has provided some guidance on the issue. Commissioner O'Brien stated that prior to the guidance being issued, the main concern was that some licensees were instructing or requiring appraisers to do a valuation that may not have been appropriate. Commissioner O'Brien stated now that there is guidance in the industry and investor world, if a complaint comes into the Division, the Division has the Fannie Mae guidance to utilize.

Kelly Wade, certified residential appraiser, stated he did some research on short term rentals and agrees with the written comments submitted by Patrick Egger. Mr. Wade stated none of the government-sponsored enterprise's (GSE's) want to do loans on "condotel's". Mr. Wade stated that appraisers must turn down those assignments and educate the client. Mr. Wade stated on the Clark County website and the surrounding municipalities, all state that short term rentals must have a business license. Mr. Wade stated doing an appraisal for these short-term rentals is complex because you are asked to analyze the rental income which is separate from the residence and that is separate from the "bundle of rights". Mr. Wade stated the business license is not attached to the property, and it cannot be transferred, the

business license is attached to the individual. Mr. Wade stated the AMC's need to be educated because they are not always aware of the local statutes. Mr. Wade stated that performing an appraisal on a short-term rental may also be a violation of USPAP because it is an unacceptable assignment condition.

Commissioner Krueger stated appraisers can appraise the properties, however the appraiser must have the appropriate license to complete the assignment and be competent, which goes to any assignment the appraisers undertake.

Mr. Wade stated the property can be appraised as a single-family residence, but it cannot be appraised using short-term rental income. Mr. Wade stated the problem is that the business license does not transfer, the buyer of the house does not get those rights.

Commissioner O'Brien stated the original intent to add this issue to the agenda was because of feedback from the appraisers in the North about being instructed to do something they felt was inappropriate and now there is guidance and industry feedback.

B) Discussion regarding the Disciplinary Report.

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

C) Discussion regarding Appraisal Program Manager's report on compliance caseload.

Rebecca Bruce presented this report. The Commission was provided with the report in the meeting packet.

D) For possible action: Discussion, nomination, and election of officers for FY '25 pursuant to NAC 645C.200.

President Wright moved to nominate Commissioner Gandy for President. Seconded by Commissioner Krueger. Motion carried.

Commissioner Krueger moved to nominate Commissioner O'Brien for Vice-President. Seconded by President Wright. Motion carried.

Commissioner O'Brien moved to nominate Commissioner Krueger for Secretary. Seconded by Commissioner Gandy. Motion carried

E) For possible action: Discussion and possible action to approve the minutes for the April 23, 2024, meeting.

Commissioner O'Brien moved to approve the minutes for the April 23, 2024, meeting. Seconded by President Wright. Motion carried.

7) FOR POSSIBLE ACTION: DISCUSSION AND DECISION ON DATE, TIME, PLACE, AND AGENDA ITEMS FOR UPCOMING MEETING(S) INCLUDING SETTING THE MEETING CALENDAR FOR 2025.

The next CARE meeting: October 8-10, 2024

Meeting Calendar for 2025.

- January 21-23, 2025
- April 22-24, 2025
- July 22-24, 2025
- October 7-9, 2025

8) PUBLIC COMMENT:

President Wright thanked Division staff and the AG's office for keeping the Commission in-line and helping the Commission move forward.

9) FOR POSSIBLE ACTION: ADJOURNMENT

The meeting was adjourned at 12:20 PM

Minutes Prepared by: _____
Maria Gallo, Commission Coordinator