

**STATE OF CONNECTICUT
DEPARTMENT OF CONSUMER PROTECTION
CONNECTICUT REAL ESTATE APPRAISAL COMMISSION
Minutes of Meeting
March 9, 2011**

The meeting of was called to order by Christopher Italia, Chairman at 8:37 A.M. in Room 126 of the State Office Building, 165 Capitol Avenue, Hartford, Connecticut.

Commission Members Present: Christopher Italia, Chairman (Cert. Gen. App. - 1st District)
Nicholas J. Tetreault (Cert. Gen. App. - 3rd District)
Sean T. Hagearty (Cert. Gen. App. - 2nd District)
Norris Hawkins (Public Member - 1st District)
John Parda (Public Member - 5th District)
Francis Buckley, Jr. (Cert. Gen. App. - 2nd District)
Kathleen Kelly Zabel (Public Member – 5th District)

Commission Members Absent: Gerald Rasmussen (Cert. Gen. App. - 4th District)

Commission Vacancies: None

Commission Counsel Present: None

DCP Staff Present: Howard Osden, Board Secretary
Linda Kieft-Robitaille, Real Estate Examiner
Vicky Bullock, Principal Attorney

Public Present: Jim Kyle
Jesse Merly

Note: The administrative functions of this Commission are carried out by the Department of Consumer Protection, Real Estate Division. For information please call Howard Osden, Board Secretary at (860) 713-6139 or visit www.ct.gov/dcp

1. REVIEW MINUTES OF PREVIOUS MEETING

- a. Review Minutes of Meeting of January 26, 2011.

It was moved by Commissioner Tetreault, Commissioner Parada 2nd, to approve the Minutes as presented, and the motion was passed unanimously. Commissioner Zabel did not vote on this motion.

2. NEW MEMBER

- a. Swearing In New Commission Member Kathleen Kelly Zabel.

Attorney Bullock swore in Kathleen Kelly Zabel as a new Public Member of the Commission, representing the 5th Congressional District.

3. LEGAL

- a. Cullen, Tom RCR – Requesting reconsideration of c.e. suspension/fine. (not present)

Inspector Kieft-Robitaille advised the Commission that Mr. Cullen, whose license was suspended until he complies with the C.E. audit, is seeking a waiver of both the assessed \$400 fine and the requirement that he complete the 3 hour law course, and stated that Mr. Cullen had sent a letter advising that he could not attend the Commission meeting in person because he had to care for a sick child. He requested that his suspension be removed and that his license lapse.

Commissioner Hagearty made a motion, Chairman Italia 2nd, to offer to Mr. Cullen the option that, if Mr. Cullen takes the course on or before April 30, 2011, the Commission would then waive the fine, and/or he may voluntarily surrender the license. The motion was approved, with Commissioner Buckley, Jr. opposed.

4. NEW BUSINESS

- a. Dodd-Frank Act – customary & reasonable fees

Inspector Kieft-Robitaille advised that some provisions of the Act go into effect on April 1st, one of those being the section concerning “customary and reasonable fees”. Inspector Kieft-Robitaille anticipates the topic will become a major complaint issue, and that the Department will be seeking guidance on how to handle such complaints made by appraisers against AMC’s who do not raise their fees. She presented to the Commission a survey that was taken of subscribers to *Working Real Estate* magazine of what their typical fees are for residential appraisals.

After discussion, it was the opinion of the Commission that the survey responses seemed to be fairly accurate. As to any complaints received, it was felt that AMC's should be contacted to determine whether or not the fee quoted to the appraiser was their set fee, and if it is, whether or not appraisers are being told that that is the AMC's set fee, then Inspector Kieft-Robitaille could advise the AMC's as to whether or not their set fee is "reasonable" for that particular market.

Chairman Italia moved, Commissioner Hagearty 2nd, that item 4.b and 4.c be added to the agenda. The motion was approved unanimously.

b. Public Hearing regarding BPO's.

Commissioner Hagearty apprised the Commission of the March 8th Public Hearing concerning Raised Bill 6510, Section 2, "An Act Concerning the Regulation of Private Transfer Fees and the Valuation of Real Estate", and requested that his testimony at that Hearing be added to the Minutes. A discussion followed concerning the ramifications of Section 2 of the Bill, which would allow licensed Real Estate Brokers and Real Estates Salespersons in certain circumstances to provide BPO values, rather than requiring a full appraisal.

It was felt that, while the intent of the legislation may be to help lenders in moving properties through foreclosure process, and as an aid in making internal decisions with regard to litigation, or short sales, that the proposal guts the mandatory status of required appraisals, and will have negative impacts in both the areas of accountability and enforcement to consumers, appraisers, and users of appraisal services.

It was moved by Commissioner Hagearty, Commissioner Buckley, Jr. 2nd, that the Commission, as a body, oppose Section 2 of the proposed Bill 6510. The motion was passed unanimously.

Inspector Kieft-Robitaille suggested that the Chairman should send a letter to the Chairman of the Real Estate Committee re: the Commission's expressed opposition to that specific section of the proposed Bill. Commissioner Hagearty agreed to draft such a letter for both Chairman Italia's and Commissioner Hagearty's signature.

c. Thomas DeNoto RCR – seeking c.e. credit for CAAO course.

After discussion, Inspector Kieft-Robitaille was directed by the Commission to advise Mr. DeNoto that, if CAAO is in fact an approved school, as it is believed to be, that the school should just make the appropriate application to seek approval of the course.

5. **OLD BUSINESS** – None.

6. **APPLICATIONS FOR APPROVAL**

- a. Merly, Jesse – requesting extension of RSP (present)

After discussion, Chairman Italia moved, Commissioner Hagearty 2nd, to grant Mr. Merly an extension to 12/31/2011. The motion was approved unanimously. Commissioner Zabel did not vote on this motion. As a separate issue, Mr. Merly was advised that he must meet the new requirements when he re-applies for the RCG.

After Mr. Merly had left the meeting, discussion briefly continued. Chairman Italia requested that Inspector Kieft-Robitaille contact Mr. Merly and suggest he consider applying for the residential appraiser license, in view of its lesser degree requirement, while at the same time he might continuing to work on meeting the new requirements for the RCG.

- b. Smith, Kenneth – requesting extension of RSP. (not present)

It was moved by Chairman Italia, Commissioner Hagearty 2nd, to deny the request at this time, and that Mr. Smith should, if necessary, request an extension in June. The motion was unanimously approved. Commissioner Zabel did not vote on this motion.

- c. Pecquex, Bonnee – requesting extension of RSP (not present)

After discussion, it was moved by Commissioner Buckley, Jr, Commissioner Tetreault 2nd, to grant Ms. Pecquex an extension to 12/31/2011, and that Ms. Pecquex must get the needed appraisal hours and be ready to upgrade at that time. The motion was unanimously approved.

- d. MacPherson, Holly – RCR applicant submitting logs for approval & sample (not present)

It was moved by Commissioner Hagearty, Commissioner Buckley, Jr. 2nd, to approve the logs. The motion was unanimously approved.

7. **SCHOOL AND COURSE APPLICATIONS**

- a. American Society of Farm Managers and Rural Appraisers

i. Basic Appraisal Procedures

30 hours PL

ii. Basic Appraisal Procedures

18 hours CE

- b. Appraisal Institute**
 - i. Online Apartment Appraisal – Concepts and Applications 16 hours PL
 - ii. Online Residential Report Writing and Case Studies 15 hours PL
 - iii. General Demonstration Appraisal Report Writing Seminar (renewal) 7 hours CE
 - iv. Online Analyzing Distressed Real Estate (renewal) 4 hours CE
 - v. Online Appraising Convenience Stores (renewal) 7 hours CE
 - vi. Online Valuation of Green Residential Properties (renewal) 7 hours CE
 - vii. Uniform Appraisal Standards for Federal Land Acquisition (renewal) 16 hours CE

- c. Career WebSchool, a d.b.a. of Cengage Learning Inc.**
 - i. Advanced Residential Applications & Case Studies (online) 15 hours PL
 - ii. Advanced Residential Applications & Case Studies (online) 14 hours CE
 - iii. General Appraiser Market Analysis & Highest & Best Use (online) 30 hours PL
 - iv. General Appraiser Sales Comparison Approach (online) 30 hours PL
 - v. General Appraiser Site Valuation & Cost Approach (online) 30 hours CE

- d. Connecticut Real Estate Academy**
 - i. 7 hour USPAP Update 7 hours CE
 - ii. Commercial Landlord Tenant Law (renewal) 3 hours CE
 - iii. Mandatory Appraisal Law Update 3 hours CE

- e. Greater Hartford Association of REALTORS**
 - i. Water, Water, In My Backyard 3 hours CE

- f. Massachusetts Board of Real Estate Appraisers**
 - i. Distressed Properties Valuation 7 hours CE

- g. McKissock, LP**
 - i. Ad Valorem Tax Consultation (online)(renewal) 3 hours CE
 - ii. REO and Foreclosures (online)(renewal) 5 hours CE
 - iii. Understanding the Uniform Appraisal Dataset 3 hours CE

- h. Tiger Group Inc**
 - i. Basic New Construction 3 hours CE
 - ii. Green Building 3 hours CE
 - iii. Preparing the Buyer and Seller for the Home Inspection 3 hours CE
 - iv. Selling Antique Homes in today’s Real Estate Market (3 hours CE) DENIED
 - v. The Home Inspection Process 3 hours CE

i. Jones Real Estate School (New School Application)

APPROVED

It was moved by Commissioner Tetreault, Commissioner Parda 2nd, to approve the schools as marked. The motion carried unanimously.

8. ADJOURN

There being no other business, it was moved by Commissioner Hagearty, Commissioner Tetreault 2nd, and the motion carried unanimously to adjourn the meeting at 10:10 AM.

Respectfully submitted,

Howard Osden
Commission Secretary

The next meeting of this Commission is scheduled for Wednesday, April 13, 2011, 8:30 AM, Room 126

TESTIMONY OF:

SEAN T. HAGEARTY, MAI
COMMISSIONER, STATE OF CONNECTICUT REAL ESTATE APPRAISAL COMMISSION

CONCERNING:

RAISED BILL NO. 6510, SECTION 2
AN ACT CONCERNING THE REGULATION OF PRIVATE TRANSFER FEES AND THE
VALUATION OF REAL ESTATE

VENUE:

INSURANCE AND REAL ESTATE COMMITTEE
PUBLIC HEARING OF MARCH 8, 2011

INTRODUCTION / RELEVANT BACKGROUND

Chairman Crisco, Chairman Megna and Members of the Committee,

Thank you for the opportunity to appear before the Committee and also to provide written testimony. I'm Sean Hagearty, a certified general real estate appraiser and a commissioner for the Real Estate Appraisal Commission. I am here to speak in opposition to Section of Raised Bill 6510.

I have been an appraiser for 20 years and have held a certified general appraiser license in Connecticut since 1992. I hold the MAI designation from the Appraisal Institute, am a past president of the Connecticut Chapter of the Appraisal Institute and currently serve as an instructor for both pre-licensing and continuing education offerings for the Appraisal Institute and other real estate organizations.

As a practicing appraiser, I echo most of the comments raised by my colleagues who have also testified today. However, the primary reason I am here today is to address the raised bill from my viewpoint as a Commissioner serving on the appointed body at the State of Connecticut charged with the oversight of all licensed real estate appraisers. In particular, I, along with the other members of the Commission, am very concerned about the potential impacts this bill would have on all consumers, appraisers and users of appraisal services.

Specifically, I will concentrate on the areas of appraiser **accountability** and **enforcement**, two issues covered adequately by our present appraisal laws, but which would be significantly weakened, to the detriment of the consumer and potential users of appraisal services, by the raised bill.

Sean Hagearty
Insurance and Real Estate Committee Testimony
March 8, 2011
Page Two

CONNECTICUT REAL ESTATE APPRAISAL COMMISSION

The Commission consists of 8 members appointed by the Governor. The composition includes 5 appraisers and 3 members of the public. We meet monthly — 11 times per year - and work hand in hand with state employees in the Department of Consumer Protection to provide oversight of all individuals licensed as real estate appraisers.

The Commission, in conjunction with State staff, is charged with implementing federal mandates and state law concerning appraisers. This includes the promulgation of minimum education requirements to obtain an appraisal license, the examination process and the review of relevant work experience which was completed under the supervision of a certified appraiser.

Once an individual becomes a licensed appraiser, the Commission with state staff, also cover the enforcement of mandatory continuing education and conduct the investigation of all complaints filed by consumers about appraisers and appraisals. This includes holding informal and formal hearings with the appraisers in question. When necessary, the enforcement function includes establishing appropriate fines and other punishments when appraisers have been found to violate the Uniform Standards of Professional Appraisal Practice, which is specifically incorporated by reference in our state appraisal laws, or other aspects of our state appraisal laws.

The existing state appraisal laws include Section 20-504-1 1 “Duty to Cooperate”. A copy of the law is attached to this testimony.

This section requires ALL licensed appraisers to cooperate with state staff in any investigation or inquiry. Licensed appraisers who fail to do so face many possible punishments, including the potential revocation of their license.

AREAS OF CONCERN WARRANTING DISCUSSION

- There is simply a fundamental conflict of interest in having individuals with an existing or proposed financial interest in the property providing valuation service concerning the same, regardless of the intended use of the assignment (lending, foreclosure, tax appeal, etc.) The proposed bill will greatly increase the number and likely the severity of these conflicts. Foreclosure is an excellent example.
- Under existing state laws, consumers and users of appraisal services have a clearly established framework to file a complaint about an appraiser. The proposed bill will expand the number of unlicensed individuals providing appraisal services under a different name while not providing any accountability or opportunity for consumer redress. This can only serve to harm the consumer's interests.
- One of the unintended consequences if the bill were to become law would be to encourage existing licensed appraisers to forego their appraisal licenses and simply maintain real estate salesperson or brokers licenses instead. Likewise, brokers and salespersons who also maintain appraisal license would give them up as well. This would be due to the fact that annual license fees and continuing education requirements are less than those for real estate appraisers.
- Without an appraisal license, there would be no duty to cooperate, thus harming the state's ability to address complaints filed by consumers affected by these services
- The fiscal impact to the State will be negative. At the same time the State will be losing occupational license fees from appraisers "downgrading" to say salespersons licenses, the State's ability to address consumer complaints will be weakened as there will be no clear framework to pursue individuals proving the services. Pursuing complaints will be more time consuming for State staff, with less effective enforcement mechanisms.

Sec. 20-504-11. Duty to cooperate

A certified or provisional appraiser or applicant shall cooperate with department staff if such appraiser or applicant is contacted in connection with an inquiry or investigation performed by the Department of Consumer Protection concerning possible violations of real estate appraiser statutes or regulations. A certified or provisional appraiser or applicant shall not make any untruthful or misleading statements in connection with any Department of Consumer Protection or commission inquiry, investigation or hearing.

Sec. 9. Section 20-512-2 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 20-512-2. School approval and requirements

(a) Each college, university, community college, junior college, real estate appraisal organization, real estate organization, state agency, federal agency, proprietary school or other provider of education shall obtain approval as a real estate appraisal school from the commission before offering approved courses in real estate appraisal prerequisite education or continuing education. School approval shall be obtained from the commission before any courses will be considered for approval for the purpose of becoming a state certified general appraiser, state certified residential appraiser or state provisional appraiser in the state of Connecticut, or for the purpose of renewing or maintaining any such license or certification. Application for such school approval shall be made on forms prescribed by the Commissioner of Consumer Protection, and located on the Department of Consumer Protection website, www.ct.gov/DCP. Course and school approvals shall be reviewed on a periodic basis at the discretion of the commission.

(b) All approved schools shall:

- (1) Be responsible for keeping course material current and accurate;
- (2) Permit the commission, without prior notice, to visit the school and observe the instruction given to insure proper standards as to method and content of any approved courses;
- (3) Conduct each course of study in a classroom or other facility which is adequate to implement the offering. No course shall be conducted in a classroom location that is not approved by the local fire marshal for such use. Courses shall not be held on the premises of a real estate appraisal office, real estate brokerage office or real estate franchise; and

(4) Abide by the regulations established under the authority of section 20- 512 of the Connecticut General Statutes, including sections 20-512-1 to 20-512-11, inclusive, of the Regulations of Connecticut State Agencies.

(c) School approval or course approval may be withdrawn by the commission for failure by a school or its representatives to comply with the provisions of sections 20-512-ito 20-512-11, inclusive, of the Regulations of Connecticut State Agencies.

(d) All approved schools or applicant schools shall cooperate with department staff if such school is contacted in connection with an inquiry or investigation performed by the Department of Consumer Protection concerning possible violations of real estate appraiser statutes or regulations. No representative of such school shall make any untruthful or misleading statements in connection with any Department of Consumer Protection or commission inquiry, investigation or hearing.

Sec. 10. Section 20-512-3 of the Regulations of Connecticut State Agencies is amended to read as follows: