

MEETING SUMMARY
NEW YORK STATE BOARD OF REAL ESTATE APPRAISAL
December 3, 2020

The meeting was held by the Department of State, Division of Licensing Services, via WebEx conferencing. A virtual meeting was held to comply with COVID-19 social distancing directives. Due to the fact the meeting of the NYS Board of Real Estate Appraisal was held remotely, the public hearing section was held in abeyance.

I. CALL TO ORDER, INTRODUCTIONS and OFFICIAL ATTENDANCE

The meeting was called to order at 10:38 a.m. S. Roefaro performed roll call and D. Mossberg announced there was a quorum. The official attendance was as follows:

BOARD MEMBERS

Stephen Roefaro, Chair
Carol DiSanto, Vice Chair
James LeGrett
Lillian Levy
Eliezer Rodriguez

Excused

Anthony Girasole

FAIR HOUSING SUBCOMMITTEE

Rebecca Jones, Upstate Appraisal

DEPARTMENT OF STATE STAFF

Whitney Clark
Amy Penzabene
Jodi DeLollo
David Mossberg
Ernest Delaney
Denise Tidings
Marcella Rose
Alison Lacy
Emily Lupe
Shannon Maguire

- A. Approval of Meeting Summaries** – S. Roefaro asked for a motion to approve the 10-26-20 meeting summaries. C. DiSanto made a motion to approve all meeting summaries. L. Levy seconded the motion. All members were in favor. S. Roefaro announced that the meeting summary was approved.

II. DEPARTMENT REPORTS

- A. Enforcement/CE Audits** – E. Delaney reported the metrics for new appraiser complaints received since October 26 to present. He stated that there were 4 new appraiser complaints and that two cases have been closed (one was closed with no violation, one was closed due to insufficient evidence, and two were sent to Counsel's office with a recommendation of disciplinary action); the current caseload is 43 open cases.
- B. Processing Reports** – E. Lupe reported on the provided November 2019 and November 2020 statistical reports. She explained that the total number of licensees are listed by county and that the 2020 figures only include active licensees and may not cover expired licenses covered by EO 202.11 which allows licensed individuals to extend their license term during the current State of Emergency.

C. Qualifying Education Update – M. Rose provided a qualifying course update. She reported that in March 2020 the Department began following the AQB/ASC guidelines as they pertain to live distance education without modification for continuing education courses already approved for a traditional classroom setting. M. Rose stated that in September 2020, the Department began including new and already approved qualifying and continuing education courses in accordance with the AQB/ASC guidelines as they pertain to live distance education without modification. M. Rose reported that to date, two schools have submitted applications to offer their qualifying courses via live distance education and received approval. Lastly, she reported that seven organizations offer online delivery of qualifying courses with IDECC approval.

III. ACTION ITEMS

A. Fair Housing Regulations – D. Mossberg provided a follow-up from the last Board meeting. He explained that there was a subcommittee created to examine whether educational criteria should be added to the appraiser curriculum for all licensed and certified categories for original/qualifying education. He stated that, as part of the subcommittee, they are proposing, for Board consideration, new amendments to Title 19 to require fair housing education with respect to continuing education. He explained that they determined that because the qualifying education had less flexibility than the continuing education requirement (which has 28 hours of mostly electives) and that the newer appraisers are supervised, they felt it was most fair and efficient to the industry to propose new regulations only in the area of continuing education. He reviewed the draft regulatory proposal with the Board explaining that their proposal is to amend 1107.2 of Title 19 to add a paragraph 'b' that will go into effect starting January 1, 2022.

He further explained that under this amendment, every licensed or certified appraiser would have to complete a course in fair housing or fair lending, or its equivalent, within the existing 28 hours of continuing education required by Section 1107.33 and 1107.34; these sections will be added by this proposal. D. Mossberg mentioned that the effective date will also coincide with when the schools submit their curriculum proposals for continuing education. He stated that it is probable that the rule will go into effect earlier and that educational institutions could offer the course and students could, in theory, take the class earlier to satisfy the requirement although it will not be mandatory until January 1, 2022.

He provided more detail on the proposal explaining that under 1107.33, which is the newly added section, students who have already taken a course in fair housing and fair lending (either RE2 or GE1, which are courses that already exist in 1103.9 and 1103.11 of Title 19) would have the option of a 4-hour continuing education course on fair housing offered under the new section 1107.35(b). D. Mossberg further

explained that if a student/appraiser has never taken any of those courses before January 1, 2022, they would be required to take a more extensive 7-hour fair lending course and then, thereafter, once they have taken that longer 7-hour course (or the RE2 or GE1 course), for every subsequent renewal, they would have the option of either taking the 4-hour or the 7-hour course and either one would satisfy the requirement. He stated that the new section 1107.34(a) explains the course criteria required to satisfy the 7-hour course which includes topics such as fair housing, fair lending, and the history of lending the 4-hour course, which is in section 1107.34(b) is basically an update on the shorter course that only requires 4 hours.

He concluded by stating that the proposal, as indicated, should be the same to substantiate what would be the final course. The rule would be proposed as a formal notice of proposal in the State Register and will be open for public comment; once the comment period closed, we can recommend additional changes to the Board for consideration and then it would be potentially adopted.

J. LeGrett inquired as to how appraisers would be made aware of the new renewal requirement. W. Clark stated that the Department would send out a notification to licensees at their address on record to ensure that everyone is aware of the new requirement. D. Mossberg added that the schools would also probably provide information to the community as well. C. DiSanto suggested that the appraisal organizations or groups also be notified to ensure that the information is shared with their members. S. Roefaro added that the Board should also reach out to NYSAR with the possibility of sending out the information through their newsletter.

C. DiSanto asked for a motion to accept the proposal. L. Levy made a motion to accept the proposal. S. Roefaro seconded the motion. All were in favor to accept the proposal to amend fair housing regulations.

S. Roefaro asked for a motion to approve the filing of a notice of proposed rulemaking and that the Board shall authorize the Department of State to file a later notice of adoption if appropriate at the end of the comment period. L. Levy made a motion to approve. C. DiSanto seconded the motion. All were in favor to allow the Department to file the notice and adopt the regulation at the end of the comment period if appropriate.

- B. Fair Lending Notice** – D. Mossberg presented a draft document outlining the Division's position with respect to discriminatory practices. He explained that the document clarifies that if, in fact, there is evidence which suggests or indicates that an appraiser is engaged in illegal discrimination or contributes to illegal discrimination that this behavior violates USPAP. He further explained that this document contains the advisory opinion of the Appraisal Standard Board (ASB) confirming that it constitutes this behavior as inappropriate conduct and because this is deemed a violation of conduct, this authorizes the Department to potentially take disciplinary

action under New York State Executive Law. D. Mossberg stated that this notice offers the position of the Department and is a reminder that discrimination is prohibited and that appraisers could be subject to disciplinary action if they are found to engage in that behavior. He mentioned that the Department is proposing to send this notice out to appraisers to ensure that they are aware; W. Clark added that the notice will also be posted on the Department's website.

IV. NEW BUSINESS

A. **Executive Order Update** – D. Mossberg provided a follow-up report on the Governor's Executive Orders relating the pandemic. He mentioned EO order 202.11 which permits licensees to extend their license beyond the expiration dates and 202.7, which permits electronic notarization of documents. D. Mossberg reported that, relevant to real estate transactions, the EO for electronic notarization is set to expire today. He stated that if this or other Executive Orders are extended, the information will be posted on the Department's website.

A member of the Licensing Division's Fair Housing Committee, R. Jones, brought a concern to the Board regarding schools that are advertising that their courses are approved by New York State. She feels that there may be some confusion on their part, and they may be misinterpreting the section of the licensing law that provides for equivalent education. C. DiSanto agreed that this is an area of concern and inquired as to how this type of situation should be addressed. J. DeLollo requested that R. Jones provide the Department with information on a specific course she had discussed so that the Department could review all aspects of the situation before providing an opinion. A. Penzabene suggested that if anyone becomes aware of unapproved courses, they should email us so that the Department may reach out to the provider to attempt rectifying the situation directly with the school.

A. Penzabene discussed a recent change of criteria that the Department became aware of and that may be a pathway to practical experience. She mentioned that she would like to form a committee to discuss this area as being a potential pathway to gaining practical appraisal experience in a virtual environment. C. DiSanto stated that this pathway was recently approved by the Appraisal Foundation and that it allows the individual states to decide how to adopt or implement this pathway. R. Jones stated that she is aware of this pathway being considered and that there is still discussion on how the modules will be developed to deliver the virtual reality training. S. Roefaro mentioned a couple of concerns, one being that using all computer-based training to gain experience may not be a good substitute or equivalent to real inspection experience. R. Jones stated that the AQB is discussing some of these concerns. S. Roefaro asked members to provide the board coordinator, D. Tidings, with information that could be disseminated to Board members and reviewed by the Department. A. Penzabene stated that the information will be sent out to Board

members and they can decide if they want to participate in discussions; she added that this pathway goes into effect on January 1, 2021, and that regulatory changes would be necessary if we decide to adopt criteria for allowing virtual experience.

V. 2021 MEETING DATES

D. Tidings reported that she would soon be scheduling 2021 meeting dates and will be reaching out to Board members with the proposed meeting schedule.

VI. ADJOURNMENT

The meeting was adjourned at 11:30 a.m.

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