

**MAINE BOARD OF REAL ESTATE APPRAISERS
BOARD MEETING
September 9, 2014**

MINUTES

MEMBERS PRESENT

WendyAnn Boston, Chair
William Dobrowolski, Vice Chair
Joseph Herlihy, Complaint Officer
Bruce Bell
Theodore Webersinn
Alan Johnson
Kenneth Charest

STAFF PRESENT

Karen Bivins, Administrator
Kim Baker, Office Specialist I
Andrew Black, Assistant Attorney General
Deborah Fales, Office Specialist I
Cathy Pendergast, Education Coordinator

MEMBERS ABSENT

None

Location: Central Conference Room

Start: 9:02 a.m.

Adjourn: 6:10 p.m.

CALL TO ORDER

The meeting was called to order at 9:02 a.m. by the Board's Chair, WendyAnn Boston.

AGENDA MODIFICATIONS

OLD BUSINESS

Action on Minutes of April 1, 2014 Meeting

A motion was made by Dobrowolski to approve the minutes of the July 1, 2014 meeting as revised; seconded by Bell. Charest abstained; Bell, Boston, Herlihy, Dobrowolski, Johnson and Webersinn voted in the affirmative. Motion carried.

NEW BUSINESS

Adjudicatory Hearing - Carrie Peabbles - 2013-REA-9573

The hearing in the matter of Carrie Peabbles was called to order at 9:02 a.m. by Hearing Officer Rebekah Smith, Esq. Carrie Peabbles was present and was represented by James Bowie, Esq. Assistant Attorney General Andrew Black represented the State in this matter. Public deliberations were conducted at the close of the hearing.

A motion was made by Dobrowolski and seconded by Charest to find a violation in Count 1: *Pursuant to 32 M.R.S. § 14014-A(1) for lacking the competence to conduct real estate appraisal activity in a manner that safeguards the interests of the public.* Herlihy abstained; Bell, Boston, Charest, Dobrowolski, Johnson and Webersinn voted in the affirmative. Motion carried.

A motion was made by Charest and seconded by Webersinn to dismiss Count 2: *Pursuant to 32 M.R.S. § 14014-A(2) for committing an act or omission in the practice of real estate appraising that constitutes dishonesty, fraud, or misrepresentation with the intent to substantially benefit herself or another person.* Herlihy abstained; Bell, Boston, Charest, Dobrowolski, Johnson and Webersinn voted in the affirmative. Motion carried.

A motion was made by Dobrowolski and seconded by Charest to find a violation in Count 3: *Pursuant to 32 M.R.S. § 14014-A(7) for failing without good cause to exercise reasonable diligence in developing an appraisal and preparing an appraisal report.* Herlihy abstained; Bell, Boston, Charest, Dobrowolski, Johnson and Webersinn voted in the affirmative. Motion carried.

A motion was made by Johnson and seconded by Dobrowolski to find a violation in Count 4: *Pursuant to 32 M.R.S. § 14014-A(8) for demonstrating negligence and incompetence in developing an appraisal and preparing an appraisal report.* Herlihy abstained; Bell, Boston, Charest, Dobrowolski, Johnson and Webersinn voted in the affirmative. Motion carried.

A motion was made by Charest and seconded by Bell to dismiss Count 5: *Pursuant to 10 M.R.S. § 8003(5-A)(A)(6) by performing an appraisal of a non-residential property without being licensed to do so.* There was no vote. Motion failed.

A motion was made by Bell to dismiss Count 5: *Pursuant to 10 M.R.S. § 8003(5-A)(A)(6) by performing an appraisal of a non-residential property without being licensed to do so.* Motion failed for lack of a second.

A motion was made by Charest and seconded by Johnson to find a violation in Count 5: *Pursuant to 10 M.R.S. § 8003(5-A)(A)(6) by performing an appraisal of a non-residential property without being licensed to do so.* Herlihy abstained; Bell and Boston opposed; Charest, Dobrowolski, Johnson and Webersinn voted in the affirmative. Motion carried.

A motion was made by Johnson and seconded by Dobrowolski to dismiss Count 6a: *Pursuant to 10 M.R.S. § 8003(5-A)(A)(5) for violating a Board rule, specifically Board Rules, Chapter 240 § 1 and the following USPAP standards: Ethics Rule for Conduct by communicating a report with the intent to mislead or to defraud or that is known by the appraiser to be misleading or fraudulent.* Herlihy abstained; Bell, Boston, Charest, Dobrowolski, Johnson and Webersinn voted in the affirmative. Motion carried

A motion was made by Charest and seconded by Dobrowolski to find a violation in Count 6b: *Pursuant to 10 M.R.S. § 8003(5-A)(A)(5) for violating a Board rule, specifically Board Rules, Chapter 240 § 1 and the following USPAP standards: Standards Rule 1-1(b) by committing a substantial error of omission or commission that significantly affects an appraisal.* Herlihy abstained; Bell, Boston, Charest, Dobrowolski, Johnson and Webersinn voted in the affirmative. Motion carried

A motion was made by Webersinn and seconded by Dobrowolski to find a violation in Count 6c: *Pursuant to 10 M.R.S. § 8003(5-A)(A)(5) for violating a Board rule, specifically Board Rules, Chapter 240 § 1 and the following USPAP standards: Standards Rule 1-3(b) by failing to develop an opinion of the highest and best use of the real estate when doing so was necessary for developing a credible market value opinion.* Herlihy abstained; Bell, Boston, Charest, Dobrowolski, Johnson and Webersinn voted in the affirmative. Motion carried

A motion was made by Bell to dismiss Count 6d: *Pursuant to 10 M.R.S. § 8003(5-A)(A)(5) for violating a Board rule, specifically Board Rules, Chapter 240 § 1 and the following USPAP standards: Standards Rule 1-4(a) by failing to properly collect, verify, and analyze the available comparable sales data to indicate a value conclusion.* Motion failed for lack of a second.

A motion was made by Dobrowolski and seconded by Johnson to find a violation in Count 6d: *Pursuant to 10 M.R.S. § 8003(5-A)(A)(5) for violating a Board rule, specifically Board Rules, Chapter 240 § 1 and the following USPAP standards: Standards Rule 1-4(a) by failing to properly collect, verify, and analyze the available comparable sales data to indicate a value conclusion.* Herlihy abstained; Boston opposed; Bell, Charest, Dobrowolski, Johnson and Webersinn voted in the affirmative. Motion carried.

A motion was made by Charest and seconded by Webersinn to find a violation in Count 6e: *Pursuant to 10 M.R.S. § 8003(5-A)(A)(5) for violating a Board rule, specifically Board Rules, Chapter 240 § 1 and the following USPAP standards: Standards Rule 2-1(a) by failing to clearly and accurately set forth the appraisal in a manner that will not be misleading.* Herlihy abstained; Bell, Boston, Charest, Dobrowolski, Johnson and Webersinn voted in the affirmative. Motion carried

A motion was made by Charest and seconded by Bell to reprimand the licensee for each of the violations found in case number 2013-REA-9573. Herlihy abstained; Bell, Boston, Charest, Dobrowolski, Johnson and Webersinn voted in the affirmative. Motion carried

A motion was made by Charest and seconded by Johnson to suspend the licensee in case number 2013-REA-9573 for 90 days pending completion of board approved qualifying education as follows:

- 15 hour Uniform Standards of Professional Appraisal Practice (USPAP)(Classroom version)
- 15 hour Highest and Best Use (May be on-line or classroom)
- 30 hour Sales Comparison Approach (May be on-line or classroom)

The licensee must provide verification of course completion and the exam must be passed. If the licensee completes the education prior to the end of the 90 day suspension period, the license may be reinstated. The education noted above may not be used toward renewal of the license. Herlihy abstained; Bell, Boston, Charest, Dobrowolski, Johnson and Webersinn voted in the affirmative. Motion carried

Administrator's Report

A motion was made by Webersinn and seconded by Charest to deny the request from Peter Daniels. Herlihy abstained; Bell, Boston, Charest, Dobrowolski, Johnson and Webersinn voted in the affirmative. Motion carried.

Complaint Officer's Report

Proposed Letters of Guidance

A motion was made by Dobrowolski and seconded by Webersinn to accept the proposed letters of guidance in case numbers 2014-REA-9930 and 2014-REA-10023. Herlihy and Charest abstained; Bell, Boston, Dobrowolski, Johnson and Webersinn voted in the affirmative. Motion carried.

Review and Action on Applications

A motion was made by Dobrowolski and seconded by Webersinn to approve the following applications for licensure: Craig Hartsgrrove, Justin Glasser, Shawn Strohm, Chris Labrecque, Joanne Shelton. Unanimous.

OTHER BUSINESS

Meeting Schedule

The October 7, 2014 meeting was cancelled. The next meeting is scheduled for November 4, 2014

ADJOURN

Being no further board business the meeting was adjourned at 6:10 p.m.

Respectfully submitted,
Kim Baker, Board Clerk