



ARIZONA BOARD OF APPRAISAL

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MINUTES SPECIAL BOARD MEETING February 7, 2011 10:08 AM

Call to Order and Roll Call

Special Board meeting called to order by Les Abrams, Chairman.

Board members Present at Roll Call:

Les Abrams
Debbie Rudd
Cynthia Henry
Myra Jefferson
James Heaslet
Michael Petrus
Mike Trueba
Kevin Yeanoplos

Staff Attendance:

Dan Pietropaulo – Executive Director
Jeanne Galvin – Assistant Attorney General
Rebecca Loar - Staff

Review and Action concerning 3185/3195/3199/3226/3071 James R. Nelson

Respondent did not appear despite having been properly noticed.

Les Abrams asked if all board members read the packet provided to them by board staff.

The Board responded unanimously yes.

The Executive Director, Dan Pietropaulo updated the board on all the attempts made to contact Mr. Nelson and that he made several inquires to see if anyone has seen Mr. Nelson, and if he was he still working, etc. The response was always the same, no one had seen him. Dan Pietropaulo attempted to leave several voicemails to the phone number on record with the board but was unable to as the voice message mail box was full. Contact was made by email as well but with no response. Mr. Nelson eventually contacted Mr. Pietropaulo after receiving a faxed copy of the special board notice. Mr. Nelson stated he was ill and could not attend the meeting and further contended that he was unaware of the complaints against him. Mr. Nelson was given the opportunity to attend the meeting telephonically and the board staff sent him the call-in instructions via fax. Mr. Pietropaulo expressed his many concerns as set forth in the pending complaints and recommended that Mr. Nelson's certificate be summarily suspended. Mr. Nelson will then have a chance to address these allegations at a formal hearing. Mr. Nelson had requested a continuance of a week or so due to his illness. The Executive Director, Dan Pietropaulo recommended that the board go forward with the summary suspension in order to protect the public.

Jeanne Galvin, Assistant Attorney General added that the board has four signed affidavits from property owners and/or individuals that procured appraisal services from Mr. Nelson, paid for the services and the services were never performed. Whether someone may have been impersonating Mr. Nelson and taking money for appraisals that were not performed is pure speculation at this point and there is no evidence before the Board at this time that that is what occurred. The evidence before the Board today is that Mr. Nelson was paid to perform 5 appraisals by 4 property owners/individuals and he never performed the appraisals. Mr. Pietropaulo informed the board that the total amount of fees paid to Mr. Nelson by the four complainants is \$10,250. There was some discussion as to Mr. Nelson being notified of these complaints. Jeanne Galvin, Assistant Attorney General assured the board that Mr. Nelson had been properly notified of all pending complaints. Jeanne Galvin, Assistant Attorney General discussed the options the board had regarding this matter and asked that if the board was to accept the recommendation to summarily suspend that they also reopen Complaint #3071

Cynthia Henry moved that the Board reopen Complaint #3071. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Jeanne Galvin, Assistant Attorney General explained the due process to Kevin Yeanoplos and the Board and gave the Board options to proceed. It is Jeanne Galvin, Assistant Attorney's General opinion that Mr. Nelson's due processes have been met. Les Abrams stated that the board really doesn't have much choice and the respondent will have an opportunity to explain his side at a formal hearing.

Myra Jefferson stated that based upon the information and evidence present to the Board today and as set forth in the Interim Findings of Fact and Conclusions of law, Myra Jefferson moved that the Board adopt the Interim Findings of Fact and Conclusions of Law. Michael Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Myra Jefferson moved that the Board finds that Interim Findings of Fact and Conclusions of Law require emergency action in order to protect the public health, safety and welfare. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion.

Myra Jefferson stated, given the Board's findings that the Interim Findings of Fact and Conclusions of Law require emergency action in order to protect the public health, safety, or welfare, Myra Jefferson moved that the Board summarily suspend Mr. James Nelson's Certificate, #30173 effective upon service of the Order. Cynthia Henry seconded the motion. The Board voted unanimously in favor of the motion.

Myra Jefferson moved that the Executive Director, Dan Pietropaulo refer this matter to the Office of Administrative hearings to schedule a formal hearing to be commenced as expeditiously as possible from the date of the issuance of this Order. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Debbie Rudd moved that the Board direct Jeanne Galvin, Assistant Attorney General to seek revocation of Mr. Nelson's certificate at the formal hearing before the Office of Administrative Hearing. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

At 10:20 a.m. there was a short recess due to a fire alarm. The Board members, staff, and public audience evacuated the building.

The Board reconvened from recess at 10:56 a.m.

Les Abrams, based on the discussion from the Board members directed the Executive Director, Dan Pietropaulo to alert the public and post the summary suspension of Mr. Nelson's certificate on the Board's website and Jeanne Galvin, Assistant Attorney General would assist the Executive Director, Dan Pietropaulo

in drafting the notice of Mr. Nelson's summary suspension for publication on the board's website.

Cynthia Henry commended Jeanne Galvin, Assistant Attorney General for a great job and that she felt we protected the public. The Executive Director, Dan Pietropaulo commended counsel for all her hard work in preparation for this meeting.

There was some discussion and concern in notifying the public of Mr. James R. Nelson's summary suspension. Jeanne Galvin, Assistant Attorney General stated that the facts in this case are present, Mr. Nelson was properly noticed and a teleconference was made available to accommodate him and he did not call in. The Board was informed that any discipline, suspension or otherwise must be reported to the Appraisal Subcommittee. There was some question as to whether or not Mr. Nelson had any prior complaints with the Board. Jeanne Galvin, Assistant Attorney General stated that any prior board action was not relevant to the matters currently before the board and would only be relevant at the formal hearing as factors in mitigation/aggravation. Jeanne Galvin, Assistant Attorney General explained that a summary suspension is a direct and shorter route to stop Mr. Nelson from working immediately. It was also discussed that the outcome of the formal hearing at the Office of Administrative Hearings can be posted on the Board's website.

Mike Trueba moved that the Board direct the Executive Director, Dan Pietropaulo to alert the public of the summary suspension noted on the board's website. Cynthia Henry seconded the motion. The Board voted unanimously in favor of the motion.

Review and consideration, and possible action concerning proposed CoAA legislation House Bill HB2284, Senate Bill SB1180 and Senate Bill SB 1181

Ben Alteneder, lobbyist for CoAA and Sue Miller representative of CoAA were present. Ben Aleteneder gave an update on the CoAA proposed legislation. Mr. Alteneder informed the Board that HB 2284 was heard in the House Commerce Committee and passed unanimously with an amendment and SB 1180 was heard in the Senate Economic Development and Jobs Creation Committee unanimously without an amendment.

The chair person of the House Commerce Committee suggested a statute of limitations for pursuing complaints after the license is expired. After discussion with the chairperson, he suggested that there be a 12 month statute of limitation on the board after the license expired which was increased to 18 months. That would allow the Board to address any complaints after the respondent's license expired up to 18 months. Ben Alteneder answered the Boards questions and informed the Board that the intent for the amendment was to prevent the Board from going after another appraiser for years and years. There was concern that


this would cause a conflict with A.R.S. §32-3619. Ben Alteneider informed the Board that Legislative counsel did not believe this would cause a conflict.

Mr. Alteneider requested the board to provide some language to help sponsor this amendment to help it go forward. Mike Trueba moved that the Board support HB 2284 as amended and SB 1180. Kevin Yeanoplos seconded the motion. The Board voted unanimously in favor of the motion. The Board directed the Executive Director to represent the Board in support for HB 2284 as amended and 1180.

Ben Alteneider gave an update on SB 1181 was heard in the Senate Economic Development and Jobs Creation Committee that was moved forward unanimously-There was some discussion regarding the fees and whether or not there are other boards that have similar authority. Ben Alteneider informed that the Board that it was his understanding that there are other boards with similar authority to set not all fees in rule but to set a portion or 1 or 2 fees in rule. There was a specific question by one of the members as to what those fees would be. The Executive Director, Dan Pietropaulo will meet with him and look at the budget and discuss how this will affect the future of the Board. The Executive Director, Dan Pietropaulo gave an explanation for the need to increase fees. If the Board gets enough renewals, etc. the fees may not need to increase. The appraisal fees need to support the appraisal functions of the Board and the AMC fees need to support the AMC functions of the Board. Ben Alteneider informed the Board that the Senate discussed the issue of the moratorium on rule making and the Boards ability to set the fee in rule. The Senate discussed the possibility of sweeping funds into the General Fund. The bill passed unanimously in the Senate. The next step is the Appropriation Committee. The Board discussed two areas of concern; one being the reduction of public members on the Board, and two, that currently there is no requirement for photo identification or notification when the appraiser goes to a residence. Jeanne Galvin, Assistant Attorney General suggested to the Board that other boards have sought similar changes in regards to the photo identification requirements for licensees and they needed to seek legislative change. Cynthia Henry suggested that the Board offer to take and place the appraiser's picture on the certificate without making it a requirement and or suggest to the appraisers to present photo identification whenever they are working in a residence, etc. The Executive Director, Dan Pietropaulo recommended that the Board continue to discuss this issue further as well as the concerns of a complaint vs. an inquiry. Jeanne Galvin, Assistant Attorney General informed the Board that the current agenda doesn't support a recommendation be given at this time and should be set for a future agenda. Ben Alteneider and the Executive Director, Dan Pietropaulo left the meeting to meet with Senator Leah Landrum-Taylor, and Myra Jefferson left the meeting as well. The Board remained a quorum and discussed the proposed membership changes of the board. The Board members stated that even though CoAA makes a strong argument, the Board feels uneasy taking the public members down to one even though it is understood that the appraiser members carry a lot

of the burden in regards to reviewing the complaint files and USPAP issues. However, the public members provide a balance between appraisers and the community and this would negatively impact the board. Sue Miller, representative of CoAA informed the Board that they wanted one of the non-appraiser Board member to be an AMC to help represent the AMC industry. The tax agent is represented now but it will not always be the case. The lender would be a public member to represent the public. The appraisers would like to have more board members to be appraisers who understand USPAP and help the Board get through the cases in a more timely fashion. Debbie Rudd suggested a review committee to help review the appraisal complaints rather than change the makeup of the board. Kevin Yeanoplos asked if there was a possibility of changing the stipend paid to each Board member to allow flexibility and increase the board. Les Abrams informed the Board that the fee was set to attract members who will agree to do all the work involved and to reduce the fee would not help. Cynthia Henry moved that the Board provide support for SB 1181 all except the portion regarding changing the makeup of the Board members. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Adjourned.



Lester G. Abrams, Chairperson