

**VIRGINIA REAL ESTATE APPRAISER BOARD
INFORMAL FACT-FINDING CONFERENCES
JUNE 30, 2004 (10:00 AM)**

The Virginia Real Estate Appraiser Board convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

John C. Harry, III., Board Member, Presided. No other board members were present.

Douglas Schroder appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc=Disciplinary Case
Lic=Licensing Application

C=Complainant/Claimant
A=Applicant
R=Respondent/Regulant
I=Investigator
W=Witness

Participants

1. Robert A. Garrett
File Number 2004-02584 (Disc)

Robert Garrett – R
Teresa Olson – W
Valerie J. Matney – I
David Dorner - I

2. Steven Charles Miller
File Number 2004-04662 (Lic)


Steven Miller – A
Michael McCall - W

The meeting adjourned at 1:00 p.m.

Virginia Real Estate Appraiser Board



David N. Castle, Chairman


Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
REAL ESTATE APPRAISER BOARD**

**RE: ROBERT A. GARRETT
LICENSE NUMBER: 4001 000091
FILE NUMBER: 2004-02584**

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 30, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Robert A. Garrett on April 19, 2004. The following individuals participated at the conference: Robert A. Garrett, Respondent; Teresa Olson, Garrett's Office Manager; Valerie J. Matney, Investigator and David Dorner Supervising Investigator; Douglas W. Schroder, Staff Member; John C. Harry, III, presiding Board Member.

Background

On or about December 17, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received written complaint from Louis and Donna Washington (collectively "Washington") regarding an appraisal that was performed by Robert A. Garrett ("Garrett").

On or about January 22, 2001, Garrett completed a Single Family Residential Appraisal Report for Bank of America and Heritage Funding for the subject property located at 810 West 36th Street, Norfolk, Virginia. On or about January 22, 2001, Garrett completed a Single Family Residential Appraisal Report ("Report") for the subject property for Aames Home Loan. On or about April 4, 2001, Garrett provided Aames Home Loan with a Satisfactory Completion Certificate stating that all repairs to the subject property had been completed.

Summation of Facts

1. Garrett reported the neighborhood boundaries and characteristics in the Neighborhood section of the Report, which encompassed a much larger area than the neighborhood of the subject property and the sales comparables. The subject property was located in Kensington and the sales comparables were located in Kensington and Virginia Place. However, the boundaries listed in the Neighborhood section showed Kensington, Old Dominion Place, Virginia Place, Park Place, Colonial Place and Highland Park. Garrett told Investigator Valerie J. Matney ("Investigator Matney"), the Board's agent, that the Neighborhood boundaries listed in the appraisal may have been a little too large and may have included neighborhoods with higher property values than the subject property's neighborhood.

2. Garrett reported the Predominant Occupancy rate of 90% in the Neighborhood section of the Report. Garrett told Investigator Matney that he relied on MLS rental listings, the frequency of "For Rent" signs in the surrounding area, and a comparison of the owner's address in the Pinpoint records to the property address to determine the owner occupancy rate for a neighborhood. Garrett further told Investigator Matney that Kensington was in an upward transition along with Old Dominion Place, Virginia Place, Park Place, Colonial Place and Highland Park. 1990 United States Census data revealed that the owner occupancy rate in the subject property's immediate census tract number 27 was approximately 37%. 2000 United States Census data revealed that the owner occupancy rate in the subject property's immediate census tract number 27 was approximately 40.1%. 1990 United States Census data revealed that the owner occupancy rate in the surrounding census tracts numbered 26, 28, 29, 36 and 37 included in Garrett's Neighborhood section ranged from 17.8% up to 60%. 2000 United States Census data revealed that the owner occupancy rate in the surrounding census tracts 26, 28, 29, 36 and 37 included in Garrett's Neighborhood section ranged from 17.5% up to 57.2%.

3. Garrett reported 144 square feet of basement in the Cost Approach section of the Report and assigned it a value of \$1,440.00. However, Garrett did not list any details about the basement in the Description of Improvements section or in the sketch. Garrett told Investigator Matney that he was not sure why he did not list the basement in the Description of Improvements section, but that he walked down into the basement when he performed the appraisal inspection. Garrett told Investigator Matney that the

basement was not included in his field notes, nor was it listed in the Pinpoint records he obtained.

4. Investigator Matney obtained the City of Norfolk Tax Assessor's records which did not reveal a basement at the subject property. Investigator Matney personally inspected the property on April 13, 2004, and the property did not have a basement.

5. Garrett reported the attic with stairs, finished and heated in the Description of Improvements section of the Report. However, Garrett did not assign a value to the attic in the Cost Approach section of the Report. Garrett told Investigator Matney that it may have been a typographical error to list the attic as heated and finished since he did not include a value for the attic in his cost approach. Garrett told Investigator Matney that the attic was not included in his field notes, nor was it listed in the Pinpoint records he obtained.

6. Investigator Matney obtained the City of Norfolk Tax Assessor's records which revealed an attic area of 810 square feet at the subject property. Investigator Matney personally inspected the property on April 13, 2004, and the property did have an attic with stairs; however, the attic was not finished or heated.

7. Garrett reported the Driveway surface as "Earthen" in the Site section of the Report and the Driveway as "On Site" in the Description of Improvements section of the Report. However, Garrett did not assign a value to the driveway in the Cost Approach section of the Report. Garrett told Investigator Matney that it may have been a typographical error to list the Driveway surface as "Earthen" and the Driveway as "On Site" in the Report since he did not include a value for the driveway in his cost approach. Garrett also told Investigator Matney that he did not make an adjustment to the sales comparables to adjust for the parking since the subject property and all sales comparables had on-street parking. Garrett told Investigator Matney that the driveway was not included in his field notes, nor was it listed in the Pinpoint records he obtained.

8. Investigator Matney personally inspected the property on April 13, 2004, and the property did not have a driveway or any curb cuts from the street which would have indicated a driveway existed. Investigator Matney also viewed the sales comparables in the Report and none of the sales comparables had driveways or parking other than on-street parking.

9. Garrett reported three comparable rental properties in the Single Family Comparable Rent Schedule in the Report. The rental comparables used were located in the outer boundaries of the Neighborhood as listed in the Report. Garrett told Investigator Matney that the Neighborhood boundaries listed in the appraisal may have been a little too large and may have included neighborhoods with higher property values than the subject property's neighborhood. Rental comparable 1 was located 24 blocks from the subject property in the Highland Park neighborhood. Rental comparable 2 was located 24 blocks from the subject property in the Highland Park neighborhood. Rental

comparable 3 was located 15 blocks from the subject property in the Colonial Place neighborhood. The square footage of the rental comparables was significantly lower than the subject property. Garrett told Investigator Matney that he could only use the figures he had from the MLS and "For Rent" signs in the area. Garrett told Investigator Matney that the distance to the rental comparables was due to the fact they were the closest rentals he could find in MLS or by driving the area looking for "For Rent" signs. Garrett told Investigator Matney that he used rental data on the same date of his appraisal inspection date, and that the date on the Single Family Comparable Rent Schedule should have been January 22, 2001. Garrett told Investigator Matney that he did not have any notes or MLS printouts to verify the information on the rental comparables.

10. Garrett reported the monthly market rent amount of \$570.00 as of May 31, 2000, in the Single Family Comparable Rent Schedule portion of the Report. Garrett told Investigator Matney that he used rental data on the same date of his appraisal inspection date, and that the date on the Single Family Comparable Rent Schedule should have been January 22, 2001. Garrett told Investigator Matney that the date of May 31, 2000, was a typographical error. Garrett told Investigator Matney that he did not have any notes or MLS printouts for the rental comparables.

11. Garrett reported the appraisal was made "as is" in the Reconciliation section of the Report provided to Heritage Funding and Aames Home Loan. Garrett reported the appraisal was made "subject to the repairs, alterations, inspection or conditions listed below" in the Reconciliation section of the Report provided to Bank of America. However, the Report provided to Heritage Funding, Bank of America and Aames Home Loan lists repairs to be made to the subject property in the Comments section of the Report. The Report was supplemented by a Satisfactory Completion Certificate dated April 4, 2001, which indicated that all repairs had been completed at the subject property. Garrett told Investigator Matney that the Aames Home Loan requested the report be marked "as is" with the original date of January 22, 2001, so that the sales comparables would not have expired as of the date of the Satisfactory Completion Certificate of April 4, 2001. Garrett told Investigator Matney that he realized marking the report "as is" and listing the repairs to be made could be misleading.

12. Garrett reported the following items in the Report:

- The neighborhood boundaries and characteristics in the Neighborhood section of the Report encompassed a much larger area than the neighborhood of the subject property and the sales comparables. The subject property was located in Kensington and the sales comparables were located in Kensington and Virginia Place. However, the boundaries listed in the Neighborhood section showed Kensington, Old Dominion Place, Virginia Place, Park Place, Colonial Place and Highland Park.
- Garrett reported 144 square feet of basement in the Cost Approach section of the Report and assigned it a value of \$1,440.00. The subject property does not have a basement.

- Garrett reported the attic with stairs, finished and heated in the Description of Improvements section of the Report. The subject property does have an attic with stairs, but the attic is not finished or heated.
- Garrett reported the Driveway surface as "Earthen" in the Site section of the Report and the Driveway as "On Site" in the Description of Improvements section of the Report. The subject property does not have a driveway and the only parking is on-street parking.
- Garrett reported three comparable rental properties in the Single Family Comparable Rent Schedule in the Report. The rental comparables used were located in Highland Park and Colonial Place in the outer boundaries of the Neighborhood as listed in the Report, and may not have been representative of the rents in Kensington and Virginia Place.
- Garrett reported the monthly market rent amount of \$570.00 as of May 31, 2000, in the Single Family Comparable Rent Schedule of the Report. Garrett told Investigator Matney that the date on the Single Family Comparable Rent Schedule was a typographical error and should have been dated January 22, 2001.
- Garrett reported the appraisal was made "as is" in the Reconciliation section of the Report provided to Heritage Funding and Aames Home Loan, but listed a series of repairs to be made. However, Garrett reported the appraisal was made "subject to the repairs, alterations, inspection or conditions listed below" in the Reconciliation section of the Report provided to Bank of America.

13. During the IFF, Garrett testified that he "cloned" a report and admits to the errors made on the report. Garrett stated that this was a wakeup call for him. Garrett has changed his procedures to keep this from happening again.

14. Additionally, Garrett testified that his reporting of the distance between the subject and the rentals was 24 blocks, which was incorrect (Count 1). The distance was actually 14 blocks. Garrett attributes this error to a typo.

Conclusion and Recommendation

Count 1: 18 VAC 130-20-180(D) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 1-1(a) (Effective March 4, 1998)

I believe that Garrett's explanation was reasonable. Therefore, I recommend that this count of the file be closed with a finding of no violation.

Count 2: 18 VAC 130-20-180(D) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 1-1(b) (Effective March 4, 1998)

Garrett's actions of reporting that the subject property included a basement, when it did not have a basement, is in violation of Board Regulation 18 VAC 130-20-180(D) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 1-1(b). I recommend that no monetary penalty of be imposed for this violation.

Count 3: 18 VAC 130-20-180(D) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 1-1(b) (Effective March 4, 1998)

Garrett's actions of reporting that the attic of the subject property included stairs and was finished and heated, when there were no stairs and it was not finished or heated, is a violation of Board Regulation 18 VAC 130-20-180(D) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 1-1(b). I recommend that no monetary penalty of be imposed for this violation.

Count 4: 18 VAC 130-20-180(D) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 1-1(b) (Effective March 4, 1998)

Garrett's actions of reporting that the subject property had an "earthen driveway, when it did not have a driveway, is in violation of Board Regulation 18 VAC 130-20-180(D) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 1-1(b). I recommend that no monetary penalty of be imposed for this violation.

Count 5: 18 VAC 130-20-180(D) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 1-1(b) (Effective March 4, 1998)

Garrett's actions of reporting comparable rental properties in the Single Family Comparable Rent Schedule section of the appraisal report, which were located in the outer boundaries of the neighborhood as listed in the Neighborhood section of the appraisal report, is in violation of Board Regulation 18 VAC 130-20-180(D) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 1-1(b). I recommend that no monetary penalty of be imposed for this violation.

Count 6: 18 VAC 130-20-180(D) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 1-2(d) (Effective March 4, 1998)

Garret's actions of reporting the monthly market rent amount as of May 31, 2000, when it was actually as of January 22, 2001, is a violation of Board Regulation 18 VAC 130-20-180(D) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 1-2(d). I recommend that no monetary penalty of be imposed for this violation.

Count 7: 18 VAC 130-20-180(D) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 1-1(a) (Effective March 4, 1998)

Garrett's actions of marking the appraisal report "as is", with the original date of January 22, 2001, so that the sales comparable would not have expired as of the date of the Satisfactory Completion Certificate of April 4, 2001, is in violation of Board Regulation 18 VAC 130-20-180(D) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 1-1(a). Therefore, I recommend that a monetary penalty of \$400.00 be imposed for a violation of this regulation.

Count 8: 18 VAC 130-20-180(D) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 1-1(c) (Effective March 4, 1998)

Garrett's actions of reporting items in a careless or negligent manner, by making a series of errors that, although individually may not have significantly affected the results of an appraisal, in the aggregate affected the credibility of the results, is in violation of Board Regulation 18 VAC 130-20-180(D) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 1-1(c). Therefore, I recommend that a monetary penalty of \$400.00 be imposed for a violation of this regulation.

Count 9: 18 VAC 130-20-180(E) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 2-1(a) and (b) (Effective March 4, 1998)

Garrett's actions of not clearly and accurately set forth the appraisal in a manner that will not be misleading, and not having the Report contain sufficient information to enable the intended users of the appraisal to understand the report properly is in violation of Board Regulation 18 VAC 130-20-180(E) to wit: 2001 Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 2-1(a) and (b). Therefore, I recommend that a monetary penalty of \$400.00 be imposed for a violation of this regulation.

By: _____

John C. Harry, III
Presiding IFF Board Member
Real Estate Appraiser Board

Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 4001 000091 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

REAL ESTATE APPRAISER BOARD

**RE: STEVEN C. MILLER
APPLICATION**

FILE NUMBER: 2004-04662

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 30, 2004, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Steven Charles Miller on May 21, 2004. The following individuals participated at the conference: Steven C. Miller, Applicant; Michael C. McCall, Chief Appraiser with the Virginia Department of Transportation; Douglas W. Schroder, Staff Member; and John C. Harry, III, presiding Board Member.

Summation of Facts

1. On February 23, 2004, Steven Charles Miller (Miller) applied for a certified residential appraiser license and did not meet the experience requirements on his application.

2. Miller provided 12 sample appraisals with his application, which were reviewed by a member of the Real Estate Appraiser Board (the Board) and were found not to meet the standard for experience that is set by Uniform Standards of Professional Appraisal Practice and the Board.

Conclusion and Recommendation

Based upon the record and information presented at the conference, I recommend Miller's application be denied at this time. I would recommend that Miller prepare 5 additional appraisals, appraising the complete property, using the Uniform Residential Appraisal Report (URAR) form 1004 or something similar and submit them to the Board. If these appraisals meet the USPAP standards, I would recommend the Board approve Miller's application for certified residential appraiser license.

By: _____

John C. Harry, III
Presiding IFF Board Member
Real Estate Appraiser Board

Date: _____

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT

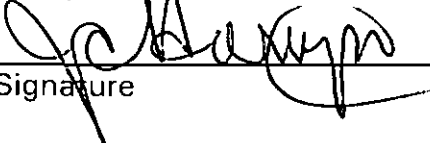
TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: John C. Harry, III
2. Title: Board Member
3. Agency: Real Estate Appraiser Board **RE LIC**
4. Transaction: Informal Fact-Finding Conferences on July 13, 2004
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.


Signature

6-30-04
Date