

**STATE OF FLORIDA
DIVISION OF REAL ESTATE
FLORIDA REAL ESTATE APPRAISAL BOARD**

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	5/16/2014
File #	2014-03595

IN RE: ALTUS GROUP U.S., INC.
 PETITION FOR DECLARATORY STATEMENT

FINAL ORDER
DECLARATORY STATEMENT

DS 2014-018

On February 6, 2013, Petitioner filed a Petition for Declaratory Statement with the Florida Real Estate Appraisal Board (hereinafter "Board"), pursuant to Section 120.565, Florida Statutes, and Chapter 28-105 of the Florida Administrative Code (F.A.C.). Altus Group U.S., Inc. requests the Board issue an opinion whether a it is required to be registered as an appraisal management company as defined in Section 475.611, Florida Statutes, in connection with limited appraisal consulting services as described in the Petition.

THIS MATTER came before the Board for final action at a duly-noticed public meeting on April 7, 2014, in Orlando, Florida. Petitioner was not present.

FINDINGS OF FACTS

1. The facts considered by the Board are as alleged in the Petition, a copy of which is attached hereto as Exhibit "A" and incorporated by reference, and presented at the meeting, with no further investigation by the Board.

2. As described in the Petition, the Petitioner, Altus Group U.S., Inc., (hereinafter the "Petitioner"), is a company that provides consulting services to its client to assist in estimating periodic net asset value of the equity value in real estate owned on behalf of tax-exempt investors.

3. Petitioner inquired whether the appraisal services it provides as stated in the Petition constitute appraisal management services as defined in Section 475.611(1)(c) and (d), Florida Statutes, which would require that it be licensed as an appraisal management company, pursuant to Section 475.6235, Florida Statutes.

CONCLUSIONS OF LAW

1. The Florida Real Estate Appraisal Board has authority to issue this Final Order pursuant to Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.

2. The Petition filed in this cause is in substantial compliance with the provisions of 120.565, Florida Statutes, and Rule 28-105.002, Florida Administrative Code.

3. Section 120.565, Florida Statutes, reads in part as follows:

120.565. Declaratory statement by agencies

(1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.

(2) The petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances.

4. Rule 28-105.001, Florida Administrative Code, reads as follows:

A declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority. A petition for declaratory statement may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory statement is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from an agency.

5. Section 475.611(1)(c) and (d), Florida Statutes, reads:

(c) "Appraisal management company" means a person who performs appraisal management services regardless of the use of the term "appraisal management company" "appraisal cooperative," "appraiser portal," mortgage technology company," or other term.

(d) "Appraisal management services" means the coordination or management of appraisal services for compensation by:

1. Employing, contracting with, or otherwise retaining one or more licensed or certified appraisers to perform appraisal services for a client; or
2. Acting as a broker or intermediary between a client and one or more licensed or certified appraisers to facilitate the client's employing, contracting with, or otherwise retaining the appraisers.

6. Section 475.611(1)(m), Florida Statutes, reads:

(m) "Client" means a person who contracts with an appraiser or appraisal management company for the performance of appraisal services.

7. The Board determined that several of the services provided by the Petitioner described in the Petition does constitute "appraisal management services" as defined in Section 475.611(1)(d)2., Florida Statutes, which states that "'Appraisal management services' means the coordination or management of appraisal services for compensation by ...2. Acting as a broker or intermediary between a client and one or more licensed or certified appraisers to facilitate the client's employing, contracting with, or otherwise retaining the appraisers."

8. As part of its services, Petitioner states in the Petition that it "Reviews the Client's list of approved appraisers and consults with Client on the selection of independent appraisers" and "Periodically completes appraisal engagement directly for the Client with no outside assistance."

9. Further, the Petition states that the selection of the third party appraisers is "facilitated" through a competitive bid process, and although the appraisers do contract directly with Petitioner's client, "Altus group may facilitate the communication process."

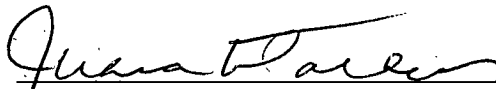
10. The Board construes the above actions as the "coordination" of appraisal services by acting as an intermediary between the Petitioner's client and the appraisers to facilitate the client's "employing, contracting, or otherwise retaining the appraisers." As such, those services constitute "appraisal management services" as contemplated by the Section 475.611(1)(d), Florida Statutes, and require registration as appraisal management company in Florida.

11. The Board's response to this Petition is based on the Petitioner's particular set of circumstances set forth in the Petition and only answers the questions raised related to the particular set of circumstance as stated in the Petition, and is not a policy statement of general applicability.

This Final Order shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 15 day of MAY, 2014.

FLORIDA REAL ESTATE APPRAISAL BOARD



JUANA WATKINS, Director, *on behalf of*
FLORIDA REAL ESTATE APPRAISAL BOARD

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Appeal with the Agency Clerk of the Department of Health and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The Notice of Appeal must be filed within thirty (30) days of rendition of the order to be reviewed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to **Heidi M. Bauer**, Buckley Sandler, LLP, 1250 24th Street NW, Suite 700, Washington, DC 20037; and by interoffice mail to **Michael T. Flury**, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; this 16th day of May, 2014.



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FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	2/6/2014
File #	

February 5, 2014

Real Estate Appraisal Board
Florida Division of Real Estate
400 West Robinson Street, N801
Orlando, FL 32801

DS 2014-018

**Re: Petition for Declaratory Statement regarding Appraisal Management Company
Licensure**

Dear Board Members:

We are writing the Florida Real Estate Appraisal Board (the "Board") on behalf of our client Altus Group U.S., Inc. ("Altus Group") to request a declaratory statement confirming that licensure as an appraisal management company is not required in connection with Altus Group's limited appraisal consulting services, as described further below.

I. Summary of Appraisal Consulting Services

a. Altus Group:

Altus Group provides consulting services to "Clients" to assist in estimating the periodic net asset value ("NAV") of the equity value in real estate owned on behalf of tax-exempt investors (pension fund sponsors, endowments and 401-K plans).

b. The Client:

The Clients are pension fund advisors, endowment funds and state sponsored pension funds that are required to report periodic NAV's to investors (annually, quarterly, monthly, or daily). The Clients are regulated typically under ERISA (Dept. of Labor), US GAAP (Generally Accepted Accounting Principles), REIS (Real Estate Information Reporting Standards), GIPS (Global Investment Performance Standards), and USPAP (Uniform Standards of Professional Appraisal Practice). None of the consulting work performed by Altus Group relates to any mortgage collateral valuations (residential or commercial), or is performed for any Clients that come under the regulation of FIRREA.

c. Scope of Consulting Services:

Altus Group, under a formal consulting arrangement with the Client, performs the following functions;

- Consults on the appropriate policies and procedures to comply with the various regulatory bodies.
- Consults on the scheduling of property appraisals to assure compliance.

- Reviews the Client's panel of approved appraisers and consults with Client on the selection of independent appraisers.
- Reviews independent, third-party appraisals on behalf of the Client. (Altus Group completes reviews in accordance with USPAP, utilizing in-house staff appraisers licensed in appropriate jurisdictions.)
- Facilitates the consulting process by providing the Client with access to web-based software that automates information exchange between various parties, houses Client databases, and provides industry benchmarking capabilities.
- Periodically completes appraisal engagement directly for the Client with no outside assistance.

II. Altus Group is Distinguishable from an Appraisal Management Company

We understand that registration with the Florida Division of Real Estate is required to engage, or offer to engage, in appraisal management services for compensation in Florida Sec. Fla. Stat. Ann. § 475.6235.

The term "appraisal management company" means a person who performs appraisal management services regardless of the use of the term "appraisal management company," "appraiser cooperative," "appraiser portal," "mortgage technology company," or other term. Fla. Stat. Ann. § 475.611

"Appraisal management services" means the coordination or management of appraisal services for compensation by: (1) Employing, contracting with, or otherwise retaining one or more licensed or certified appraisers to perform appraisal services for a client; or (2) Acting as a broker or intermediary between a client and one or more licensed or certified appraisers to facilitate the client's employing, contracting with, or otherwise retaining the appraisers. Fla. Stat. Ann. § 475.611

Altus Group's appraisal consulting services are distinguishable from the activities of a traditional appraisal management company, and from the definition of the same under Act, because of the following:

- The Clients maintain their own list of approved appraisers. Altus Group does not administer a network of independent contractors or employee appraisers.
- The selection of third party appraisers is facilitated through a competitive bid process (usually 3 bids). Altus Group consults with the client about selection, but the final selection is the responsibility of the Client.
- Independent appraisers contract directly with the Client. They do not have a contract with Altus Group. Altus Group may facilitate the communication process, but receives no commission or referral fee from the Client.
- Fees are paid directly to the independent appraisers by the Client.
- All appraisals are submitted directly to the Client.

Based on the foregoing, we respectfully request a declaratory statement from the Board confirming that Altus Group's consulting services do not trigger licensure as an appraisal management company in Florida.

Thank you in advance for your time and attention to this matter. Please do not hesitate to contact me directly at (202) 349-8044 or via e-mail to hbauer@buckleysandler.com with any questions or concerns.

Respectfully submitted,

A handwritten signature in cursive script that reads "Heidi Bauer".

Heidi M. Bauer
Counsel



Heidi M. Bauer
Counsel
BuckleySandler LLP
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Washington, DC 20037
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February 5, 2014

Via Federal Express

Michael Flury
Assistant Attorney
Real Estate Appraisal Board
The Capitol, PL-01
Tallahassee, Florida 32399-1050

RECEIVED

FEB 06 2014

DEPT. OF LEGAL AFFAIRS
Administrative Law Bureau

Re: Submission of Petition for Declaratory Statement

Dear Mr. Flury:

We are writing the Florida Real Estate Appraisal Board (the "Board") to submit the enclosed Petition for Declaratory Statement on behalf of our client Altus Group U.S., Inc.

As you will likely recall, on November 13, 2013, we submitted an initial Petition for Declaratory Statement, but the Board was unable to issue a ruling on this request because the identity of the petitioner was unclear. As such, the enclosed Petition for Declaratory Statement identifies Altus Group U.S., Inc. as the petitioning party. We trust that this revision resolves the Board's concerns and that the Board will be able to consider the enclosed Petition for Declaratory Statement at its next meeting.

Thank you in advance for your time and attention to this matter. Please do not hesitate to contact me directly at (202) 349-8044 or via e-mail to hbauer@buckleysandler.com with any questions or concerns.

Respectfully submitted,

Heidi M. Bauer
Counsel