

**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 | 9/3/2014 |
| File # | 2014-06608 |

IN RE: EILEEN POULOS
PETITION FOR DECLARATORY STATEMENT

FINAL ORDER
DECLARATORY STATEMENT

DS 2014-088

On July 3, 2014, 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.). Eileen Poulos requests the Board issue an opinion on whether her registered trainee appraiser doing Standard 3 technical reviews can be supervised remotely under Section 475.6221, Florida Statutes.

THIS MATTER came before the Board for final action at a duly-noticed public meeting on August 4, 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.
2. The Petitioner, Eileen Poulos (hereinafter "Petitioner") is a certified general appraiser and is designated as the primary supervisory appraiser of the registered trainee appraiser, Michelle Schultz. Both are affiliated with the same business, however, the Petitioner wishes to remotely supervise Ms. Schultz from North Carolina on Standard 3 reviews as described in the Petition.
3. Petitioner inquires whether the above supervisory relationship is appropriate under Section 475.6221, Florida Statutes, which requires the registered trainee appraiser and the primary supervisory appraiser have the same business address.

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 475.6221, Florida Statutes, reads:

(1) A registered trainee real estate appraiser must perform appraisal services under the direct supervision of a certified appraiser who is designated as the primary supervisory appraiser. The primary supervisory appraiser may also designate additional certified appraisers as secondary supervisory appraisers. A secondary supervisory appraiser must be affiliated with the same firm or business as the primary supervisory appraiser and the primary or secondary supervisory appraiser must have the same business address as the registered trainee real estate appraiser...

6. Section 475.6223, Florida Statutes, reads:

Each appraiser registered, licensed, or certified under this part shall furnish in writing to the department each firm or business name and address from which she or he operates in the performance of appraisal services. Each appraiser

which she or he operates in the performance of appraisal services. Each appraiser must notify the department of any change of firm or business name and any change of address within 10 days on a form provided by the department.

7. The Board determines that the above statutes require that the registered trainee appraiser, the registered trainee appraiser's designated primary supervisory appraiser, and any secondary supervisory appraisers shall have the same business address. The same business address is the same physical address out of which the appraisal services are performed.


8. As such, as long as the designated primary supervisory appraiser (Petitioner) and secondary supervisory appraisers have the same physical address as the registered trainee (Ms. Schultz) and operate in the performance of appraisal services from that address, the Petitioner may remotely supervise Ms. Schultz on Standard 3 reviews to the extent that they are otherwise able to comply with the requirements for supervision as set forth in Rule 61J1-4.010, Florida Administrative Code (F.A.C.).

9. 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 29th day of August, 2014.

FLORIDA REAL ESTATE APPRAISAL BOARD



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

For Juana Watkins

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 **Eileen Poulos**, 48 Bonnie Brae Drive, Weaverville, NC 28787; and by interoffice mail to **Michael T. Flury**, Assistant Attorney General, and **Tammie Britt**, Paralegal Specialist, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; this 3rd, day of September, 2014.

Brendan M. Nibbel

7006 0810 0002 5106 9306

| | |
|--|----|
| U.S. Postal Service™ | |
| CERTIFIED MAIL™ RECEIPT | |
| <i>(Domestic Mail Only; No Insurance Coverage Provided)</i> | |
| For delivery information visit our website at www.usps.com | |
| <i>Eileen Poulos</i> | |
| Postage | \$ |
| Certified Fee | |
| Return Receipt Fee (Endorsement Required) | |
| Restricted Delivery Fee (Endorsement Required) | |
| Total Postage & Fees | \$ |
| Postmark Here | |
| DS 2014-088 | |
| Sent To | |
| Street, Apt. No.; or PO Box No. <i>48 Bonnie Brae Drive</i> | |
| City, State, ZIP+4 <i>Weaverville NC 28787</i> | |
| PS Form 3800, June 2002 | |
| See Reverse for Instructions | |

Dear Ms. Ridenauer,

Please consider the following on the agenda for the next FREAB meeting

RE: Statute 475.6221

DS 2014-088

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0475/Sections/0475.6221.html

The primary supervisory appraiser may also designate additional certified appraisers as secondary supervisory appraisers. A secondary supervisory appraiser must be affiliated with the same firm or business as the primary supervisory appraiser and the primary or secondary supervisory appraiser must have the same business address as the registered trainee real estate appraiser.

This specific inquiry is for the following and circumstances unique to an employee who conducts Standard 3 technical (desktop) reviews for a financial institution, within a remote workplace environment, and ability to obtain experience credit toward certification. - *A secondary supervisory appraiser must be affiliated with the same firm or business as the primary supervisory appraiser and the primary or secondary supervisory appraiser must have the same business address as the registered trainee real estate appraiser.*

- 1) Michelle Schultz, a registered trainee appraiser, license number RI23716 in Winter Garden is currently supervised by other employees of the bank, conducting only desktop Standard 3 reviews. Note; Ms. Schultz has already met the 12 month as trainee not requiring a supervisor on inspection. Eileen Poulos, license number RZ1021, is physically located in North Carolina and is the primary supervisor of record AND the employee's direct manager. Ms. Poulos is directly involved in the day to day activities of Ms. Schultz with daily contact. The secondary supervisor, Wayne Miller, License number RZ1436, is another manager within the department and is located in Tampa, FL. Mr. Miller acts as a secondary manager of Ms. Schultz's daily activities. All work is conducted via modern virtual office technology with shared systems working for the same corporation from their respective homes. For practical purposes all with different "business addresses" but employees of the same company.
- 2) Is it appropriate for Ms. Poulos to continue as Ms. Schultz's primary supervisor, now that she is not a permanent resident of FL, even though Ms. Shultz is her direct report and Ms. Poulos holds a current valid FL license?
- 3) Regarding purposes of obtaining experience credit – May Ms. Schultz receive experience credit under the current supervisory status? If not, under what circumstances is Ms. Schultz able to receive experience credit in the virtual office setting?
- 4) Noted: FREAB has established precedence with awarding experience credit for certification based on Standard 3 (desktop) reviews only.

Respectfully submitted,

Eileen Poulos, MAI
SVP Bank of America
Commercial Appraisal Services Procurement Manager
Asheville, NC
Phone 828-484-9590 | Fax 214-530-3132
eileen.poulos@bankofamerica.com

| | |
|---|-----------------|
| FILED | |
| <small>Department of Business and Professional Regulation</small> | |
| <small>Deputy Agency Clerk</small> | |
| CLERK | Brandon Nichols |
| Date | 7/3/2014 |
| File # | |