

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE COMPLEX
1511 PONTIAC AVENUE
CRANSTON, RI 02920**

IN THE MATTER OF:

Paula Gonsalves,

Respondent.

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DBR No.: 06-L-0182

DECISION

Hearing Officer: Catherine R. Warren, Esquire

Hearing Held: December 16, 2010

Appearances:

For the Department of Business Regulation: Ellen Balasco, Esquire

For Paula Gonsalves, Respondent: *Pro Se*

I. INTRODUCTION

The above-entitled matter came before the Department of Business Regulation (“Department”) pursuant to a Notice of Intent to Revoke [License] and Provide Opportunity of Hearing (“2010 Notice”) issued June 30, 2010 to Paula Gonsalves (“Respondent”). A Notice of Pre-Hearing Conference and Appointment of Hearing Officer was issued on July 22, 2010 in response to the Respondent’s request for hearing. Pursuant to R.I. Gen. Laws § 5-20.7-1 *et seq.*, the Respondent holds a certified general appraiser’s license. A pre-hearing conference was held in this matter on September 20, 2010 wherein the issues involved were clarified. A hearing was held on December 16, 2010. At the hearing, the Respondent represented herself and the Department was

represented by counsel. The parties timely submitted briefs with the record closing on February 8, 2011.¹

II. JURISDICTION

The Department has jurisdiction over this matter pursuant to R.I. Gen. Laws § 5-20.7-1 *et seq.*, R.I. Gen. Laws § 42-14-1 *et seq.*, and R.I. Gen. Laws § 42-35-1 *et seq.*

III. ISSUE

Whether pursuant to R.I. Gen. Laws § 5-20.7-10, the Respondent's certified general appraiser license should be revoked

IV. MATERIAL FACTS AND TESTIMONY

Before turning to the testimony at hearing, for ease of reference, I will list a chronology of events relating to this matter.

Pursuant to R.I. Gen. Laws § 5-20.7-1 *et seq.*, the Respondent was licensed as a certified general appraiser on June 16, 1996.² That license expired on June 15, 1998. See Department's Exhibit One (1) (Department's 2006 Notice of Intent to Deny License Application). On or about April 26, 2006, the Respondent applied for a certified general appraiser license which is the same type of license that expired in 1998. In response to that application, the Department issued a Notice of Intent to Deny License Application. See Department's Exhibit One (1) ("2006 Notice"). A pre-hearing conference was held as a result of the 2006 Notice but the matter was eventually dismissed after the Respondent met with the State Real Estate Appraisers Board ("Board") and it was determined that the Respondent could be licensed under said statute. See Department's

¹ The undersigned allowed the Respondent to submit a typographical correction on February 26, 2011.

² The Respondent disagrees with the Department over the date of her licensing. She argues that she was licensed in 1992. However, there is no dispute over the relevant date of the expiration of her license.

Exhibit Two (2) (Order of Dismissal for 2006 Notice). The Respondent was then licensed as a certified general appraiser (“2007 License”).

The Department moved to revoke said 2007 License in its 2010 Notice. That notice is the basis for this hearing. The 2010 Notice states that the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (“Appraisal Subcommittee” or “ASC”) conducted an on-site audit of the Rhode Island real estate regulatory program administered by the Department and found that the experience reports submitted by the Respondent failed to comply with the Appraiser Qualifications Board (“AQB”) criteria and that the Respondent did not have the experience required to be licensed in 2007 and did not have the requisite appraisal education. Under the ASC criteria, the Respondent needed to have 180 hours of education and five (5) years of relevant experience if her license application was treated as a new application in 2007. The Department alleges that the Respondent did not meet those requirements under R.I. Gen. Laws § 5-20.7-10 so should not have been licensed in 2007.

Deanna Daniels (“Daniels”), Licensing Aide, testified on behalf of the Department. She testified that the Board³ reviewed the Respondent’s 2006 application

³ R.I. Gen. Laws § 5-20.7-5 establishes the authority of the Board as follows:

Powers of the board. – The board shall: (1) Establish criteria, standards, and requirements for the certifying and licensing of real estate appraisers, including, but not limited to, educational criteria, experience criteria, and examination requirements for certifying, licensing, and recertifying.

(2) Establish administrative procedures for disciplinary proceedings conducted pursuant to the provisions of this chapter and the board shall censure, suspend, and revoke certificates pursuant to the disciplinary proceedings established by the board.

(3) Have a policy-making role in the preparation and composition of the examinations to be administered by the department or its designee. Subsequent to the administration of the examination, the board shall review the examinations to evaluate their effectiveness.

(4) Supervise the operations in the department in an advisory capacity and promulgate any policy, procedures, and rules that are necessary to improve the operations of

and decided that it should be denied because her experience was not for the five (5) years preceding her application (See Department's Three (3) (minutes of Board's September 6, 2006 Executive session) but she was then licensed in 2007 after the Board decided the Respondent could take the examination. See above.

Daniels testified that the ASC performs regular audits of all states to ensure that the states comply with the Federal Financial Institutions Reform, Recovery, and Enforcement Act ("FIRREA"). She testified that in 2009, ASC's audit found that the Respondent did not have the necessary education and experience for her 2007 License. See Department's Four (4) (minutes of the Board's July 1, 2009 Executive session). She testified that if the Respondent's application was treated as a new application, the Respondent needed 180 hours of qualifying hours of education and 3,000 hours of experience but if the application was treated as a reinstatement, the Respondent needed 146 hours of education since she missed five (5) renewal cycles and only had 55 hours of education for that period.

Daniels testified that the Respondent submitted appraisal documents but did not conduct any appraisals herself during said five (5) year period and did not submit the required experience log with her application. She testified that for the appraisal experience, the Department needs addresses, how many hours are spent conducting the appraisal, and the actual appraisal performed. See Department's Exhibit Seven (7) (Appellant's education and experience log submitted after pre-hearing conference).

the department in their areas of expertise and to implement this chapter. The promulgation of those policies is subject to the approval of the director of the department.

(5) Provide any advisory opinions to the department that are necessary for the implementation of this chapter as well as any other standards of expertise and certification deemed appropriate by the board.

(6) Establish administrative procedures for disciplinary proceedings conducted pursuant to the provisions of this chapter and censure, suspend, and revoke certificates pursuant to the disciplinary proceedings provided.

Daniels testified that the ASC followed up on the Respondent's application and found that the documentation submitted did not meet the statutory requirements. See Department's Exhibit Six (6) (ASC follow-up report)

On questioning from the Department, the Respondent testified that she currently reviews appraisal reports. She testified that for the five (5) years prior to 2006, she didn't perform appraisals but rather reviewed appraisals. She testified that none of her appraisals in Department's Exhibit Seven (7) (her experience log) were performed by her in accordance with AQB standards.

The Respondent testified on her behalf. She testified she is being treated unfairly. She testified she was initially licensed in 1991 and at that time had the required number of appraisal hours and education. She testified she was never told of the option for continuing education as indicated by the Board in the Department's Exhibit Four (4) (2009 Board meeting minutes). She testified that she already qualified for her initial license so her 2007 application should not be treated as a new application. She testified that also spent the time and money as a trainee so she shouldn't have to do that again. She testified that she was initially denied in 2006 but after the Board reviewed her work in 2006, it found she could take the exam. She testified that she should be allowed to submit continuing education in order to be reinstated. She testified she is working toward her MAI Certificate for commercial appraising so she is qualified. She testified that currently she reviews appraisals but is not performing appraisals but she does more than an appraiser would do.

V. DISCUSSION

A. **Legislative Intent**

The Rhode Island Supreme Court has consistently held that it effectuates legislative intent by examining a statute in its entirety and giving words their plain and ordinary meaning. *In re Falstaff Brewing Corp.*, 637 A.2d 1047, 1049 (R.I. 1994). See *Parkway Towers Associates v. Godfrey*, 688 A.2d 1289 (R.I. 1997). If a statute is clear and unambiguous, “the Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings.” *Oliveira v. Lombardi*, 794 A.2d 453, 457 (R.I. 2002) (citation omitted). The Supreme Court has also established that it will not interpret legislative enactments in a manner that renders them nugatory or that would produce an unreasonable result. See *Defenders of Animals v. Dept. of Environmental Management*, 553 A.2d 541 (R.I. 1989) (citing *Cocchini v. City of Providence*, 479 A.2d 108, 111 (R.I. 1984)). In cases where a statute may contain ambiguous language, the Rhode Island Supreme Court has consistently held that the legislative intent must be considered. *Providence Journal Co. v. Rodgers*, 711 A.2d 1131, 1134 (R.I. 1998). The statutory provisions must be examined in their entirety and the meaning most consistent with the policies and purposes of the legislature must be effectuated. *Id.*

B. **Standard of Review for an Administrative Hearing**

It is well settled that in formal or informal adjudications modeled on the federal Administrative Procedures Act, the initial burdens of production and persuasion rest with the moving party. 2 Richard J. Pierce, *Administrative Law Treatise* § 10.7 at 759 (2002). Unless otherwise specified, a preponderance of the evidence is generally required in order to prevail. *Id.* at 763-766; see also, *Lyons v. Rhode Island Pub. Employees Council*

94, 559 A.2d 130, 134 (R.I. 1989) (preponderance standard is the “normal” standard in civil cases); *Parker v. Parker*, 238 A.2d 57, 60 (R.I. 1968) (“satisfaction by a ‘preponderance of the evidence’ [is] the recognized burden [of proof] in civil actions”). This means that for each element to be proven, the fact-finder must believe that the facts asserted by the proponent are more probably true than false. *Id.* When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. *Narragansett Electric Co. v. Carbone*, 898 A.2d 87 (R.I. 2006).

C. Relevant Statutes

R.I. Gen. Laws § 5-20.7-10 states as follows:

Experience requirement. – (a) An original certification as a state certified real estate appraiser or licensing as a state licensed appraiser shall not be issued to any person who does not possess the requisite experience in real property appraisal as required by the appraisal qualifications board of the Appraisal Foundation and supported by adequate written reports or file memoranda. The experience must be acquired within a period of five (5) years immediately preceding the filing of the application for certification. The experience shall be of the type of appraisal for which the applicant is seeking certification/licensing and shall meet the minimum standards of the Appraisal Foundation and/or applicable federal regulations.

(b) Each applicant for certification and licensing shall furnish, under oath, a detailed listing of the real estate appraisal reports or file memoranda for each year for which experience is claimed by the applicant. For an applicant for general certification at least fifty percent (50%) of the prepared reports must demonstrate knowledge and working understanding of income capitalization or other nonresidential reports. Upon request, the applicant shall make available to the director or board for examination a sample of appraisal reports, which the applicant has prepared in the course of his or her practice.

R.I. Gen. Laws § 5-20.7-11 states as follows:

Term of certification or license – Renewal. – The term of a certificate or license issued pursuant to this chapter is two (2) years from the date of issuance. The expiration date of the certificate or license shall appear on the certificate or license and no other notice of its expiration need be given to holder of the license.

Section 7 of *Commercial Licensing Regulation 10 – Real Estate Appraisers*

(“CLR10”) states in part as follows:

TERM OF LICENSES/RENEWAL

(B) Every person certified or licensed pursuant to R.I. Gen. Laws § 5-20.7-1, *et seq.*, who desires to renew the certification or license shall apply for the renewal of the license or certification upon a form to be furnished by the Department, which form shall contain whatever information the Department requires. Any renewal of a certification or license shall be subject to the same provisions and requirements covering issuance, suspension, and revocation of any certification or license as originally issued.

(C) Any person who otherwise satisfies the renewal requirements for a license or certification may renew a license or certification within one (1) year after its expiration date thereof for a reinstatement fee of thirty (\$30) dollars, in addition to the required renewal fee.

(D) At no time shall any certification or license be renewed without examination if the certification or license has been expired for more than a period of one (1) year from the date of expiration.

(E) Any person seeking to reinstate a license after expiration must affirm by affidavit that he or she has not engaged in any unlicensed real estate appraisal activity since the expiration of the license.

(F) If a person has engaged in unlicensed real estate appraisal activity pursuant to R.I. Gen. Laws § 5-20.7-1 *et seq.*, the person must file an affidavit with the Department listing all such unlicensed activity. The Department shall review the affidavit submitted and may either levy a sanction upon a determination that the license may be reinstated or decide not to reinstate the license.

Section 8 of CLR10 states in part as follows:

QUALIFYING CRITERIA FOR LICENSING AND CERTIFICATION

(A) Criteria Applicable to all Appraiser Classifications.

(1) *Qualifying Experience Requirements.*

(a) For the experience requirements set forth below, all persons applying for an upgrade to a higher license classification shall submit a log evidencing his or her appraisal experience on a form provided by the Department. The information provided shall include the following:

- (i) Date of report;
- (ii) Address of appraised property;
- (iii) Type of property;
- (iv) Description of work performed by the applicant;
- (v) Scope of supervising appraiser's review;
- (vi) Scope of supervising appraiser's supervision; and
- (vii) Number of actual work hours by the applicant on the assignment;

(b) Acceptable appraisal experience includes, but is not limited to: fee and staff appraisal, ad valorem tax appraisal, review appraisal, appraisal analysis, real estate counseling, highest and best use analysis, feasibility analysis/study, and teaching of appraisal courses.

(c) Adequate written reports or file memoranda shall support all experience. Each applicant shall furnish, under oath, a detailed listing of the real estate appraisal reports or file memoranda for each year for which the applicant claims experience. Upon request, the applicant shall make available to the Board or the Director of the Department a sample of appraisal reports that the applicant has prepared in the course of his or her practice.

(d) Appraisal experience shall be of the type for which the applicant is seeking a license or certification. The Appraisal Process must have been utilized in order for appraisal experience to be applied toward the requisite experience in the AQB Real Property Qualification Criteria. The work claimed in the application for experience credit shall comply with USPAP, as promulgated by the Appraisal Foundation at the time the applicant prepared the appraisals, and/or any applicable federal requirements.

(e) A year of real estate appraisal experience is defined in terms of hours within a twelve (12) month period. Hours may be treated as cumulative in order to achieve the necessary hours of appraisal experience.

(f) All licensees are required to demonstrate to the satisfaction of the Board a level of understanding of the complete Appraisal Process. Any applicant who falsely claims experience may be subject to denial of his or her application or suspension or revocation of an existing license. A comparable market analysis typically performed by either a licensed real estate broker or salesperson may be awarded experience credit when he or she prepared the analysis in conformity with USPAP, and the applicant can demonstrate that he or she utilizes and understands the Appraisal Process.

D. Arguments

The Department argued that the Respondent's license expired in 1998 and in 2006 she applied for a new license. The Department argued that the Board was in error when it dismissed the 2006 Notice and allowed the Respondent to obtain her 2007 License since the Respondent did not have the experience required in R.I. Gen. Laws § 5-20.7-10. The Department argued that this error came to light during the 2009 ASC audit and ASC informed the Department that it needed to cure this deficiency in its regulatory program necessitating the Department's action. The Department argues that the Respondent does not have the requisite experience and cannot reinstate the license.

The Respondent argued that she qualified for her license in 1992 and her 2006 application should be treated as a reinstatement. She argues that her current experience qualifies under Section 8(A) of CLR10 which she argued the Board considered in 2006. She argued that she was not offered a chance to become inactive and reinstate per the Board's meeting of 2009. She argued that it is unfair to make her become a trainee when she has more experience and education than a trainee. She argued that she is obtaining her "MAI" designation so this is part of her career path. She argues that her 2007 License was a reinstatement. She argues that she should be allowed to become inactive and finish her continuing education requirements.

E. History of the Federal Financial Institutions Reform, Recovery, and Enforcement Act

In 1989, Congress enacted FIRREA in response to the savings and loan industry crisis in the 1980's. Its main goal was to "restore public confidence in the savings and loan industry in order to ensure a safe, stable, and viable system of affordable housing finance." Providenti, Anthony, *Playing with FIRREA, Not Getting Burned: Statutory Overview of the Financial Institutions Reform, Recovery and Enforcement Act of 1989*, 59 Fordham L. Rev. S323 (1991) (citation omitted). As part of this broad legislative reform act, Congress addressed the issue of faulty real estate appraisals. Faulty appraisals were a main contributor to weak loan underwriting and during the savings and loan crisis, many of the failed institutions held mortgages with inaccurate or insufficiently documented appraisals. Wooley, Cherokee, *Regulation of Real Estate Appraisers and Appraisals: The Effects of FIRREA*, 43 Emory L.J. 357 (Winter, 1994).

Title XI of FIRREA set minimum national standards for appraisers and real estate appraisals for most federally-related real estate transactions. *Id.* Title XI requires that

various Federal regulators set standards for real estate appraisals and under Title XI's regulations, all relevant appraisals must be performed in accordance with the Uniform Standards of Professional Appraisals Practice ("USPAP") adopted by the Appraisal Standards Board of the Appraisal Foundation with oversight by the Appraisal Subcommittee. Thus, specific national standards are required for appraisals. Title XI defines the criteria for a state certified real estate appraiser as an individual who meets the "minimum criteria for certification issues by the Appraiser Qualifications Board of the Appraisal Foundation." *Id.* The Appraisal Subcommittee monitors "state agency compliance with the Title XI requirements." *Id.* (citation omitted).⁴

As set forth in 12 U.S.C. § 3331 (of FIRREA):

The purpose of this chapter is to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

⁴ 12 U.S.C. § 3347 states in part as follows:

(a) in general

The Appraisal Subcommittee shall monitor State appraiser certifying and licensing agencies for the purpose of determining whether a State agency's policies, practices, and procedures are consistent with this chapter. The Appraisal Subcommittee and all agencies, instrumentalities, and federally recognized entities under this chapter shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, or procedures are found to be inconsistent with this chapter.

(b) Disapproval by appraisal subcommittee

The Federal financial institutions, regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation shall accept certifications and licenses awarded by a State appraiser certifying the licensing agency unless the Appraisal Subcommittee issues a written finding that--

(1) the State agency fails to recognize and enforce the standards, requirements, and procedures prescribed pursuant to this chapter;

(2) the State agency is not granted authority by the State which is adequate to permit the agency to carry out its functions under this chapter; or

(3) decisions concerning appraisal standards, appraiser qualifications and supervision of appraiser practices are not made in a manner that carries out the purposes of this chapter.

Thus, the intent of the statute is to ensure national standards for appraisals so as to prevent inaccurate and faulty appraisals and the numerous issues arising from such appraisals. E.g. weak loan underwriting. As part of this national requirement, appraisers must have recent experience so that they are up-to-date with the market. This is a national standard that is enforced by states with oversight and monitoring by Federal regulators.

F. Whether the Respondent Should Have Her 2007 License Revoked

There is no dispute that the Respondent's initial license expired in 1998 and at that time, she did not renew or reinstate that license. In 2006, the Respondent submitted an application and was licensed by the Board. The Respondent argues that her 2007 License was a reinstatement. However, this is not possible. Under Section 7 of CLR10, a licensee may reinstate a license by paying a reinstatement fee within one (1) year of expiration of license. Indeed, the Board in 2006 clearly found that the Respondent complied with the requirements of new application since it found that she met the five (5) year experience requirement. See Department's Exhibit Two (2) (2006 dismissal). See R.I. Gen. Laws § 5-20.7-10. Thus, her 2007 License was considered to be a new application. Even if the Board believed the 2007 License was a reinstatement, such a belief would be irrelevant. (see below).

The Respondent does not dispute that she was not performing appraisals for five (5) years prior to 2006. Instead, she argues that she falls under reviewing appraisals in Section 8(A) of CLR10. However, the Respondent needs to meet the qualifications under R.I. Gen. Laws § 5-20.7-10(a) which requires "experience in real property appraisal as required by appraisal qualifications board of the Appraisal Foundation and supported by

adequate written reports.” Administrative notice is taken of those requirements (attached to Department’s brief). The Respondent admitted that none of her submitted appraisal reports (Department’s Exhibit Seven (7)) were performed by her in accordance with AQB standards. Those reports do not meet statutory requirements. Indeed, a reading of the entire Section 8 of CLR10 demonstrate that detailed reports (including description of work performed by the applicant) must be furnished, AQB standards followed, and experience credit must comply with USPAP. Reviewing other appraiser’s appraisal reports by the Respondent’s own testimony does not fall under AQB standards. The Respondent did not meet the statutory experience requirements for her 2007 License.

The Respondent acknowledges that she did not meet the statutory experience requirement prior to her 2007 License. She argues that it is unfair to revoke her license so she should be allowed to reinstate her license or go inactive and complete continuing education requirements.

As already discussed, the Respondent does not meet the regulatory requirements for reinstatement. Her 2007 License cannot be considered a reinstatement as it was eight (8) years after her initial license expired. Even if one was to accept the Respondent’s argument for reinstatement (which has no statutory or regulatory basis), the Respondent still would not qualify because her continuing education credits that she took during those unlicensed years are not enough to equal the required amounts to take during licensing. See Department’s Exhibit Seven (7).

The Respondent acknowledges that her continuing education credits would not equal the eight (8) year unlicensed period so relies on a comment at the 2009 Board meeting by a Board member recommending the Respondent go inactive and complete

continuing education requirements. However, said member also recommended the other alternative which was to treat the Respondent as a new applicant. Obviously, the Board did not offer the inactive option because there is no statutory or regulatory authority for such a status and instead found that the 2007 License should be revoked. See Department's Exhibit Four (4) (2009 Board minutes).

The Respondent also argued that it was unfair for the Division to revoke her 2007 License and treat her as a trainee again especially as the Board had found she should be licensed. This is an *equitable estoppel* argument. In terms of *equitable estoppel*, the Rhode Island Supreme Court has held that,

in an appropriate factual context the doctrine of estoppel should be applied against public agencies to prevent injustice and fraud where the agency or officers thereof, *acting within their authority*, made representations to cause the party seeking to invoke the doctrine either to act or refrain from acting in a particular manner to his [, her, or its] detriment. *Romano v. Retirement Board of the Employees' Retirement System of the State of Rhode Island*, 767 A.2d 35, 39 (R.I. 2001) (citation omitted) (italics in original).

In addition, for a party to obtain *equitable estoppel* against a government entity, it must show that a "duly authorized" representative of the government entity made affirmative representations, that such representations were made to induce the plaintiff's reliance thereon, and that the plaintiff actually and justifiably relied thereon to its detriment. *Casa DiMario, Inc. v. Richardson*, 763 A.2d 607 (R.I. 2000). See also *El Marocco Club, Inc. v. Richardson*, 746 A.2d 1228, 1234 (R.I. 2000) ("key element of an estoppel is intentionally induced prejudicial reliance.") (internal citation omitted). However, "neither a government entity nor any of its representatives has any implied or actual authority to

modify, waive, or ignore applicable state law that conflicts with its actions or representations.” See *Romano*, at 39-40.⁵

While the Board agreed to license the Respondent, there was no showing by the Respondent that the Department (Board) made affirmative representations to the Respondent to induce reliance thereon. Indeed, the Respondent chose to allow her initial license to expire. She chose to file an application in 2006 and the Department initially sought to deny said application. The Board may then have decided to license the Respondent but there is no evidence that the Board made any affirmative representations to the Respondent in order to convince her to submit an application. Furthermore, the Department or Board cannot waive the applicable statutory requirements for licensing.

In addition, the Respondent has not made the requisite showing that equitable estoppel should be applied to prevent fraud and injustice. See *Guilbeault v. R.J. Reynolds Tobacco Company*, 84 F.Supp.2d 263 (D.R.I. 2000) (to prove fraud plaintiff needs to show that defendant made a false or misleading statement of material fact that defendant knew to be false and it was made in order to deceive and that plaintiff detrimentally relied on statement). In any event, the Department does not have the power to waive or modify the applicable law and would not be acting within its authority if it tried to do so. Based upon the testimony, any claim by the Respondent for *equitable estoppel* against the Department is without merit.

⁵ Moreover, “any party dealing with a municipality ‘is bound at his own peril to know the extent of its capacity.’” *Casa DiMario*, at 612 (internal citation omitted). Furthermore, “[a]s a general rule, courts are reluctant to invoke estoppel against the government on the basis of an action of one of its officers.” *Id.* (internal citation omitted).

Finally, an administrative proceeding is not an equitable proceeding and there is no equitable jurisdiction. To find for the Respondent on the basis of an equitable argument would be reversible error. *Nickerson v. Reitsma*, 853 A.2d 1202 (R.I. 2004).

As discussed above, FIRREA was enacted to ensure consistent and uniform national appraisal standards and to ensure that applicants have current experience (must be five (5) years prior to application) in order to prevent a re-occurrence of the savings and loan crisis brought about in part by faulty appraisals. Rhode Island is bound by these national requirements. Unfortunately for the Respondent, she let her license lapse in 1998 and did not have the requisite statutory experience to be licensed in 2007 as a certified general appraiser.

Based on the forgoing, the Respondent's 2007 License should be revoked.

VI. FINDINGS OF FACT

1. On or about June 30, 2010, the Department issued a Notice of Intent to Revoke [License] and Provide Opportunity of Hearing for License to Respondent.
2. The pre-hearing conference was held on September 20, 2010.
3. A hearing was held on December 16, 2010.
4. The parties timely submitted briefs with the record closing on February 8, 2011.
5. The facts contained in Section IV and V are reincorporated by reference herein.

VII. CONCLUSIONS OF LAW

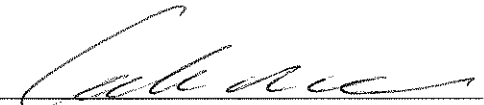
Based on the testimony and facts presented:

1. The Department has jurisdiction over this matter pursuant to R.I. Gen. § 5-20.7-1 *et seq.*, R.I. Gen. Laws § 42-14-1 *et seq.*, and R.I. Gen. Laws § 42-35-1 *et seq.*
2. The Respondent did not meet the licensing requirements contained in R.I. Gen. Laws § 5-20.7-10 for her 2007 License.
3. There is no statutory or regulatory basis for an applicant to reinstate a license more than one (1) year after expiration. The Respondent could not reinstate her license that expired in 1998 in 2006.

VIII. RECOMMENDATION

Based on the above analysis, the Hearing Officer recommends that Respondent 2007 License as a certified general appraiser's license be revoked.

Dated: 3/29/11



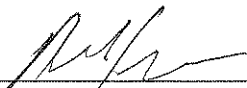
Catherine R. Warren
Hearing Officer

ORDER

I have read the Hearing Officer's Decision and Recommendation in this matter, and I hereby take the following action with regard to the Decision and Recommendation:

ADOPT
 REJECT
 MODIFY

Dated: 5 April 11



Paul McGreevy
Director

NOTICE OF APPELLATE RIGHTS

THIS DECISION CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

CERTIFICATION

I hereby certify on this 6th day of April ~~March~~, 2011 that a copy of the within Decision and Notice of Appellate Rights was sent by first class mail, postage prepaid to --

Ms. Paula Gonsalves
30 Miller Avenue
Rumford, RI 02916

and by electronic-delivery to Ellen Balasco, Esquire, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Building 68, Cranston, Rhode Island, Maria D'Alessandro, Associate Director, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Building 68, Cranston, Rhode Island and William DeLuca, Acting Adminsitrator, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue, Building 68, Cranston, Rhode Island

R B Ellison