

UTAH APPRAISER LICENSING AND CERTIFICATION BOARD

Heber M. Wells Building

Room 210

9:00 a.m.

April 22, 2015

Telephone Meeting

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Mark Fagergren, Education and Licensing Director
Jeffery Nielsen, Chief Investigator
Justin Barney, Hearing Officer
Judith Jensen, Assistant Attorney General
Renda Christensen, Board Secretary
Kendelle Christiansen, Appraisal Licensing/Education
Theron Case, Investigator

BOARD MEMBERS PRESENT:

John E. Ulibarri, Chair
Kristin Coleman-Nicholl, Vice Chair
Daniel Brammer, Board Member
Paul W. Throndsen, Board Member
Jim Bringham, Board Member

GUESTS:

Ron Smith
Jake Parkinson
Bob Danehy

The April 22, 2015 meeting of the Appraiser Licensing and Certification Board began at 9:00 a.m. with Chair Ulibarri conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes - A motion was made and seconded to approve the minutes from March 25, 2015 meeting as written. Vote: Chair Ulibarri, yes; Vice Chair Coleman-Nicholl, yes; Board Member Brammer, yes; Board Member Throndsen, yes; Board Member Bringham, yes. The motion carries.

Public Comment Period

Ron Smith addressed the Board and thanked them for adding the Public Comment Period to the agenda. Mr. Smith thanked Board Member Coleman-Nicholl for good idea of putting this first on the agenda. Mr. Smith commented on the approval of the minutes. He thanked Ms. Christensen for her good work on the minutes over many

years. She also does the same good work for the Mortgage and Real Estate Commissions. The Board also agreed with Mr. Smith and thanked Ms. Christensen for her work.

DIVISION REPORT

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart mentioned that he had spoken with the Mortgage Commission regarding the issue of paying fees to Appraisal Management Companies. The Mortgage currently in place, R162-2c-301a, Unprofessional Conduct, fees are mentioned twice: Affirmative Duties, and Prohibited Conduct. This rule does not have a specific timeframe as to when it has to be paid, just that it does have to be paid.

The Mortgage Commission discussed this topic and the discussion went beyond what the Board had requested. It actually went as far as talking about whether or not mortgage companies could require appraisal fees to be paid up front, and having a company policy regarding when to pay the appraisers. One opinion was to impose that burden on a borrower was unnecessary and in practice this is not routinely done. The Mortgage Commissioners were concerned about the process of collecting and accounting of the money and bookkeeping issues that could come up. The discussion is still on-going will be discussed again in the Mortgage Commission meeting next month.

Director Stewart said that he receives e-mail notices about court cases that have taken place either in District or Appellate courts. He mentioned the case of Cook vs. Department of Commerce (Division of Occupational and Professional Licensing). Director Stewart mentioned this case because it has some similarities in what the Commission may come across. Consistency in decisions handed down by the Commission and Division are very important and can affect decisions made in other cases. This specific case involved a nurse who had falsified her license renewal two times and was fined and had her license revoked. Ms. Cook also said that her rights were violated by having this decision in the Division's newsletter. She appealed to the Department of Commerce who upheld the Board's decision, and then she appealed to District Court. The District Court upheld the publishing in the newsletter and the fine, but overturned the revocation of her license. The court reviewed past revocations to see if decisions made by the Board were consistent. The court could not find where a license had been revoked for making misrepresentations on renewals, but found other disciplinary actions had been taken instead.

ENFORCEMENT REPORT – Jeffery Nielsen

Mr. Nielsen reported the statistics for the months of January through March:

In January the Division received 5 complaints; opened 5 cases; closed 4 cases with the Attorney General's list; total cases with the Attorney General's office is 11; closed 9 cases; leaving the total number of cases at 31.

In February the Division received 3 complaints; opened 7 cases; closed no cases on the Attorney General's list; total cases with the Attorney General's is 11; cases closed were 9; leaving the total number of cases at 31.

In March the Division received 5 complaints; opened 1 new case; closed no cases on the Attorney General's list; total cases with the Attorney General's is 11; 1 case was closed; leaving the total number of cases at 33.

There are no stipulations for review this month.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren reminded the Board of the audit from the Appraisal Subcommittee. The ASC will sit in through the entire meeting including the Executive Session to see the process of how the decisions made. The ASC views any letter or issue of a complaint and they track it from the date it is received until the date it is closed. The Division has to be consistent in all of the cases reviewed and acted on.

The Division has started the Caravan sessions and we were out of the office yesterday and will be out again tomorrow. There are nine different cities being visited this year. The attendance has been nearly doubled from last year.

The next time the Board meets live, Mr. Fagergren would like to invite Ron Smith and Lisa Manning to demonstrate the Excel spreadsheets that track the experience that appraisers accrue. These forms that track experience up through the end of 2014 are on the Division's website, and there will be a separate spreadsheet to track experience after January 1, 2015.

Mr. Fagergren submitted the following lists to the Board for their review:

Certified and Licensed Appraiser Applicants Approved by both Education and Experience Review Committees:

Russell Cazier, LA candidate
Mark W. Lundberg, CG candidate

Certified and Licensed Appraiser Applicants Approved by the Education Review Committee Denied by the Experience Review Committees:

Quincee M. Pyle, LA candidate

Discipline List:

Alan C. Plush, Temporary CG application
Kim A. Jenkins, CR renewal

COMMISSION AND INDUSTRY ISSUES

Rule Updates – Justin Barney

Mr. Barney said state law requires that every five years rules that are in place need to be reaffirmed. If not, they will expire. Mr. Barney has filed the five-year notice of review

and statement of continuation so that the rules will continue to be in place for another five years.

Division Investigations: Jake Parkinson, UAA

Mr. Parkinson is asking the Division to consider a rule that draws a distinction between an inquiry and an investigation when violations are alleged. An inquiry would help determine if there is reasonable cause to open a full investigation. Appraisers and AMCs are required to report any investigation to their insurance carriers, and insurance premiums can skyrocket regardless of the investigations outcome.

The Division responded by saying that when they receive a letter with information or a complaint, they review the information before the case is opened. All information is opened as a case and tracked. If the Division finds they don't have jurisdiction over this case, it will be closed with no action taken. If there has been a violation of statute or rule, the case is sent to an investigator. Director Stewart said the ASC has said that the Division will investigate all complaints. An investigation is a fact gathering process to determine allegations.

Mr. Nielsen asked Mr. Parkinson to do more research as to what other states are doing, and bring it back to the Division and Board for review. At what point is a case changed from an inquiry to an investigation, and how other states are defining these issues. Currently, there is a vast difference in how states handle complaints.

CLOSED TO PUBLIC

A motion was made to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Ulibarri, yes; Vice Chair Coleman-Nicholl, yes; Board Member Brammer, yes; Board Member Throndsen, yes; Board Member Bringhurst, yes. The motion passes. An Executive Session was held from 9:53 a.m. to 10:07 a.m.

OPEN TO PUBLIC

RESULTS OF DELIBERATIONS

Certified and Licensed Appraiser Applicants Approved by both Education and Experience Review Committees:

Russell Cazier, LA candidate - Approved

Mark W. Lundberg – CG candidate – Approved

Certified and Licensed Appraiser Applicants Approved by the Education Review Committee Denied by the Experience Review Committees:

Quincee M. Pyle, LA candidate - Denied

Discipline List:

Alan C. Plush, Temporary CG application – Approved

Kim A. Jenkins, CR renewal - Approved

A motion was made to adjourn the meeting. Vote: Chair Ulibarri, yes; Vice Chair Coleman-Nicholl, yes; Board Member Brammer, yes; Board Member Thronsen, yes; Board Member Bringhurst, yes. The motion passes. The meeting adjourned at 10:10 a.m.