

APPRAISER LICENSING AND CERTIFICATION BOARD

Heber M. Wells Building

Room 210

9:00 a.m.

January 27, 2010

MINUTES

STAFF MEMEBERS PRESENT:

Steve Eklund, Administrative Law Judge
Deanna D. Sabey, Division Director
Mark Fagergren, Education/Licensing Director
Dee Johnson, Enforcement Director
Traci Gundersen, Assistant Attorney General
Jennie Jonsson, Hearing Officer
Renda Christensen, Board Secretary
Carla Westbroek, Appraiser Education Coordinator

BOARD MEMBERS PRESENT:

Ronald M. Smith, Chair
Craig Morley, Vice Chair
Paul W. Throndsen, Board Member
Debra Sjoblom, Board Member
Jeanette Payne, Board Member

GUESTS:

Allen Larsen
Austin Christensen
Kevin Prowell
Bill Lifferth
Lee Gardner

The January 27, 2010 meeting of the Appraiser Licensing and Certification Board began at 9:00 a.m. with Chair Smith conducting.

9:00 PUBLIC HEARING ON RULE 106 – USPAP EXEMPTIONS

Administrative Law Judge Steve Eklund for the Utah Department of Commerce conducted the rule hearing with respect to Proposed Uniform Standards of Professional Appraiser Practices. Judge Eklund acknowledged the presence of all the Board Members, as well as the Division Staff and representatives from the Attorney General's office.

Judge Eklund asked Ms. Jonsson if the Division had received any written comments on this proposed rule, and she responded that we have not received any comments.

Ms. Jonsson explained the reason for the proposed rule. This rule releases certain individuals from complying with USPAP Standards in certain situations. The Board proposed to exempt a Division staff member or employee; a member of the Experience Review Committee; a member of the Technical Review Panel; a Hearing Officer; a member of the County Board of Equalization; an Administrative Law Judge; a member of the Utah State Tax Commission; or a member of this Board from having to comply with USPAP when acting in an official capacity.

If there are no comments received by 5:00 p.m. today, the proposed rule will be made effective February 3, 2010.

Judge Eklund opened the meeting up for any comments from those in attendance today. Brief comments were made by Chair Smith, Vice Chair Morley, and William Lifferth (Vice President, Appraisal Institute).

Because there were two different times listed for this public hearing, and there being no further comments at this time, Judge Eklund closed the record of the public hearing at 9:14 a.m. He will check back at 10:00 a.m. to see if there were any others who had appeared to express their comments.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

The Minutes for the December 9, 2009 meeting were approved as written.

DIVISION REPORT

DIRECTOR'S REPORT – Deanna Sabey

Director Sabey said there are two bills before the Legislature. HB-61, Real Property Sales Information Disclosure, is sponsored by Representative Froerer and proposes to create a multi-county appraisal trust. The information gathered by that trust would be information provided by title companies on transactions regarding the seller's name, buyer's name, date of the real property sale, and a description of the property as well as the sales price. The trust would be allowed to share information with specific entities such as the County Assessors; State Tax Commission, and the Utah Association of Realtors.

The second bill, HB-219, Delinquent Property Tax Amendment, also sponsored by Representative Froerer, is proposed to increase the penalty on delinquent property taxes from 2% to 4%. If the delinquency is paid by a specific date, then the rate would be 2.5%.

Director Sabey mentioned the Division's website now shows the names of those we have taken action against. UtahRight.com (<http://www.utahsright.com>) has a search engine where you can put in the name of any individual and it will disclose any Division enforcement actions. Currently, this is only for real estate.

The Division's newsletter now is sent out via e-mail, and the Division is encouraging everyone to keep their accounts updated. Two of the primary reasons why people are not getting their newsletters via e-mail are because they don't have an updated address, and there is a spam filter on the account.

INVESTIGATIONS REPORT – Dee Johnson

Mr. Johnson reported there were no stipulations today.

Mr. Johnson reported in the month of December the Division received 11 complaints; screened 7 complaints; opened 6 cases; closed 8 cases; leaving the total number of Appraisal cases at 90.

Mr. Johnson said he recently came across a group called Title/Appraisal Vendor Management Association ("TAVMA"). The group is starting to publish some guidelines regarding AMCs. Enforcement is considering how they are going to approach complaints against AMCs, and this group has written a document called "Standards of Good Practice in Appraisal Management."

Mr. Johnson said Enforcement would like to propose a change to R162-106-7, Sales and Listing History. It currently reads that the appraiser shall analyze and report the listing history of the subject property. Enforcement recommends a change to add "sales and listing" history. Mr. Johnson said that our rules need to be consistent with USPAP. Vice Chair Morley said the Board was previously asked to consider three-year histories on comparables. Mr. Johnson said he believes adding the sales history is important, and if the FannieMae appraisal form is used, when someone analyzes the comparables, they are asked for sales history on the form. The Division would like to see a similar type of thing done with a three-year history on the comparables. He said that this topic would require different language and would be an entirely new rule. Mr. Johnson said that he would see nothing wrong for Utah to set the standard for the nation by this requirement.

Board Member Payne mentioned receiving correspondence from companies that want the appraiser to join an appraiser association so that they can be on a list of an association of appraisers, so the company can go out and find work for them. She is wondering if these companies are circumventing the AMCs. Mr. Johnson said the Division has received several calls and it has been expressed to him that some AMCs have preferred lists. For example, if the AMC has fifty people on their Legacy list, they might have eight people that most of the business is being rotated through. Companies have been receiving calls requesting to use only appraisers from the FHA roster that are on the approved list.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the numbers on the list today show a complete year look-back. He said that if you add the number with trainees, the drop in appraisers this last year has been 3.7%. If the trainees are excluded, the drop is 4.25% in this last year. The prior

year shows a 3.18% increase (with trainees included), and an increase of 2.97% without trainees.

Mr. Fagergren said he will give a quick comparison of the appraiser numbers to other industries. In real estate, licenses can be either active or inactive. In 2009 the number of active and inactive licensees show a drop of 10.2%. The breakdown was a drop of 10.2% in active licensees, and a drop of 11.5% in inactive licensees. In comparison, in 2008 the combined number was a drop of 4.4%, with the breakdown showing a drop in active licensees of 10.5%, and an increase in inactive licensees of 17.8%.

On the mortgage side, the combined drop of active and inactive licensees was 19.24%.

Mr. Fagergren said that CE banking for trainees is now available. Prior to January trainees will have two years worth of certificates. From this January forward, they will be able to have their CE hours banked into their accounts.

Mr. Fagergren said other states have been watching what is happening in Utah regarding the legislation of AMC rules. He presented a list to the Board showing 42 registered AMCs, and on a second list there are 12 AMCs that have submitted information that 13 are incomplete. The most common deficiency is that AMCs are not registered in our state. They must be registered with the Division of Corporations to see if the name of the company is currently available, and get a certificate of good standing from Corporations. Mr. Fagergren encouraged those in attendance today to notify the Division if they know of an AMC that is working and not licensed with us.

On the Division's website, there are now lists of pre-license courses and a separate list of CE in Excel format. There are now 357 classes of appraiser CE that are AQB approved.

The Division's newsletter is now being sent out in electronic form. There are many hyper-links in the articles that can help the reader with further information. The printable version doesn't have the hyper-links.

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

Spencer Abney, LA Candidate
Bruce Caldwell, LA Candidate
Brett Fullmer, LA Candidate
Gentry Lawson, LA Candidate
Tiffany Sheppick, CR Candidate
Thayle Wilkins, LA Candidate
Troy Anderson, CR Candidate
Rich Fresques, CR Candidate
Niels Griffith, CR Candidate

D. Christian Malmrose, LA Candidate
Russell W. Sullivan, LA Candidate

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

Mitchell D. Bell, LA Candidate
Amy Offinga, LA Candidate

Discipline List for Board's Consideration

Griffith J. Straw
Loren K. Knaphus
John W. Lang
Caleb A. Dooley
Layne J. Browning
Christopher Jon Spaulding
P. Allen Hardy

At 10:00 a.m. Judge Eklund briefly returned to see if anyone had appeared to make a public comment on Rule 106. No other comments had been submitted, so the public comment period session was closed. A motion was made to approve Rule 106 to be made effective as of February 3, 2010. The motion was passed unanimously.

COMMISSION AND INDUSTRY ISSUES

There was a question from two members of the public in attendance today. Mr. Prowell and Mr. Christensen, both from AMC Links, asked the Division and Board about licenses and the restrictions they have for accepting an assignment with transaction amounts of non-complex being \$1,000,000, and complex at \$250,000. The question is how does the AMC communicate to the licensee a transaction amount, and if they do, can this be misconstrued as trying to give them a pre-determined value. After some discussion, the decision was that AMC would not be held responsible, because it would be the appraiser's responsibility.

Ms. Jonsson said there are four rules out for public comment that were amended when we started looking into rules for trainees. We found there are other rules that needed to be updated a little to track. Changes were made to R162-101, definitions; R162-102, application procedures; R162-104, experience requirements; R162-105, scope of authority. The public comment period has passed and we have not received any comments. A motion was made to make these rule changes effective immediately. The motion passed unanimously.

Chair Smith said that next month might be a good time to clean up a few things to on some of the rules. For example, Mr. Johnson has a proposed rule for review, and has indicated there will possibly be another ready for next month. There was also quite a discussion on whether BPO's prohibited to "facilitate" or "originate" mortgage loans. The Board has agreed there are things that need to be cleaned up in the rules. It was

agreed that the Board should take two weeks to review the existing rules and discuss them with Ms. Jonsson via e-mail before the next meeting.

Board Member Payne shared an article from the Real Estate Division in Virginia regarding prohibiting any licensee who provides a valuation or analysis of real estate, such as a Broker Price Opinion for a fee in the ordinary course of business, from holding himself out as a real estate appraiser. This analysis should not be used as an appraisal performed by a certified or licensed appraiser when an appraisal is required by Federal or State law or regulation.

A motion was made and accepted to close the public portion of the meeting 10:58 a.m. and go into Executive Session.

CLOSED TO PUBLIC

Deliberation on Informal Hearing
Review of Lists

OPEN TO PUBLIC

11:40 Commissioner Training – Tony Patterson, Assistant Attorney General

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

Spencer Abney, LA Candidate
Bruce Caldwell, LA Candidate
Brett Fullmer, LA Candidate
Gentry Lawson, LA Candidate
Tiffany Sheppick, CR Candidate
Thayle Wilkins, LA Candidate
Troy Anderson, CR Candidate
Rich Fresques, CR Candidate
Niels Griffith, CR Candidate
D. Christian Malmrose, LA Candidate
Russell W. Sullivan, LA Candidate

Certified and Licensed Appraiser Applicants **Approved** by Education Review Committee **and Denied** by Experience Review Committee

Mitchell D. Bell, LA Candidate
Amy Iffubgam LA Candidate

Discipline List for Board's Consideration

Griffith J. Straw – Approved
Loren K. Knaphus - Approved
John W. Lang - Approved
Caleb A. Dooley - Approved
Layne J. Browning - Approved
Christopher Jon Spaulding – Approved

P. Allen Hardy - Approved

There was a discussion regarding sending out letters of advice and letters of warning. Ms. Jonsson met with Administrative Law Judge Masuda Medcalf to see if the Board could issue letters similar to those that are being sent out in the Division of Occupational and Professional Licensing. Judge Medcalf said DOPL's statute provides for these letters, but ours does not. We must change the statute before we can use any of these types of letters. The Board can't give themselves authority to take action; it must come from the Legislature. Ms. Jonsson said that the Appraisal statutes need an overhaul and it would be appropriate to address this issue next year. The Board may have the Division issue an Order to place a Hold on the licensee's renewal, and it must be addressed on the renewal of the license.

A motion was made and accepted to adjourn the meeting at 2:50 p.m.