

**APPRAISER LICENSING AND CERTIFICATION BOARD
HEBER M. WELLS BUILDING
ROOM 2B
March 23, 2011
9:00 A.M.
TELEPHONIC MEETING**

MINUTES

STAFF MEMBERS PRESENT

Dee Johnson, Enforcement Director
Mark Fagergren, Education/Licensing Director
Xanna Hardman, Assistant Attorney General
Jennie Jonsson, Hearing Officer
Renda Christensen, Board Secretary
Carla Westbroek, Appraisal Education/Licensing Specialist

BOARD MEMBERS PRESENT

Craig Morley, Chair
Paul Thronsen, Vice Chair
Debra Sjoblom, Board Member
Jeanette Payne, Board Member
Daniel Brammer, Board Member

GUESTS

Joel Frost	Carol Howell
Vern Meyer	Brenda Pierce
Frank Clawson	Mike Carter

The March 23, 2011 meeting of the Appraiser Licensing and Certification Board began at 9:00 a.m. with Chair Morley conducting.

PLANNING AND ADMINISTRATIVE MATTERS

A motion was made to accept the minutes from the February 23, 2011 meeting as written. Vote: Chair Morley, yes; Vice Chair Thronsen, yes; Board Member Sjoblom, yes; Board Member Payne, yes. Motion carries.

DIVISION REPORTS

DIRECTOR'S REPORT – Deanna Sabey
Director Sabey was absent for the meeting today.

ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson reported in February the Division received 4 complaints; screened 3 complaints; opened 6 cases; closed 10 cases; leaving the total number of appraiser cases at 82.

There are no stipulations to review today.

There will be disciplinary hearings scheduled for April and May. Screenings are being reviewed and will probably raise the number you will see on the report next month.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the number of licensees has slightly changed by increasing the number by 12 from last month. This is the opposite trend from the other two industries where they are declining.

Director Sabey and Mr. Johnson will be speaking at the Appraiser Institute meeting in St. George this coming Friday.

The Division received a request from Ron Smith to receive 7 hours of CE for teaching the USPAP update course. After a brief discussion, it was agreed that Mr. Smith may add himself to the roster, and issue himself a certificate. He should then post 7 hours of CE in his account.

Mr. Fagergren gave the Board an update from the review of the Appraisal Subcommittee (“ASC”) last month. One of the items they wanted the Division to do deals with how we review Mass Appraiser applications. There are two different manners in which applicants submit their appraisal applications to be advanced. Since Mass Appraisers don’t routinely complete full appraisals, there is a separate Mass Appraiser hours chart which the Board is familiar with and has approved. They submit their experience log of hours with those tasks. When Fee Appraisers submit their logs, Ms. Westbrook will chose samples from their log and request those samples be sent in for review. With Mass Appraisers there is no complete appraisal that they have completed, they are done in component pieces. The Division has never requested verification of the individual components they provide.

The ASC has advised and instructed the Division to request independent verification. Ms. Westbrook has several licensees she has sent letters to who are currently functioning as Mass Appraisers. Ms. Westbrook has randomly selected a number of samples (not exceeding ten) that require documentation. The Mass Appraiser will now be required to submit documentation. Each county has a slightly different vernacular for the terms and forms they use in their computer systems. Each county is asked to corroborate that the individual appraiser applicant did in fact, on the dates specified, complete the task they submitted on their log. The key from the ASC is that the Division must choose the sampling and request documentation showing the work had been completed.

Mr. Fagergren presented the following list to the Board:

Certified and Licensed Appraiser Applicants Approved by both Education and Experience

Review Committees:

Zach Buck, CR Candidate

Discipline List:

Patrick Manis

Chair Morley asked Mr. Fagergren if, in the Division’s meetings with the ASC, there was any indication of changes coming up, and when they will be taking effect. Mr. Fagergren said they discussed things the ASC didn’t have an answer for, such as the Dodd-Frank Act and “reasonable and customary fees.” The Division strongly encouraged the ASC to give us some

direction to figure out “reasonable and customary fees.” This is a hot-button in our state, and the Division is not an expert in knowing and doing surveys of appraiser fees throughout the state. The response from the ASC was that Utah has more or less led the way with the AMCs, and they will be looking at Utah to see how we resolve the issue. Mr. Fagergren is concerned about this being a “state issue,” and in two years when the ASC returns for another review, find out we were not doing something properly. Currently, there are no examples to use from other states. Board Member Payne suggested perhaps a committee be established to review “reasonable and customary fees.”

COMMISSION AND INDUSTRY ISSUES

Discussion: Update on Proposed Rules – Jennie Jonsson

Ms. Jonsson said in last month’s meeting the Board approved some rule amendments to R162-103. These were amendments that had been requested by the Appraisal Subcommittee at some point in the past, but had never made it through the actual rulemaking process. Those amendments were published for comment on March 15, 2011 in the Utah Bulletin. The public comment period will end on April 14, 2011 and the first possible effective date will be April 21, 2011. That date precedes the next Board meeting by a few days. The Board has the option to wait until the next scheduled meeting to make those amendments effective, or in order for them to go into effect at the first possible date, the Board can give Ms. Jonsson a motion and vote today to make them effective unless public comments are received. If public comments are received, we will have to delay the effective date until the Board has a meeting in which it reviews and discusses any public comments received. The Board has decided to review this issue at their next meeting.

Ms. Jonsson said the Division is continuing the work on the reorganization of the appraiser rules, which do include a few substantive changes. As a Division, we have had three different meetings where we have gone through this and are trying to make sure that we have not lost anything meaningful in the process of doing reorganization. We have also taken the opportunity to review some of the older rules do some reworking to hopefully bring them up to date and make them clearer. Ms. Jonsson will be sending the Board a draft next week for their review. This will mean that the old rules will be repealed and the reorganization will be filed as a new rule subject to the 30-day comment period.

Ms. Jonsson distributed two draft rules for review. Existing rule R162-104-14 is about the 19 people who met the deadline for submitting a segmented application, but then for whatever reason, did not pass the test by the December 31, 2010 deadline. The question arose as to how long they would have to pass the test and complete any additional education that might be required under the new AQB rule, prior to being required to resubmit experience for review and re-approval. The Board discussed that these people should be given six months from the date on which we put a new rule into effect. That is the language in this draft, a new provision R162-104-14(a). Vice Chair Throndsen suggested that instead of using the November 30, 2011 deadline, the amendment should give the person until December 31, 2011. Mr. Fagergren reminded the Board the rule states that a person can pass the exam, complete their education by December 31, 2011, and then have three months after that date to submit the application. After some discussion, it was decided to have Ms. Jonsson change the wording to read “pass the exam and submit a complete application by December 31, 2011.” A motion was made to amend the wording to read as above. Vote: Chair Morley, yes; Vice

Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Payne, yes; Board Member Brammer, yes. Motion carries.

There has also been discussion on amendments to the AMC rules. One of them is R162-2e-201(b) which states an AMC must register with Utah Division of Corporations and provide the Division with a certificate of existence. In R162-2e-304 the discussion was about the fees AMCs are trying to charge or pass on to appraisers, and what might be done about it. The Division has had some discussion and done some research, and what we feel like we can do without any getting into anti-trust issues or stepping into price fixing, is to require disclosure. Disclosure will delineate any fees or costs that will be charged by the AMC to the appraiser. Under R162-2e-401, Unprofessional Conduct, (f) we propose a provision that mirrors RESPA in the mortgage realm. It would be unprofessional conduct to charge an appraiser for a service not actually performed; for a fee or cost that is not accurately disclosed; or exceeds the actual cost of a service provided by a third party. A motion was made to accept the amendments to R162-2e-201, R162-2e-304 and R162-2e-401. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Payne, yes; Board Member Brammer, yes. Motion carries.

After discussing several topics, it was decided to begin the meeting in April at 8:00 a.m. instead of the original start time of 9:00 a.m. It was also decided not to hold phone meetings until these issues have been addressed. Board Member Payne suggested the topics of customary and reasonable fees; application fees being charged by AMCs; appraisers accepting more work than they can handle; and Broker Price Opinions.

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 Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Payne, yes; Board Member Brammer, yes. The motion carries. Executive Session was held from 10:27 a.m. to 10:37 a.m.

CLOSED TO PUBLIC

Consideration and Review of Lists

OPEN TO PUBLIC

The Board agreed with the Committee on their decisions:

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

Zach Buck, CR Candidate - Approved

Discipline List:

Patrick Manis - Approved

Board Member Brammer discussed HB-91, and an article in the recent Realtor magazine. The article discussed this topic on the national and state levels about real estate licensees having the authority to conduct BPOs with some saying any valuation requires a full appraisal. This bill explicitly clarifies that real estate licensees do have authority to conduct BPOs. It further clears up confusion for individuals who hold both a real estate and appraisal license, since some had argued that any appraisal licensee, even if he or she also had a real estate license, had to complete a full appraisal under USPAP. Chair Morley said there are actually some

appraisers out there who are doing BPOs, but the bigger issue is that if you have a real estate license, you have an obligation to your client to represent their interest. It would be impossible for you to act as a disinterested third-party and fulfill your fiduciary responsibility in representing their interests if you always have to wear your appraiser hat.

A motion was made to adjourn the meeting. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Payne, yes; Board Member Brammer, yes. The motion carries. The meeting adjourned at 10:43 a.m.