

APPRAISER LICENSING AND CERTIFICATION BOARD

Heber M. Wells Building

Room 210

9:00 a.m.

March 24, 2010

MINUTES

STAFF MEMEBERS PRESENT:

Deanna D. Sabey, Division Director
Mark Fagergren, Education/Licensing Director
Traci Gundersen, Assistant Attorney General
Jennie Jonsson, Hearing Officer
Jim Bolton, Investigator
Renda Christensen, Board Secretary
Carla Westbroek, Appraiser Education Coordinator
Pam Radzinski, Assistant Board Secretary

BOARD MEMBERS PRESENT:

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

GUESTS:

Matt Johnson
Ryan Sedwick
Kevin Christensen
Justin Prowell
Allen Larsen

The March 24, 2010 meeting of the Appraiser Licensing and Certification Board began at 9:00 a.m. with Chair Smith conducting.

Mr. Johnson is excused from the meeting today because he is on a medical leave. For this meeting Mr. Bolton will be representing Enforcement.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

The Minutes for the February 24, 2010 meeting were approved as written.

DIVISION REPORT

DIRECTOR'S REPORT – Deanna Sabey

Director Sabey said the Division's newsletter will be sent out at the end of this month. The newsletter will include a few articles that are appraiser related, one of which has

been prepared by Vice Chair Morley. His article reminds appraisers to notify the Division of any problem they might see out in the field, and emphasizes the importance of appraisers becoming familiar with the 2010 version of USPAP. The article further talks about appraisers having independent access to the MLS, and cautions appraisers to watch out for the difference between market value and liquidation value in today's market. There is an article on segmented application written by Mr. Fagergren, and an article on rules prepared by Ms. Jonsson.

Director Sabey wanted to make the Board aware that a national AMC group, Coester Appraisal Group, has prepared an annual vendor survey to gather information with which to build better relationships with appraisers. The data for this survey was collected from various sources including websites, press releases, e-mails, and survey monkey. They interviewed a total of 1,569 appraisers in all 50 states. Director Sabey read a statement from this article which she found interesting and said that those in attendance may agree or disagree, "One of the more popular misconceptions in the industry is that AMCs earn a huge margin by paying appraisers \$150 to \$200 while charging the borrower \$450 to \$500."

Some of the statistics that came out of the report showed that 71.1% of appraisers work for one or more appraisal management companies. The survey is available on-line if you Google "coester appraisal group annual vendor survey for 2009." The survey results show the largest AMCs are LSI (22.8%); Landsafe (19%); Rels Valuation (27.59%); Quantrex (16.1%); Solidifi (6.9%); Appraisal Port (11.5%); and Coester Appraisal Group (5.2%).

The Division bill has passed, and there will be a general summary of what it covers in the newsletter.

Chair Smith asked about the status of SB-399, Utah Common Interest Ownership Act. Director Sabey said this is a bill presented by Senator Neiderhauser. This is an adaptation of a uniform law that has been in the works for a number of years. He reported in Senate committee that he has worked with numerous groups on this bill. It was put forward quite late in the session, knowing that it wouldn't go anywhere, but he wanted to make the Business Labor Committee aware of it. He plans on doing a lot more work on the bill for the 2011 legislative session.

INVESTIGATIONS REPORT – Jim Bolton

Mr. Bolton reported in February the Division received 12 complaints; screened 7 complaints; opened 9 cases; closed 6 cases; leaving the total number of appraisal cases at 93.

There is one Stipulation to present to the Board for their review: Matthew S. Johnson. Mr. Johnson is present today to answer any questions the Board may have.

In lieu of a disciplinary hearing before the Board today, David B. Richey has agreed to stipulate with the Division. This second stipulation was presented to the Board for review. Mr. Richey is present to answer any questions the Board may have.

In the interest of disclosure, Vice Chair Morley stated that Mr. Richey's wife is Mr. Morley's brother-in-law's sister. Neither Mr. Richey nor the Division has any objection to Vice Chair Morley's participating in the consideration of the stipulation.

Chair Smith stated that Mr. Richey's sister is married to Chair Smith's cousin. Also, Monte Roberts named in the petition now works in the same office with Chair Smith, and he recognizes him as a student. Neither Mr. Richey nor the Division has any objection to Chair Smith's participating in the consideration of the stipulation.

Also, as to the stipulation of Matthew Johnson, Vice Chair Morley stated that he owns property across the street from the subject property and knows the people who own the subject property. Mr. Johnson had no objection to Vice Chair Morley's participating in the consideration of the stipulation.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the newsletter is being sent through e-mail through the address the licensee has on their account in the Real Estate License Management System ("RELMS"). There are two versions of the newsletter: electronic; and print copy. Some people want to print out the newsletter in the same format that it has always been received. Others like the electronic version with links to features referred to in the articles, and these links are not available on the hard copy version.

Another reason for licensees to keep their e-mails updated is that the Division will be sending out notices (i.e., time to renew, expired licenses, etc.) through that address. The Division does not send out junk mail, so any time a licensee sees something from the Division in the mailbox, it will be to notify them of something happening.

Mr. Fagergren mentioned that the Division and Vice Chair Morley have been invited to speak at the Appraisal Institute Symposium this weekend. Because Mr. Johnson is out on a medical leave, Mr. Bolton will be filling in to answer any questions.

During the months of April and May the Division will hold its annual Caravan. All appraiser licensees are invited to attend. There are seven cities in outlying communities that don't routinely have opportunities to hear from the Division. The licensees in the counties involved should get a postcard or letter notification of these dates, and they will be able to register electronically for the session.

Ms. Westbroek has updated the AMC list as of yesterday. The primary issue is to see who is not registered yet. Usually a phone call from Ms. Westbroek will let them know they should be registered. The Division has not seen active attempts by AMCs to try and circumvent the requirement. Most were aware but were confused on the issues.

We are still working with our IT people to have this list on the website, but until that happens, we are still on the manual approach with Ms. Westbrook preparing the list.

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

Jennifer Anderson, LA Candidate
Cory Bagozzi, CR Candidate
Jason Bushnell, CR Candidate
Randall Henderson, LA Candidate
Diana Martinez, CR Candidate
Joseph VanDenBerghe, CR Candidate

Jefferson Atwood, CG Candidate
Clinton Benson, LA Candidate
Kary Gedge, LA Candidate
Benjamin Hulet, LA Candidate
Michael C. Nelson, LA Candidate

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

Justin Cash, LA Candidate
Erin Peabody, CR Candidate

Discipline List for Board's Consideration

Robert E. Berryman, Main Control Person
Timothy David Garey, Renewal of GC License
Robert E. Snyder, Renewal of CR License
Charles Warr, Control Person
Scott Wills, Renewal of CR License

Mr. Wills was present to discuss the details of his case and answer any questions the Board asked.

A motion to go into Executive Session from 9:50 a.m. to 10:00 a.m. was seconded and approved.

Results of Executive Session

Matthew Johnson – Approved
David B. Richey - Approved

Mr. Fagergren introduced Pam Radzinski to the Board. Ms. Radzinski is doing the duties that Julie Price did previously. Ms. Price was Ms. Christensen's back-up and is now in the Division of Securities. Ms. Radzinski has transferred over from the Division of Securities. In addition to working with Ms. Christensen, she will be working with Director Sabey in performing some administrative duties, and also assisting in the mortgage review process. Chair Smith and the Board welcomed Ms. Radzinski to the Division.

COMMISSION AND INDUSTRY ISSUES

Discussion: Deadline on Segmented Applications. Chair Smith said the issue is Rule 102 that the Board passed back in 2007 allowing people to segment their applications to complete and submit the education part first, and then complete and submit the experience later. We now find a couple of years later that some people have not been able to complete their experience in a timely manner. The question is whether we want to change the rule. Vice Chair Morley and Chair Smith are on a committee to talk to these individuals and come up with a recommendation. Chair Smith and Vice Chair Morley propose amending the segmented application rule by requiring those who exceed the January 1, 2011 deadline to complete the updated AQB-approved appraiser education, but not require the additional college-level education, as long as they complete the experience by January 1, 2013.

The Division's response was presented by Mr. Fagergren. Mr. Fagergren said the only thing that was changed by the AQB new requirement was education. It didn't change the experience requirement or the exam. Those are the three components. The only one of those three affected is the education. The licensees are actually having to take the exam on old education, and this is one of the reasons that our pass rate is so low. People are trying to pass an exam that requires the new education.

Mr. Fagergren said he would like to propose the "equal treatment" argument. In the spring of 2007, there was a healthy discussion between the firm date scenario to have the option of either two years or three years for segmentation. After the discussion, the Board decided to have a three-year segmentation time period. This means that if you get your education done under the 2007 guidelines and submit your application and pay your fee, you have three additional years to meet the experience and exam requirements.

Mr. Fagergren presented the Board with numbers to explain his equal treatment argument. In 2007, 383 appraisers and trainees submitted segmented applications. Of those 383 individuals, 156 (41%) have completed the requirements. The remaining 227 individuals (59%) have not completed their segmented applications. These 227 people are in the group that the proposed rule would impact.

There are 50 licensees who have been licensed or certified since that date under the new AQB education requirements. There are 352 known pending applicants for appraiser licenses under new AQB education requirements. In adding these two numbers, we have over 400 people who have either met the new requirements or are working toward it. In addition, an unknown number of applicants are working toward certification under the new education rules. (Licensed appraisers working to become certified do not have to inform the Division up front of their certification efforts.) Mr. Fagergren pointed out that it is unfair to carve out a special rule to give 227 people an easier path to licensure while holding over 400 people to a path that, in the end, will ensure that they are better qualified.

The initial reason for the rule was experience. Because of market declining conditions people claim that they are struggling to get their work done, and they can't get the experience, so they need more time. Mr. Fagergren quoted from the AQB,

“There need not be a client in a traditional sense (i.e. a client hiring an appraiser for a business purpose) in order for an appraisal to qualify for experience, but experience gained for work without a traditional client cannot exceed 50% of the total experience requirement. Practicum courses that are approved by the AQB Course Approval Program or state appraiser regulatory agencies can satisfy the non-traditional client experience requirement. A practicum course must include the generally applicable methods of appraisal practice for the credential category.”

Mr. Fagergren stated that the proposed rule seems to benefit only the one group—the 227 who are given over five years to complete this experience. There are over 400 people who are already in the process or have met the new requirement.

A motion was made to begin the rulemaking process to reflect the proposed change to R162-102-1.1.4, Segmented Applications as outlined in Chair Smith's memo. A vote was taken and the results are: Chair Smith – Yes; Vice Chair Morley – Yes; Board Member Thronsdon – No; Board Member Payne – No; and, Board Member Sjoblom – No. The motion dies.

Report from AMC Committee – Jennie Jonsson

Ms. Jonsson briefly said that the R162-106.7 amendment to include the words “sales and” to the rule that previously required listing histories, but now requires an appraiser to look at sales and listing histories did not make it into the Bulletin on March 1, 2010. It was published on March 15, 2010. The public comment period runs until April 14, 2010 and it will be able to be made effective on April 21, 2010.

Ms. Jonsson said the AMC Rules Committee met last month. The Division has received questions from AMCs who are trying to get registered with us as to how they comply with some of the statutory provisions. They want to know how they evidence that they have a system in place to review appraisals, how many do they have to review, and what does the review have to entail.

These issues were discussed and some good input was received from the committee. The committee has started putting some language together. Some of the issues that appraisers seem to be concerned about were discussed, and these are being taken into consideration. There is nothing to present to the Board today because we are finding that we are running into problems in tying some of the provisions that are being requested by appraisers to the statute. The statute says that we can make rules to implement the statute, but we can't go beyond the statute. The committee is meeting again this afternoon to look at that and how, or if, we can take some of the issues and tie them to the statute.

Mr. Fagergren recognized Mr. Christensen and Mr. Prowell from the first AMC registered in America. They asked if they could volunteer to be on the committee. Vice Chair Morley welcomed them to the committee and said their comments would be very helpful.

Board Member Payne brought an article that was very interesting to her, "The Ultimate Solution for the Appraisal Industry," written by Tony Pistilli, Vice-Chair of the Minnesota Department of Commerce, Real Estate Appraiser Advisory Board Minneapolis, Minnesota. The article is about appraiser fees, AMC companies, banks, and mortgage companies. The appraisers are generally getting half the fee they were receiving previously. The banks or mortgage companies pass on the appraisal fee over to the AMC company, then the AMC company retains some of the fee, and passes on the remainder to the appraiser. Mr. Pistilli asks why the AMC fee can't be part of the loan originating fee, because it deals with underwriting and approving the loan. Board Member Payne asked Director Sabey if the Division could do something like this on a state level to require banks to take the AMC fees out of the loan origination fee instead of giving the entire appraisal fee to the AMC company and the AMC dividing up the fee. Vice Chair Morley answered the question by saying we tried to do this when we put the whole thing together, and he was told from Attorney General's office that it is a federal issue and that we don't have the authority to do that, which is the reason why we ended up going to just the disclosure and the reporting.

Board Member Payne referred a letter that was written by Joseph Palumbo, SRA, Director, Appraisal & Valuation Services. She is asking for some clarification on whether a relocation company needs to be registered as an AMC. Ms. Jonsson said there is a problem with our definition of AMCs. An appraisal management company is a entity that a) administers a network of appraisers to perform real estate appraisal activities from one or more clients, b) receives the request for real estate appraisals from the client and for a fee paid by that client enters into a agreement with one or more appraisers to perform the real estate activity, or c) otherwise acts as a third-party broker for appraisal services. After much discussion, it was agreed that Ms. Jonsson will call Mr. Palumbo.

A motion to go into Executive Session from 11:00 a.m. to 12:06 p.m. was seconded and approved.

CLOSED TO PUBLIC

Review of Lists

Strategy Session to Discuss Pending Litigation – Blaine Ferguson and Traci Gundersen, Assistant Attorneys General.

OPEN TO PUBLIC

The Board has agreed with the recommendations on this list.

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

Jennifer Anderson, LA Candidate
Cory Bagozzi, CR Candidate
*Jason Bushnell, CR Candidate
Randall Henderson, LA Candidate
Diana Martinez, CR Candidate
Joseph VanDenBerghe, CR Candidate

Jefferson Atwood, CG Candidate
Clinton Benson, LA Candidate
Kary Gedge, LA Candidate
*Benjamin Hulet, LA Candidate
Michael C. Nelson, LA Candidate

*Chair Smith has recused himself on Benjamin Hulet, and Vice Chair Morley has recused himself on Jason Bushnell.

The Board has agreed with the recommendations on this list.

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

Justin Cash, LA Candidate
Erin Peabody, CR Candidate

Discipline List for Board's Consideration

Robert E. Berryman, Main Control Person – Revoke the license
Timothy David Garey, Renewal of GC License - Approved
Robert E. Snyder, Renewal of CR License – Approved, but if the fine is not paid by 6/1/10 he will be scheduled to appear before the Board.
Charles Warr, Control Person – Revoke the license
Scott Wills, Renewal of CR License – Approved

A motion was made and accepted to adjourn the meeting at 12:10 p.m.