

APPRAISER LICENSING AND CERTIFICATION BOARD
HEBER M. WELLS BUILDING
ROOM 2B
August 25, 2010
9:00 A.M.
TELEPHONIC MEETING

MINUTES

STAFF MEMBERS PRESENT

Deanna Sabey, Division Director
Dee Johnson, Enforcement Director
Mark Fagergren, Education/Licensing Director
Traci Gundersen, Assistant Attorney General
Jennie Jonsson, Hearing Officer
Renda Christensen, Board Secretary
Craig Livingston, Investigator
Carla Westbroek, Appraisal Education/Licensing Specialist
Jill Childs, Assistant Board Secretary

BOARD MEMBERS PRESENT

Craig Morley, Chair
Paul Throndsen, Vice Chair
Debra Sjoblom, Board Member
Jeanette Payne, Board Member

GUESTS

Ryan Sedgwick

Board Member Brammer was traveling out of the country and was excused from the meeting today.

The August 25, 2010 meeting of the Appraiser Licensing and Certification Board began at 9:00 a.m. with Chair Morley conducting.

PLANNING AND ADMINISTRATIVE MATTERS

The Minutes for the July 28, 2010 meeting were reviewed and found to have two corrections. On page 2, under Director Sabey's report, the word "owing" should be corrected to read "owning." On page 4, under Mr. Fagergren's report, the dates for the Instructor Development Workshop should be October 18 and 19, 2010. A motion was made to approve the Minutes as corrected. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Payne, yes. The motion carries.

DIVISION REPORTS

DIRECTOR'S REPORT – Deanna Sabey

Director Sabey reported she attended the Utah Association of Appraisers Summer Symposium on August 11, 2010. It was very interesting and went over the real estate economic update for the State of Utah, and how we are progressing out of this big recession that the country has

been in. There were a number of presenters, including the Governor. His comments were very interesting and encouraging regarding the new jobs that are coming to the state. Jim Wood, Director, Economic and Business Research at the University of Utah, also was a presenter. His comments were somewhat less optimistic than the Governor's comments; however, he did see Utah starting to come out of the slump that we have been in. Mr. Wood predicted there will be a few more sluggish years ahead. Other presenters talked about the home building, retail, and office sectors. There is particularly good news in the home building sector. One commenter said that in terms of home building, we have probably reached the bottom, and that certainly plays out when you review the number of permits that are being taken out by home builders.

The office sector didn't have as good news as the home builders sector. They said that vacancies in Salt Lake County jumped to 17.3% (a six-year high), and the numbers are expected to remain high for a while. The projects that we have in the state are the City Creek Center, and the expansion of WinCo Foods.

The key to the symposium was that as more jobs come into Utah, we can expect to see the real estate industry improving. It is just starting to take that turn now.

A report titled "Increase in Mortgage Buy-Backs" was about FannieMae, Freddie Mac, and certain insurers who are pressuring the lenders to repurchase non-performing mortgages. Director Sabey is bringing this up to the Board because when there is a big push-back from investors for mortgage lenders to repurchase loans, then there is significant scrutiny of the loan package. The investors can't require the mortgage companies to repurchase the loans unless there is some reason to do so. One of the things that the investors are looking at is appraisals. Director Sabey said she believes we will see more scrutiny of appraisals that were done years ago as these investors are trying to force these mortgage companies to repurchase loans.

In July, the Appraisal Foundation severed its ties with the Appraisal Institute, and passed a resolution that said the Appraisal Institute shall be suspended as an appraisal sponsor effective September 15, 2010 and ending April 15, 2011. The Appraisal Institute is also losing its discount purchase price of these USPAP reports. This is a decision that the Appraisal Foundation made as a result of a difference of opinion between the Appraisal Institute and the Appraisal Foundation on some legislation that the Appraisal Institute was allegedly pursuing that was against the interest of the Appraisal Foundation. The Appraisal Institute is appealing the Appraisal Foundation's decision, and that hearing is going to take place on September 1, 2010.

ENFORCEMENT REPORT – Dee Johnson

Mr. Johnson reported in the month of July the Division received 7 complaints; screened 6 complaints; opened 8 cases; closed 23 cases; leaving the total number of appraisal cases at 76. The large number of cases closed was a result of two stipulations reviewed last month.

There is one stipulation today for review: Peggy McKenzie. Ms. McKenzie was offered the opportunity to attend today and has elected not to appear.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the Instructor Development Workshop will be held this year at the Park City Marriott on October 18 – 19, 2010. He invited all the Board Members to attend and learn about some of the issues as presented by two attorneys that are involved in civil and criminal litigation; hearing from two FBI agents; and, hearing from the Division.

The Division's website (www.realestate.utah.gov) has two new items that are flashing on the bottom of the Home page. They deal with trainee registration and now have two items listed which are an Appraiser Trainee Registration Renewal Form, and the Trainee Renewal Registration Deadline List. There are three pages to the renewal form, and it is to be used for any appraiser trainee who needs to renew. The list of trainees includes 572 individuals. We were concerned that these trainees might not know which category they fall into in terms of their renewal requirements.

There are three groups of trainees broken out (A, B, and C): Group A are the trainees who registered when we started doing this in September 2004 through 2007; Group B are those who registered in 2008; Group C are those who have registered in 2009 or 2010.

On the website all three groups are listed because Group A all have to renew by the end of the year (492 trainees); Group B has 29 individuals who have to renew on their anniversary date; the individuals in Group C includes 51 individuals who do not need to renew until their second year anniversary of registration.

These trainees need to remember to complete their 28 hours of continuing education. There will be an article in our newsletter that will go out in September reminding trainees of this, and we also wanted the Board and the public to be made aware.

Mr. Fagergren presented the following list to the Board:

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

Barbara J. Simper, CR Candidate

Discipline List for Board's Consideration

Robert J. Shaw, LA license renewal/reinstatement

The monthly numbers on the statistics report has remained steady with no big changes.

COMMISSION AND INDUSTRY ISSUES

Discussion: AMC Rules – Jennie Jonsson

Ms. Jonsson said last month the Board voted to move forward in the rulemaking process in both the proposed AMC rules and appraiser rules as proposed. She sent them to Administration for review and they have been approved as written. They will be published in the Utah Bulletin on September 1, 2010. The public comment period will then run until October 1, 2010, with the effective date as early as October 8, 2010. She will have more information for the Board in the September meeting as to whether or not we have received public comments. If we have received comments, we will have to let the public comment period run and then address all of the comments in the October meeting.

Chair Morley mentioned an issue that was brought to his attention. What happens when an AMC charges the consumer's credit card for authorization of an appraisal? Is there any mechanism to protect the regular consumer for unprofessional conduct that could occur where either dissemination of confidential documents or misappropriation of confidential information happens? Ms. Jonsson said the payments usually are billed through the lender or the title company and doesn't happen until the loan is funded. Chair Morley said the AMCs are collecting the money from the borrowers before the appraisal can be done. Ms. Jonsson said the Division will work on this to see what we can get together for the next meeting.

Discussion: Division Fines and Collection Process – Jennie Jonsson

There is now a provision in the statute that says if a person fails to pay a fine by a deadline that the person's license or certification is automatically, and without notice, suspended until that fine is paid. This is helping us to collect fines. For those who have not paid other fines, we have the option to send those to the Office of Debt Recovery for collection. The Division can't engage in collection activities ourselves.

Discussion: Scope of Authority for Licensed Appraisers On Vacant Land – Paul Throndsen

Vice Chair Throndsen said this topic has been generally discussed for the past several months. There was information received from appraisers in the field who were concerned about the review appraisals on undeveloped land. The appraisal was done by a certified residential but it was a land development parcel, so there were a lot of questions concerning that. In his research, Vice Chair Throndsen found that most of it comes under Breach of Authority under the statute rather than the rules. What appraisers can do relative to land is Rule 105.2 specifically that is just for licensed appraisers. The rule deals with only federally related transactions and nothing else. The only sections that deal with this under the statute are 61-2(b)-10, which deals with state licensed appraisers.

The question seems to be does a licensed appraiser have the ability up front, or even at the end of the process, to understand whether the property they are appraising needs a development analysis if it hasn't been part of their curriculum of study, knowledge, or if they even understand and allow this type of work? The purpose may be to change the statute to specifically clarify that they can do land up to a certain number of lots or a certain transaction amount to let them know their boundaries. Chair Morley said the problem is that even on a direct sales comparison approach it is difficult to effectively establish the highest and best use of a property, if the property is capable of supporting potential multiple building sites. The key is that in today's market conditions, vacant land is a complex assignment. There currently isn't something in the rules that shows them what is complex and not complex. It could be easily defined in rule as a licensed or certified residential appraiser can appraise up to four units of land.

Director Sabey said the statute is very clear as it addresses highest and best use for unimproved or vacant land if the highest and best use is for one-to-four family purposes. If it is not, then it falls outside the scope of the statute. She said that she and Ms. Jonsson would meet to discuss some proposed language for next month. Chair Morley suggested an article for the next Division newsletter might help the situation. Vice Chair Throndsen offered to write the article.

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 Thronsen, yes; Board Member Sjoblom, yes; Board Member Payne, yes. The motion carries. Executive Session was held from 10:23 a.m. to 10:33 a.m.

CLOSED TO PUBIC

Review of Stipulation
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:
Barbara J. Simper, CR Candidate

Discipline List for Board's Consideration
Robert J. Shaw, LA license renewal/reinstatement – Approved

Results of Stipulation:
Peggy McKenzie – Approved

A motion was made to adjourn the meeting. Vote: Chair Morley, yes; Vice Chair Thronsen, yes; Board Member Sjoblom, yes; Board Member Payne, yes. The motion carries. The meeting adjourned at 10:25 a.m.