

**UTAH APPRAISER LICENSING AND CERTIFICATION BOARD**

Heber M. Wells Building

Room 210

9:00 a.m.

February 26, 2014

**MINUTES**

**DIVISION STAFF PRESENT:**

Jonathan Stewart, Division Director  
Mark Fagergren, Education and Licensing Manager  
Jeffery Nielsen, Chief Investigator  
Justin Barney, Hearing Officer  
Elizabeth Harris, Assistant Attorney General  
Renda Christensen, Board Secretary  
Carla Westbroek, Appraisal Licensing

**BOARD MEMBERS PRESENT:**

Daniel Brammer, Chair  
Paul W. Thronsen, Vice Chair  
James Bringhurst, Board Member  
Kristin Coleman, Board Member  
James Bringhurst, Board Member

**GUESTS:**

Bob Schneider	Terry Coon
Vern Meyer	Bob Danehy
Robert Snider	Jake Parkinson

The February 26, 2014 meeting of the Appraiser Licensing and Certification Board began at 9:00 a.m. with Chair Brammer conducting.

**PLANNING AND ADMINISTRATIVE MATTERS**

Approval of Minutes - A motion was made to approve the minutes from both the January 22, 2013 and the Emergency Phone meeting on January 30, 2014 meeting. Vote: Chair Brammer, yes; Vice Chair Thronsen, yes; Board Member Ulibarri, yes; Board Member Coleman, yes; Board Member Bringhurst, yes. The motion passes.

**DIVISION REPORT**

**DIRECTOR'S REPORT – Jonathan Stewart**

Director Stewart introduced the new Assistant Attorney General to represent the Division of Real Estate, Elizabeth Harris. The Division has been struggling along for the past four months since Ms. DeGooyer left. We are happy to have Ms. Harris with the Division.

The Division's bill, H.B. 332 now has a first substitute. We have added a statute of limitations for all three industries. The wording copies that of the Division of Occupational and Professional Licensing which is ten years from the date of the misconduct, or four years from the date the complaint is received by the Division. Director Stewart and Mr. Fagergren contacted Neal Fenochietti, the Division's Policy Manager with the Appraisal Subcommittee, to talk about the change with him. Mr. Fenochietti was not overly concerned about a ten year of statute of limitations. Having the statute of limitations in statute would not necessarily impact our audit, unless it has a negative effect on how we manage our program.

Currently, the bill has passed the House Committee about a week and a half ago. It is now on the House floor and in the fifteenth position. It can possibly go to a Senate hearing by the end of next week.

Director Stewart and Mr. Fagergren will be speaking to the Appraisal Institute at the St. George Symposium on March 21, 2014. They will make a presentation about the Division's bill and the changes being made, and also the current trends and issues we are seeing at the Division.

In the last month's Board meeting, Director Stewart said he would speak with Barrett Slade again about the customary and reasonable fee study that he is doing. Director Stewart met with him, and he said Mr. Barrett and the UAA are moving forwarding with the study. The Division will help him getting the study out to appraisers. Rather than releasing e-mail addresses of the appraisers to Mr. Barrett, the Division will be sending an e-mail to all licenses with a link to the survey. Director Stewart advised Mr. Barrett to contact with Texas A&M and Louisiana, which is where they did the customary and reasonable fee studies, to advise them to forward those studies to the Consumer Federal Protection Bureau ("CFPB"), and also include the study he is doing with the Division. Director Stewart believes this study will help not only Utah, but all the other states to define customary and reasonable fees.

#### **INVESTIGATIONS REPORT – Jeffery Nielsen**

Mr. Nielsen reported in January the Division received 3 complaints; opened 3 cases; referred no new cases to the Attorney General's office; closed 6 cases; leaving the total number of appraiser cases at 42.

#### **Stipulation for Review**

Jack Carpenter

There is one stipulation to review this month. Mr. Carpenter was given the opportunity to appear and has chosen not to appear.

#### **EDUCATION AND LICENSING REPORT – Mark Fagergren**

Mr. Fagergren noted the statistics for January are holding steady.

Mr. Fagergren said the Division requests samples from appraisers for their log to send to an Experience Reviewer. We recently received a response from a reviewer that Mr. Fagergren wants to share with the Board. The reviewer said he reviewed the four samples sent to him and found them to generally be accurate and complete. One of the reports is a GP (general purpose report) and it does not have a certification, a scope of work, or definition of value. The reviewer was not clear if this is a violation per state code since this assignment was completed for an individual and not for a lender, and it does not state USPAP compliance. One of the reports has MLS photos and is stated as subject in the common section, and other than those deficiencies, the reports are complete and reasonable. The reviewer states that he recommends approval for the appraiser license depending upon the Board's decision regarding the general purpose appraisal report mentioned above.

Mr. Fagergren said the AQB does not require all appraisals to be for lending purposes. In fact, appraisal candidates can randomly select people for labors or voluntary appraisal reports. He left the reviewer's letter with the Board for their review.

Mr. Fagergren brought up a question from an individual that contacted him and wanted a response. This person is the chief appraiser of an AMC and his question regards the removal of appraisers from the AMC list. In a phone conversation with this person, he stated that the AMC doesn't have a list of appraisers. They use the bank's list of their approved appraisers, and the AMC doesn't have control over who is added or who is removed. Mr. Fagergren referred to the statute for AMC's which states that other than the first thirty days after an appraiser is added to this list, an AMC may not remove an appraiser from its appraisal panel or otherwise refuse to sign or request for real estate appraisal activity to another appraiser without notifying the appraiser. The chief appraiser is concerned that he can't comply with this statute.

Vice Chair Thronsdon said banks are outside our regulations, and this bank has chosen to use an AMC and their contract requires them to use the bank's appraiser list. The concern is that the bank is holding the AMC to a standard for their actions.

Mr. Barney said he has received several phone calls from AMCs asking about the recently passed rule amendment that requires an AMC to disclose if they make an assignment to one of their employees. They have to disclose that they are acting as an appraisal firm not as an AMC. The situation has come up where the AMC is owned by an appraisal firm. They are separate but legal entities. The question is if they assign out an appraisal to an individual or to a firm. If the AMC assigns the appraisal to a firm and it goes to one of the firm's employees, and the firm is us, what disclosure is required by the AMC. They can always disclose it but they are not required to under the rule as it is written. Mr. Barney asked the Board if they had any concerns on this topic.

The Board asked Mr. Barney to look at the rule to make sure that the wording is clear.

Mr. Fagergren discussed the issue of certified general education qualifying for certified residential licensing. Many of the certified general courses are longer than the certified

residential courses, yet in Utah we are the only state that requires an individual to be licensed before they become certified, we make them take residential classes. The Appraisal Qualifications Board, John Brennan, has been contacted regarding these classes. Previously, when this issue was brought before the Board, it was discussed whether appraisers in Utah should continue to be required to become licensed before becoming certified. The Board has and continues to require licensure before becoming certified. Mr. Fagergren handed out the required core curriculum for discussion. It is required that a certified general take more courses. They have to take the four certified residential courses which total 75 hours, which in three of those courses are double the time required for the residential courses. Mr. Brennan indicates there is a Q&A that says certain certified general courses can count for a certified residential qualification. Mr. Fagergren spoke to Neal Fenochietti, of the ASC, to see if it is alright to do what Mr. Brennan of the AQB supports and we are suggesting, and Mr. Fenochietti said it is up to the state. If it is up to the state then it is Mr. Fagergren's recommendation to the Board that we accept these four certified general courses as substituting for the four analogous residential courses. Mr. Fenochietti responded that this would be allowed.

Mr. Fagergren recommended to the Board that the Division would accept those courses as we have received a directive from the ASC that we can. A certified general candidate is not just qualified for general properties they are qualified to appraise residential properties as well. A motion was made to allow these changes to effectively take place under Mr. Fagergren's prevue. That will allow the general analogous courses to be allowed for licensing. This is an interim process until the statutes and rules can be put in place. Vote: Chair Brammer, yes; Vice Chair Throndsen, yes; Board Member Ulibarri, yes; Board Member Coleman, yes; Board Member Bringhurst, yes. The motion passes.

Mr. Fagergren and several investigators attended one of the first Supervisor and Trainee classes last month. Craig Morley gave the class, and it was an outstanding course. There seemed to be primarily commercial appraisers and certified generals that had trainees. The feedback from one of the trainees was that the first part of the course seemed somewhat redundant because she had just taken the 15-hour USPAP. The course requires that the federal outline for the course be included, and much of the outline that is mandated by the federal outline is somewhat duplicative. The second part was more compelling to the trainees. There are three providers that are planning on this course being six hours in length. With the discussions that were held, it was possible to add another hour to the course.

One part of the course covered the experience hours tables that all appraisers have to fill out. There are three tables: residential schedule; general schedule; mass appraiser schedule. Mr. Morley suggested some updates to the residential hour schedule. Mr. Fagergren asked those groups in attendance to review their schedules to see if there can be a consensus from the organizations. Hopefully, by next month the Division can review the responses from these groups.

The Appraisal Foundation has requested that their survey be added to the Division's next newsletter. Mr. Fagergren said the newsletter won't come out until the end of March, so the survey can be found on the Division's website. Go to the Appraisal tab, there is a link to the Appraisal Foundation survey. All licensed and certified appraisers are encouraged to take the survey to identify the tasks and competency of appraisers. The purpose of the survey will be to update the exam. The survey is due by March 26, 2014. The Division will send an e-mail to all appraisers directing them to go to the Division's website to take the survey.

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:

Leslie A. Broderick, LA candidate  
Christina B. Earnshaw, CR candidate  
Jaxson Love, LA candidate  
Brent Jason Clark, LA candidate  
Mary E. Evans, LA candidate  
Bracken Petersen, CR candidate

Discipline List:

Brian Coester, Main Control Person  
William S. Janke, New Main Control Person  
Nancy McGuire, Temporary CG applicant

There are no stipulations for review this month.

**COMMISSION AND INDUSTRY ISSUES**

**Rule Updates – Justin Barney**

Mr. Barney said the rule amending several sections having to deal with adopting the supervisory training course and also changing some of the education requirements was filed and will be available for public comment through March 17, 2014. The earliest day that it could be effective would be March 24, 2014. The Board will vote on this rule amendment during the next scheduled meeting on March 26, 2014.

**OPEN TO PUBLIC**

**INFORMAL HEARING:**

10:15 Jacob Thomas Jacobsen - Experience Review

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 Brammer, yes; Vice Chair Throndsen, yes; Board Member Ulibarri, yes; Board Member Coleman, yes; Board Member Bringhurst, yes. The motion passes. Executive Session was held from 11:28 a.m. to 12:00 p.m.

**OPEN TO PUBLIC**

## **RESULTS OF DELIBERATIONS**

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

Leslie A. Broderick, LA candidate - Approved  
Christina B. Earnshaw, CR candidate - Approved  
Jaxson Love, LA candidate - Approved  
Brent Jason Clark, LA candidate - Approved  
Mary E. Evans, LA candidate - Approved  
Bracken Petersen, CR candidate - Approved

### **Discipline List:**

Brian Coester, Main Control Person - Approved  
William S. Janke, New Main Control Person - Approved  
Nancy McGuire, Temporary CG applicant - Denied

### **Result of Stipulation**

Jack Carpenter - Approved

### **Result of Hearing**

Jacob Thomas Jacobsen – Mr. Jacobsen will be notified by mail as to the decision by the Board.

A motion was made to adjourn the meeting. . Vote: Chair Brammer, yes; Vice Chair Thronsen, yes; Board Member Ulibarri, yes; Board Member Coleman, yes; Board Member Bringhurst, yes. The motion passes. The meeting adjourned at 12:04 p.m.