

**UTAH APPRAISER LICENSING AND CERTIFICATION BOARD**

Heber M. Wells Building

Room 210

9:00 a.m.

May 15, 2013

**MINUTES**

**STAFF MEMEBERS PRESENT:**

Jonathan Stewart, Division Director  
Jeffery Nielsen, Enforcement Director  
Mark Fagergren, Education and Licensing Manager  
Ben Jensen, Hearing Officer  
Xanna DeGooyer, Assistant Attorney General  
Judith Jensen, Assistant Attorney General  
Renda Christensen, Board Secretary  
Carla Westbroek, Appraiser Education Coordinator  
Jim Bolton, Investigator  
Craig Livingston, Investigator  
Theron Case, Investigator  
Amber Nielsen, Division Staff

**BOARD MEMBERS PRESENT:**

Paul Throndsen, Vice Chair  
Jeanette Payne, Board Member  
John Ulibarri, Board Member

**GUESTS:**

Neil Jensen  
Vern Meyer

The May 15, 2013 meeting of the Appraiser Licensing and Certification Board began at 9:00 a.m. with Vice Chair Throndsen conducting.

Chair Brammer and Board Member Bringhurst are excused from the meeting this month.

**PLANNING AND ADMINISTRATIVE MATTERS**

Approval of Minutes - A motion was made to approve the minutes from the April 24, 2013 meeting as written. Vote: Vice Chair Thronsen, yes; Board Member Payne, yes; Board Member Ulibarri, yes. Motion carries.

## **DIVISION REPORT**

### **DIRECTOR'S REPORT – Jonathan Stewart**

Director Stewart reported in February of this year the Appraisal Sub Committee (“ASC”) audited the Division, and found we were out of compliance in one area. The area is in having enforcement cases older than one year. The Division has since responded in writing about the steps to correct the problem. Enforcement is screening all cases and then assigning them to investigators. Each case is assigned a classification, which shows how long the investigator has to investigate the case. Cases over one year are being equally distributed among the investigators, so that one person isn’t assigned all of the old cases. The ASC will post their final report on their website.

The Division of Consumer Protection and the Department of Commerce is having a “Declutter Day” that is sponsored by Consumer Protection. If anyone has documents that need to be shredded, old computers, electronics, or old clothing that you want to recycle, please bring it in. The address is 500 South 1550 East (Guardsman Way), and you can drop off your items from 9:00 a.m. to 6:00 p.m.

On May 13, 2013 a few changes took place in the RELMS system. These changes include: allowing a licensee to print a copy of their own license; providing a historical view of previous CE taken; updating qualifying questions; updating the USPAP rule to allow more than one course in the same renewal cycle; and, reducing the delay from RELMS to RER. Now, In renewing the license it will now take as little as 8 to 30 seconds.

Additional changes and improvements will be taking place by the end of the year. The Division received an estimate of \$50,000 to make the above changes from Utah Interactive. Director Stewart negotiated with them, and there was no fee for the Division.

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

Mr. Nielsen reported there are no statistics for review this month. The Enforcement Secretary, Allyn Stutsman, has been out for the last six weeks on medical leave. She is scheduled to return on June 3, 2013, and will compile the numbers by the meeting next month.

Mr. Nielsen said enforcement has changed things over the last few months. The Attorney General’s office is now reviewing all of our finished cases to give the Division

their opinion as to whether the case is viable in a hearing setting. There are a number of cases that are pending before the Attorney General's office at this time.

There are no Stipulations for review this month.

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

Mr. Fagergren said the Division is in the middle of its Caravan. Next week they will be leaving on Tuesday through Friday for various locations in the southern end of the state. There will be nine locations covered this year.

Some of the topics that are discussed on Caravan are customary and reasonable fees, and tax appeals. On one hand, the real estate licensees are happy about being able to do this, and the appraisers have the opposite opinion.

There are slight variations in the statistics caused by those who have failed to renew on time. They can renew late up to one year from their expiration date.

Mr. Fagergren discussed the Trainee Supervisor course. Ms. Westbroek printed off the outline to distribute today for review. The Appraisal Foundation has submitted a "Question and Answer" response to this outline. The response indicates that if the person is an existing trainee, or existing supervisor, they are not required to take this course unless the state requires it.

Mr. Fagergren is compiling a list of topics he has been given for this course beyond those covered in the outline. The two items for discussion are: 1) does the Division want everyone to take the course, and 2) how to finalize the growing outline.

Mr. Fagergren said he is willing to start a working group of six or seven, and have them come back to the Board with their suggestions. The AI, UAA and UAU would like someone from their associations on the group. The Board would like two or three of their members in the group, along with two people from the Division. Potential educators and industry members should also be added to this group.

One of the topics of discussion mentioned was live vs. on-line courses. The Division received a letter from the Tax Commission regarding this topic.

There are no Stipulations to review this month.

Mr. Fagergren submitted the following lists to the Board for their review:

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

Peggy McKenzie  
Jodi Jones

Discipline List for Board's Consideration

Lester R. Dilley  
Kenneth Robert Landgrave  
Stephen B. Wolgin

**COMMISSION AND INDUSTRY ISSUES**

Rule Updates – Ben Jensen

Mr. Jensen said he has three items to discuss today. First, would be the rule for deferment of an education waiver for active military, and state or federal natural disasters. This ASC change is effective this month. Mr. Jensen will prepare a rule for review by the Board.

The next items are two proposed rules for review regarding AMCs, and experience hours for mass appraisers. Currently, experience hours for mass appraisers requires submitting proof of required examples and samples. The change will be that work files are already required to be submitted. A motion was made to modify the R16-2g-304(d) to, specifically, require that work files are part of a submitted. Vote: Vice Chair Throndsen, yes; Board Member Payne, yes; Board Member Ulibarri, yes. The motion carries.

AMC Discussion Continued from July 25, 2012 Meeting

The second rule item is regarding the AMC rules. The Board had previously requested an audio copy of the July 25, 2012 Appraiser Board meeting for their review. Vice Chair Throndsen said after listening to the recording, it became clear at that meeting that until there is a change in the statute AMCs are to be third-party entities. If they have inside staff appraisers doing the appraisal work, it would be contrary to that statute.

Ms. DeGooyer said an AMC can't use their employees because it would conflict with the definition of the third-party as an AMC. The entity could be acting as an appraisal firm or appraisal company, if the party is licensed in that area. The entity would have to disclose in writing to the client in which role they are acting.

A discussion was held regarding this topic until a brief recess from 10:14 a.m. to 10:25 a.m. to hear the scheduled hearing.

Don Mueller brought up a topic he would like to see on the agenda for next month. He is concerned about the discrepancy in the fees for licenses between an appraiser, mortgage licensee, and a real estate agent. He believes that his fees are a tax, and is protesting the differences. Ms. Christensen will add this for discussion on the June 26, 2013 agenda.

**INFORMAL HEARING:**

10:30                    Scott Craner – Experience Review  
                              Kevin Ewell, Supervisor

Continuance of Industry Issues:

There was continuing discussion on the AMC rules.

Ms. DeGooyer stated that there are two issues. One is if the rule accurately clarifies the statutes, and the other is discussion on whether the statute may or may not need some revision.

Mr. Jensen said the statutory definition of an AMC is a third-party. The AMC can't use their own employee appraiser. If the AMC is going to use their own appraiser, they need to disclose that they are acting as an appraisal firm or an appraisal company, and not an AMC.

The employee definition comes from the Internal Revenue Service, and the Division has mirrored what is in the mortgage statute. The Internal Revenue Service also does not include an independent contractor as an employee.

Two items were added that would be unprofessional conduct. The first is a disclosure issue, and the second part further defines disclosure. If the AMC is acting in the capacity of an AMC, it is unprofessional conduct for them to use or retain an employee appraiser to complete the assignment. A motion was made to approve the rule. Vote: Vice Chair Throndsen, yes; Board Member Payne, yes; Board Member Ulibarri, yes. The motion carries.

Rels Valuation Seeking Clarification of Language within Administrative Rules and Statutes for AMCs – Neil Jensen

Mr. Neil Jensen said the original AMC regulations as created seem to present issues now as to how we they doing business. Rels Valuation has a question regarding two situations. The statute and rules say an AMC seeking a registration or renewal shall demonstrate to the Division that each person who selects an appraiser or who reviews an appraisal for the AMC is either licensed or has completed a 15-hour national USPAP

course. Rels Valuation asks the Board for clarification as to what they meant by what activity was included, and which employees are impacted by selecting an appraiser. They would like a rule change or clarification as to what it means to select an appraiser. Open discussion was held on this issue.

An appraiser who does an appraisal review probably requires a licensed appraiser, in most cases. Rels Valuation recently had discussions where there are reviews that are considered completely administrative in nature that are generally done by underwriters or clerical staff looking for the completeness of the report, rather than rendering an opinion. They would like to clarify what is involved here. The terms “adequacy” and “appropriate” were discussed.

There was discussion on compliance checks and review assignments. Mr. Fagergren said the main concern when the statute was written, was that there would be people making the selections, and there should be things other than monetary-driven decisions from companies. The person making the decision, as a minimum, should have the 15-hour USPAP course so they understand the constraints of the appraisers.

After discussions, Vice Chair Thronsdon suggested the Board and the Division prepare a questionnaire to be sent out to all AMCs as to what their practice is on the appraisal selection. Mr. Ben Jensen suggested that perhaps Mr. Neil Jensen and Rels Valuation would like to see a different education requirement in selections. Mr. Neil Jensen said Rels Valuation would like some clarification as to the intent of the statute.

#### Live vs. On-Line CE Courses

The Division received a letter from Mr. Denny Lytle, Director, of the Utah State Tax Commission as to the advantages and disadvantages of live USPAP classes as opposed to on-line course offerings. He suggests that in the interest of less regulation and broader flexibility, the Board and Division continue the current practice of approving all AQB-CAP USPAP courses, regardless of the delivery method.

The issue of on-line vs. live courses that was brought up last month did not only apply to USPAP. The concern was for those appraisers who took 20-hours of education year after year through on-line courses. Board Member Payne believes that appraisers are missing out on interaction and conversing with others about issues by only taking courses on-line. After discussion, no action was taken.

#### **CLOSED TO PUBLIC**

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:

Vice Chair Thronsdon, yes; Board Member Payne, yes; Board Member Ulibarri, yes. Motion carries. An Executive Session was held from 12:30 p.m. to 1:20 p.m.

## **OPEN TO PUBLIC**

### Results of Deliberations

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

Peggy McKenzie - Denied

Jodi Jones - Denied

#### Discipline List for Board's Consideration

Lester R. Dilley - Approved

Kenneth Robert Landgrave - Approved

Stephen B. Wolgin – Conditional approval

Scott Craner was approved to sit for the State Licensed Appraiser exam.

A motion was made to adjourn the meeting. Vote: Vice Chair Thronsdon, yes; Board Member Payne, yes; Board Member Ulibarri, yes. Motion carries.

The meeting was adjourned at 1:12 p.m.