

**UTAH APPRAISER LICENSING AND CERTIFICATION BOARD**

Heber M. Wells Building

Room 210

9:00 a.m.

October 23, 2013

**MINUTES**

**STAFF MEMEBERS PRESENT:**

Jonathan Stewart, Division Director  
Mark Fagergren, Education and Licensing Manager  
Justin Barney, Hearing Officer  
Judith Jensen, Assistant Attorney General  
Jennie Jonsson, Administrative Law Judge  
Renda Christensen, Board Secretary  
Carla Westbroek, Appraiser Licensing  
Craig Livingston, Investigator  
Theron Case, Investigator

**BOARD MEMBERS PRESENT:**

Daniel Brammer, Chair  
Paul W. Throndsen, Vice Chair  
Jeanette Payne, Board Member  
John Ulibarri, Board Member  
Kristin Coleman, Board Member

**GUESTS:**

Kris Coleman	Dayna Jardine
Joel Frost	Cory Larsen
Ric Olsen	Matthew Johnson
Jeff Sedgwick	

The October 23, 2013 meeting of the Appraiser Licensing and Certification Board began at 9:00 a.m. with Chair Brammer conducting.

Board Member Bringhurst and Jeffery Nielsen are excused from the meeting today.

**PLANNING AND ADMINISTRATIVE MATTERS**

Approval of Minutes - A motion was made to approve the minutes from the September 25, 2013 meeting. Vote: Chair Brammer, yes; Vice Chair Throndsen, yes; Board Member Ulibarri, yes. The motion passes.

**DIVISION REPORT**

**DIRECTOR'S REPORT – Jonathan Stewart**

Director Stewart announced this morning the Division received notice that the Senate had confirmed Kristin Coleman as the new Board Member to serve until 2017.

Administrative Law Judge Jonsson administered the Oath of Office to Ms. Coleman. Director Stewart welcomed Ms. Coleman to the Board.

Director Stewart presented a plaque to Board Member Jeanette Payne to thank her for her service to the Division and Board over these past four years. He also thanked her for her service in the industry.

Director Stewart said there are two items the Division has considered making changes to in the Division's bill to be submitted to the Legislature. The first change is something the Division changed in real estate two years ago, which adds a provision in statute to allow the Board to delegate authority to the Division to act on an application based only on criminal history. Any Order written by the Division can be appealed before the Board. The second item is adding that a the supervisory appraiser of a trainee must meet any of the qualifications established by the Board through rule..

Director Stewart, Chair Brammer, and Mr. Fagergren attended the AARO Conference. Director Stewart and Mr. Fagergren will give their thoughts on what was presented at the conference.

Director Stewart reported there will now be a Level 3 Investigator Training. Mr. Livingston, Mr. Bolton, Mr. Case, and Mr. Nielsen have each completed the Levels 1 and 2 training. Director Stewart has attended Level 1 training. The Level 3 training will focus on report writing and testifying. There will be one or two sessions held next year, and the Division will try and get the investigators, Mr. Nielsen, and Mr. Fagergren to attend.

The Appraisal Qualification Board ("AQB") currently has 300 approved courses on their websites. They also spoke about college programs that have been approved. There are currently eight programs that either a Bachelor's Degree or graduate degree has been approved by the AQB:

- Denver's undergraduate and Master's program;
- Virginia's Commonwealth's undergraduate program;
- Texas A&M's Master's program has been approved;
- Lehigh's undergraduate program;
- Northern Iowa's undergraduate program;
- Indiana's Master's and undergraduate program.

Anyone can look at any of these universities to see exactly what qualifies for licensing. An example would be that the course covers 60 hours of education, and the deficiency is that the student would still need the 15 hour National USPAP course.

The AQB was very specific in stating that the program as a whole was approved, not individual classes.

During discussion on this topic, having either BYU or the University of Utah attempt to have their program become AQB approved certainly help someone interested in

becoming an appraiser without having to leave the state. Vice Chair Thronsdon said BYU offers more real estate classes than the University of Utah, but currently there are no appraisal classes being taught. Chair Brammer and Vice Chair Thronsdon will each contact the universities and they will report back to the Board and Division.

The AQB discussed possible changes to the 2016-2017 USPAP include:

- Changes to the Statements. There were ten of them and now five have already been retired. There was discussion upon retiring the remaining five statements.

- Multiple appraisals. An appraiser will claim that all of the appraisals, except for the last one, was still a working appraisal or a draft and that it was not complete. When is an appraisal complete? Define a draft.

- Rules about files. Documents in the files should remain in the file until they are either superseded or changed/replaced with a new document.

- Defining/changing/clarifying terms. These terms are: verify, analyze, misleading, client, contract, agreement, and work file.

- Extending the retention period. Add a note in the file stating the five year retention schedule is not meant to be a statute of limitations.

Other topics covered were:

Appraisal Foundation members are available to speak at meetings. There is a link on their website.

Mandatory denials. Anyone with a felony, specific misdemeanor, or bad character is a means for automatic denials.

Reciprocity.

ASC audits. There will be categories regarding reciprocity audits will now be five categories.

Hotline required by Dodd-Frank. Since March 15, 2013 there have been 4,000 people who have contacted the hotline; 200 federal agency referrals; and, 600 state agency referrals. 58% of the complaints are based on USPAP compliance, and 42% are based on appraisal independence. The top five states for complaints are: California; Alabama; Texas; Kentucky; and Illinois.

There is a live update of the 2014-2015 USPAP which has been video recorded. The length is approximately 25 minutes, and will be posted on the AQB website.

The outlook for trainees shows 20% of commercial appraisers would add trainees, and less than 10% of residential appraisers would hire a trainee at this time. Some of the problems seen with trainees who don't understand "intended use" and "intended user."

Temporary practice actions now need to be posted on the National Registry.

There are a few states that said when they stipulate with a licensee or give an order that requires education, it is required to be "live" or instructor lead traditional education.

### **INVESTIGATIONS REPORT – Jonathan Stewart**

Mr. Nielsen is excused from the meeting today, and Director Stewart gave his report.

In the month of September the Division received 4 complaints; opened 15 cases; sent no cases to the Attorney General's office; closed 2 cases; leaving the total number of cases at 60.

There are no stipulations to review today.

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

Mr. Fagergren reported on several topics that were covered at the AARO conference. On the first of the year, the new CFPB requirements not only require that an appraisal must be given out to borrowers three days before closing. Any AVM or BPO must also be required to be provided to clients three days before closing.

Another point discussed was if the appraiser is looking at a new purchase contract or addenda prepared after the effective date of the appraiser's appraisal. How should an appraiser handle this? The answer is they can look at it in one of two ways: the appraiser does not have to change the effective date of their report after reviewing the new contract. However, the appraiser may have a new effective date if they choose to do this, and if they did, it would make it a new assignment where the prior contract and the new sales contract or addenda must both be analyzed.

The record keeping rule is not intended that it is a statute of limitations. Appraisers who do not retain files after the five-year retention date do so at their own risks. The ASC recommends adding this language to USPAP.

Appraiser-client communication seems to still be a problem. Two brochures are going to be made: one for the appraiser contact with the lender; also a pamphlet on appraiser real estate agent communication.

Currently, 70% of appraisers nationally do not affiliate with any professional membership organization.

The Appraiser Practices Board is going to write an article on appraiser new residential construction.

Discussion was held on having surety bonds versus recovery funds. Regulators were saying that a surety bond is troublesome. AMC's have a \$50,000 bond and they are licensed in 30 states, and if they were to close their business the bond is spread between 30 states. Comments said they have never known anyone to have a successful claim against a surety bond.

There are now two types of reporting requirements, instead of the three kinds of reports. In a restricted report the client is the only intended user. Emphasis was placed on the appraiser providing sufficient information to their client to not be misleading.

The Division has had discussions with the Board about performing reviews and bank employees, etc. A proposed rule was discussed that would clearly explain that all appraisal reviews in Utah must be performed by a credentialed appraiser, licensed or certified. If you do work in Utah, you must be licensed.

An appraiser can't perform an appraisal review on their own work.

A speaker at the convention, John Ryan – IAAO, spoke about mass appraisers. Utah is one of the few states that will allow an appraiser to receive all of their experience by way of mass appraisal experience. Mr. Ryan referred to a letter from a credentialed appraiser that had been received stating it was her experience that mass appraiser education was superior. Mass appraiser education taught the analysis for making proper adjustments. The appraiser's letter expressed that Fee appraisal education taught form completion and adjustments without thorough analysis of the basis for those adjustments. Mr. Fagergren noted that when the Division reviews mass appraiser files, they generally have much more education than is mandated by the AQB.

Currently four percent of appraisers are leaving the industry annually, while 1% are entering. These speakers were more pessimistic about this, saying there are 1,000,000 plus/minus realtors. Realtors are doing BPOs now, and if the market ever rebounds, the industry would simply not tolerate huge appraisal delays because we can't get trainees through the pipe-line. In 2012, there was \$41.5 million spent for lobbying by realtors. There was \$8.97 million spent by bankers. Good residential appraisers are becoming less relevant.

## **OPEN TO PUBLIC**

### **INFORMAL HEARING**

10:15            Jeff K. Sedgwick - Experience Review  
                     Matthew Johnson, Trainer

### **EDUCATION AND LICENSING REPORT – Mark Fagergren (Continued)**

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 Parker, LA Candidate  
Teresa Pack, LA Candidate

Certified and Licensed Appraiser Applicants Approved by the Education Review  
Committee Denied by the Experience Review Committee  
Roxann Johnson, CR Candidate

Discipline List for Board's Consideration  
J. Clyde Christensen, CR renewal  
Brian Hazlett, CR renewal

Mr. Fagergren said the committee meeting for the supervisor/trainee course meet and Ron Smith's work was presented that he has been doing on the course manual. Mr. Fagergren discussed the outline with the Board. A motion was made by the Board to accept this course material to be used as a Division standard. The instructors will provide a written copy of this material to the students. Vote: Chair Brammer, yes; Vice Chair Throndsen, yes; Board Member Payne, yes; Board Member Ulibarri, yes; Board Member Coleman, yes. The motion is approved.

## **COMMISSION AND INDUSTRY ISSUES**

### **Rule Updates – Justin Barney**

Mr. Barney reported there is a rule that has been working its way through the system that has been approved prior to this in amendment. Rule 162-2g-307(d) involves instructor certification pre-licensing education. The purpose was to insure that instructors of pre-licensing education were appropriately qualified. The change has to do with requiring the instructor to be licensed or certified in the area in which they are actually teaching, and also that they have experience in this specific topic. The change was submitted for public comment, and as of now, Mr. Barney has not received any comments. A motion was made to accept the rule as written and put it into effect. Vote: Chair Brammer, yes; Vice Chair Throndsen, yes; Board Member Payne, yes; Board Member Ulibarri, yes; Board Member Coleman, yes. The motion is approved.

Nominations were open for Chair for the upcoming 2013-2014 year. The Board voted unanimously to keep Mr. Brammer as the Chair.

Nominations were open for Vice Chair for the upcoming 2013-2014 year. The Board voted unanimously to keep Mr. Throndsen as Vice Chair.

### **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: Chair Brammer, yes; Vice Chair Throndsen, yes; Board Member Ulibarri, yes;; Board Member Payne, yes. Executive Session was held from 12:18 p.m. to 12:45 p.m.

## **RESULTS OF DELIBERATIONS**

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

Jennifer Parker, LA Candidate - Approved

Teresa Pack, LA Candidate - Approved

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

Roxann Johnson, CR Candidate - Denied

### **Discipline List for Board's Consideration**

J. Clyde Christensen, CR renewal - Approved

Brian Hazlett, CR renewal – Approved

## **OPEN TO PUBLIC**

A motion was made to adjourn the meeting. Vote: Chair Brammer, yes; Vice Chair Thronsen, yes; Board Member Ulibarri, yes; Board Member Payne, yes. The meeting adjourned at 12:48 p.m.