

UTAH APPRAISER LICENSING AND CERTIFICATION BOARD

Heber M. Wells Building

Room 210

9:00 a.m.

March 22, 2017

MINUTES

DIVISION STAFF PRESENT:

Mark Fagergren, Education and Licensing Director
Kadee Wright, Chief Investigator
Justin Barney, Hearing Officer
Elizabeth Harris, Assistant Attorney General
Che Arguello, Assistant Attorney General
Amber Nielsen, Board Secretary
Eric Stott, Real Estate Analyst
Kendelle Christiansen, Education Coordinator
Jim Bolton, Investigator
Craig Livingston, Investigator
Faruk Halilovic, Division Staff

BOARD MEMBERS PRESENT:

Kristin Coleman-Nicholl, Chair
John E. Ulibarri, II, Vice Chair
Jeffrey T. Morley, Board Member
Richard Sloan, Board Member

PUBLIC MEMBERS PRESENT:

Amanda Mendenhall
Elizabeth Stone
Mike Christensen

The March 22, 2017 meeting of the Appraiser Licensing and Certification Board began at 9:06 a.m. with Chair Coleman-Nicholl conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Administering of the Oath of Office

Mr. Barney administered the Oath of Office to Board Member Sloan.

Approval of Minutes – A motion was made and seconded to approved the January 25, 2017, February 2, 2017, and February 22, 2017 minutes as written. Vote: Chair

Coleman-Nicholl, yes; Vice Chair Ulibarri, yes; Board Member Morley, yes. The motion carries.

Public Comment Period – No public comment was made at this time.

DIVISION REPORTS

DIRECTOR'S REPORT

Director Stewart was excused from the meeting today. Mr. Fagergren reported that the Division Bill had passed and was awaiting the Governor's signature.

ENFORCEMENT REPORT – Kadee Wright

Ms. Wright reported in February the Division received 2 complaints; opened 0 new cases; closed 1 case; leaving 23 appraisal cases open with the Division. There are a total of 19 cases are now with the AG's office.

There are no enforcement stipulations for review.

EDUCATION AND LICENSING REPORT – Kendelle Christiansen

Mr. Fagergren reported in the past eleven months there has been an increase of 6 licensed appraisers, 6 fewer certified residential appraisers, and 4 more certified general appraisers, with an overall increase of 4 appraisers. He noted in the real estate industry in the first 21 days of March the Division received 183 new sales agent applications. Mr. Fagergren did note that there are 94 trainees registered.

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

Brian Free, CG Candidate
Jonathan Johnson, LA Candidate

Disciplinary List

Kim A Jenkins, CR Renewal
Jonathan Johnson, LA Applicant

Mr. Fagergren presented a disciplinary list of individuals approved for licensing by the Division since the last meeting.

Mr. Fagergren presented on the issue of trainee inspections. Last month, Rick Lifferth sent an email regarding the inspection requirements for trainees which Mr. Fagergren circulated to the Board. Ms. Wright and Mr. Fagergren spoke at a conference in St George at the Appraisal Institute. They asked for some opinions at the conference and received three written responses and has provided those to the Board. At the conference, the appraisers typically agreed they would like the requirement reduced.

Most of the appraisers seemed to feel the requirement could be reduced by half. Mr. Fagergren outlined the emailed responses for Marty Bodell, Mike Christensen, and Allan Payne. The responses all propose reducing the requirement by half or more. Chair Coleman-Nicholl asked the Board for their opinions and responses. Board Member Morley stated he was in favor of the proposal to reduce the requirement. He stated he was at the conference and the response was overwhelmingly in favor of reducing the requirement. He stated they needed to be a requirement; but 100 inspections seems excessive. Vice Chair Ulibarri stated that he agreed with Mr. Christensen's response. He feels the 100 inspection requirement seems needlessly burdensome. Board Member Sloan noted the requirement was not as severe when he was training. Board Member Morley stated with the 3rd Exposure Draft reducing requirements maintaining the 100 inspection requirement would be far in excess of their proposed changes, so he feels there would be plenty of support on the National Level. Chair Coleman-Nicholl stated she would like this put onto the agenda for further discussion next month.

Mr. Fagergren presented on the 3rd Exposure Draft. The draft reduces the hour requirement and offers an alternative to traditional experience through courses. He stated this is pretty complicated and he would like to hear more about this proposal.

Mr. Fagergren stated he had a conversation with a Louisiana Appraiser Investigator who stated they had an applicant who has all their experience in Utah; seemingly there is a surge of applicants who are qualifying in other states and then transferring to Utah. Mr. Fagergren discussed the Utah process of going from a trainee to licensed then certified appraiser. Mr. Fagergren discussed some more points of the qualification process. He also stated there have been some appraisers who have gone to Colorado to get licensed there and then get licensed in Utah through reciprocity. He is concerned about that trend. Chair Coleman-Nicholl stated that is very interesting and that sort of work-around would not have even occurred to her.

HEARING OFFICER REPORT – Justin Barney

Mr. Barney stated there were no licensing stipulations for review. He will present a rule update later in the agenda.

BOARD AND INDUSTRY ISSUES

Chair Coleman-Nicholl stated that Mark Vowles asked to be added to the agenda for this month. He was unable to attend and sent a letter to the Board discussing his issue. Chair Coleman-Nicholl motioned to table any discussion on this issue until Mr. Vowles can appear or present his issue to the Board. Mr. Fagergren stated that federal requirements mandate that one has to complete the education before becoming a trainee so he does not believe the Board or Division could change that requirement. Mr. Fagergren stated Ms. Christensen did not find anything in the federal requirement which would prohibit someone from accumulating experience prior to becoming a trainee. Chair Coleman-Nicholl asked if Mr. Fagergren had given that information to Mr. Vowles. Mr. Fagergren stated he had not yet done so but he would after this meeting. Chair

Coleman-Nicholl asked that Mr. Fagergren tell Mr. Vowles if he wishes to discuss this further with the Board after speaking with Mr. Fagergren that he will need to resubmit his request to be added to the agenda at a later date.

Ms. Mendenhall presented on an appraisal rule proposal regarding signatures which was sent to Director Stewart and discussed briefly by the Board last month. Ms. Mendenhall stated it came to her attention that the appraisal rule regarding signatures is much stricter than the USPAP requirement. She stated her main concern is regarding the requirement to have the digital signature be under the sole control of the appraiser. She feels this would prevent a secretary from adding a digital signature to the appraisal, which is currently common practice. USPAP allows the appraiser to grant authority to affix the signature on an assignment by assignment basis. She has presented some proposed language to the Board. Mr. Fagergren stated this rule is not meant to prevent support staff from updating reports in approved circumstances. Chair Coleman-Nicholl stated there have been cases of mortgage companies applying the appraiser's signature to reports after having been granted access to the appraiser's signature. Ms. Mendenhall stated the language would only allow for someone in the appraisal company to affix the signature. Vice Chair Ulibarri asked Ms. Mendenhall what her opinion of proper control would be. Ms. Mendenhall stated she doesn't have an exact definition but that the appraiser should be able to determine what proper control would be in their circumstances. Chair Coleman-Nicholl stated that open ended definitions give her cause for concern. She asked that Ms. Mendenhall consider how she would define proper control and asks that the Board do likewise; and Chair Coleman-Nicholl asked that this be added to the agenda next month for further discussion.

Mr. Barney reported on the proposed rule amendment on AMC Administrative Rules which was approved to be published for public comment last month. The rule was voted to be made effective September 1, 2017. Under administrative rule the rule may only become effective after a maximum of 120 days after the rule has been approved or the amendment will expire. The Division looked at drafting the effective date into the rule, however the Division determined that would be problematic. After going through the process of submitting the rule, publishing the rule for public comment, and all the various aspects of making the rule effective, the effective time will probably be a little earlier than was approved by the Board. Mr. Barney believes the rule could be effective as early as the end of June or could be made effective as late as approximately August 25, 2017. Vice Chair Ulibarri stated the late effective date was at the request of the AMCs who were in attendance at the public meeting. He asked if the AMCs will have issues with that effective date. Board Member Morley asked if the Board could just make the rule effective 120 days from the date the rule is approved. Mr. Barney stated to prevent confusion in calculating the days, he would prefer that the effective date be an actual date. Mr. Fagergren asked if the rule would need to be voted on again to be approved; and if so, if the Board could postpone approving the rule until they are at the end of the deadline. Mr. Barney discussed the deadlines and process and stated the rule cannot be approved until after the public comment period has passed.

A motion was made and seconded to change the earliest effective date which was discussed at the last meeting for that rule filing once approved to August 14, 2017.

Vote: Chair Coleman-Nicholl, yes; Vice Chair Ulibarri, yes; Board Member Morley, yes; Board Member Sloan, yes. The motion carries.

Mr. Barney stated he is working with Mr. Fagergren on some other proposed rule changes. However, those changes are not yet ready to be presented. Mr. Fagergren stated the Division had a meeting with Jared Preisler and Theddi W. Chappell to discuss the application process for approving instructors. The issue does not seem to lie in standard courses; however, there does seem to be some need for a change with individuals who are instructor or speaking at events or conferences. There was a discussion for a proposal to have a provider register to present a conference or event as an event coordinator. There was also a proposal to register the event which would last from 1 to 7 days, where the event is approved but the instructors would not individually need to be approved outside of the event approval. The fee would be based on the amount of hours being requested for the whole event. This proposed process was discussed briefly. The Board seems in favor of this change.

Board Member Morley asked if the Board or Division would like to provide input to the AQB regarding the 3rd Exposure Draft. Board Member Morley feels it would be a good idea to provide some perspective to the AQB. He stated he has spoken with members of the industry regarding 3rd Exposure Draft. Chair Coleman-Nicholl asked that Board Member Morley draft a letter which the Board could discuss and then send on to the AQB. Mr. Fagergren stated he is only seeing information that alternative tracks or practicum courses are going to be available; however, he doesn't know with the information available, whether or not those courses would be worthwhile or what the requirements for the courses would be. The logistics of presenting the Division or Board's opinion to the AQB was discussed. Mr. Fagergren stated if they wait until the meeting in the fall to present information at that time it might be too late to help form the changes. Chair Coleman-Nicholl asked that Board Member Morley draft the letter and the Board would provide input prior to the letter being sent.

TRAINING BY ASSISTANT ATTORNEY GENERAL ON ADMINISTRATIVE AND HEARING PROCEDURES

Beginning at 10:09 a.m., Assistant Attorney General Che Arguello conducted the training for the Board Members.

A motion was made and seconded to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Coleman-Nicholl, yes; Vice Chair Ulibarri, yes; Board Member Morley, yes; Board Member Sloan, yes. The motion passes.

CLOSED TO PUBLIC

An Executive Session was held from approximately 10:58 a.m. to 11:13 a.m.

OPEN TO PUBLIC

RESULTS OF EXECUTIVE SESSION

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

Brian Free, CG Candidate – Approved

Jonathan Johnson, LA Candidate – Approved

Disciplinary List

Kim A Jenkins, CR Renewal – Approved

Jonathan Johnson, LA Applicant – Approved

A motion was made and seconded to adjourn the meeting. Vote: Chair Coleman-Nicholl, yes; Vice Chair Ulibarri, yes; Board Member Morley, yes; Board Member Sloan, yes. The motion passes. The meeting adjourned at approximately 11:14 a.m.