

UTAH APPRAISER LICENSING AND CERTIFICATION BOARD

Heber M. Wells Building

Room 210

9:00 a.m.

June 28, 2017

MINUTES

DIVISION STAFF PRESENT:

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

BOARD MEMBERS PRESENT:

John E. Ulibarri, II, Vice Chair
Jim Bringhurst, Board Member
Jeffrey T. Morley, Board Member
Richard Sloan, Board Member*

*Arrived at 9:07 a.m

PUBLIC PRESENT:

Vern Meyer
Michelle Andrew*

*Appeared via telephone

The June 28, 2017 meeting of the Appraiser Licensing and Certification Board began at 9:01 a.m. with Vice Chair Ulibarri conducting. Chair Coleman-Nicholl was excused from today's meeting. Board Member Sloan was absent from the start of the hearing.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes – A motion was made and seconded to approve the May 24, 2017 minutes as written. Vote: Vice Chair Ulibarri, yes; Board Member Bringhurst, yes; Board Member Morley, yes; The motion carries.

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

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart presented some proposals for legislation next year. The Division is looking at updating Section 61-2g-501 dealing with cease and desists orders; the language in the appraisal statute is different from the language in the mortgage statute. The mortgage statute says within ten days after the service of an order they will have the right to appeal that order. The appraisal statute says ten days after receiving the order. The Division would like to have the appraiser statute changed to match the mortgage statute. In Section 61-2g-309 dealing with denial of a license, the Board currently does not have authority to put a license on probation. The Division would like to add that authority in addition to the authority to deny a license. In Section 61-2e-401 under Appraisal Management companies, there is currently not a timeframe for failing to respond to a request from the Division. In the other industries and for appraisers, they have ten days to respond to a request for documents. AMC's have the obligation to respond, but it technically doesn't say how much time they have. The Division would like to change the statute to match the other industries and also give them ten days to respond.

Director Stewart stated there are minimum standards which will be required for all AMCs in states where AMCs are regulated which have to be implemented by August 18th. We are actually ahead of most states because we already have AMC legislation and regulation in placed. There will be some changes to get from what we currently have to the minimum standard; but it won't be as extensive as some other states. Board Member Morley asked how many states are opting in to regulating AMCs. Director Stewart stated he has not heard of a state which has opted out.

ENFORCEMENT REPORT

Ms. Wright reported in May the Division received 2 complaints; opened 9 new cases; closed 0 case; leaving 43 appraisal cases open with the Division. There are a total of 7 cases now with the AG's office.

EDUCATION AND LICENSING REPORT – Kendelle Christiansen

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

Jenifer Dawes, LA Candidate
Casey Hatch, CR Candidate
Nicholas Izatt, LA Candidate
Kristin Iverson, CG Candidate
Benjamin H. Lubbers, CG Candidate
Daniel Polityka, LA Candidate
Milinda Mace, LA Candidate

Mr. Fagergren presented a list of individual who were approved for licensing by the Division since the last meeting.

Disciplinary List for Board's Consideration

Jeffrey A. Worthington, CR Renewal

Mr. Fagergren discussed the Special Event Continuing Education Proposed Rule Amendment which will be voted on later in the meeting. Mr. Fagergren asked if the Board had any questions or concerns. He went through the benefits of the new system, including the ability for a provider to offer partial credit for an event if the individual only attends a few of the classes. He stated this new system will create more work for Ms. Christiansen, but will be worth that additional work. He also briefly mentioned the other item for consideration in the proposed rule filing and asked that the Board consider how that rule should be implemented if approved.

HEARING OFFICER REPORT – Justin Barney

Mr. Barney stated there were no licensing stipulations for review.

BOARD AND INDUSTRY ISSUES

Mr. Barney turned the time over to Director Stewart to discuss the AMC Administrative rules update which is currently in the public comment period. Director Stewart stated the Board Members should have received REVAA's public comment which was also sent to the Administrative Rules Review Committee. Director Stewart was contacted by Senator Howard Stephenson who is chair of that committee and was asked some questions including was the intent was of the original rule filing, what and how were the concerns received in the first public comment period and how were they addressed, what concerns were raised in the second public comment period, and if concerns weren't addressed, why were they not addressed. Director Stewart went through all the public comment the Division received from all the AMCs and REVAA, and he drafted a response to Senator Stephenson. Subsequently, the Division was contacted by a member of that committee who recommended that the Board at least have dialogue with REVAA about the changes. Director Stewart also has spoken with Mark Schiffman who said that he is interested in helping the Board resolve some of the issues that they have and what they perceive as going on with AMCs. Director Stewart stated at this time the Board has a few options. The first is they could approve the rule as proposed (which he does not recommend). The second is to try to brainstorm some possible changes. At the meeting last month, the Board considered at least three potential changes to the rule during the closed session, which they could not vote on since it was not open to the public. He believes the Board should at least reconvene the Committee that drafted this rule; the committee would have to replace Board Member Brammer who is no longer on the Board, Jeff Nielsen who is no longer with the Division, and he believes that committee should also include REVAA. He believes they should identify the rule amendments where the Board and the AMC's are closest to agreeing, and move forward on a new rule filing with those changes. If there are additional concerns

outside of those changes, he would recommend having additional meetings to discuss those changes and come up with new language or new ways to address those concerns. Vice Chair Ulibarri asked for the Board's feelings on those suggestions. Board Member Morley asked for some clarification on Director Stewart's proposal to reform the committee and seek common ground. Director Stewart clarified that the Board could throw out some ideas of potential changes which could be discussed by the committee. Board Member Morley is in favor of Director Stewart's proposal. Vice Chair Ulibarri and Board Member Sloan stated they agreed with that. Vice Chair Ulibarri asked Ms. Andrew if she was amenable to that. Ms. Andrew stated she can't speak for REVAA, but she believes that would be okay. Vice Chair Ulibarri and Ms. Andrew briefly discussed her understanding of REVAA's concerns. Vice Chair Ulibarri asked that Ms. Andrew has Mr. Schiffman contact Director Stewart with points of common ground. Director Stewart stated if the committee is reformed the replacements should be selected now. Mr. Barney stated the other members of the original committee would need to be contacted. It was determined that Director Stewart will take the place of Jeff Nielsen as a Division representative, and Board Member Morley will take the place of Mr. Brammer as a representative of the Board. Vern Meyer of the United Appraisers of Utah stated that this issue has been discussed and considered for almost a year with members of AMCs on the committee. He stated that a national organization is now being involved because they are unhappy and have stopped the process. He stated the AMCs have said they are trying to just delay this as long as possible. He mentioned that these are just the beginning rules and there is a lot more that needs to be done with AMC rules and regulations. He stated there are still problems with AMCs not providing information required by USPAP. He suggested if the committee is going to be reformed and have an AMC organization involved, that an appraiser organization should be involved. Mr. Meyer continued to discuss the history of passing AMC rules and legislation. Mr. Meyer concluded that he is concerned if we keep letting this discussion go on, nothing will ever be accomplished. Director Stewart asked if there were any ideas the Board would like to present to the committee. Board Member Morley acknowledged Mr. Meyer's concerns and asked if a timeframe should be set, and that the Board may want to expedite the committee as much as they can. He also agrees that having members of appraiser organizations on the committee would be a good idea. Vice Chair Ulibarri asked if there were any ideas that the Board would like to look at. Director Stewart mentioned the three ideas which were discussed last month. The first was clarifying that the broadcasting rules did not prohibit a bidding process as the rule was currently drafted. There was also consideration of drawing a line where broadcasting would be prohibited but after a certain point it would be allowed so it wasn't delaying the assignment too long. Chair Coleman-Nicholl had mentioned that she wanted to clarify that AMCs can always call appraisers, nothing in the rule prohibits that. Board Member Morley brought up the concern of being unable to research prior services which the appraiser is required to disclose. He believes that they should be able to find some common ground. He discussed some of the ideas Director Stewart brought up. He also referenced REVAA's concern that the fiscal impact to AMCs was not considered. Director Stewart stated that there were some AMCs who stated implementing those changes wouldn't cost them anything and some were saying it would cost them. He also mentioned some AMCs might have been assuming that the

bidding process was prohibited, which would have made them change their structure; it is not prohibited, and it may not cause fiscal impact. Board Member Morley stated in the bidding process he would still recommend having a minimum response time. Mr. Fagergren discussed some possible concerns that AMCs may have.

Mr. Barney presented a proposed rule amendment which would change R162-2g-304c Application to Sit for the State-Certified General Appraiser Exam, R162-2g-304d Experience Hours, R162-2g-307d Continuing Education Course Registration and Certification, R162-2g-307f Instructor Certification for Continuing Education, and R162-2g-311 Scope of Authority. The changes were discussed at the last meeting. The changes would reduce the number of inspections required for an appraiser trainee to be accompanied by a supervising appraiser from 100 residential appraisals to 35 residential appraisals, including updating the language regarding an improvement. The change also allows the registration for a special event continuing education course. Director Stewart noted that the fees for the special event will be charged a larger fee for the event, because there is an advantage to registering as an event. However, the Division does not have statutory authority to add a new fee. Until next May these special events will get a discount; but at some point in the future, the fee will be adjusted since it will require more work for the Division to register these events. The change will probably be in July of next year because the fee schedule is different than the regular statutory changes.

Mr. Meyer interjected that the Board could approve the AMC rule as written and the Division could choose not to enforce those rules until the AMCs can get their systems in place.

Vice Chair Ulibarri thanked the Division for their willingness to try something new with the special event continuing education courses. He believes it is a great thing. Mr. Fagergren thanked The Appraisal Institute and Theddi Chappel and Lisa Preisler for bringing these suggestions forward. He also thanked Mr. Barney for drafting these new rules.

A motion was made to approve the rule amendment to R162-2g-304c, R162-2g-304d, R162-2g-307d, R162-2g-307f, and R162-2g-311 as written for filing to the public comment period. Vote: Vice Chair Ulibarri, yes; Board Member Bringhurst, yes; Board Member Morley, yes; Board Member Sloan, yes. Director Stewart concurs. The motion carries.

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: Vice Chair Ulibarri, yes; Board Member Bringhurst, yes; Board Member Morley, yes; Board Member Sloan, yes. The motion passes.

CLOSED TO PUBLIC

An Executive Session was held from approximately 9:49 a.m. to 10:08 a.m.

OPEN TO PUBLIC

RESULTS OF EXECUTIVE SESSION

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

Jenifer Dawes, LA Candidate – Approved
Casey Hatch, CR Candidate – Approved
Nicholas Izatt, LA Candidate – Approved
Kristin Iverson, CG Candidate – Approved
Benjamin H. Lubbers, CG Candidate – Approved
Daniel Polityka, LA Candidate – Approved
Milinda Mace, LA Candidate – Approved

Disciplinary List for Board's Consideration

Jeffrey A. Worthington, CR Renewal – Approved

A motion was made and seconded to adjourn the meeting. Vote: Vice Chair Ulibarri, yes; Board Member Bringhurst, yes; Board Member Morley, yes; Board Member Sloan, yes. The motion passes. The meeting adjourned at approximately 10:09 a.m.