

**APPRAISER LICENSING AND CERTIFICATION BOARD
HEBER M. WELLS BUILDING
ROOM 210, SECOND FLOOR**

**October 25, 2006
9:00 a.m.**

MINUTES

STAFF MEMBERS PRESENT

Derek B. Miller, Division Director
Jon R. Brown, Enforcement Director
Mark Fagergren, Licensing/Education Director
Shelley Wismer, Assistant Attorney General
Dee Johnson, Chief Investigator
Renda Christensen, Board Secretary
Carla Westbroek, Appraiser Licensing
Craig Livingston, Investigator
Jim Bolton, Investigator

BOARD MEMBERS PRESENT

Craig Morley, Chair
Lynn Christensen, Vice Chair
Holly Christensen, Board Member
Ambria Spencer, Board Member
Ronald Smith, Board Member

GUESTS

Erik Turpin

The October 25, 2006 meeting of the Appraiser Licensing and Certification Board began at 9:05 a.m. with Chair Morley conducting.

The minutes for the August 23, 2006 meeting were approved as written.

DIVISION REPORTS

DIRECTOR'S REPORT, Derek B. Miller

Director Miller said there are some changes to statutes that need to be discussed so they can be presented in the upcoming legislative session. One change would be to clarify language in the statute to make the investigative authority the same among the three Commissions/Board. There would be some minor wording that would allow the Division to subpoena witnesses and to administer oaths.

Another change to keep things consistent would be as part of a Cease and Desist order. Currently on the Real Estate side, if the Commission issues the order and it is contested, it allows the Commission to hold a hearing on the matter. It also gives the Commission authority to fine the person.

The Mortgage statutes are written to allow the Commission to take action against someone who is acting like a Mortgage broker. The Real Estate and Appraiser statutes were written long enough ago that they specifically say the Commission/Board can take action against someone who is licensed, or has applied to get a license or certified. Director Miller would like to add language in the statute that would say if the person is acting in the capacity of a Licensed or Certified Real Estate Appraiser. This would also mean adding language to the list of penalties on the list the Board can impose. Currently it is currently \$1,000 per violation in the statute, and this change would increase the fine to \$2,500 per violation which would be commensurate with the Mortgage and Real Estate statutes. In addition, Director Miller would like to add language that the Board can fine the person in the amount equal to any economic benefit or gain or profit that is derived from the violation.

Director Miller said he, Mr. Johnson and Mr. Fagergren recently attended an ARELLO conference. ARELLO is the association of state regulators for Real Estate. Director Miller sat on a panel which discussed securities law and if real estate is used as a security, should it be regulated as real estate or as a security.

Ms. Wismer said the proposed rule change. R162-105, Scope of Authority has gone through the public comment period, and if approved by the Board, was ready to be made effective. The needed change says if you had lost your license, you couldn't be a trainee for 5 years after the date of your revocation, and then it was discovered it was inconsistent with some things had been made in the statutes. This rule change would make it consistent with the statute which says 4 years after a revocation. A motion was made and passed to adopt the rule change from 5 years to 4 years.

ENFORCEMENT REPORT, Jon R. Brown

Mr. Brown said in the month of August the Division received 9 residential complaints, opened no new cases, closed no cases, screened and closed no complaints (no cases opened), leaving the number of open cases at 98 residential and 5 commercial complaints.

In the month of September the Division received 12 residential written complaints, opened 13 new cases for investigation, closed 1 residential case, screened and closed 5 cases (no cases opened), leaving the number of open case files at 110 residential and 5 commercial.

Last month Mr. Johnson, Mr. Fagergren and Mr. Bolton went to Washington, DC to attend an AARO convention. Mr. Johnson reported that Ben Henson, who is the representative from the Appraisal Sub-Committee, said the Division will be audited at the first of the year. The audit will be concerned with the actions the Division is taking, how quickly we are responding to cases being turned in, how quickly the time frame is on complaint-to-finish, and how the state operates. There are statutes currently in place so Utah is in good shape in getting ready for the 2008 changes. Mr. Johnson believes that Utah is ahead of most of the remaining states as far as conforming to the 2008 deadlines, and as far as how quickly the complaints are resolved.

There was a fraud symposium held before the AARO conference and in this symposium it showed Utah was one of the ten worst states in loan fraud. The AARO conference had to do with training for the enforcement side as well as the education side.

The Division is in the process of hiring a new appraisal investigator. Currently, Mr. Bolton is the only investigator handling the appraiser complaints. The Division is training Craig Livingston to be an appraisal investigator and get him licensed before 2008. Currently, Mr. Livingston is handling real estate cases and doing an excellent job. With having him trained on the appraiser side, it will be a benefit to help out the cases Mr. Bolton is currently handling.

Mr. Brown said this would be his last “live” appraiser board meeting before he retires on December 15th. He thanked the Board for their support and cooperation over the years. The Board thanked Mr. Brown for his years of support and wished him well on his retirement.

EDUCATION/LICENSING, Mark Fagergren

Mr. Fagergren said the conferences he has been able to attend recently have been very beneficial. It’s always good to meet those people from other states who have the same problems and concerns, and to see how these issues are being handled.

Mr. Fagergren said even though Utah looks bad when reports say we are in the top 10 states for loan fraud, the AQB holds us in high regard. There are 16 states out of 56 jurisdictions the AQB regulates that currently have letters written saying they are not in compliance and are at risk of having their states appraisers not being able to do federally regulated appraisals. Some states are being audited every year instead of every two years to make sure they keep in compliance.

Currently the Division has some rules dealing with some particular types of appraisers. An example would be an elected full-time County Assessor. These individuals, according to our rules, are given experience credit in a non-traditional manner. The Fee Appraisers accumulate their experience from performing appraisals, whereas, Assessors under certain criteria, can get experience by from “desk time.” The AQB indicated there can be no distinction between the manner in which the state accepts experience of our appraisers. Director Miller has asked Mr. Fagergren to contact the AQB and send them what our rule is and what we are trying to do so we can be in compliance. We would ask them for their recommendation before we make any changes on our rules.

LICENSE APPLICATION HEARINGS – CLOSED TO PUBLIC

10:05 Bryce K. Homer – Experience Review
Stan Craft, Free & Associates

11:18 Gregory Christensen – Application for License
Lewis Clark, Wells Fargo Bank
Both Board members Lynn and Holly Christensen wanted it in the

record that they are not related to Mr. Christensen.

REVIEW OF LISTS:

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

Curtis Anderson, LA Candidate
Chelsea Lee, CR Candidate
Emily Pedersen, LA Candidate
Jacob Griffiths, LA Candidate
Maxine Mortenson, CG Candidate
Carl Wright, LA Candidate

Certified and Licensed Appraiser Applicants Approved by Experience Review Committee, Not Approved by Education Review Committee:

Peter E. Jensen – CR Candidate

Discipline List for Board Consideration

Jake Burningham – CR Reciprocity Application
Conrad F. Dickerson – CR Reciprocity Application
Michael C. Burckhardt – CG Reciprocity Application

A motion was made to go into Executive Session from 12:06 p.m. to 12:52 p.m.

RESULTS OF EXECUTIVE SESSION

Hearing Results

Bryce K. Homer – The Board has approved to sit for the Licensed Appraiser exam.

Gregory Christensen – The Board is requesting additional information and has postponed the decision for Mr. Christensen to sit for the exam pending samples being sent in subject to review. A more detailed and descriptive letter of duties from Wells Fargo on his work has also been requested.

Discipline List for Boards Consideration

Jake Burningham – Approved
Conrad F. Dickerson – Denied
Michael C. Burckhardt – Denied

The Board has agreed with the Division’s recommendations on the following list:

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

Curtis Anderson, LA Candidate
Chelsea Lee, CR Candidate
Emily Pedersen, LA Candidate
Jacob Griffiths, LA Candidate
Maxine Mortenson, CG Candidate
Carl Wright, LA Candidate

The Board has agreed with the Division's recommendations on the following list:
Certified and Licensed Appraiser Applicants Approved by Experience Review Committee, Not Approved by Education Review Committee:
Peter E. Jensen – CR Candidate

EDUCATION/LICENSING (Continued) Mark Fagergren

Mr. Fagergren said one issue being brought up from the reviewers was the use of MLS photos. Some reviewers are questioning the reports as not being USPAP compliant. There have been two rejections indicating they have not driven by the comps, and in some cases, it contained errors and not even the correct property. Chair Morley said Fannie Mae has a supplemental standard that states you inspected all the exteriors of all the properties and comp set ups. His concern is that some appraisers are going from Utah County to Davis County and beyond, and they live 200 miles away. It would make you wonder if they really looked at the comp photos when all of the photos in the appraisal are out of the MLS. The FHA supplemental standard says that you can use an MLS photo but you have to provide the photo of the property you took in the report. Their position is that if the MLS photo is better than the one you took because of snow or something, then you can go ahead and use it as an illustration of what the property looked like when it sold, but you must also provide a copy of the photo you took to show you were there.

Mr. Christensen said often the MLS photo is being used because the person didn't go to the property. He said there are some cases where an MLS photo can be appropriate. One would be when the property had a considerable amount of improvements since they had taken the photo. Another case could be when the property was appraised two months before, it had been torn down and now was a parking lot. These show there are very limited reasons why you would use only the MLS photo.

Mr. Fagergren said the biggest challenge the Division has had is in getting work assigned and returned from reviewers. He would like more names for residential reviewers.

The upcoming newsletter will contain some good articles about appraisers and the work they do. The Instructor Development Workshop is tomorrow and the next day, and Mr. Fagergren said the Division is inviting the Board to attend.

OTHER BUSINESS

Mr. Smith said a meeting is scheduled for December 27th and wondered how many people would be in attendance. The next meeting in November is scheduled the day before Thanksgiving, but it will be a phone meeting, so it shouldn't be a problem for people to attend. It was agreed to have the December meeting a phone meeting and have the next live meeting in January.

A motion was made to adjourn at 1:33 p.m.