

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

**April 25, 2007
9:00 a.m.**

MINUTES

STAFF MEMBERS PRESENT

Derek B. Miller, Division Director
Dee Johnson, Enforcement Director
Mark Fagergren, Education and Licensing Director
Shelley Wismer, Assistant Attorney General
Renda Christensen, Board Secretary
Dave Mecham, Chief Investigator
Carla Westbroek, Appraiser Licensing
Jim Bolton, Investigator
Lesly Wastlund, Investigator

BOARD MEMBERS PRESENT

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

GUESTS

Michael Forsyth
Nathan Croxford
Lewis Clark, President, Appraisal Institute, Utah Chapter
Cindy Rogers
Emily Kligman

The April 25, 2007 meeting of the Appraiser Licensing and Certification Board began at 9:08 a.m. with Vice Chair Christensen conducting the beginning of the meeting. Chair Morley conducted the meeting after 9:15 a.m.

The minutes of the February 28, 2007 meeting were found to have a couple of errors. Where the headings are shown as "May be open to public" or "May be closed to public", Ms. Wismer pointed out that it should read "Open to public" or "Closed to public." The minutes were approved as amended.

DIVISION REPORTS

DIRECTOR'S REPORT, Derek B. Miller

Director Miller gave the Board an update on the legislative session that recently ended. SB199 has been signed by the Governor and will go into effect at the end of this month. The bill allows the Division to take more stringent action against unlicensed activity. It

also gives authority to this Board to issue fines in an amount equal to what a person may have profited by fraud. HB25 dealt with and would have added some criminal penalties, passed the House but did not pass the Senate. The main issue was where the money was coming from, and there was not an answer before the time ran out.

Mortgage fraud continues to be a problem in our state. A new report will come out this spring which shows Utah as the number one on the list for mortgage fraud. The types of fraud the Division is seeing is not just flipping a property, it's the type that is seen with organized crime. People often see mortgage as a "victimless" crime. That isn't the case as we have seen in our investigations.

Mr. Johnson said with the notoriety we are receiving the state is in the position of being a higher risk state. This means paying a premium for mortgage ranging from one-half to three-eighths of a percent. He has spoken to several investor-lenders who have told Mr. Johnson that since Utah has taken the steps they have taken and gone from registration to licensing and having a PLM to oversee transactions, the atmosphere from the mortgage market is that Utah will be a better place in the future.

Director Miller said he and Mr. Fagergren will be traveling to St. George tomorrow and Friday to speak at the Utah Association of Appraisers. This issue of fraud will be a big topic to talk about, and Mr. Fagergren will be speaking about education issues.

Director Miller said when the Division went on its Caravan 2007, he asked Mr. Johnson to create two lists covering the top five complaints in two categories; one of the most common complaints, and the second of what we are seeing in mortgage fraud scams. They didn't match at all. Director Miller said he doesn't think the Division is getting the right types of complaints. The basic type of complaint is "I called the appraiser three times and he didn't return my call and it's been two days." These complaints are part of the screened complaints the Division receives every month. Chair Morley said his office saw a loan go through with the value being approximately 150% more than the title company thought it was worth. Chair Morley asked who to complain to because they are seeing this happen often. He said the people that are involved in the types of fraud Director Miller mentioned are getting more sophisticated.

Director Miller and Mr. Johnson have been discussing this same topic. The Division needs to do something to put the brakes on. He said the way to help would be for the person seeing this type of situation to give the Division some information so we can start investigating it. Chair Morley said he has been telling people to contact the Division and in the case of a title company, they would have better resources in collecting information, like the legal description, street address, the mortgage company involved, etc.

ENFORCEMENT REPORT, Dee Johnson

Mr. Johnson said the Caravan 2007 was very well received. In Richfield, Moab, Brigham City, and Park City, after the speech on fraud, people came up to Mr. Johnson and Director Miller and said "now it makes sense why I'm receiving these offers."

The changes the Division has made in the last several months have positioned the Division to start the more serious matters. He said the Board may see fewer cases closed in the next few months, but the ones that are will be closed have been extremely serious. The Division has hired another appraiser investigator to help resolve issues.

In the month of February the Division received 7 written complaints, 2 cases were screened (no cases opened), no new cases were opened, no new cases were closed, leaving the number of open residential case files at 115 and 4 commercial cases.

In March the Division received 5 residential complaints, screened 2 cases (no cases opened), no cases were opened, and no cases were closed. The totals are 115 residential cases and 4 commercial cases.

EDUCATION/LICENSING, Mark Fagergren

Mr. Fagergren turned some time to Lewis Clark. Mr. Clark said that he and Darrin Liddell discussed several issues. Mr. Liddell works on the Appraisal Institute Chapter Board with Mr. Clark, and Mr. Liddell serves as a reviewer for the Experience Review Committee panel. Mr. Liddell wasn't able to attend the meeting today, but he met with Mr. Clark and made notes to present today to the Board and Division. The first issue is limited appraisals and the point schedule. The problem is limited appraisals no longer exist. USPAP has done away with the limited appraisals. Limited and complete labels are no longer part of USPAP and have been replaced by more flexible scope limitations. The point schedule the Division is using is based on size and type of property. Points are also based on the tasks performed. Mr. Liddell has several limited appraisals that he is currently reviewing. Some suggestions they came up with are to rewrite the regulation to reflect the new USPAP (which the Division is already working on), eliminate limited reports. Give credit based on hours claimed for any appraisal or appraisal activity. Give credit based on report type (self-contained, summary, or restricted). Reconsider credit for those who specialize in a specific type of work.

The second issue is that those seeking to become certified appraisers will have to take additional residential courses not required in most states or recommended by the AQB. The AQB as of 2008 will have four classifications. Those classifications are not in sync with Utah state classifications. Mr. Fagergren handed out a summary from the AQB that helped summarize what is being discussed.

9:50 Consideration of Proposed Settlement of Adjudicative Proceeding
Michael Forsyth
Nathan Croxford, Attorney
Cindy Rogers
Emily Kligman

LICENSE APPLICATION HEARING – CLOSED TO PUBLIC

10:30 Andrew Hansen - Experience Review
Tim Rose

OPEN TO PUBLIC

10:45 EDUCATION/LICENSING, Mark Fagergren (Continued)

Mr. Fagergren discussed the remarks made earlier by Mr. Clark and the written comments given by Mr. Liddell. The Board will take the remarks under advisement.

Mr. Fagergren thanked his staff for their work involved with getting the Caravan prepared. Mr. Fagergren thanked both Chair Morley and Board Member Smith has contributed articles for the upcoming newsletter that is currently at the printer. License numbers have grown 71 in the last year and the number of trainees has grown 134 in the last year.

Mr. Fagergren mentioned 4 proposed rules that he will be submitting to the Board. One will be a recommendation to end the segmented application approach as of January 1, 2008. The second proposed rule would give a time limit to complete the process of their application. Mr. Fagergren is suggesting two years guideline to complete the segmented approach. The third proposed rule would cover trainees and there are several options: 1) should trainees be required to take 28 hours of CE; 2) renew their registration; 3) the option of doing both CE and registration; and 4) should appraisers have to have their CE courses approved? At the end of this year it will complete a full two-year cycle for trainees and perhaps they should be required to take CE courses to renew. This would allow the Division to do on-line renewals. Director Miller suggested that at the end of the two-year term trainees would be required to take the USPAP course.

Ms. Wismer said the statute currently doesn't give the Board or the Division authority requiring CE for trainees or to renew. She said the statute gives a definition of what a trainee is, the authority to notify the Division, and the authority to specify by rule what kinds of acts they can do, but there doesn't seem to be any thing else in the statute. She will review it again and come back with a recommendation.

Mr. Fagergren said that some trainees are satisfied being a trainee and not having to do any other requirements. These trainees are not being educated and they are just out there doing the same thing every day. Chair Morley said it would be useful for trainees to have USPAP updates. This would put them either on a path to go forward or drop out.

Mr. Fagergren brought up the topic of having appraiser CE courses approved. Currently, all an appraiser has to do is take topics that are approved by the AQB. The courses aren't approved by the state. Not having courses approved is a problem for banking CE courses for on-line renewal. CE banking has been in place for one year and 6 month for mortgage and real estate. By the end of this year it will have completed a full two-year cycle so every person will be able to check the on-line account and it will tell them which classes they have taken. There is no individual verification that the Division can do on appraiser renewals.

Mr. Fagergren believes that at some point the AQB will be giving the state some scrutiny because even if the courses are approved by AQB, it is a self-determined choice. He is concerned that some of the courses are not substantive. Some appraisers are taking

“dumb down” education and these courses have been approved by either real estate or mortgage. The rule says if a course is approved for real estate or mortgage it doesn’t count for appraisers. This proposal has been submitted to the Education Committee on which Board Member Smith is the Chair and discussed at length. Their recommendation was to advance and certify courses as is currently being done in real estate and mortgage.

Vice Chair Christensen was concerned at the length of time it would take to get a course approved, and Mr. Fagergren said it now takes 30 days for approval. Currently, there is no charge to get a course approved. The Division was hoping this would help stimulate the providers to get the courses approved. In real estate and mortgage the cost is \$70 for a two year course. Director Miller suggested there be pre-approved providers in case they want to do a luncheon with speakers to give CE credit.

11:15 Discussion of Appraisal Fee Collection (Rule R162-205-1(b)

“Residential Mortgage Unprofessional Conduct”) – Ron Smith

Board Member Smith said he has spoken to appraisers state-wide and asked them what their biggest concerns were. He said that at the top of the list was getting paid for their work from mortgage brokers and the lending industry. Director Miller said the Division regulates the mortgage industry, but it doesn’t have any control over lending institutions or banks. Ms. Wismer said in the rule that Mr. Smith has cited the Division can take disciplinary action against its licensed mortgage brokers if they collect the appraisal fee from the borrower and then don’t pass it on to the appraiser.

11:30 Proposed List of Experience Review Committee

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

Cory Bagozzi, LA Candidate
Lail Chavez, LA Candidate
Garrett Hanning, LA Candidate
Paul Jenkins, LA Candidate
Justin Merrill, CR Candidate
Jake Parkinson, LA Candidate
Dustin Thompson, LA Candidate
Ryan Vincent, LA Candidate
Olivia Cassity, LA Candidate
Shannon Fisher, LA Candidate
Nikki Lee Howell, LA Candidate
Darrell E. Logan, CG Candidate
Joe Moore, LA Candidate
Andrew P. Schneider, CG Candidate
Shawn Thompson, LA Candidate

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Board Member Smith brought up the topic of how long it takes to get an application reviewed. Ms. Westbroek said the reviewers are busy and when she calls them to get their reviews, they are hesitant and only want one at a time. As a result, there are 10 reviews on her desk and she is looking for someone to review them. Mr. Smith has recommended the following names for potential Mass Appraiser experience committee:

Marlo Edwards, Wasatch County
Tim Noye, Salt Lake County
Randy Kelley, Weber County
Shinji Ichida, Weber City

On the Fee Appraiser side, Mr. Smith is proposing the following:

Bambi McConnell, Sandy
Chad Pehrson, South Jordan
Theron Case, Riverton

A motion was made and approved to add these names to the lists.

Board Member Smith was recently in Idaho and was given a copy of their Demonstration Appraisal Review Checklist. Their checklist is 2 pages, and the one being used by us currently is 7 pages. He suggested the staff review the checklist.

Ms. Wismer said one of the proposed rule changes is ready to go into effect should the Board so choose. R162-106-5, Failure to Respond to Notice has been through the public comment period. A motion was made to make the rule effective, and it passed unanimously.

Ms. Wismer said the rule on experience requirements, the changes that have to do with the Mass Appraisal, the earliest effective date would be May 9, 2007. There is also a rule in the comment period making some changes to Rule 102 on application procedures, it's mostly housekeeping changes, the earliest effective date would be May 23, 2007.

11:30 Review of Proposed Stipulations

Michael C. Forsyth
Jonathan L. Johnson

11:45 Training by Attorney General on Administrative/Hearing Procedures by
Blaine Ferguson, Assistant Attorney General

CLOSED TO PUBLIC

A motion was made to go into Executive Session from 1:50 p.m. to 2:32 p.m.

RESULTS OF EXECUTIVE SESSION

Discipline List for Boards Consideration

Charles G. Dannis - Approved

Eric J. Madsen - Approved

Joseph Marshall - Approved

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

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A motion was made to adjourn at 2:34 p.m.