

**APPRAISER LICENSING AND CERTIFICATION BOARD**

Heber M. Wells Building

Room 210

9:00 a.m.

July 28, 2010

**MINUTES**

**STAFF MEMEBERS PRESENT:**

Deanna D. Sabey, Division Director  
Mark Fagergren, Education/Licensing Director  
Traci Gundersen, Assistant Attorney General  
Jennie Jonsson, Hearing Officer  
Renda Christensen, Board Secretary  
Jim Bolton, Investigator  
Craig Livingston, Investigator

**BOARD MEMBERS PRESENT:**

Craig Morley, Vice Chair  
Paul W. Throndsen, Board Member  
Debra Sjoblom, Board Member  
Daniel Brammer, Board Member

**GUESTS:**

Jonathan Heaton  
Neil Jensen  
Bill Lifferth  
Austin Christensen  
Ryan Sedgwick

The July 28, 2010 meeting of the Appraiser Licensing and Certification Board began at 9:00 a.m. with Vice Chair Morley conducting.

**PLANNING AND ADMINISTRATIVE MATTERS**

Administrative Law Judge Masuda Medcalf administered the Oath of Office to Mr. Brammer. The Division and Board then welcomed Mr. Brammer to the Board. Board Member Brammer gave a brief history of his background. He has been in the County Assessor’s Office for five years; affiliated with Zions Bank for 6 years; past president of UAA; current president of the Utah chapter of the Appraisal Institute. Board Member Brammer is a Certified General appraiser and SRA.

Board Member Payne was not in attendance for this meeting.

Elections: A motion was made to elect Vice Chair Morley as Chair. Vote: Board Member Throndsen, yes; Board Member Sjoblom, yes; Board Member Brammer, yes. Motion carries.

A motion was made to elect Board Member Throndsen as Vice Chair. Vote: Chair Morley, yes; Board Member Sjoblom, yes; Board Member Brammer, yes. Motion carries.

#### Approval of Minutes

A motion was made to approve the Minutes of the June 23, 2010 meeting as written. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Brammer, yes. Motion carries.

### **DIVISION REPORT**

#### DIRECTOR'S REPORT – Deanna Sabey

Director Sabey informed the Board that the Wall Street Reform Act (“Act”) was signed by President Obama on July 21, 2010. The Act has some interesting implications for the appraiser industry. One of the implications is that the Act states that within 90-days after the effective date of the Act, there will be a new board to promulgate the rules with regards to the appraiser independence. At that time, HVCC will sunset. Other significant impacts this Act will have on the appraiser industry are some specific oversight powers and requirements over Appraisal Management Companies that will be very similar to the supervisory and oversight duties that the Appraiser Subcommittee now has with regard to appraisers.

Director Sabey said the Division will have to review its statutes to make sure they are in compliance with this new Act. Some of the changes are:

- AMCs must register with and be subject to supervision by a state-appraiser certifying and licensing agency.
- AMCs must verify that only licensed or certified appraisers are used for federally related transactions.
- AMCs must require that appraisals through AMCs comply with USPAP.
- AMCs must require that appraisals are conducted independently and free from inappropriate influence and coercion.
- An AMC that is a subsidiary owned and controlled by a federally regulated financial institution does not need to register with the state.
- No person who owns an AMC may have an appraisal license refused, denied, cancelled, surrendered, or revoked. Each person owning more than 10% of an AMC must submit to a background check and be of good moral character.
- AMCs will have to pay an annual registry fee to the Appraisal Subcommittee.
- The definition of an AMC only includes a company that oversees a network or panel of more than 15 appraisers in a state, or 25 or more nationally in any given year.
- States will have to give AMC reports and other information to the Appraisal Subcommittee.

In addition, the Act requires establishment of a national complaint hotline, and RESPA is amended to allow the HUD-1 to have a clear disclosure of the fee paid directly to the appraiser by the AMC and the administration fee charged by the AMC.

Currently, the Division does not provide an exemption for bank subsidiaries acting as AMCs, so the Division will have to change the statute to allow this exemption. Director Sabey mentioned that we are expecting to hear from the Appraisal Subcommittee in regards to its recommendations for changes to the Utah AMC Act.

Director Sabey said the Appraiser Foundation has made a couple of new appointments to their Board of Trustees. One of the appointments happens to be Thomas Boyer, from Coalville, Utah. He does mostly agricultural appraising, and he will have a three-year term beginning January 1, 2011.

Director Sabey brought up the new "FannieMae Seller Guide" update. This will be effective from September 1, 2010 forward. This selling guide announcement was issued June 30, 2010. FannieMae is now requiring that interior photographs of specific rooms and areas be included in the appraisal report whenever an interior inspection is performed. It states that lenders can only use appraisers who have the appropriate knowledge and experience. In addition, FannieMae does not allow USPAP flexibility, and those who lack the requisite data and experience must not be utilized. Neither the HVCC nor FannieMae may require the use of a third-party vendor.

The last point on this selling guide is that FannieMae is not prohibiting communication between the lender and the appraiser. Appropriate communication is permitted.

#### INVESTIGATIONS REPORT – Dee Johnson

Mr. Johnson said two of the three investigators were here today to answer any questions the Board may have on the two stipulations: Mr. Bolton; Mr. Livingston. The third investigator, Ken Wamsley, is out sick today.

In the month of June the Division received 10 complaints; screened 4 complaints; opened 6 cases; closed 7 cases; leaving the total number of appraisal cases at 91. Mr. Johnson commented that if the Board signs the two stipulations today, it will close a combination of 15 cases today.

There are two Stipulations to present to the Board for their review:

Dennis W. Berrett

David W. Lawley

Both of these individuals were offered the opportunity to appear today, and both have decided not to appear.

#### EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the numbers for licensees have been holding steady. He gave a one-month snapshot of test results to the Board Members. There were only ten people who had taken exams, and of the licensed-state appraiser test there were two people who took the test. One passed; one did not. On a repeat test, the individual who failed the first time passed the exam on the second time. The state-certified residential appraisers had three licensees attempt the first time, and one out of the three passed.

Both of the repeat test takers passed. The state-certified general appraisers had one person who took the test and passed it the first time. Out of these ten people testing, the most times the test had to be retaken is twice. This is generally not the case. In some instances there were people who had taken the test a dozen times.

The Instructor Development Workshop (“IDW”) this year will be held on October 18-19, 2010. There are two practicing attorneys who will be talking about fraud and other issues in our state. This workshop is for all pre-license instructors who, are required to attend at least one IDW every two years. Continuing education instructors are invited to attend, as well as all the Board members. We are also firming up having two FBI agents speak at the workshop.

Mr. Fagergren submitted the following lists to the Board for their review:

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

Michael Junkins, CR candidate	JoDee Romero, LA candidate
Robert L. Lockhart, LA candidate	Weston Lemon, CR candidate
David Mortimer, CR candidate	

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

Thomas Eatchel, LA candidate  
Kade Fullmer, CR candidate

Discipline List for Board’s Consideration

Scot Rose, Main Control Person, Urban Lending Solutions Appraisal, LLC  
Brad Thompson, CG Reciprocity

COMMISSION AND INDUSTRY ISSUES – Jennie Jonsson

Rule Updates

Ms. Jonsson said we have been working on rules in the appraiser and AMC arena. These proposed rules have been discussed previously and were in the Minutes for last month. A brief review was done, and a motion was made to accept the changes to R162-101 and R162-102 as submitted, and submit them for public comment. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Brammer, yes. Motion carries.

The proposed changes to the AMC Rule 101 through Rule 401 covered what had been previously discussed in the meeting last month. A brief review was given to remind those in attendance of the proposed changes. No comments were made and no changes were made.

The Division has some serious concerns In Rule 401, Unprofessional Conduct, regarding indemnification. Ms. Gundersen was asked to research this issue with the Attorney General’s Office. The issue is whether or not to make it unprofessional conduct for an AMC to require an appraiser sign an indemnification agreement. The

concern from the Division was if this was within the scope of the underlying statute. Ms. Gundersen cited case law and stated the statute must support the Administrative rules. The current statute has two subsections relevant to this discussion. One of the subsections states that an AMC can not cause undue influence in the development of the appraisal report. The Division felt it would be impossible to enforce this issue. The second subsection states that a violation of the previous subsection includes one or more of the following for a purpose listed in subsection one. This ties it back to the purpose of the development, reporting, or review of an appraisal. The Division believes this rule is not legal and is not supported in the underlying statute, and goes outside the scope and the intent of the statute. The recommendation of Ms. Gundersen is not to add this section involving indemnification in the rule for unprofessional conduct. Director Sabey concurred with this recommendation.

Ms. Jonsson said in the Division's research on this issue, all of the states investigated have handled this situation by statute. A motion was made to approve the changes made up to section 401(f). Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Brammer, yes. The motion carries.

A separate motion was made on section 401(f). A motion was made to have the Division add this section (f) to the statute, Section 61-2e-307(1). Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Brammer, yes. The motion carries.

The meeting took a brief break from 10:00 until 10:10.

### **OPEN TO PUBLIC**

#### INFORMAL HEARINGS

- 10:10            Dwight Anjewierden – Experience Review  
                    Mr. Fagergren knows Mr. Anjewierden personally, and has recused himself from this hearing.
- 11:12            John Jeffrey May – Experience Review

### **CLOSED TO PUBLIC**

Motion to hold an Executive Session. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member, yes. Chair Morley read into the Minutes, "I hereby affirm that the sole reason for closing part of the meeting was to discuss the character, professional competence, or physical and mental health of an individual." An Executive Session was held from 12:17 p.m. to 1:11 p.m.

Review of Stipulations

Review of Lists

Deliberation of Hearings

Strategy Session to Discuss Pending Litigation – Blaine Ferguson and Traci Gundersen, Assistant Attorneys General.

**OPEN TO PUBLIC**

- 1:13 Shawn Bandley – Experience Review
- 2:15 Discussion on the stipulations presented today.

**CLOSED TO PUBLIC**

Motion to hold an Executive Session. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member, yes. Chair Morley read into the Minutes, “I hereby affirm that the sole reason for closing part of the meeting was to discuss the character, professional competence, or physical and mental health of an individual.” An Executive Session was held from 2:28 p.m. to 2:51 p.m.

**OPEN TO PUBLIC**

Results of Stipulations:

Dennis W. Berrett - Approved  
David W. Lawley – Approved

The Board has agreed with the following list:

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

Michael Junkins, CR candidate	JoDee Romero, LA candidate
Robert L. Lockhart, LA candidate	Weston Lemon, CR candidate
David Mortimer, CR candidate	

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

Thomas Eatchel, LA candidate - Approved  
Kade Fullmer, CR candidate - Approved

Discipline List for Board’s Consideration

Scot Rose, Main Control Person, Urban Lending Solutions Appraisal, LLC - Approved  
Brad Thompson, CG Reciprocity – Schedule for a hearing.

A motion was made to adjourn the meeting. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member, yes. The meeting adjourned at 2:52 p.m.