

APPRAISER LICENSING AND CERTIFICATION BOARD

Heber M. Wells Building

Room 210

9:00 a.m.

September 22, 2010

MINUTES

STAFF MEMEBERS PRESENT:

Deanna D. Sabey, Division Director
Dee Johnson, Enforcement 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
Jill Childs, Assistant Board Secretary

BOARD MEMBERS PRESENT:

Craig Morley, Chair
Paul W. Thronsen, Vice Chair
Debra Sjoblom, Board Member
Jeanette Payne, Board Member
Daniel Brammer, Board Member

GUESTS:

Bill Lifferth
Niel Jensen
Austin Christensen
Vern Meyer

The September 22, 2010 meeting of the Appraiser Licensing and Certification Board began at 9:00 a.m. with Chair Morley conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes

A motion was made to approve the Minutes of the August 25, 2010 meeting as written. Vote: Chair Morley, yes; Vice Chair Thronsen, yes; Board Member Sjoblom, yes; Board Member Payne, yes; Board Member Brammer, yes. Motion carries.

Chair Morley asked Mr. Fagergren if those in attendance today as guests would be able to receive continuing education. Mr. Fagergren said the person could only get four hours of credit in any given year for attending Board meetings, but he would check into this and report back next month.

DIVISION REPORT

DIRECTOR'S REPORT – Deanna Sabey

Director Sabey said last month she reported that more and more lenders are being required by investors to look at repurchasing loans. The most reviewed issue is the appraisal. This month she found an article written by Richard Sorenson, "Developing the Appraisal Review Opinion," in the Appraisal Journal, September 2010 issue. The article has a twelve-step list for a review appraiser to look at to see if there is compliance both with regulatory requirements and appraisal standards. Mr. Sorenson has also written a book, Appraising the Appraisal, published by the Appraisal Institute.

Director Sabey gave the Board an update about the rift between the Appraisal Institute and Appraisal Foundation. There was a hearing held on September 1, 2010 by the Appraisal Foundation to discuss the change in sanctions that the Appraisal Institute received from the Appraisal Foundation last year. The sanctions were revised so there was a shorter time of suspension. However, the Appraisal Institute was unwilling to accept the revised sanction, and withdrew as a sponsoring organization to the Appraisal Foundation.

The Division has been working on the Division bill for 2011. There won't be the sweeping revisions we saw last year, but there will be a few changes for real estate and mortgage. The appraiser statute will have changes made to the Appraisal Management Companies. The Division will be working with Representative Froerer to fine tune the changes.

Proposed changes to AMC statute:

- Include provisions found in the real estate, mortgage and appraisal statutes for:
 - Increased penalties for violating the law to maximum \$5,000 per violation;
 - Automatic suspension for bounced checks or other methods of payment that is not honored;
 - Automatic revocation of registration if criminal background check reveals failure to disclose criminal history involving a felony or misconduct in the appraisal industry or appraisal management industry;
 - Review procedure for application of an individual who fails to accurately disclose a criminal history other than a felony or misconduct in the appraisal industry or appraisal management industry; and
 - Suspension as the penalty for failure to comply with the fine or education requirements of an order.

- Give the Division concurrent rulemaking authority with the Appraisal Board.
- Add concurrence of the Division with the Appraiser Board for decisions.
- Give the Division the authority to extend a registration past the expiration date if more time is needed to process the renewal or if the Division is pursuing an investigation.
- Revise the definition of AMC to be more accurate.
- Prohibit an AMC from requiring an appraiser to indemnify the AMC against liability except liability for errors and omissions by the appraiser.

Chair Morley suggested that the Division might consider charging for enforcement costs related to investigating a case. Mr. Johnson said that currently in both real estate and mortgage, we can charge for the costs of copying, etc. Chair Morley said Nevada has the ability to add the costs of investigations to a case. The money then would go back into their division instead of the general fund. Director Sabey said she would look into this and report back next month.

Chair Morley asked what type of statutory adjustments the Division will have to make to come in compliance with the Frank-Dodd Act (Wall Street Reform Act), and Director Sabey told him that it will be at least a year before the actual mechanics take place. Fortunately, with our AMC statute set up, AMCs are already regulated through the Appraiser Board instead of being under the Division of Occupational Licensing (DOPL). One place where our statute might present an issue is that we do not currently exempt bank subsidiaries from having to be registered AMCs, and under the Wall Street Reform Act that exemption does exist.

Chair Morley said the Appraiser Institute and the UAA met yesterday and covered the topic of Broker Price Opinions (BPOs). They would like to meet with the UAR and see if they can reach a consensus that they can bring to the Division to more clearly specify what an appraisal is, and what is a BPO. Chair Morley said they would like to see the language in the statute reflect the language in USPAP, and use the same terminology to eliminate confusion and any problems associated with it.

Director Sabey said that in the Wall Street Reform Act there is a specific definition for a Broker Price Opinion. The Division's newsletter that will be coming out at the end of the month will have an article on this topic.

INVESTIGATIONS REPORT – Dee Johnson

Mr. Johnson wanted to compliment the appraiser investigators, because in the last two months they have closed almost 30 cases and opened 19 cases.

Two of our appraiser investigators went to the national training courtesy of the Appraisal Foundation. They both reported both Level 1 of the training was an excellent program.

Mr. Johnson reported in the month of August the Division received 14 complaints; screened 5 complaints; opened 11 cases; closed 6 cases; leaving the total number of appraiser cases at 81.

There were no stipulations to review.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the statistics seem to be remaining constant. There is a migration up from licensed to certified residential appraisers.

We have received a report from January through August 17, 2010 on appraiser testing. For the most part, our licensing applicants have not met the educational requirements in place since January 1, 2008. Many of those being examined have been approved under the segmented approach and are being tested as if they have had more education than they really have. This contributes to the low pass rates for our appraiser examinations. After January 1, 2011 the exam pass rate should increase since there will no longer be segmented applications.

These results are for first-time test takers:

Licensed appraisers: 22 tested, 17 passed (77%), repeat test takers: 37%

Certified residential: 20 tested, 11 passed (55%), repeat test takers: 76%

Certified generals: 5 tested, 2 passed (40%), repeat test takers: 41.5%

Mr. Fagergren brought up R162-104-7, Review or Supervision of Appraisals. Our appraisers meet their hours for experience in the three experience charts listed in the rule: residential work; general work; mass appraiser/ad valorem. Another avenue for people to get experience credit hours is in performing appraisal reviews. In Rule 104.7 it states, "Review appraisers will be awarded experience credit when the appraiser has performed technical reviews of appraisals prepared by either employees, associates or others, provided the appraisal complied with USPAP Rule 3 when the appraiser was required to comply with the rule." The rule continues on to say that for a desk review, the person only gets 30% of the credit that the original appraiser received for performing the work. If they do a field review or a physical inspection they can get up to 50% of the credit the original appraiser received.

The last rule 104.7.5 was created for Division and other state employee investigators to receive experience credit. They are not subject to the hour limitations listed in the previously mentioned sections of the rule. An individual who works for a government agency has submitted an application and indicated that he is not subject to the limitations expressed in the above rule. He is reviewing appraisals, and said that because he works for a government agency, he is exempt. Mr. Fagergren told him that the limitation only refers to those doing investigations. He told this individual that he would discuss this situation with the Board and Director to get feedback for him. This rule will only allow the person to get up to 500 hours, and he will have to obtain the

additional 500 hours needed somewhere else. The Board reviewed this situation and has agreed with Mr. Fagergren's opinion.

The newsletter will be coming out at the end of the month and it will highlight the segmented deadline, and that trainees will have to renew. As of today, there are over 500+ people that need to renew, and we have not received one renewal form. These trainees will all need to renew by the end of the year. The Division will be sending out a renewal notice approximately six weeks before renewal. Director Sabey suggested that we send out two notices, with the second one two months before the deadline.

Mr. Fagergren reminded the Board that the Instructor Development Workshop will be held on October 18-19th at the Park City Marriott.

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 Bell, LA Candidate

William K. Cole, Jr., CR Candidate

Kimberly G. Hansen, CR Candidate

Ron Ketchoyian, CR Candidate

Dan Joel Chidester, LA Candidate

John Evans Hafen, LA Candidate

Guy L. Pearce, LA Candidate

Deboreena S. Swasey, CR Candidate

COMMISSION AND INDUSTRY ISSUES – Jennie Jonsson

Rule Updates

Mr. Jonsson said the appraiser and AMC rules approved last month are out for public comment until October 1, 2010, with the effective date October 8, 2010. We haven't received any comments. If the Board wishes to give Ms. Jonsson a motion and vote today, she can make the rules effective on October 8th unless we receive public comments. A motion was made: subject to receiving no public comments by October 1, 2010, these rules can be made effective on October 8, 2010. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Payne, yes; Board Member Brammer, yes. Motion carries.

Ms. Jonsson said the AMC rules have been reworked into our statutory format and several changes have been made throughout. We have received one comment. It has to do with the unprofessional conduct section that states that an AMC may not order a BPO to facilitate a loan transaction. The individual requests that the word "facilitate" be changed to "originate" to track with the Wall Street Reform Act. This will have to be addressed by the Board after the public comment period ends.

Ms. Jonsson has a draft regarding the valuation of lands, but since we are running behind for our hearing, we can discuss it next month. She passed out a draft for the Board to review.

Chair Morley granted a recess before the hearing from 10:00 to 10:07 a.m.

OPEN TO PUBLIC

INFORMAL HEARINGS

10:10 Brad Thompson

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 on Hearings

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

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 11:05 a.m. to 11:34 a.m.

OPEN TO PUBLIC

The Board has agreed with the following list:

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

Michael Bell, LA Candidate

William K. Cole, Jr., CR Candidate

Kimberly G. Hansen, CR Candidate

Ron Ketchoyian, CR Candidate

Dan Joel Chidester, LA Candidate

John Evans Hafen, LA Candidate

Guy L. Pearce, LA Candidate

Deboreena S. Swasey, CR Candidate

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 11:39 a.m.