

APPRAISER LICENSING AND CERTIFICATION BOARD

Heber M. Wells Building

Room 210

9:00 a.m.

February 24, 2011

MINUTES

STAFF MEMEBERS PRESENT:

Deanna Sabey, Division Director
Dee Johnson, Enforcement Director
Mark Fagergren, Education/Licensing Director
Xanna Hardman, Assistant Attorney General
Jennie Jonsson, Hearing Officer
Renda Christensen, Board Secretary
Carla Westbroek, Appraisal Education/Licensing Specialist
Jim Bolton, Investigator
Craig Livingston, Investigator
Ken Wamsley, Investigator

BOARD MEMBERS PRESENT:

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

GUESTS:

Jenny Tidwell, Appraisal Policy Manager, ASC
Alice M. Ritter, Legal Counsel, ASC
Neal Fenochietti, Appraisal Policy Manager, ASC
Ron Smith
Jim Wells
Bill Lifferth
Niel Jensen
Jake Strickland

The February 24, 2011 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 for the January 26, 2011 meeting. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Brammer, yes; Board Member Payne, yes. Motion passes.

DIVISION REPORT

DIRECTOR'S REPORT – Deanna Sabey

Director Sabey reported the Division's bill, HB-91, has two additions. These were done at the suggestion of the industry, not the Division. One addition is to allow a dual licensee who is both an appraiser licensee and a real estate licensee to do Broker Price Opinions if they are doing so in the scope of their duties acting as a real estate licensee. The second addition is a clause that allows the Board to discipline Appraisal Management Companies for violation of the Dodd-Frank Act's customary and reasonable fee provisions. That federal citation is made in addition to the legislation.

HB-91 cleared the House yesterday, and passed out favorably from the Senate Business and Labor Committee. It is now on its way to the Senate floor and we are expecting it to be finalized and ready for the Governor's signature within the next couple of weeks.

During the last monthly meeting, Director Sabey reported on two bills that might be of interest to the Board and the public. Representative Froerer's HB-225, Condominium and Community Association Amendments, got stuck in House Committee and it doesn't look like it will be moving at this late date. HB-185, Representative Froerer's Disclosures for Commercial Property Transactions, has been passed out favorably from the House Business and Labor Committee, and has been circled on the floor at this particular point in time.

Director Sabey took a minute to explain to the Board and those in attendance today, how a bill becomes a law. The Utah State Legislature's website (le.utah.gov) has a citizen's guide where a selection can be made from the menu to direct the reader to a specific site. The website is a good resource for understanding the process of how a bill becomes a law.

Director Sabey distributed a copy of the Appraisal Foundation's manual entitled, "State Appraiser Regulatory Agency Board Member Training, October 2010." This represents a joint effort between the Appraisal Foundation, the Appraisal Subcommittee, and AARO to provide guidance and information to Appraiser Board members. The section with tabs was not printed, so if the Board members are interested, they can go to the Appraisal Foundation's website (www.appraisalfoundation.org) to find it, or just give Director Sabey a call and she will help them find what they are looking for.

INVESTIGATIONS REPORT – Dee Johnson

Mr. Johnson said the Division's appraisal investigators, Jim Bolton, Craig Livingston, and Ken Wamsley, are in attendance today. He wanted to compliment them on keeping the number of cases at almost manageable level.

Mr. Johnson reported in January the Division received 8 complaints; screened 9 complaints; opened 9 cases; closed 5 cases; leaving the total number of appraisal cases at 86.

The complaints that are being received now are generally old appraisals that are just now getting turned into the Division. The source of the complaints the Division is receiving are coming from everywhere. There was a time when we received many from lenders, and now the complaints are coming from clients complaining, lenders, etc. There has only been one complaint received on an AMC, and that has not given us anything to take action on.

There are no stipulations to review today.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the statistics for January show the drastic change in trainees from 579 in February 2010 to 125 in January 2011. This number includes the 50 licensees who have renewed and 75 licensees that were in the categories A and B that will need to renew this year or next.

The Division has required continuing education audits for on-line renewals. As part of our preparations for this review we pulled the records for the last two years to confirm that licensees accurately reported appraisal CE hours at their renewal. Upon review, there have no appraisers who have not had the required CE hours. Mr. Fagergren complimented the integrity of our appraiser licensees.

The Division has now received the statistics from our testing provider, and Mr. Fagergren gave a breakdown for the year 2010:

1 st time test takers:	59% LA	49% CR	73% CG
Repeat test takers:	37% LA	49% CR	50% CG
Overall pass rate:	48% LA	49% CR	62% CG

There were 106 test takers in 2010 receiving licenses, and there were 205 exams taken.

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

Andrew W. Hansen, CG Candidate
Gentry Lawson, CR Candidate
Jake Strickland, CR Candidate
Jacoba Larsen, LA Candidate
Justin T. Peterson, CR Candidate

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

Don Chavis, CR Candidate

Discipline List for Board's Consideration
Jeff Lingmann, CR Candidate

COMMISSION AND INDUSTRY ISSUES

Rule Updates – Jennie Jonsson

Ms. Jonsson said HB-91 proposes to reorganize the appraiser statute so that related information will be grouped into sections. Now that this process is almost complete, Ms. Jonsson has been working on a draft of the appraiser rules to track with the statute numbering. The draft is being reviewed by Mr. Fagregren and Mr. Johnson who are carefully reviewing it to make sure that nothing has been lost in translation. The draft should be ready within the next month or so. It does incorporate some of the substantive changes that the Board has requested recently.

The Division became aware of a problem that happened two years ago. When the ASC was here for their last review, they found a couple of rules they felt needed to be amended. It looks like the Board did review the amendments at that time, and they had been approved. From what can be pieced together, it appears the amendments had never been submitted to the Division of Administrative Rules to proceed through the public comment period. Ms. Jonsson has prepared a draft of the changes that recreates what was approved by the Board two years ago. Board Member Sjoblom, Vice Chair Throndsen, and Chair Morley have previously voted to approve these changes. After Ms. Jonsson gave the Board a summary of the changes, a vote was taken to re-approve these changes. A motion was made to accept these rule changes and have them go through the public comment process. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Payne, yes; Board Member Brammer, yes. Motion carries.

Report from Appraisal Subcommittee – Jenny Tidwell

Ms. Tidwell gave an overview of who the Appraisal Subcommittee (“ASC”) is and why they are here. She complimented the Division on having an excellent staff and said they are a pleasure to work with. The Appraisal Subcommittee is one of the smallest federal government agencies around with a staff of ten staff members. The ASC meets once a month to make decisions on behalf of the Committee, and then the staff carries out their decisions. The ASC is currently made up of members of the banking agencies and one member from HUD. Dodd-Frank is a bill that was passed in July of 2010 and it amended Title 11. The membership of the ASC is now currently in transition of being updated to that membership mandated. It has received a member from the Federal Housing Financing Agency, and will also be receiving a member from the Bureau of Consumer Financial Protection once that agency becomes functional. The ASC will end up with seven members.

The ASC was created by Title 11 and was given four main functions: maintain the national registry (www.asc.gov); monitor the Appraisal Foundation (www.appraisalfoundation.org); oversee state regulatory agencies; and, conduct regular compliance reviews.

After completing the review, the report will be based on seven areas and will be discussed with both the Board and the staff. The ASC asks that, within 60-days the state respond back to that letter with thoughts on the findings and what the agency intends to do regarding them. The ASC's preliminary letter and report and the state's response letter are then presented to the Appraisal Subcommittee at their next regular meeting. The ASC makes the final decisions about the findings regarding the state program.

Ms. Tidwell reviewed their findings and spoke about each area, and asked for feedback. The last regular compliance review took place in February 2009, and at that time, there were findings in two areas: rules and regulations, and enforcement. Ms. Tidwell will now talk about what the findings were in those areas from the previous field review, and then what the findings are currently.

Statutes and Regulations. The Utah regulatory program has been in general compliance for a long time. The only thing out of compliance was the wording in the regulations and Ms. Jonsson has already touched on how these are being fixed. The Division has been following the correct AQB criteria as far as issuing continuing education and those types of things. After the previous field review, amendments were drafted the needed amendments and the Board adopted them. The Division's response back to the ASC mentioned that these regulations had been adopted. When the reviewers arrived on-site, they realized that they had not been all the way through the process to be finalized.

There are no other findings regarding the state's statutes and regulations, and everything looks good. Statutes and rules have to be in compliance with Title 11, ASC policy statements, AQB minimum qualification criteria, and they have to enforce USPAP. With the Dodd-Frank changes there will be some additional things, but currently we are not holding states responsible for any of those. The state will receive ample notice of when we will start holding states responsible for the different areas that Dodd-Frank has amended. Director Sabey has already identified one of those areas which is the federal preemption for bank-owned AMCs.

Temporary Practice. In compliance.

National Registry. In compliance.

Application Processing. In compliance.

Continuing Education Audit Process. In compliance.

Reciprocity. In compliance.

Education. In compliance.

Enforcement. In the last review two years ago, there was some concern regarding timeliness and documentation. The ASC examined well over 70 files to make sure that investigations were appropriate and complete. Ms. Tidwell said they are definitely here to brag about the improvement that is seen. In every case that was reviewed, identification of violations was handled thoroughly, appropriately, and consistently. It was felt that the sanctions that were doled out were appropriate for the offenses and were consistent among cases. They were quite impressed with the number of spin-off cases created as a result of investigations. There were no concerns in any other area regarding the spin-off cases that were created. The files were well documented in everything that the reviewers needed to see. In each case all of the evidence was there, meticulously maintained, the quality of the enforcement program was there and the Division is doing a great job. Ms. Tidwell said they are passing on congratulations to Mr. Johnson and his staff for a strong enforcement program.

The review was for quality, timeliness, and ability to track cases. One of the federal requirements on timeliness is that, absent certain documented circumstances, complaints received should be processed, handled, and disposed of within one year. The ASC cited the state for a lack of timeliness in the review two years ago, and this review shows a definite marked improvement in timeliness. To be specific on numbers, when the ASC was here in 2009, there were 106 outstanding complaints and 30 of those were over one year old. Looking at the picture today, there are 96 outstanding complaints, and approximately 22 of those respondents (not complaints) are over one year old. Based on what was seen, it appears that given time, that backlog will be eliminated and the Division will be processing cases within the one year. There will always be those cases that are held up for reasons that are beyond your control. Those are taken out of the equations.

As far as tracking the cases, keeping up with compliance, where they are, what process they are in, what the final disposition is, noting the national registry on what that disposition is, Ms. Tidwell said the Division is doing a fantastic job.

Ms. Tidwell said that she will recommend in her report to send staff and/or Board members to AARO conferences. Up until a couple of years ago, Utah was always present at the ARRO conferences. The ASC would like to see you there again.

Chair Morley asked if there was ever an enforcement matrix developed, and Ms. Tidwell said that it has been and is on their website. It is voluntary and a lot of work went into putting this together and should only get better with use.

Chair Morley asked if other states have backlogs in their investigations. Ms. Tidwell said they review approximately 25 states per year. This past fiscal year they have findings of 15 states (out of 55 jurisdictions) that had timeliness issues. This has gone up, because the year before that there were only five states with timeliness issues. With the economy issues we are having, states are receiving more complaints and getting further behind.

Vice Chair Throndsen thanked Ms. Tidwell for letting the Board know what a great job the Division is doing. He thanked the Division and staff for doing a good job.

CLOSED TO PUBLIC

Motion to hold an Executive Session. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Brammer, yes; Board Member Payne, 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 11:20 a.m.

Review of Lists

OPEN TO PUBLIC

The Board has **approved** the following lists:

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

Andrew W. Hansen, CG Candidate - approved
Gentry Lawson, CR Candidate - approved
Jake Strickland, CR Candidate - approved
Jacoba Larsen, LA Candidate - approved
Justin T. Peterson, CR Candidate - approved

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

Don Chavis, CR Candidate – agreed with denial

Discipline List for Board's Consideration

Jeff Lingmann, CR Candidate - approved

A motion was made to adjourn the meeting. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Brammer, yes; Board Member Payne, yes. The meeting adjourned at 11:21 a.m.