

**APPRAISER LICENSING AND CERTIFICATION BOARD
HEBER M. WELLS BUILDING
ROOM 210
June 27, 2012
9:00 A.M.
TELEPHONIC MEETING**

FOR REVIEW ONLY

MINUTES

STAFF MEMBERS PRESENT

Jonathan Stewart, Division Director
Mark Fagergren, Education/Licensing Director
Jeffery Nielsen, Chief Investigator
Xanna Hardman, Assistant Attorney General
Jennie Jonsson, Hearing Officer
Renda Christensen, Board Secretary
Carla Westbroek, Appraisal Education/Licensing Specialist
Craig Livingston, Investigator
Amber Nielsen, Assistant Board Secretary

BOARD MEMBERS PRESENT

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

GUESTS

Neil Jensen	Thomas Gray
Carol Howell	Ford Scalley
Vern Meyer	Mitch Brooks
Kristin Coleman	Mark Megehee

The June 27, 2012 meeting of the Appraiser Licensing and Certification Board began at 9:00 a.m. with Chair Morley conducting.

PLANNING AND ADMINISTRATIVE MATTERS

A motion was made to accept the minutes from the May 23, 2012 meeting as written. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Payne, yes; Board Member Brammer, yes. Motion carries.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart said the Division is waiting for Senate confirmation on the new Board Members. The Senate doesn't meet in July, so it may take until August before we get confirmations.

The Division posted two investigators positions yesterday. We are losing one real estate investigator and one mortgage investigator. The postings will be open for two weeks.

Director Stewart said that Mr. Nielsen will be going to Scottsdale, Arizona today, and will be attending the Appraisal Foundation Investigator Training. The Division has been talking about coming up with a matrix for appraisal investigations to identify what types of investigations are egregious, and what kind of violations are less egregious. The matrix will help us be consistent in how we investigate and settle each case.

Recently in the news, there was an article on Appraisal Loft (AMC) being fined \$855,000 for failing to pay Arizona appraisers. This company's bankruptcy is the main reason that Utah now requires AMCs to hold a surety bond. The article stated that a Phoenix judge fined the defunct appraisal management company, Appraisal Loft, \$855,000 for failing to pay Arizona appraisers at least 171 times within the past 18 months. The company shut its doors in October, and owes over \$3 million in property valuation invoices. Appraisal Loft failed to pay Arizona appraisers for completed work within 45-days as required by Arizona state law. The House recommended that the Arizona Board of Appraisers fine Appraiser Loft \$5,000 for each violation and revoke the company's license as an AMC. The Board is scheduled to review this recommendation at its July 13, 2012 meeting. In a separate matter, the same company founder entered a settlement agreement in 2011 to refund \$1.5 million of his earnings from a Ponzi scheme.

Chair Morley asked if there were any outstanding complaints against Appraisal Loft in Utah. Mr. Livingston said no complaints have come in after the fact. Director Stewart said that Utah does not have the same rule to pay appraisers within 45 days. Ms. Hardman said that Utah has no language regarding payments in the rules. The statute has a provision that says an AMC can't withhold payment in order to influence a report in order to force a value. If that intent can't be proved, there is insufficient basis pursue an action. Chair Morley suggested that we do something to get this written in rule in light of this recent case.

ENFORCEMENT REPORT – Jeffery Nielsen

Mr. Nielsen said in May the Division received 13 complaints; opened 4 cases; closed 4 cases; leaving the number of appraisal cases at 62 between our investigators.

A few weeks ago, Mr. Nielsen and several investigators met with people from the Consumer Financial Protection Bureau ("CFPB"). The CFPB is trying to get an idea of what types of cases we are seeing in Utah. We discussed the problems created by legislation in the Dodd Frank Act regarding reasonable and customary fees. CFPB said that within the next few months there will be some clarification in rule, and also some further guidance in this issue.

There is one stipulation for the Board to review today: Thomas R. Gray. Mr. Gray and his attorney are present today if there any questions from the Board on this stipulation.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the statistics show the licensing numbers are stable.

In recurring conversations from various parties who call the Division, the question has come up on whether or not a company's employees can render a non-appraisal report for internal purposes, and whether or not these employees need to be licensed. When answering these questions, Mr. Fagergren referred to the statute on where a license is required. 61-2g-301(2) lists some exemptions on when a person needs to be licensed. In paragraph B, it states that an employee stating an opinion of value or preparing a report containing value conclusions relating to real estate or real property, solely for the company's use, is an exemption. Companies also ask about reviews. In paragraph 3 of this same statute there is an exception for reviews used internally. Under these exemptions, neither the report nor the opinion of value may be referred to as an appraisal.

Mr. Fagergren explains to callers that an exempt report is for the sole purpose of the company's internal decisions. If the company was to sell a loan to FannieMae or FreddieMac based in part upon an employee's work, the employee would need to be licensed or certified. Note that this exempt experience would not qualify toward an individual later becoming licensed or certified.

Mr. Fagergren wanted to make sure that the answers he is giving out on this topic are the same as the Board might give. The Board was in full support of his answers.

The Division received a notice from HUD that an appraiser was sanctioned with removal from the FHA appraisal roster for a period of 12 months. This action is a result of deficiencies noted in the review of one or more appraisals performed for FHA insured financing. Effective June 15, 2012 he will not be eligible to perform appraisals for FHA. He may again become eligible for appraisals upon the expiration of this action, but no sooner than June 15, 2013. The Division has brought this matter to the attention of the Board, and asked if they want the Division to take any action against this person. The response was to have the Division open an investigation against the individual.

Certified and Licensed Appraiser Applicants Approved by both Education and Experience

Review Committees:

Ada Anderson, LA candidate

Jeremy Manning, CG candidate

Jacob T. Jacobsen, LA candidate

Discipline List for Board's Consideration:

Mark A. Williams

Joshua C. Allison

Reagan L. Hardwick

COMMISSION AND INDUSTRY ISSUES

Discussion: Update on Proposed Rules – Jennie Jonsson

Ms. Jonsson reported there are no appraisal rule updates to review today.

The committee created to formulate rules in the AMC industry regarding the bond requirement has met. Ms. Jonsson has drafted some language and sent it to the Board for review. There were some suggestions from the AMC members of the committee that she will present.

In the requirements for registration and renewal section, language requires that an AMC evidence having a surety bond in the amount of \$25,000 and that it be underwritten as to provide throughout the full period of registration for the Division to make a claim on behalf of the appraiser and for unpaid fees as awarded to the appraiser in a final judgment entered by a court of competent jurisdiction. That would be new language added to R162-2e-201(1), subsection (c).

Section R162-2e-201.1 covers claims against an AMC bond and the process of how to go about submitting a complaint to the Division. Ms. Hardman believes that the time period deadline to file a contract claim is now four years. A recommendation was made to allow a 30-day window to correct the problem of a bond expiring mid-term on the AMC's license.

It was decided to have the Division look into a complaint to see if it is valid, and try early on to collect outstanding money (outside of court and the bond). There is a concern that the amount of \$25,000 would not cover all the outstanding debts on a large AMC. The amount of \$25,000 was a first step in this process, and there will be the ability to make changes later on if the amount is not sufficient. Mr. Fagergren said that if there was a recovery fund instead of a bond, those monies would be accumulating. If there were a \$200 charge per AMC, the first year the fund would have \$25,000, and in four years the fund would be \$100,000.

A motion was made to approve the changes to the draft rule and submit it for public comment. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Payne, yes; Board Member Brammer, yes. The motion carries.

A motion was made to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Sjoblom, yes; Board Member Payne, yes; Board Member Brammer, yes. An Executive Session was held from 10:24 a.m. to 11:16 a.m.

CLOSED TO PUBLIC

Consideration of Stipulation
Review of Lists

OPEN TO PUBLIC

The Board agreed with the Committee on their decisions:
Certified and Licensed Appraiser Applicants Approved by both Education and Experience Review Committees:

Ada Anderson, LA candidate - Approved
Jeremy Manning, CG candidate - Approved
Jacob T. Jacobsen, LA candidate - Approved

Discipline List for Board's Consideration:

Mark A. Williams - Approved
Joshua C. Allison - Approved
Reagan L. Hardwick - Approved

Results of Stipulation

Thomas R. Gray – The Board with concurrence of the Director has rejected this stipulation.

A motion was made to adjourn the meeting. Vote: Chair Morley, yes; Vice Chair Thronsen, yes; Board Member Sjoblom, yes; Board Member Payne, yes; Board Member Brammer, yes. The motion carries. The meeting adjourned at 11:19 a.m.