

**APPRAISER LICENSING AND CERTIFICATION BOARD  
HEBER M. WELLS BUILDING  
ROOM 2B  
November 9, 2011  
9:00 A.M.  
TELEPHONIC MEETING**

**MINUTES**

**STAFF MEMBERS PRESENT**

Jonathan Stewart, Division Director  
Mark Fagergren, Education/Licensing Director  
Kent Nelson, Chief Investigator  
Renda Christensen, Board Secretary  
Carla Westbroek, Appraisal Education/Licensing Specialist  
Craig Livingston, Investigator

**BOARD MEMBERS PRESENT**

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

**GUESTS**

Vern Meyer  
Carol Owens  
Mike Carter

Ms. Jonsson and Ms. Hardman were excused from the meeting today. Both are attending CLE classes.

The November 9, 2011 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 October 26, 2011 meeting as written. Vote: Chair Morley, yes; Vice Chair Throndsen, yes; Board Member Payne, yes; Board Member Brammer, yes. Motion carries. Board Member Sjoblom had a problem connecting with the phone meeting, and joined the conversation shortly after this motion.

**DIVISION REPORTS**

**DIRECTOR'S REPORT** – Jonathan Stewart

Director Stewart said he will meet with Department Director Giani and Deputy Director Levar tomorrow to discuss proposed legislation to be presented in the upcoming session. This will cover all of the issues and concerns that have been received by the Division.

Director Stewart received an e-mail from Scott Dibiasio, Appraisal Institute, with a recommendation for possible statute changes. Director Stewart read a portion of this message into the record for the Board to hear.

“Recently we have received many calls from appraisal institute members inquiring as to what options they have at their disposal when faced with non-payment of fees for services rendered to failed appraiser management companies. Obviously, these calls are in relation to the recent closing of an appraisal management company that allegedly lost more than \$3.5 million in unpaid fees to appraisers. While we have responded to each of our members inquiries as best we can, the situation reinforces the need for states to directly address this issue in their state AMC laws.

“There are only about 12 out of the 29 states that have already enacted AMC laws that have included surety bond requirements. However, in most cases the face value of those bonds is only \$20,000 to \$25,000. Of course, these amounts are woefully inadequate to ensure appraisers receive payment for their services in the event of an AMC failure. In addition, there are only a few states that specifically permit appraisers to make claims against the bonds for unpaid fees. Instead, some of the bonding requirements are only designed to protect the state in the case of unpaid fines, fees, etc. Further, there are only a few states that specifically require that an AMC surety bond remain in place for a certain period of time after the expiration, surrender, revocation, etc. of an AMC’s license. Requirements regarding how long the surety bond remains in place, and how much notice a surety company must provide prior to cancellation may be covered by state insurance laws.

“We want to take this opportunity to highlight to states the absolute need to include provisions relating to insuring that appraisers receive prompt payment for services rendered to an appraisal management company. It is, of course, the aforementioned surety bond provision; however, we also want to encourage states to consider the enactment of AMC trust account requirements.”

Director Stewart said the Appraisal Institute listed a few requirements they want the Division to look at:

- 1) laws must be written such that it is perfectly clear that an appraiser or any other contractor to the AMC who has received the final judgment from a court against an AMC for an unpaid fee can make a claim against the bond or irrevocable letter of credit;
- 2) bonds or letters of credit must be required to remain in full force and effect for a certain period of time, 90 to 120 days after the time the AMC is no longer licensed in the particular jurisdiction; and,
- 3) bonds, letters of credit, must be of sufficient face value to ensure the payments of any unpaid fees. It has been suggested that a sufficient amount would be 1.5 times the average of the AMC’s payments to appraisers in the state during the previous 12-month period, perhaps a rolling 12-month period, but not less than \$25,000. A minimum of \$25,000 would be to ensure that the states would have adequate

protection in the event of any unpaid obligations by the AMC to the state even though the AMC may have a small presence in the state.

Director Stewart said this is just a recommendation to the State, and he wanted to bring this to the attention of the Board and the public for any comments, concerns, or recommendations they may have on this matter for the State of Utah.

Mr. Fagergren said that in our other professions, instead of bonds we have recovery funds. The advantage of a recovery fund is there is no lapsing of these bonds. With the recovery fund, it doesn't matter when the AMC's licenses would expire. The problem with the recovery fund is just the low number of AMCs. Currently, there are only about 120 AMCs licensed with the Division. It would take a few years to build up the fund.

Comments were made by Mike Carter, Carol Howell, and Joel Frost from the United Appraisers of Utah.

#### ENFORCEMENT REPORT – Kent Nelson

Mr. Nelson reported in October the Division received 10 complaints; opened 14 cases; closed 18 cases; leaving the total number of appraisal cases at 68.

There were no enforcement stipulations to review.

#### EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren said the numbers of licensees are holding and seem to be improving over last month.

Last month Mr. Fagergren reported that he and Director Stewart attended the AARO conference. He is going to touch on a few points he picked up during the meetings.

- Appraisal Qualification Board representative, Rick Baumgardner, has been asked if, when an AMC closes business, can an appraiser communicate directly with the lender? His response was, "If the appraisal report indicates that the lender is the client, yes. If not, no."

- Another question was about reconciling comps, and if an appraiser can perform them? The response was, "Not without complying with USPAP Standards 1 and 2. Reconciling comps is performing a valuation service and requires USPAP compliance."

- Reciprocity issues came up with the State of Florida. They require that if you want a license in their state, you have to have passed the exam within the last two years, or they make you retest. The AQB was not pleased with this situation, and Mr. Fagergren believes the AQB will instigate regulations that mandate reciprocity.

- Appraisal Institute representative, Rick Borgess, spoke about implementing a system the same or similar to the NMLS. The NMLS is a national system that mortgage licensees have been required to comply with. Mr. Fagergren said that in the Division's experience, licensees are woefully disappointed with this system.

- Tim O'Brian, RELS Valuation, spoke to the issues of appraisers leaving the profession nationally, and new appraisers are not entering the industry. This is especially true in rural areas. In 2008 there was a study indicating in the next 10 years, 42% of appraisers currently in the business will be out of the industry due to the aging of appraisers.

- Mr. Baumgardner, AQB, spoke about transforming the appraisal industry from a trade method to an academic method.

- Lorna Neal, federal regulator, spoke about avoiding appraiser conflicts of interest, avoiding coercion, and customary and reasonable fees for a geographic area. Creditors may break down fee splits between the AMC and the appraiser, but there is no obligation that they must do this.
- Jim Park, Appraiser Subcommittee, spoke about the national toll-free number with an e-mail address to submit national appraiser complaints to state agencies. This will be in effect next year.
- Kevin Wayland, FINSAN (financial crimes enforcement) indicated that next year mortgage origination is anticipated to drop 12%. This will be the same level as in 1997.
- Craig Hogland, FBI, said of mortgage fraud, 80% deals with loan originator fraud, and the loss is to the lender. 20% (and this area is growing rapidly) of mortgage fraud is distressed homeowners, loan fraud, foreclosure rescue scams, short sales and in these instances it is the homeowners that get hurt.

There is one education/licensing stipulation to review today:  
Andrew O'Farrell

Mr. O'Farrell was advised of his right to attend today but has declined to do so.

Mr. Fagergren presented the following list to the Board:  
Certified and Licensed Appraiser Applicants Approved by both Education and Experience Review Committees:  
Warren Hutchinson, CG Candidate

#### COMMISSION AND INDUSTRY ISSUES

##### Discussion: Update on Proposed Rules – Jennie Jonsson

Ms. Jonsson is out today, and Director Stewart read a brief comment she left to present today. Ms. Jonsson said that on November 1, 2011 she made effective the reorganization of the appraisal rules, R162-2g, including the amendment to R162-2g-304(d), requiring a mass appraiser who applies for certification to demonstrate experience in a variety of property types. She repealed the old rules, R162-101 through 107, 109, and 110 on the same date.

Board Member Payne asked for printed copies of the rules be given to the Appraiser Board.

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. The motion carries. Executive Session was held from 9:50 a.m. to 10:06 a.m.

#### **CLOSED TO PUBLIC**

Consideration of Stipulation  
Review of List

#### **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:

Warren Hutchison - Approved

Results of Stipulation

Andrew O'Farrell - Approved

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 10:06 a.m.