

UTAH APPRAISER LICENSING AND CERTIFICATION BOARD
HEBER M WELLS BUILDING
Room 210
9:00 a.m.
March 27, 2019
PHONE

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Mark Fagergren, Education and Licensing Director
Kadee Wright, Chief Investigator
Justin Barney, Hearing Officer
Chad Tengler, Real Estate Analyst
Elizabeth Harris, Assistant Attorney General
Stephen Gillies, Assistant Attorney General
Mary Martinez, Board Secretary
Kendelle Christiansen, Licensing Specialist
Craig Livingston, Investigator

BOARD MEMBERS PRESENT:

John Ulibari, Chair
Jeffrey T. Morley, Vice Chair
Jim Bringhurst, Board Member
Keven Ewell, Board Member
Richard Sloan, Board Member

PUBLIC MEMBERS PRESENT:

No public

The March 27, 2019, meeting of the Appraiser Licensing and Certification Board began at 9:04 a.m. with Chair John Ulibari conducting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes –

A motion was made and seconded to approve the February 27, 2019 minutes as amended. Vote: Chair Ulibari, yes; Vice Chair Morley, yes; Board Member Sloan, Board Member Bringhurst, yes; Board Member Ewell, yes. The motion passes.

Public Comment Period –

No public Comment

DIVISION REPORTS

DIRECTOR’S REPORT – Jonathan Stewart

Director Stewart reported the 2019 legislation session is over. Senate Bill 140 passed and will go into effect May 14, 2019. For appraisers this includes the RAP Back provision which will start 01/01/2020. The Division will provide additional information to all licensees at Caravan, in the Division newsletter, and possibly by email communications.

Director Stewart would like everyone to be advised on how the new process will work. Appraisers who apply between now and January 1, 2020 will need to have their fingerprints taken for a background check. All appraisers who apply for renewal after January 1, 2020, will have to have their fingerprints taken again and agree to the RAP Back feature which provides the Division with an update of any future criminal procedures. RAP Back will continue to update as long as the appraiser is licensed or certified, eliminating the need for future fingerprinting and background checks. The Division will have an electronic fingerprinting machine at the Division office and there will be one at the DOPL location in St. George. Those renewing their license in January 2020 will be able to have their fingerprints and background check done as early as the first week in December. They will need to be enrolled in RAP Back before their renewal deadline. We are working on a list of other locations where someone can go to have their fingerprints taken. There may be additional fees at other locations.

The Division has heard from the Bureau of Criminal Investigations. The paper fingerprint cards are back-logged up to thirty days. Director Stewart would like appraisers, especially those from rural areas, to be advised to get their fingerprints done early. Fingerprint cards received too close to the renewal deadline can cause delays in renewing a license or certification.

Senate Bill 140 provides appraisers the possibility of performing evaluations. The Bill also provides the Division citation authority for an appraiser who fails to respond within ten days of a request for information from the Division. The Bill goes into effect May 14, 2019.

Director Stewart reported the Appraisal Subcommittee Compliance Review sent their preliminary report of their findings to the Division and the Division has responded. There were two reports, one for the appraiser program and one for the AMC program.

For the appraiser program the Division was found to be out of compliance in one area.

- Statutes, Regulations, Policies and Procedures.
 - One stipulation entered into by the Division and a licensee was approved by the board. However, the Division did not post the action in the National Registry. The Division has since corrected this oversight and is now compliant. This was a onetime mistake. The licensing specialist who normally posts actions on the National Registry was on leave at the time.

The Division should have the final report prior to the next board meeting.

For the AMC program the Division was found to be out of compliance in one area.

- Statutes, Regulations, Policies and Procedures.

- It was reported there was an aspect of our Statute out of compliance with the minimum standards for AMC's.
 - At the last compliance review in 2017 the Division gave the ASC a copy of our AMC legislation, including the section that they have reported is out of compliance. The Subcommittee never responded in 2017 or made the Division aware of the issue at that time.
 - The ASC sent a checklist to all states to make sure what items need to be included or not included in their AMC Statute. The Division relied on the checklist to draft our legislation. The Division was informed that the original version of the ASC rules included the language that the Division had in the Statute. The language in the updated ASC rule included different language. The states were not notified of this change.

Director Stewart believes even with the two minor mistakes our program was reflected in a positive light. The Division will submit the change to bring the statute into compliance at next year's legislature. The change has already been drafted.

ENFORCEMENT REPORT – Kadee Wright

Ms. Wright brought up a concern from the ASC. In a case brought before the board, the respondent was required to take a specific CE course. The ASC was concerned because the Board and Division should be giving general guidance on courses instead of requiring specific providers. Director Stewart advised requiring the Appraisal Foundation disciplinary action courses or simply requiring general course descriptions. The Board and Division can require a type of course, but not a provider.

Ms. Wright reported in February the Division received 5 complaints; opened 7 new cases; closed 1 case; leaving 30 appraisal cases open with the Division. There were a total of 3 cases pending with the AG's office.

Ms. Wright advised that the database administrator is reviewing the reports used for the statistics. April 1, 2019 will be when the new reports will be used.

Ms. Wright had no stipulations for consideration to present.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported notifications of the upcoming caravan were sent to all licensees. These included instructions, dates, and locations. Mr. Fagergren believes most of the larger locations have been filled in just a few days. This year there will be nine stops. It is a heavy responsibility to inform the licensees throughout the state.

The Division learns a lot from the feedback received at Caravan. It helps them know what is happening in reality.

Mr. Fagergren reminded that the newsletter would be out by the end of March. The newsletter will include additional articles and information on the current issues and Caravan events.

Mr. Fagergren reported there are no candidates to review to sit for exams. There were three individuals that applied prior to the meeting.

‘Yes’ answers approved by Division Representative.

- Eric Jennings – Temporary practice application for a certified general office. He is currently licensed in eight states as a certified general appraiser. He was approved prior to this meeting.
- Rodney Clough – A certified general temporary practice application. He is actively licensed in six states. His application has been approved.
- Thomas H. Humphreys – Application for a CE Instructor. The Division granted his application without any license restriction.

BOARD AND INDUSTRY ISSUES—Justin Barney

Mr. Barney advised that Senate Bill 140 does not exempt appraisers from following USPAP in performing evaluations. The Bill allows the Division and Board to adopt an administrative rule that provides a licensed or certified appraiser to perform an evaluation exempt from certain portions of USPAP. The appraiser would still be subject to the Ethics Rule, the Record Keeping Rule, the Competency Rule, and the Scope of Work Rule. Mr. Barney will have something more to present on the rule in a future meeting.

Mr. Fagergren asked if the individuals performing evaluations only have to comply with four specific rules of USPAP would these individuals be able to use this toward experience. The evaluations would be only partially USPAP compliant. A discussion followed:

- The commissioners expressed the opinion that, at this time, evaluations would not count toward the experience requirement. In other states, evaluations are not used toward experience credit.
- The consensus was that the Appraiser Subcommittee would agree that evaluations should not count toward required experience.
- There is no exemption from USPAP restrictions in Senate Bill 140. The Statute gives the Division rule making authority that allows appraisers to perform evaluations. However, any administrative rule cannot exempt evaluations from the four USPAP rules noted above.

Appraisal Management Company (AMC) National Registry Fee Collection.

The National AMC fee will be collected by individual states and then transmitted to the ASC. The final rule states that the State will collect \$25 per appraiser that has completed work for an AMC on a “covered transaction” in a previous 12-month period

and transmit those funds to the ASC. The ASC will then use some of that money for grants back to the states.

Revised Appraiser Subcommittee (ASC) Policy Statements — The policy statements are directives to state appraisal boards that require a state, if it elects to have an AMC program, to set minimum standards that it must maintain and also stipulates that the ASC will be inspecting for compliance.

Utah has regulated the AMC program previously and has elected to continue. In an effort of fairness the Division determined to collect the registry fee from any AMC that is new or renewing their registration in 2019 in an amount equal to one year's worth of fees. Then starting in 2020 the Division would collect two years' worth of fees.

Kendelle Christensen reported some issues the Division has with the ASC National Registry's input form. If you input fees for one year now you cannot put in a future date that is two years away. The ASC expects you to collect every year if the initial input is for one year.

Ms. Christensen researched and with the data she found compiled a formula to resolve the issue. She listed all the months and how the formula could work. She sent the ASC a letter asking for their permission to implement her solution to the dilemma of the Division having to collect money every two years instead of each year.

Ms. Christensen's is currently working to resolve the new AMC National registry fee. One issue is reconciling payments to the ASC instead of multiple dates. The ASC would like to accommodate the Division to allow for two year collection of fees, however their rule states it is an annual renewal. Her suggestions to resolve the issue:

- Renew once a year on the same month for all AMC's.
 - Would only have to pay the ASC one time per year.
- Could collect fee in conjunction of renewal. However it would be the Division's responsibility to keep track and remind AMCs on the off year that the fee is due.

Director Stewart asked what the commissioners' thoughts were of setting a date for the collection of the registry fee. The Commissioners agreed that collecting the fees in one month for all AMCs seems to be the best option. All AMC's will be notified of the month the Division will collect the fees.

Chair Ulibari thanked the Division for all their hard work especially during the recent ASC's audit.

An Executive Session was not held.

A motion was made and seconded to adjourn the meeting. Vote: Chair Ulibari, yes; Vice Chair Morley, yes; Board Member Sloan, yes; Board Member Ewell, yes. The motion passes. The meeting adjourned at approximately 9:32 am.