

UTAH APPRAISER LICENSING AND CERTIFICATION BOARD

HEBER M WELLS BUILDING

Room 210

9:00 a.m.

August 28, 2019

MINUTES

DIVISION STAFF PRESENT:

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

BOARD MEMBERS PRESENT:

John Ulibari, Chair
Jeffrey T. Morley, Vice Chair
Jim Bringham, Board Member
Keven Ewell, Board Member
Rich Sloan, Board Member

PUBLIC MEMBERS PRESENT:

No Public

The August 28, 2019, meeting of the Appraiser Licensing and Certification Board began at 9:02 a.m. with Chair John Ulibari conducting. Following the election of officers for the upcoming year, newly elected Chair Morley conducted the meeting.

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes –

A motion was made and seconded to approve the June 26, 2019 minutes. Vote: Chair Ulibari, yes; Vice Chair Morley, yes; Board Member Bringham, yes; Board Member Ewell, yes; Board Member Sloan, yes. The motion passes.

Public Comment Period

No public Comment

Election of Officers for the Upcoming Year

A motion was made and seconded for the officers as follows: Jeffrey T. Morley as Chair and Keven Ewell as Vice Chair. Vote: Chair Ulibari, yes; Vice Chair Morley, yes; Board

member Bringham, yes; Board member Ewell, yes; Board member Sloan, yes; The motion passes.

DIVISION REPORTS

DIRECTOR'S REPORT – Jonathan Stewart

Director Stewart announced the Attorney General's office has reassigned Liz Harris to another Division. Assistant Attorney General Sterling Corbett will be taking her place.

A few months ago Director Stewart tasked his staff to answer the question, "If you had to remove something from Statute or Rule what would you remove?" Since then Director Stewart has met with the individual sections within the Division to discuss suggestions.

- The goal is to make sure the current statutes and rules remain pertinent and effective.
- This goal is somewhat more difficult for the appraisal statutes and rules because of Federal Laws and USPAP provide a minimum standard that the state must follow. However, the state may require a higher standard than USPAP.
- The Division is looking at removal, additions, or changes to the statutes and rules. Even if no changes are made, it is appropriate to review the statutes and rules from time to time. The term 'Moral Turpitude' has been used in appraisal statutes and rules and is also referred to in the statutes and rules for the mortgage and real estate industries.
 - As stands, the term is subjective. Crimes of moral turpitude are not well defined as there are differing accepted understandings of the definition of moral turpitude.
 - Proposed to replace the term with a specific listing of crimes to provide clarity to the statutes and rules.
- Mr. Barney gave an example: In one of the other industries a person was convicted of a felony DUI. The typical misdemeanor charge was enhanced because of two prior DUIs. In that case, the applicant's attorney argued that the felony was not a crime of "Moral Turpitude" and the Attorney General's office agreed. The division felt the applicant, recently convicted of a felony, shouldn't have a license in the industry. The Division was not able to prevail. The division feels the statute should be more clear.
- The proposal will clarify certain crimes. It will include any felony and certain misdemeanor crimes such as theft, fraud, and misrepresentation. A misdemeanor DUI would not be included, but a felony DUI would be. This would prevent an applicant from being licensed and could also be the basis of disciplinary action against a licensee.

Board members were asked for thoughts:

- General agreement
- No concerns, however, the Board would like to review the language.
- This will affect both Statute and Rule because 'Moral Turpitude' is mentioned in both. The Division will move forward on the language on the rule rewrite. Director Stewart will add it to the list for moving forward on the statutory changes as well.

The Appraisal Education School, as defined by statute and rule has basically become obsolete. There are only two or three registered schools in the state and registration is not required of a school. The Division recommends removing school education and only registering pre-licensing course providers.

Ms. Christiansen explained there are continuing education providers and then there are schools. In the past there was a pre-licensing school, similar to real estate where an individual would go to take all the pre-licensing courses. That is no longer the practice. Now an applicant may take individual courses from a variety of providers, as long as the courses have been approved.

- All Instructors and providers are certified.
- Easier to review a resume for qualifications of the instructor to teach the course.
- The qualifying pre-license education courses are AQB and IDEC approved.
- The Division is not concerned about these instructors as top notch people apply to instruct these courses and the course outline must be approved.
- Many courses are approved nationally.
- Currently, an applicant for course instructor must fill out a complete application. However, many course instructors have no interest in giving their social security numbers and other information for this form.
- The Division does not see many underqualified people interested in being an instructor.
- The U of U had issues involving their instructors. Their courses are approved by the appraisal institute but are not registered through the state.
- Curriculum has to be approved through the Division.
- Utah Real Estate Law portion is taught elsewhere. The University is not interested in teaching the Real Estate outline.
- University students are resistant to working to obtain a college degree and then still need 300 hours of pre-licensing education before they qualify for licensure.

Their instructors receive both CE & Pre license instructor development and it is not required. Courses are all AQB approved nationally and state approved. Most classes are available online and are approved. There are a few local courses taught and the board would know them, but their qualifications are still reviewed.

The Division proposes removing the licensing requirement for only pre-license instructors for now. Depending on how the process works with pre-license instructors, the Division may discuss CE instructors later.

The Division would appreciate input from the Board. The board voiced some concerns.

- It was asked if the Division received feedback on the courses.
 - In the past, yes, but the providers filtered out many of the negative comments.
 - The Division does have complaint forms available for use by students. Students can evaluate the negative points of the instructor.
- Ultimately the Division decided to recommend eliminating the instructor licensing requirement for pre-licensing instructors.

- The Division is concerned that some applicants for licensure as a CE instructor may not be qualified.
- The Board also voiced that some applicants for licensure as a CE instructor may not be qualified.
- Individuals who are in the industry and work day to day on what they instruct are better and more qualified teachers.
- Better to run the risk of fewer teachers that are qualified, than have more teachers, some of whom are not qualified.
- Vice Chair Ewell foresees the Division will discontinue licensing both pre-license instructors and CE instructors but that this would be a good start.
- CE Class not AQB Certified.
 - Are they an approved topic?
 - Next look at persons experience
 - Theoretically, a non-licensed person could be teaching.
 - Pre-licensing instructor does not need to be licensed.
 - CE Instructors need to be licensed, can be confusing.

Request to add to the Agenda to resume discussion next meeting.

ENFORCEMENT REPORT – Kadee Wright

Ms. Wright reported that in July the Division received 0 complaints; closed 4 cases; leaving 27 appraisal cases open with the Division. There are a total of 2 cases pending with the AG's office.

Ms. Wright had no stipulations to present for the Board's consideration.

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported there were several candidates approved by both the education and experience review committees for exams.

- Sivithee Srisukhumbowornchai; Certified Residential candidate, recommended to sit for exam.
- Ryan Aagard; Certified Residential candidate, recommended to sit for exam.
- Mary M. Johnston; Certified Residential candidate, recommended to sit for exam.
- John Linnell: approved to sit for the licensed appraiser exam.

'Yes' answers approved by Division Representatives.

- Joseph O'Brien – Said yes to one occurrence: Supervised probation, 72 hours community service, victim impact panel, alcohol assessment, suggested treatment, ignition interlock device on vehicle, pay fine.

Mr. Fagergren reported when on Caravan in Richfield, Joe Stott indicated the forms for experience review are outdated. Parts are no longer applicable. They are complicated and they take more time to complete them. Mr. Stott indicated that completing a paid review takes less time than completing an experience review for the Division, which he does as a volunteer, without pay.

Mr. Stott recommended to Board member Jeff Morley that the Division update the experience review forms. Currently the reviewer receives the following:

- Cover letter – anticipated turnaround time.
- Attached guidelines for completing the review.
- Review assignment is for administrative purposes to determine if they have sufficient knowledge and experience.
- The report should be without serious errors or omissions.
- All appraisal reports that demonstrate potential ethical violations as defined by USPAP should be rejected.
- Errors that would not be by themselves serious but in combination result in misleading appraiser report constitute a serious potential violation. And should be rejected.
- Administrative rules that do not require inspection subject to property or comparable sales nor does the review require you to develop an opinion of value. These reviews are for USPAP compliance.
- The Division would like a review of a complete appraisal. Please do not discontinue the review if several inadequacies are noted.
- All errors associated with the report addressed in the review.
- Need to verify work completed. Is it consistent with the scope of work defined?
- Upon completion a cover letter or an email stating whether or not you would recommend the applicant be approved to sit for the exam.
- Send the cover letter and completed materials in the FedEx packaging provided.
- Division would like to convert this process to fillable forms online. But this has not yet occurred.
- Experience log, can review how many appraisals were done in a certain amount of time.
- The division sends the experience point schedules for the three residential, general and mass appraisers to review how many hours were involved.
- 4 USPAP compliance evaluation forms.
 - They go through standards one and two including every subsection of one and two.
 - They review each subsection one and two for compliance. Yes, no, or N/A
 - Section three is the cost approach.
 - Section four is the sales comparison approach.
 - Section five is Income approach.
 - Six, reconciliation.
 - Seven, certification and scope of work.
- Ms. Christiansen reviews applications from an administrator point of view, counting hours etc.
- It may be time to update the experience review forms if the Board approves
- Is the Form archaic or not applicable?
- Mr. Fagergren suggested that he could email the experience review form to board members for review. Also, a form from Mr. Disney in Kentucky. The board will review for:
 - Speed up process

- Specifics of what may be changed?
- The number of samples has been vetted by the Appraisal Subcommittee.
- The Division will follow up in a conversation with Mr. Stott to find out specifically what his concerns are.

BOARD AND INDUSTRY ISSUES – Justin Barney

Mr. Barney reported the proposed Rule amendment is moving forward with the executive director of the Commerce Department. He will report on the progress of the proposed amendment next month.

The follow up on what constitutes professional assistance will be placed on the agenda for next month.

A brief break 9:55 am to 10:05 am

Appraisal Review

Gary McBride

A motion was made and seconded to close the meeting for the sole purpose of discussing the character, professional competence or physical or mental health of an individual. Vote: Chair Ulibari, yes; Vice Chair Morley, yes; Board Member Bringhurst, yes; Board Member Ewell, yes; Board Member Sloan, yes. The motion passes.

CLOSED TO PUBLIC

An Executive Session was held.

OPEN TO PUBLIC

Mr. Barney stated the Appraisal Board met in executive session to consider the appeal of Mr. Gary McBride. A decision has been made and he will be informed by mail.

A motion was made and seconded to adjourn the meeting. Vote: Chair Ulibari, yes; Vice Chair Morley, yes; Board Member Bringhurst, yes; Board Member Ewell, yes; Board Member Sloan, yes. The motion passes. The meeting adjourned at approximately 10:53 a.m.