

UTAH APPRAISER LICENSING AND CERTIFICATION BOARD
HEBER M WELLS BUILDING
Room 250
9:00 a.m.
September 23, 2020
Google Meet

MINUTES

DIVISION STAFF PRESENT:

Jonathan Stewart, Division Director
Justin Barney, Hearing Officer
Kadee Wright, Chief Investigator
Maelynn Valentine, Board Secretary
Kendell Christiansen, Licensing Specialist
Mark Fagergren, Licensing/Education Director
Stephen Gillies, Assistant Attorney General

BOARD MEMBERS PRESENT:

Jeffrey T. Morley, Chair
Keven Ewell, Vice Chair
Benjamin Brown, Board Member
Kris Poulsen, Board Member
Richard Sloan, Board Member

The September 23, 2020 meeting of the Appraiser Licensing and Certification Board began at 9:01 a.m. with Chair Jeff Morley conducting.

Determination Regarding Holding Meeting Without Anchor Location

Public Body: Utah Appraiser License and Certification Board

Chair Name: Jeff Morley

The public meeting(s) scheduled for September 23, 2020 will be conducted electronically and without an anchor location. I have determined meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location.

Facts upon which my determination is based:

The Heber Wells Building is closed to the public due to Covid-19 and the state and local municipality's response to the pandemic. The prior virtual meetings have provided an adequate means of holding this meeting and facilitates all relevant parties, including the general public, division staff and board members.

Signed this 21st day of September, 2020

Jeff Morley-Chair

PLANNING AND ADMINISTRATIVE MATTERS

Approval of Minutes –

A motion was made and seconded to approve the August 26, 2020 minutes. Chair Morley, Yes; Vice Chair Ewell, yes; Board Member Brown, yes; Board Member Poulsen, yes, Board member Sloan, yes. The motion passes.

Public Comment Period

No public Comment

DIVISION REPORTS

DIRECTOR’S REPORT – Jonathan Stewart

Director Stewart reported on the status of the Division. The Division office remains closed to the public. Most of the Division staff is working remotely. All services that the Division provides can be done online or over the phone. A reopen date of the building is undetermined at this time.

Director Stewart reported on Legislation. A draft of the Division bill has been received. Representative Musselman is the sponsor of this bill. Currently there two items that would affect the appraisal industry and they are: increasing board members from five to seven, one member being a representative from an AMC registered in Utah and the other representative being a member of a lending institution. The second proposed item would be to give the Division authority to suspend or revoke an AMC if they fail to pay their National Registry fee. Currently the Division has no authority to take action against an AMC if they fail to pay. This Division recognizes that we should only take action if the AMC was required to pay the National Registry fee and fails to do so.

Director Stewart gave an update on the Division’s application for grant money from the Appraisal Subcommittee. The Division submitted an application to the ASC in August. The ASC informed the Division that the ASC is inclined to approve the request for money, but had a few clarifying questions. The Division has submitted a response to their request and are hopeful that the grant money will be approved. Grant funding is supposed to happen by October 1, 2020.

ENFORCEMENT REPORT – Kadee Wright

Ms. Wright reported that in August the Division received two complaints; closed five cases; leaving nine appraisal cases open with the Division. There are two cases pending with the AG's office.

Stipulation Presented by Stephen Gillies

Class Valuation/Jonathan Tallinger

EDUCATION AND LICENSING REPORT – Mark Fagergren

Mr. Fagergren reported on statistics. There has been an increase of one appraiser trainee and four additional appraisers.

Mr. Fagergren reported that for a six-week period of time there was no testing being performed due to Covid-19, from March 15th to April 30th. There was also a four-month

period of time where fingerprinting was not being performed. The Division has issued conditional licenses for those appraisers who have passed their exams and given them a deadline of September 30th, 2020 to be fingerprinted. Licensees have been notified that if they do not get their fingerprints done by the deadline, their license will be denied. All slots for fingerprinting at testing centers is now full. Licensees will have to go to a private vendor to get their fingerprints performed, and once the Division receives them they will be transmitted to the Utah Bureau of Criminal Identification with almost immediate results, as opposed to waiting two to three weeks for results.

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

- Hunter Neville; approved to sit for the certified residential appraiser exam.
- Brandon C. Bybee; approved to sit for the certified residential appraiser exam.
- Cheyenne Grange; approved to sit for the certified residential appraiser exam.
- Jeffrey Gunnell; approved to sit for the licensed appraiser exam.
- Kendrick Spencer; approved to sit for the licensed appraiser exam.
- Chelsey Jorgensen; approved to sit for the certified general appraiser exam.
- Jacob Hammer; approved to sit for the licensed appraiser exam.

'Yes' answers approved by Division Representatives.

- Sean Metcalf
- Jake A. Burningham

Mr. Fagergren reported on a few positional changes within the Division. Kendelle Christensen has replaced Mary Martinez and is now the Real Estate Education Coordinator. Amy Goodlett will be replacing Kendell Christensen as an appraisal licensing specialist.

BOARD AND INDUSTRY REPORT- Justin Barney

Mr. Barney reported that he has been asked to clarify the recently adopted rule of third party collection of data and inspections of homes. Licensees and registrants currently do home inspections under certain conditions. This may include real estate licensees. Additional feedback has been received from both appraisers and Appraisal Management Companies regarding the recent amendment. Emails from Craig Morley and Jordan Petkovski have been distributed to Division staff and Board members for review with their specific concerns pertaining to the possible rule amendment.

Chair Morley opens the meeting for public comment regarding the rule amendment.

Mark Shiffman with REVAA makes a comment and extends his gratitude to the Board for listening to their concerns and why they think the rule amendment is a bad idea. REVAA has made several comments on why they think the Board should reconsider the rule amendment.

Howard Hedley with the Utah Bankers Association adds a comment expressing his concerns with the rule and the restrictions regarding data collection. The Utah Bankers Association would also like the Board to reconsider the rule amendment.

Scott Simpson with the Utah Credit Union Association shares a lot of the same concerns with the rule amendment.

Frank Pignanelli with the law firm Foxley & Pinanelli, who represent the Real Estate Evaluation Advocacy and also the Utah Association of Financial Services would also like the Board to reconsider the rule amendment as it would impact delivering financial services to individuals.

John Brennen makes a comment and extends his gratitude to the Board and the Division for listening to his concerns and for the Board's work to preclude non-appraisers from working as appraisers. He feels the language of the rule imposes several unintended consequences and would suggest taking another approach in shaping the rule to be able to accomplish what should be done, without the unintended consequences.

Alan Hummel comments that he also agrees with John Brennen regarding the unintended consequences that may come from the existing language of the rule. He feels the rule should define the inspection report. The unintended consequences for both commercial and residential appraisals, may be far reaching. He believes there needs to be further clarification of the rule.

Michael Simmons, representing an appraisal management company comments that he believes that the rule is in place to set standards for the industry and a great portion of AMC's support that position.

Howard Hedley asks the Board what specifically is the problem they are trying to solve or what incidents they have seen occur that they are trying to eliminate in the future?

Chair Morley answers by informing Mr. Hedley that the issue is with producing an appraisal report and the qualification and competency of non-appraisers performing inspections. There is also a conflict of interest aspect of concern. Board member Poulsen adds that current appraisers are to comply with current edition of USPAP. USPAP states under the inspection of property that an appraiser can be USPAP compliant by hiring 3rd party data collection, as long as it's included in the scope of work. Vice-Chair Ewell explains that the rule provides that the 3rd party data collection be done by someone who has had some sort of professional training.

Director Stewart adds comments and recommendations. He feels that the rule is in the wrong place. The current rule is more or less an unlicensed activity rule. One option for the Board is to vote today to delete subsection 8 of the rule. This option would allow the legislature to consider if limiting data collection for an appraisal should be restricted. This option is consistent with the role of the legislature to determine policy. The next

legislative session is only four months away and it's suggested that all interested parties may address the issue with legislation. Director Stewart added that there is more than one reasonable way to look at this. He and Mr. Barney have discussed the possibility of addressing the issue in the AMC statute or rules rather than in the Appraiser rules. The concept is that if an AMC uses an unlicensed person to collect data for an appraisal report, the AMC should be responsible to use a competent person to collect that data.

Chair Morley calls for suggestions and proposals from Board members or for further discussion. Board Member Poulson agrees with Director Stewart that if they decide to run a bill that a separate bill file be opened for this matter. He does not recommend that this issue be addressed in the Division's primary bill. Vice-Chair Ewell states that it could take years to craft and put together the bill and that it is not something that will likely be done within the next few months. Vice-Chair Ewell would be in favor of Director Stewart's first proposal to delete the portion of the rule which addresses data collection. Mr. Barney clarifies that it would be the recently adopted rule R162-2g-502a sub-section 8 that would be deleted.

Chair Morley asks what the process would be to ensure that all that have concerns or are impacted by this particular issue would have a voice at the table. Director Stewart suggests relying on input from various associations, such as, REVAA, the Utah Bankers Association, the Utah Credit Union Association, AMC's and appraisers, and there would need to be a consensus.

John Brennen adds that he understands that when the public comment portion of the bill was in process, that not all voices were heard as individuals did not know what the impact of the rule would be.

Mr. Barney addresses the Board and informs them that the proposal suggested by Director Stewart would be a two pronged approach. The Board may decide today to remove subsection 8 from the recently adopted rule. A possible statutory amendment would be a separate matter.

A motion was made and seconded to remove sub-section 8 from administrative rule R162-2g-502a. Vote Chair Morley, yes; Vice Chair Ewell, yes; Board Member Brown, yes; Board Member Poulsen, yes; Board Member Sloan, yes. The motion passes.

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: Chair Morley, yes; Vice Chair Ewell, yes; Board Member Brown, yes; Board Member Poulsen, yes; Board Member Sloan, yes. The motion passes.

CLOSED TO PUBLIC

An Executive Session was held.

OPEN TO PUBLIC

Vice-chair Ewell made a motion that they uphold the recommendation of the Experience Review Committee to deny Joseph Scott Palmer to sit for the exam. Vote: Chair Morley, yes; Vice Chair Ewell, yes; Board Member Brown, yes; Board Member Poulsen, yes; Board Member Sloan, yes. The motion passes.

Vice-chair Ewell made a motion that they approve the stipulation as written in the matter of Class Valuation. Vote: Chair Morley, yes; Vice Chair Ewell, yes; Board Member Brown, yes; Board Member Poulsen, yes; Board Member Sloan, no. The motion passes with concurrence from the Division.

A motion was made and seconded to adjourn the meeting. Vote: Chair Morley, yes; Vice Chair Ewell, yes; Board Member Brown, yes; Board Member Poulsen, yes; Board Member Sloan, yes. The motion passes. The meeting adjourned at approximately 10:31 a.m.