

**UTAH APPRAISER LICENSING AND CERTIFICATION BOARD**

**HEBER M WELLS BUILDING**

Room 250

9:00 a.m.

June 22, 2022

Zoom

**MINUTES**

**DIVISION STAFF PRESENT:**

Jonathan Stewart, Division Director

Justin Barney, Hearing Officer

Mark Fagergren, Licensing & Education Director

Kadee Wright, Chief Investigator

Maelynn Valentine, Board Secretary

Michael Genco, Licensing Specialist

Laurel North, Investigator

Judi Jensen, Assistant Attorney General

Sandy Margulies, Assistant Attorney General

Matt Hastings, Division Analyst

Melissa McGill, Licensing Specialist

**BOARD MEMBERS PRESENT:**

Keven Ewell, Vice Chair

Kelle Smart, Board Member

Ron Jensen, Board Member

Rich Sloan, Board Member

The June 22, 2022 meeting of the Appraiser Licensing and Certification Board began at 9:03 a.m. with Vice-Chair Keven Ewell conducting.

**PLANNING AND ADMINISTRATIVE MATTERS**

**Approval of Minutes –**

A motion was made and seconded to approve the May 25, 2022 minutes. Vice Chair Ewell, yes; Board member Smart, yes; Board Member Jensen, yes; Board Member Sloan, yes. The motion passes.

**Public Comment Period**

Vern Meyer addressed the Board regarding 3<sup>rd</sup> party inspections.

Thank you for the opportunity to address the Real Estate Appraisal Licensing and Certification Board (REALCB) members, as well as attending members of the Utah Division of Real Estate staff and public participants. I would like to address an issue that has been before the Division of Real Estate and this board numerous times in the past few years. The issue is that of third-party property inspections conducted as part of the appraisal process in an appraisal assignment.

It is rumored that Division staff members have been stating that this is a ‘non-issue’ as the Division is not aware of any property inspections being conducted by unlicensed third-party inspectors. In fact, the DRE has instituted a committee to review the issue and report its findings – the committee is now in its second year of existence and we still await its report. It appears that we will have to wait at least another month as I don’t see the committee report on the agenda. I have not personally heard this reported statement be made; therefore, I attribute it to being a rumor. I wish to state, unequivocally, that this practice is occurring, with great regularity.

I have received over one hundred requests for appraisal assignments in which a third-party individual, the ‘inspector’, conducts a property inspection. I’ve completed several of these assignments so that I could be familiar and conversant with the practice, the information provided, and the procedures used. I have found the data to vary greatly from reasonable to outlandish. Things like reporting a property to be a ‘Duplex’ simply because it has a basement kitchen or not including unfinished areas of basements in the basement size. These are some of the more egregious examples. I’ve personally had assignments in which I had to go back to the inspector 3+ times to verify their analysis of the dwelling size as each response varied by up to 50%. Such items don’t inspire confidence. Unfortunately, it appears all too common, and appraisers are paying the price. For the record, I have submitted the more egregious collection reports, and the unlicensed individuals that conduct them, to the DRE via the complaint process. For this reason, I have personal knowledge that there is a problem and that complaints have been filed with the Division regarding third-party inspections.

In April, I attended the Provo City meeting of the DRE’s Education Caravan. In the enforcement portion of the presentation, an appraisal assignment was presented in which the appraisal report lacked credibility due to its reported size of the dwelling. During questioning regarding the case study it was determined that this property had been inspected by a third party and the appraiser was held liable (sanctioned) for not providing a credible result based upon the faulty data presented to him/her. DRE staff members who are reportedly stating that the issue of third-party inspections doesn’t exist, are not conversant with other members of the Division staff.

I am a hesitant proponent of third-party inspections. I see the positive potential it has but I also see great liabilities to the public that will be incurred if the program is not properly instituted, and sufficient oversight provided.

Who here thinks we can take such a vital portion of an appraisal assignment out of regulatory oversight and leave it completely to market participants without regulatory

oversight? We have seen the folly of this time and again. One of the benefits of an aging industry, is that many of us have lived through both the fat times and the lean times. We remember the enormous pressure loan officers put on appraisers to meet their demanded opinion of value – do it or don't work here again. One of the major benefits of the HVCC (Home Valuation Code of Conduct) was that it put an end to such pressure. Likewise, property inspections must be conducted in a safe and impartial manner. Let's use the resources that we already have – appraisers and trainees. Let's don't cut out the very appraisers that are being engaged to conduct these assignments. I make the following recommendation (in the order prescribed):

Let the assignment appraiser choose the inspection method (when the option is offered as part of the assignment).

- a. Inspect the property personally.
- b. Engage another state credentialed appraiser.
- c. Use a state credentialed appraiser trainee (either trained by him or another appraiser).
- d. Engage a known property inspector (when permitted by statute and rule) whose work the appraiser knows and trusts.
- e. Opt for the client to engage their own property data collector.

The first three options use professionals that have been trained and vetted by the appraisal laws, rules, and programs instituted over the past 35 years. These individuals have been educated, trained, had their experience validated, participate in continuing education, are licensed, have regulatory oversight, are insured, and have had exhaustive background checks (Utah uses the RAP-BACK program).

If a person wants to become an independent property inspector, it is only reasonable that they meet comparable guidelines as appraiser trainees. They may not need the same amount of education – a specialized training regime for inspections could be constructed. But, as experience has taught us over the past years, individuals in this industry need to be regulated. Training, licensing, experience validation, insurance, and background checks all need to be part of the licensing program.

That's my opinion and recommendation. Since the inspectors are already credentialed, the first three options could have been instituted a year ago, about the time when the committee was formed. It would have given us good information about the industry needs and allow the Division of Real Estate to proceed cautiously. Unfortunately, we find ourselves in limbo with no guidance from the Division on this issue.

I call upon the members of this board and the Division to remove all doubt regarding this ongoing issue and do two things.

1. State unequivocally that under current Utah Statute and DRE rule interpretation that third-party inspections of properties for use in an appraisal assignment are not currently authorized by individuals who are not trained and credentialed by the Utah Division of Real Estate as appraisers or appraiser trainees.

2. Send a letter to all AMCs registered in Utah that the practice of using uncredentialed individuals for property inspections conducted for appraisal assignments is not approved and to cease and desist immediately.

If the DRE staff is correct in their belief that this isn't a problem and that it doesn't currently occur, this will simply serve as a reminder to industry participants. On the other hand, if it is indeed occurring on a significant level, watch how fast AMCs and lenders will voice their opposition and register their complaints.

Vice-Chair Ewell commented that there is a Committee currently looking at and discussing this issue.

## DIVISION REPORTS

### **DIRECTOR'S REPORT – Jonathan Stewart**

Director Stewart reported that the ASC (Appraisal Subcommittee) has contacted the Division to schedule a State Offsite Assessment. The ASC performs compliance reviews every two years, the Division's last compliance review was in February of 2019. A State Offsite Assessment is used in lieu of a Compliance Review when travel is restricted. An SOA is a limited assessment and evaluation of the appraiser and AMC program's compliance with Title XI intended to provide feedback to state staff. The SOA does not result in a finding regarding compliance or a program rating, but rather provides the state with information it needs to make program improvements if necessary. The SOA will be held virtually and is scheduled for September 27<sup>th</sup> through the 29<sup>th</sup> 2022. The ASC will attend the Appraiser Board Meeting that week and attend the Executive Session if one is held.

### **ENFORCEMENT REPORT – Kadee Wright**

Ms. Wright reported that in May the Division received one complaint, and closed zero cases, leaving 38 appraisal cases open with the Division. There are two cases pending with the AG's office.

### **EDUCATION AND LICENSING REPORT – Mark Fagergren**

Mr. Fagergren reported there were four candidates approved by both the education and experience review committees to sit for their corresponding exams.

- Nicholas Nelson; Approved to sit for the Licensed Appraiser exam.
- Jessica Rees; Approved to sit for the Certified Residential Appraiser exam.
- Nicholas Mougey; Approved to sit for the Licensed Appraiser exam.
- Shannon Nightingale; Approved to sit for the Licensed Appraiser exam.
- Andrea Linford; Approved to sit for the Licensed Appraiser exam.
- Breman Nope; Approved to sit for the Licensed Appraiser exam.
- Chase Parker; Approved to sit for the Licensed Appraiser exam.

- Blake Schaeffer; Approved to sit for the Licensed Appraiser exam.
- Craig Johnson; Approved to sit for the Licensed Appraiser exam.
- Brian Whatcott; Approved to sit for the Certified Residential exam.

Mr. Fagergren reported there were two candidates denied by the experience review committees to sit for the corresponding exam.

- Jason Frandsen; Denied to sit for the Licensed Appraiser exam.
- Gerald Broad; Denied to sit for the Certified Residential exam.

"Yes" answers of appraisers and Appraisal Management Companies that were approved by Division Representatives since our last Appraisal Board Meeting

- James Hawthorne
- Lisa Meszaros
- Electric Appraisal Solutions, Inc.
- Owen Ard
- David Brandt
- Christopher Harland

### **BOARD AND INDUSTRY REPORT- Justin Barney**

Mr. Barney reported on the proposed rule amendment. The current rule covers PAREA, Experience modules, and Virtual Live Education. It has been submitted to the Office of Administrative Rules with their feedback to make a few minor changes and corrections. The proposed rule amendment is moving forward and should be open for public comment in the coming weeks. Mr. Barney informed the Board that he will be preparing a proposed rule amendment regarding the rule that requires a supervisor to be 3 years in good standing with the Division. It was discussed to remove "with the Division" and to replace it with just "good standing".

### **Experience Review**

Jason Frandsen

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: Vice Chair Ewell, yes; Board member Smart, yes; Board Member Jensen, yes; Board Member Sloan, yes. The motion passes.

### **CLOSED TO PUBLIC**

An Executive Session was held.

### **OPEN TO PUBLIC**

A motion was made and seconded to approve Jason Frandsen to sit for the appraiser exam. Vote: Vice Chair Ewell, yes; Board member Smart, yes; Board Member Jensen, yes; Board Member Sloan, yes. The motion passes.

A motion was made and seconded to adjourn the meeting. . Vice Chair Ewell, yes; Board member Smart, yes; Board Member Jensen, yes; Board Member Sloan, yes. The motion passes. The meeting adjourned at approximately 10:23 a.m.