

Appraiser Certification & Licensure Board

Quarterly Board Meeting - Summary Minutes

January 14, 2009

ACLB Office, 3000 Market Street NE, Suite 541, Salem, Oregon

BOARD MEMBERS IN ATTENDANCE

Craig Zell, Chair
John Larsen, Vice-Chair
Sara Fraser (out at 3:30pm)
Rick Herman (out at 12:50pm – excused)
Brad Armbrust
Clifford Houck

ACLB STAFF IN ATTENDANCE

Bob Keith, Administrator
Karen Turnbow, Programs Manager
Warren Foote, Legal Counsel, DOJ (out at 2:00 pm)
Cyndie Standley, Compliance Analyst
Chuck Fisher, Compliance Analyst

BOARD MEMBERS ABSENT

Jill Whitlock - excused

PUBLIC IN ATTENDANCE

Diane Forsberg
Darr Goss
Barry Dayton
Kathy Carpenter
Megan Germann
Karl Kaufmann
Carl Royer
Max Smith
Matthew Larrabee
Bruce Ostly (in at 10:40 am)
Brian Glanville (in at 10:40 am)

I: CALL TO ORDER AND VERIFICATION OF QUORUM

Chairperson Zell called the meeting to order at 9:18 a.m. and verified that a quorum was present.

II: PUBLIC INPUT

Katherine Carpenter (State Licensed Appraiser): Presented testimony regarding appraisers being victims of identity theft; people using the appraiser's name and/or license number to issue fraudulent appraisal reports. Requested that the Board develop or participate in an advocacy group to support appraisers that are victims of identity theft and ways to protect their identity. Carpenter also requested that the Board communicate to the public regarding the convictions of those who have committed the crime of identity theft.

Megan Germann (Appraiser Assistant): Presented testimony regarding a request that the Board reconsider the amount of education she will be required to complete prior to being allowed to submit a new SCGA application. She previously was approved to take the exam, but failed all three attempts to pass the exam. She was subsequently required to take a number of additional education courses before being approved to submit a new application.

Max Smith (State Certified Residential Appraiser): Presented testimony regarding sales concessions and appraisal management companies (AMCs). Requested that the Board develop a workgroup to deal with the issue of disclosure of sales concessions, etc.

Carl Royer (State Certified Residential Appraiser - President of Rose City Chapter of NAIFA): Presented testimony regarding important issues facing appraisers nationally, in particularly dealing with appraisal management companies. NAIFA and other appraisal organizations are banning together to propose model legislation to regulate appraisal management companies. Briefly summarized the proposed legislation. Royer asked to what extent the Board would be willing to participate in promoting this legislation.

Matthew Larrabee (State Certified General Appraiser – President of Greater Oregon Chapter of the Appraisal Institute): Feels that it is in the public’s best interest to regulate the Appraisal Management Companies. Would be interested in working with other appraisers to facilitate this.

Darr Goss (State Certified General Appraiser – Supervising Appraiser of Megan Germann): Goss supports Megan German being allowed to take the exam and reduction of education requirements. Requested that the Board review its interpretation of the requirements to submit a new application.

III: ACTION ITEMS

Adoption of October 22, 2008 quarterly Board meeting minutes:

Foote requested that page four of the minutes be revised to state that the legislative concept was originated by the Administrative Law Section of the Oregon State Bar Association. All agreed.

MOTION #1

Larson moved and Herman seconded that:

The Board approve the October 22, 2008 quarterly board meeting minutes as amended.

Motion passed unanimously.

IV: NEW BUSINESS

Request for Consideration by Two Potential Applicants (Keith):

Presentation by Brian Glanville and Bruce Ostly. Over five years ago Ostly was fined \$250,000 for unlicensed appraisal activity when he continued to work after letting his certification expire. Ostly has been working as a consultant for Glanville’s office. Ostly is requesting that the Board not deny a future license application based solely on his actions which were the basis of the Board’s Order resulting in the \$250,000 civil penalty. Ostly summarized history regarding the types of work that he’s done and his actions which resulted in disciplinary action by the Board for unlicensed appraisal activity. Throughout Ostly has cooperated fully with the Board and is making timely payments on the assessed civil penalty. Carl Royer offered support for Ostly’s battle with depression.

Discussion by Board members regarding Ostly’s request.

MOTION #2

Fraser moved that:

The Board agree not to deny a future application for a certified general appraiser credential based solely on Ostly's actions which were the basis of the Board's Order of November 14, 2003 resulting in the \$250,000 civil penalty.

Further discussion by the Board.

Herman seconded the motion.

Motion passed. Herman, Fraser, Larsen and Zell voted Yes. Houck and Armbrust voted no.

Brief summary of history of the Board's denial of renewal and the subsequent denial of license application of Greg Barr. Barr has requested that the Board not deny a future application for state licensed appraiser based solely on his actions which were the basis of the Board's 1997 Order denying his license application. Barr participated and provided testimony via telephone conference call. Barr lived in Kentucky from 1997 to 2001, moved to New Hampshire for five years, and then returned to Kentucky in 2006. Barr is currently unemployed. Barr taught special education children in New Hampshire. Barr must remedy his past issues with the Oregon denials and obtain his Oregon license, before being considered for licensure in Kentucky. He has no plans to return to Oregon and practice in this state. Barr indicated that he would voluntarily submit to a national fingerprint criminal background check.

MOTION #3

Herman moved and Armbrust seconded that:

Subject to passing a national criminal background check, the Board not deny a future application for state Licensed Appraiser credential by Greg Barr based solely on his actions which were the basis of the Board's February 5, 1997 Final Order.

Motion passed. Herman, Fraser, Larsen, Armbrust and Zell voted yes. Houck voted no.

Discussion by the Board regarding request by Megan Germann to reduce the amount of required additional qualifying education and that she be allowed the retake the State Certified General Appraiser examination. After comments by Board counsel, Warren Foote, the Board concluded that it is bound to follow its administrative rules regarding application and examination requirements and therefore could not approve her request.

V: EXECUTIVE SESSION: 12:10 pm to 12:45 pm

Board received written legal counsel regarding unlicensed appraisal activity. Foote and Keith received direction from the Board on handling of specific matters.

LUNCH BREAK 12:50pm to 1:55pm

Deliberation and/or Adoption of Proposed Administrative Rules (Zell):

Discussion regarding proposed changes to administrative rules and consideration of public input.

161-025-0060(6) – clarify USPAP Standard Rule 2(a) and 2(c). Keith also advised that the wording in 161-025-0060(6) should be revised.

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MOTION #4

Fraser moved that:

The Board approve all proposed rule changes, including amendment and clarification of the proposed change to OAR 161-025-0060(6), subject to legal counsel’s opinion as to whether the Board can make such a clarification.

Further discussion by the Board.

Fraser withdrew her motion.

Further discussion

MOTION #5

Fraser moved and Larsen seconded that:

The Board adopt all proposed rule changes, with the exception of the proposed changes to OAR 161-025-0060(6).

Motion passed unanimously.

Deliberation and adoption of proposed temporary rule (Zell):

MOTION #6

Larsen moved and Armbrust seconded that:

The Board adopt a temporary rule to be effective on or before January 30, 2009 aligning the Board’s Rules with the Appraiser Qualification Board’s education criteria regarding “in lieu of” college Degree requirements for certified appraisers, and adding a definition for “Accredited College or University”.

Motion passed unanimously

Appraisal Management Company Regulation and Final Version of the Home Valuation Code of Conduct (Zell):

The HVCC ultimately results in most residential appraisal assignments going through appraisal management companies. The Board discussed the new HVCC requirements which go into affect this year. Members of the appraisal profession are pursuing regulation of appraisal management companies.

Third-Party Intermediary Electronic Delivery Mechanisms (Zell):

The Board discussed whether they should encourage Oregon licensees to include a disclaimer in their appraisal report regarding transmission of reports using AppraisalPort, WinTotal, etc., disclaiming any warranty or guarantee regarding the accuracy, reliability or portrayal of appraisal report content transmitted.

HUD Mortgage Letter 2008-39 (Zell):

As of October 1, 2009, FHA will no longer use State Licensed Appraisers to perform FHA appraisals.

VI: OLD BUSINESS

Appraisal Standards Board 2010-2011 USPAP Exposure Draft (Zell):

No input or discussion by the Board.

Update on Semi-Independent Model of Governance (Keith):

Keith advised that the Semi-Independent Boards have contracted with Steve Kafoury, a government relations consultant to work on behalf of the Boards in efforts to maintain their semi-independence and track House Bill 2057. The ACLB is not currently included in House Bill 2057. However, there is no guarantee that Representative Greenlick will not pursue including other semi-independent agencies in the bill.

Update on Chase Bank's New "Referral" Policy (Keith):

Keith has not yet received feedback from the Appraisal Subcommittee regarding this issue.

Enforcement Report (Keith):

Summary by Keith regarding status of enforcement cases.

Licensing Report (Keith):

Summary report regarding number of licensees.

Budget Report (Larsen/Standley):

Summary budget report by Larsen. Larsen went over the latest quarterly income/expense report. Several expense items that were budgeted for this biennium such as new office furniture, computer software upgrades, etc., have not yet been expended, but are currently in the process. Zell directed staff to move forward with those items; to spend the amounts allotted in the current biennium budget.

Board staff will begin preparing a proposed budget for the 2009-2011 biennium. The Board will adopt a temporary budget at the April 2009 board meeting to be effective July 1, 2009, until the Board can put it out for public input and a budget hearing in October 2009.

VII: ADMINISTRATOR'S REPORT

Report by Keith regarding reinvestment of reserve funds. Funds were transferred into 3 month and 6 month Certificates of Deposit.

Pearson Vue met with Keith and Turnbow regarding on-line licensing and renewals. After discussions with them, it was apparent that it would be too costly for the Board and not cost effective for Pearson Vue.

The Board is receiving numerous calls from licensees regarding additional education requirements to upgrade to certified residential due to new FHA requirements.

Keith advised appraisers to renew at least six weeks before license expiration to ensure that they remain on FHA's approval list because they won't lapse on the Appraisal Subcommittee's national registry.

Keith has done Board update presentations for several appraisal organizations and groups of appraisers.

VIII: ADJOURNMENT:

MOTION #7

Larson moved and Armbrust seconded that:

The Board meeting be adjourned.

Motion passed unanimously.

Meeting adjourned at 4:05 p.m.

Next scheduled meeting – April 22, 2009