

Appraiser Certification & Licensure Board

Quarterly Board Meeting - Summary Minutes

April 17, 2006

Oregon Board of Massage Therapists, 748 Hawthorne Avenue NE, Salem, Oregon

BOARD MEMBERS IN ATTENDANCE

Craig Zell, Chair
Terry Bernhardt, Vice-Chair
John Larsen
Doug Nelson
Sara Fraser (out at noon)
Clifford Houck

ACLB STAFF IN ATTENDANCE

Bob Keith, Administrator
Karen Turnbow, Office Manager
Cyndie Standley, Co-Compliance Program Coordinator
Chuck Fisher, Co-Compliance Program Coordinator
Thomas Cowan, Legal Counsel, Dept. of Justice

BOARD MEMBERS ABSENT

Jill Whitlock

PUBLIC IN ATTENDANCE

Jeff Benham
Bill Wiggins

I: CALL TO ORDER AND VERIFICATION OF QUORUM

Chairperson Zell called the meeting to order at 9:07 a.m. and verified that a quorum was present.

II: PUBLIC INPUT

Jeff Benham: Benham submitted materials related to his education and experience to Board Members for their review and consideration. Benham is seeking a decision from the Board as to whether his education and experience is acceptable for licensing. Benham provided a summary of his experience background. Benham's experience is largely high-level ad valorem tax appraisal experience, but he does have significant fee appraisal experience as well.

Bill Wiggins: Wiggins is a State Licensed Appraiser in Eugene. Wiggins wishes the Board to confirm its interpretation of its rules and statute regarding acceptable appraisal experience for the certified general license. Specifically, Wiggins, a licensed appraiser, is seeking approval of experience for non-residential appraisals performed under the \$250,000 de minimus and without registering as an appraiser assistant.

A discussion ensued by the Board regarding scope of practice and areas of acceptable appraisal experience as identified in the administrative rules.

The general consensus of the Board is that a licensed or certified residential appraiser can claim experience credit for non-residential experience only if the non-residential experience is within the scope of their license; i.e. under \$250,000 transaction value. For experience that is outside the scope of the person's license, they may only receive experience credit if they are registered as an appraiser assistant during the period of registration.

Keith asked the Board if it wanted to clean up the language in OAR 161-010-0020 regarding acceptable appraisal experience for clarification purposes. Legal Counsel Cowan indicated that the rule, as written, appears clear and allows discretion of the Administrator. Cowan does not feel that clarification is needed. The consensus of the Board was ultimately to leave the rule as written.

III: ACTION ITEMS

Review and approval of minutes for the January 9, 2006 board meeting.

Larsen advised that page 3, paragraph 8, of the January 9, 2006 draft minutes needed to be revised to replace the word “addition” with “edition”.

MOTION #1

Doug Nelson moved and John Larsen seconded that:

The Board approve the January 9, 2006 meeting minutes as amended.

Motion passed unanimously.

IV: NEW BUSINESS

Board interpretation of acceptable appraisal experience for professional foresters: Discussion by the Board regarding acceptability of experience by professional foresters. The Board concluded that because the statute excludes valuation of timber and timberland by professional foresters as real estate appraisal activity, they cannot subsequently seek the same experience as acceptable appraisal experience.

Acceptance of ad valorem appraisal experience: Nelson reiterated that the Board specifically removed ad valorem appraisal experience from acceptable experience towards obtaining an appraiser license. Cowan reiterated that the Board can still consider it, but that it is just not specified as acceptable experience. It would fall back on the administrator and his discretion.

“Evidence satisfactory to the Administrator” in OAR 161-010-0035, 45 and 55 refers to the quality of the components that are being presented as part of the application. Evidence of that experience, not the type of experience is applicable when submitting an application. The type of experience still goes back to those areas of acceptable experience as identified in OAR 161-010-0020.

Houck feels that any experience outside the specific categories outlined in the administrative rules, should be brought before the Board for consideration. Zell recommended that the Administrator work with the applicant to obtain evidence satisfactory to the Administrator of USPAP compliant experience to make a judgment call as to whether or not the experience is acceptable.

Keith requested that the Board make a motion that, in Mr. Benham’s specific case, his experience would be acceptable provided that he can document acceptable experience that is substantially compliant with USPAP.

MOTION #2

Cliff Houck moved and Doug Nelson seconded that:

If Benham's experience and education can be satisfactory documented to the Administrator in a USPAP compliant matter, It would be considered acceptable.

Houck withdrew the portion of his motion regarding education. He indicated that his motion should only apply to experience. Houck also asked that his motion be revised to change the term "USPAP compliant" to "substantial compliance with USPAP". Nelson seconded the motion as modified.

Motion passed unanimously.

BREAK: 11:05 a.m. to 11:15 a.m.

ACLB lease expiration / initiation of relocation efforts: The Board's lease expires at December 31, 2006. The Board has looked at another space that is currently occupied by MAPS Credit Union, Travel Board, and Board of Optometry. It appears that, in this building, the Board could get more space than what it currently occupies for about the same rate. The owners of the MAPS building are anxious to lease space to other semi-independent agencies. There would be a benefit to be in a building with other semi-independent boards from a networking aspect. Zell believes that he can get the developers/owners of the MAPS building to participate in the move, as far as transferring services, obtaining moving services, etc.

MOTION #3

Doug Nelson moved and Cliff Houck seconded that:

The Board permit Keith and Zell to research the issue of moving the office to a new location and negotiate a lease. The Board must then authorize any proposed lease agreement.

Motion passed unanimously.

Zell advised that the Board is currently paying \$1900 per month for a space that is less than 1200 square feet. The Board would be looking for space of 1400 to 1500 square feet.

Removal of license numbers from website: The Board discussed the issue of removing license numbers from the Board's website. Cowan indicated that the Board could make a policy decision to remove the license number from the website. Keith advised the Board that the appraiser's license and license number is a public record and anybody from the public could request a copy of an appraiser's license.

MOTION #4

Doug Nelson moved and John Larsen seconded that:

The Board authorize the staff to remove the appraiser license number from the Board's website.

Motion passed unanimously.

Minimum work file retention: The Board discussed the issue of minimum work file retention. Keith provided the Board a copy of a Q&A from the Appraisal Standards Board. Keith requested clarification from the Board on how to handle a complaint that involves an appraisal report that was issued more than five years previous, and the appraiser no longer

retains a copy of the appraisal report and work file. The Board has articulated in its administrative rules the retention time for appraisal reports and work files. The Board reiterated that the failure of the appraiser to maintain a report and work file in excess of five years, does not remove the Board's obligation to process and investigate a complaint, nor does it remove their authority to do so.

Discussion of first 2006 AQB exposure draft - Response to request for comments: Keith sought comments or feedback regarding the AQB's request for written comments to their exposure draft on interpretation and guide notes for applying the new real estate appraiser qualification criteria. The AQB is currently considering a military waiver for continuing education. Currently, there is no waiver allowance for continuing education. Keith sought guidance as to what the Board's position is regarding the AQB's interpretation and clarification of such things as continuing education waiver, requirements to upgrade a license, generic experience criteria, etc. The Board recommended the AQB not approve continuing education for attending board meetings, extend the 90-day period for military waivers, and add criteria to go from certified residential to certified general appraiser.

Election of officers: Larsen nominated Craig Zell for chairperson subject to reappointment by the Governor. Bernhardt seconded Zell's nomination for chairperson. Zell nominated Bernhardt for vice-chair. Larsen seconded the nomination for Bernhardt as vice-chair.

The board voted unanimously to re-elect Zell for chairperson and Bernhardt for vice-chair.

LUNCH BREAK: 12:00 p.m. to 1:10 p.m.

V: NON-PUBLIC SESSION FOR CONTESTED CASE DELIBERATION: The Board reviewed and discussed the Administrative Law Judge's Proposed Final Order regarding Jeremy Sisneros and deliberated.

Return to public session at 1:52 p.m.

Board action on Administrative Law Judge's Proposed Final Order from Contested Case:

MOTION #5

Doug Nelson moved and John Larsen seconded that:

The Board deny renewal of Sisneros' Appraiser Assistant Registration and order a civil penalty in the Amount of \$500 for one instance of unlicensed appraisal activity..

Motion passed unanimously.

VI: OLD BUSINESS

Appraiser Assistant Advisory Committee Update: The Board reviewed the Advisory Committee's Report of April 14, 2006. Zell reported that the Advisory Committee met three times and gave a brief overview of their meetings and conclusions. Keith was on vacation during the last Committee meeting which resulted in the committee making an assumption regarding the number of new appraiser assistants per year. The assumed number was incorrect which affected its recommendation. There were many stakeholders that weighed in on revising the appraiser assistant/supervising appraiser program. Zell advised that the Board would have the option of doing nothing and continuing to randomly audit reports as part of an application or anytime during the Appraiser Assistant's registration period. Keith reminded the Board that we must stay within the current limits of the Board's resources when making recommendations and adopting changes to the administrative rules regarding the appraiser assistant program. Keith recommended that the Board audit on a random basis, such as every ten applications for registration, the appraisal reports for USPAP compliance. In lieu of having a required class for supervising appraisers, Keith recommended that the appraiser assistant application be modified

and expanded to contain language regarding the duties and obligations of the appraiser assistant and supervising appraiser that would be signed and certified by the applicant and supervising appraiser. The Board could develop a course outline and provide that to course providers to develop their own course that would then be submitted to the Board for course approval. Keith recommended that the instructors be USPAP certified instructors and must have taken the course from the Board. Keith also suggested performing field audits.

Keith advised that the changes would require a rule change that included a proposed notice, a rules hearing and formal adoption.

Zell suggested that staff develop proposed rule changes to be presented at the July 2006 board meeting.

The Board suggested returning to it's original proposal for the supervising appraiser endorsement program that would include a USPAP compliance audit, with the exception of removing (4)(c)(A)-(C) from the proposed language of 161-010-0085. The staff would take the language contained in those subparagraphs and adopt them as a policy/procedure. The staff would draft proposed changes to the rules, submit them to the Board for individual feedback, and then issue a proposed notice of administrative rules hearing.

BREAK: 3:05 p.m. to 3:12 p.m.

Budget Update: Short summary by Larsen regarding the Board's current budget. Income is about 7.5% above and expenses are about 4.5% below projections. Keith advised that approximately 45% of licensees are renewing this year and 55% are renewing next year.

MOTION #6

Terry Bernhardt moved and Cliff Houck seconded that:

The Board accept the budget report.

Motion passed unanimously.

Enforcement Update: Short summary by Keith of the status of enforcement cases. Keith advised that the percentage of cases being closed has increased, and that the number of complaints being filed has significantly increased. Keith advised that the large number of complaints that were filed by a specific appraiser has pushed the processing time beyond one year. Keith hopes to have the processing time for complaints within one year by the time the Appraisal Subcommittee gets here in July 2006, but accomplishment of this goal is not certain. Keith has instructed Standley and Turnbow to assist in reviewing/investigating the complaints.

Active duty military deferral: Cowan drafted a proposal for allowing a deferral for obtaining continuing education for returning active duty military personnel to renew their appraiser license. Keith requested that the Board review the prospective language and, if acceptable, the language will be included in proposed rule changes for consideration at an administrative rules hearing. Keith suggested that the language be revised to refer to "licensees or appraiser assistants". Keith also requested that the language be amended to changes "military waiver" to "military deferral".

Licensing report: Short summary of the number of licensees and registered appraiser assistants. The number of active licensed and certified appraisers is at its highest level in the history of the Board.

Chase Bank fee schedule: Zell advised that he received a letter from Chase regarding a new fee schedule for appraisers. The Board had concerns with regard to the fee being based upon the appraised value; in other words, a contingent fee. At the Administrator's request, Tom Cowan sent a letter to Chase requesting a response as to the issue of a fee contingent upon the appraised value of the property.

VII: ADMINISTRATOR'S REPORT

Keith advised the Board in the last board meeting that the license applications were taking 2-3 months to process. Keith advised that, within 30 days of the last Board meeting, the application process time has been brought back to within 30 days. Keith advised that, to reduce the backlog of applications, he authorized staff overtime. Additionally, the staff is developing a system for tracking applications through the entire process.

Keith advised that Jan has made some significant improvements with regard to organization of her work and processes.

The Board hired a temporary employee. We are now on our third temporary employee, through no fault of the agency. The temporary position is assisting Jan with clerical support which will also serve to keep application processing time within 30 days.

Keith met with a commercial appraiser that specializes in litigation who was researching for a speech on the scope of work rule.

Keith is working with HUD, FHA, Consumer and Business Services and others in putting together a HUD seminar dealing with appraiser and lender issues.

Keith attended a meeting with the association of foresters where he discussed issues of experience credit for licensing. Keith will be speaking at different seminars and meetings to discuss USPAP, real property appraisal regulation, scope of work, etc.

The Division of Finance and Corporate Securities is holding a forum on May 22, 2006 that will include other state agencies to discuss ways to efficiently allocate newly added resources within the Division.

The Administrator has met on several occasions with appraiser assistants and their supervising appraisers regarding issues of non-USPAP compliance in experience credit submitted by license applicants.

Keith advised that he continues to get periodic requests to meet with the FBI. They continue to seek examples of appraisal fraud.

Keith referred to miscellaneous communications submitted to the Board as part of their meeting packet. Communication included contact with DFCS and mortgage lenders relating to unacceptable practices. Nelson has received communications from appraisers around the country lauding the Oregon Appraiser Board's efforts in dealing with mortgage lender pressure.

The Appraisal Subcommittee will be here July 12 and 13 to review Board practices. The Subcommittee will attend the July 13, 2006 Board meeting.

The Board has been advised that the Secretary of State will be conducting a financial audit in the near future.

The Board will file a temporary rule change to adopt the 2006 Edition of USPAP effective July 1, 2006.

Keith advised that Assistant Attorney General Christine Chute has left her position as attorney in charge of the Business Activities Section at Department of Justice. Chute served for a period as the Board's legal counsel.

Keith advised that he and Larsen have not yet had a chance to review the current personnel policies. Keith will be working with Larsen during the next several months to consider revising the current policies.

Keith advised that the former Administrator of the Landscape Architects Board recently plead guilty to theft and was ordered to repay over \$135,000. The Appraiser Board has checks and cross-checks for expenditures and budgeting to prevent this type of illegal activity from occurring.

Keith attended the Spring 2006 Association of Appraisal Regulatory Officials (AARO) conference in San Antonio Texas. Keith gave the Board a short summary of what occurred at the AARO conference.

Keith reported that, since the last Board meeting, he has attended three different training sessions. Topics include administrative rules, public law and notice/order writing.

MOTION #7

Terry Bernhardt moved and Doug Nelson seconded that:

The Board meeting be adjourned.

Motion passed unanimously.

Meeting adjourned at 4:13 p.m.

Next scheduled meeting – July 13, 2006