

Appraiser Certification & Licensure Board

Board Meeting - Summary Minutes

January 10, 2005

West Coast Bank, 550 Center Street NE, 2nd Floor Conference Room, Salem, Oregon

BOARD MEMBERS IN ATTENDANCE

Terry Bernhardt, Vice-Chair
Craig Zell, Chair
Clifford Houck
John Larsen
Doug Nelson
Dee Staple
Jill Whitlock

ACLB STAFF IN ATTENDANCE

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

BOARD MEMBERS ABSENT

None

PUBLIC IN ATTENDANCE

None

I: CALL TO ORDER AND VERIFICATION OF QUORUM

Chairperson Craig Zell called the meeting to order at 9:15 a.m. and verified that a quorum was present.

II: PUBLIC INPUT

None

III: ACTION ITEMS

Meeting minutes approved for October 18, 2004 board meeting.

Nelson moved and Bernhardt seconded to approve the minutes of the October 18, 2004 Board meeting minutes.
Approved unanimously.

MOTION #1

Doug Nelson moved and Terry Bernhardt seconded that:

The Board approve the October 18, 2004 meeting minutes.

Motion passed unanimously.

IV: NEW BUSINESS

ADOPTION OF PROPOSED RULE CHANGES:

MOTION #2

Doug Nelson moved and Cliff Houck seconded that:

The Board adopt proposed rule changes regarding adoption of the 2005 Edition of USPAP.

Motion passed unanimously.

MEASURE 37: Discussion regarding requirements and implementation of Measure 37, and revisions to ORS Chapter 197. All jurisdictions have written their own procedures to handle Measure 37 claims. Some jurisdictions are requiring 1-2 appraisals submitted with the claim, and some jurisdictions require no appraisal at the time of filing the Measure 37 claim. Zell and Keith have met with a number of people and groups regarding implementation of Measure 37.

Bernhardt proposed that the Board communicate to all licensed/certified appraisers advising that appraisals for Measure 37 claims are, for the most part, going to be complex appraisal assignments to be performed by licensed/certified appraisers, and that the appraiser should use care in assuring their competency and compliance with USPAP.

Houck inquired if Keith would meet with Scott Taylor, the Real Estate Commissioner, regarding brokers issuing opinions of value on Measure 37 claims. Keith proposed that the Board take the position that the Board will pursue a complaint against Brokers/Realtors for unlicensed appraisal activity for issuing opinions of value for Measure 37 claims, unless they are testifying as compelled by judicial order or subpoena. McGinnity said that it may be premature at this point to draw a line in the sand as it relates to brokers/realtors issuing opinions of value.

Keith stated that he would meet with Scott Taylor to inquire as to the Real Estate Agency's position regarding issuing opinions of value on real property for Measure 37 claims.

JOINT LEGISLATIVE AUDIT COMMITTEE STATUTE CHANGE REQUEST: The Joint Legislative Audit Committed (JLAC) conducted a review of small regulatory agencies and have recommended changes to ORS 182. ORS 674.267 currently mirrors ORS 182 regarding reporting requirements. A bill has been drafted (LC 1268) regarding changes to the biennial reporting requirements for semi-independent state agencies. Legal Counsel has suggested that we remove revise our statute (ORS 674.367) to reference ORS 182 reporting requirements.

LANDSCAPE ARCHITECT BOARD REQUEST FOR ASSISTANCE: The JLAC report noted significant problems with the Oregon Landscape Architect Board (OLAB), a semi-independent agency. OLAB called a meeting with other heads of semi-independent agencies requesting financial support. Since that meeting, they have withdrawn their initial request for financial assistance, however there may be need in the future.

AARO ATTENDANCE: Zell indicated that the budget would allow for a second person to attend AARO conferences in addition to the Board Administrator. Zell is requesting that the Board allow the current Board Chair to attend in addition to the Administrator. Keith recommended that this be included as a line item in the next biennium budget to allow for travel to the AARO conference. Bernhardt stated that perhaps junior Board members be given the opportunity to attend AARO conferences. Houck proposed that another staff person attend with the Administrator. Bernhardt suggested that at least two people attend the AARO conferences.

Zell stated that he is currently the lead budget reporting person. He sought a volunteer to take over that position. John Larsen, the banker member, volunteered to take over heading the budget committee.

BREAK: 10:45 a.m. to 11:00 a.m.

V: OLD BUSINESS

ENFORCEMENT UPDATE: Standley provided an enforcement case status report to the Board. Keith stated that one of the cases that was over one year old involves Charles Dawell. The board is awaiting the outcome of the current appeal, pending resolution of this latest Dawell complaint. The other case that is over one year old is pending a proposed notice of disciplinary action.

LEGISLATIVE UPDATE: Zell advised that Legislative Concept (LC) 64 is expected to become a legislative bill in the next couple of weeks. Zell encouraged the Board to write or contact their respective legislator in support of our bill.

FINANCIAL AUDIT RESULTS: Zell provided a brief report to the Board regarding the outcome of the financial audit conducted in October 2004.

CHARLES DAWELL APPEAL: Keith advised that the Oregon Court of Appeals affirmed without opinion the Board's final order. Dawell has 60 days from the date of the Court's order (December 8, 2004) to file an appeal with the Oregon Supreme Court.

RESERVE FUNDS INVESTMENT: Zell stated that the reserve funds were deposited with West Coast Bank. A copy of the Time Certificate of Deposit is included in the Board packet.

BRUCE OSTLY: On November 9, 2004 the Board sent a letter of demand to Bruce Ostly requiring payment of the assessed civil penalty. Ostly failed to submit payment within the required 10 day period as outlined in the demand letter. Keith subsequently met with Ostly who has volunteered a payment plan based upon a percentage of his income. Ostly volunteered to make quarterly payments and to provide the Board with a copy of his tax returns as proof of income.

EXECUTIVE SESSION: 11:22 a.m.

Discussion and advice from Robyn McGinnity, Legal Counsel, regarding the Bruce Ostly case.

RECONVENED TO OPEN SESSION: 12:02 p.m.

Consideration by the Board of the following request from Ostly: (1) to allow a payment plan; (2) to allow him to eventually obtain a license; (3) to reduce the amount of civil penalty.

MOTION #3

Dee Staple moved and Cliff Houck seconded that:

The Board take no further action on this matter, other than to turn the matter over to Department of Justice for collection of the civil penalty.

Motion passed unanimously.

VI: ADMINISTRATOR'S REPORT

Keith acknowledged and thanked Lori Lindley for assisting the Board as legal counsel during Robyn McGinnity's absence.

New licensing criteria takes effective January 1, 2008. The Board needs to begin taking action with regard to development and adoption of new administrative rules for implementation of the new criteria.

Next biennium's budget will have to be adopted by July 1, 2005. Because of the board meeting schedules, the Board will adopt by temporary rule a proposed budget, pending exposure of a proposed budget. A final budget can then be adopted at a subsequent date.

2005 Legislative report to the Governor's office and legislature.

New website has been completed and is up and running.

Report regarding 2004 license statistics.

Reciprocity agreement with Washington has been signed by both states.

In February, Keith will be attending a meeting in Las Vegas, at the expense of Professional Examination Service, to review new license examination requirements.

Keith and Fisher recently attended a USPAP Instructor recertification course.

In the future, Keith may be asking the Board to consider sharing with him the expense of participating in a public management certification program through Willamette's Atkinson School of Business. Keith will be taking an on-line course, at his own expense, in office management.

Bernhardt commented on the new education criteria effective January 1, 2008. Bernhardt suggested the Board consider a requirement for all appraisers, even those already licensed and certified, to meet some or all of the new education criteria. Further discussion.

MOTION #4

Doug Nelson moved and John Larsen seconded that:

The Board adjourn the meeting.

Motion passed unanimously.

Meeting adjourned at 12:27 p.m.

Next scheduled meeting – April 18, 2005