

Minutes of the
Idaho Real Estate Appraiser Board
March 19, 2001

The Idaho Real Estate Appraiser Board meeting was called to order at 8:05 a.m., Monday, March 19, 2001 at the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho.

Roll Call: Doyle Pugmire, Chairman
Gordean Briggs, Board Member
Paul Morgan, Board Member

Bureau Staff: Thomas E. Limbaugh, Bureau Chief
Roger Hales, Administrative Attorney
John Kersey, Chief Investigator
Kirsten Wallace, Prosecuting Attorney
Dee Ann Randall, Administrative Secretary

Ruby Stroschein and Stanley Moe absent excused.

Minutes

Moved by Gordean Briggs, seconded by Paul Morgan and carried the minutes of the January 22, 2001 board meeting be approved.

Financial Report

Mr. Limbaugh reviewed the financial report with the Board. Their current fund balance is \$41,984. The FY2002 budget has been approved in the Senate, but has not been voted on yet in the House. The moneys requested for mailing of USPAP will be available after July 1, 2001 and can be mailed to licensees this fall.

The proposed rule changes have been approved and are waiting for the concurrent resolution to be effective.

Mr. Limbaugh informed the Board that he has talked to Bob Jones, Chair of the Real Estate Commission regarding his concerns with the Board's backlog of complaints. Mr. Jones was advised of the Bureau's complaint process and the number of current complaints.

Mr. Limbaugh requested the Board's assistance in completing a budget request form for the preparation of the budget year beginning July 1, 2002. The Board completed the form and returned it to Mr. Limbaugh.

Kirsten Wallace, Deputy Attorney General met with the Board regarding complaint issues.

Moved by Paul Morgan, seconded by Gordean Briggs and carried the Board goes into executive session at 8:50 a.m. to discuss possible litigation.

Moved by Gordean Briggs, seconded by Paul Morgan and carried the Board comes out of executive session at 10:05 a.m.

Case #1 – REA-L1A-04-00-006. The Board authorizes Ms. Wallace to negotiate a consent order whereby the Respondent's license be suspended for ninety (90) days, stay suspension and be place on probation for one (1) year, at anytime during this probation period his files can be audited. Respondent must also pay a fine of \$500, pay investigative costs and attorney fees.

Case #2 – REA-P3A-01-00-018. The Board authorizes Ms. Wallace to send a letter of instruction to Respondent.

Case #3 – REA-P3-04-00-019. The Board authorizes Ms. Wallace to issue Respondent a warning letter.

Case #4 – REA-P3-04-00-025. The Board authorizes Ms. Wallace to close the file without further action.

Case #5 – REA-L3-02-97-006; REA-L3-02-97-024; REA-L2C-02-97-031, REA-L3B-02-98-007; REA-L3C-02A-98-036; REA-L3-02A-98-021/ REA-P3-02A-98-020; REA-L3-03-01-001. The Board authorizes Ms. Wallace to negotiate a consent order which includes a five (5) year suspension with three (3) years stayed; a fine of \$2,000; investigative costs and attorney fees of \$1,500; 45 hours of continuing education with preapproval of all courses by the Board; and probation for three (3) years following reinstatement after the suspension period, also that respondent cannot supervise others or be allowed to have any trainees under his supervision.

REA-B3-01-97-022; REA-L2B-01-98-015; REA-L3-01-99-007; REA-L3-01-99-008; REA-L2C-01-99-013; REA-L2C-01-99-013A; REA-L2C-01-99-013B; REA-L3-01-99-021; REA-S2C-01-99-027. Wendie Janke Lambros, Consent Order. Ms. Janke signed a consent order to resolve nine (9) pending cases, and the Board adopted the order on May 9, 2000. Conditions of the order included suspension of her license for five (5) years with three (3) years stayed and a fine in the amount of \$2,000 and investigative costs and attorney fees in the amount of \$3,000. Ms Wallace advised that Ms. Janke has not made the required payment, and there is sufficient evidence to proceed with both an administrative action and a debt collection action in district court. Though demand for payment has been made, Ms. Janke is currently out of the country and a return date is uncertain. Based on this information, the Board accepted Ms. Wallace's recommendation to postpone further action at this time.

REA-S3-01-99-041. The Respondent is willing to voluntarily surrender his Idaho license. Ms. Wallace advised that this resolution is an acceptable alternative to a formal stipulated reprimand, and the Board was in agreement.

Complaint Report

Moved by Paul Morgan, seconded by Gordean Briggs and carried that the Board adopts the investigative report as part of the minutes.

John Kersey reported that Six (6) complaints have been received thus far for the year 2001. Of those, one (1) has been referred to legal staff. The remaining five (5) are awaiting a pre-investigative review.

Thirty (30) complaints received were received for the year 2000. Of those twenty-one (21) remain under investigation. Four (4) are under legal review. Eleven (11) are under Pro-review.

Forty-six (46) complaints were received in 1999. Twelve (12) remain under investigation, three (3) are under legal review, and ten (10) are under pro review.

Thirty-seven (37) complaints were reviewed in 1998. Eight (8) are under legal review. Five (5) are under pro review.

Thirty-two (32) complaints were received in 1997. Three (3) remain under legal review.

Those closed are outlined below:

Year 2000

REA-L3-01-00-002 Alleged incompetence in development of data, failure to identify intended use, failure to contain approach to value. Complainant withdrew the complaint.

- REA-L1-03-00-004 Alleged unlicensed practice. Respondent applied for and was granted licensure.
- REA-L1A-01-00-005 Alleged unlicensed practice. Broker price opinion. Legal review concluded beyond the scope of jurisdiction, however the matter was referred to the local authorities.
- REA-P3-01-00-013 Alleged incompetence. Board member reviewed entire complaint and concluded that the complaint was unfounded; the complaining party (owner) was not happy with the report, which was paid for by the buyer.
- REA-P3-04-00-021 Alleged unprofessional manner, negligence and gross errors. Board member reviewed and concluded no violation.
- REA-L1-01-00-027 Alleged unlicensed practice. Respondent, an out of state appraiser prepared a report without obtaining temporary permit. Legal staff prepared a Cease & Desist letter.

Year 1999

- REA-L1C-01-99-003 Alleged incompetence. Respondent entered into a Consent Order.
- REA-L3-03-99-004 Unknown identity of the respondent. Closed by Board.
- REA-P3-04-99-005 Failure to accurately depict fencing, flooring, and other interior aspects of the property, all leading to a gross inaccurate report. Respondent entered into a Consent Order.
- REA-P3-02B-99-006 Alleged inaccurate information. Board member reviewed and concluded the buyer was unhappy with the value, in addition some small errors had been uncovered. A warning letter was sent to the respondent.
- REA-L2C-01-99-007, 008, 013,a,b, 02, 027, 98-006, 98-015, 97-022. Alleged incompetence. Respondent had numerous other complaints and ultimately enter into a Consent Order.
- REA-P3-02A-99-009 Alleged incompetence in the appraisal of a modular home. Board member reviewed and concluded no violation.
- REA-L2A-01-99-014 Alleged breech of confidentiality in a court hearing. Investigation revealed no violation.
- REA-L3-01-99-015 Alleged numerous violation of USPAP. Pro reviewer also concluded same. Respondent entered into Consent Order.
- REA-L4C-03-99-016 Alleged failure to adequately supervise an apprentice, and allowing unlicensed individuals to sign off on reports. Investigation and subsequent Board review failed to discover inappropriate actions by the supervisor.
- REA-L3-04-99-017 Alleged inaccurate information, failed to properly research all available supporting data. Pro reviewer concluded that the errors caused a misleading report. Board authorized a warning letter to the respondent.

- REA-P3-01-99-018 Alleged failure to research neighborhood covenants and easements to gain access to a lake. The investigation and subsequent pro review found insufficient evidence to issue any disciplinary action against the respondent.
- REA-L3-04-99-019 Alleged practice beyond the scope of licensure. The respondent a licensed residential appraiser prepared a report on a subject property exceeding \$1,000,000.00 in value. Respondent entered into a Consent Agreement.
- REA-P3-02A-99-023 Alleged failure to consider current Agreement of Sale. Board member reviewed and concluded that some minor errors had occurred and recommended a warning letter to respondent.
- REA-L2-03-99-038 Alleged misrepresentation of credentials appearing in advertising. Investigation revealed that the error had occurred at the advertising agency level.
- REA-L3-03-99-042 Alleged incompetence, numerous errors caused a misleading report. The investigator requested more supporting documentation from the complainant, only to be told that the documents are in the mail. This complaint also appears to be just a method for the complainant to force the investigator's attention away from the complainant, as a complaint had been filed against them. Based on the complainant's failure to cooperate legal staff recommended closure.
- REA-L1-01-99-045 Alleged unlicensed practice. Respondent, an out of state appraiser prepared a report without obtaining temporary permit. Legal staff prepared a Cease & Desist letter.
- REA-S1-02-99-046 Alleged unlicensed practice. Respondent, an out of state appraiser prepared a report without obtaining temporary permit. Legal staff prepared a Cease & Desist letter.

Temporary/Proposed Rule Changes

Roger Hales will prepare language for temporary/proposed rule changes for registering trainees. Mr. Hales will review the guidelines for trainees on the AQB web site. Also Gordean Briggs will contact Utah and Washington, Paul Morgan will contact Oregon and Montana for information on their trainee guidelines. This information will be emailed to Mr. Hales.

Proposed rule change to amend Rule 350.02.a. to read "2500 hours of experience" and omit the three years.

Change Rule 700 by adding the words "and any amendments thereto".

Also proposed was adding a rule regarding appraisal courses for pre-certification and continuing education offered by non-foundation course providers be approved for a four year period, with the exception of USPAP.

The Board discussed the possible addition of a rule allowing the automatic approval of another states' continuing education courses for those licensees who obtained their Idaho license by reciprocity. Upon providing a statement of their current licensure in the reciprocity state, the continuing education courses of that state would automatically be approved for renewal of their Idaho license.

Mr. Hales will prepare draft wording for the above proposed rule changes for the next board meeting on May 21, 2001.

Moved by Paul Morgan, seconded by Gordean Briggs and carried that the Board increase the renewal fee to \$250 for the next renewal year.

Reciprocity

Roger Hales updated the Board on reciprocity with Oregon and Nevada. Mr. Hales received correspondence from the Assistant Attorney General representing the Oregon Appraiser Certification and Licensure Board. Additional language to the current agreement was suggested, including: "Idaho and Oregon are the only parties to this agreement and are the only parties entitled to enforce its terms. Nothing in this agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to any third persons."

Moved by Gordean Briggs, seconded by Paul Morgan and carried that the Board adopt Oregon's revision to the reciprocal agreement and authorize the Chair of the Board to sign the revised agreement on behalf of the Board.

The state of Nevada has advised Mr. Hales that they cannot, due to the Nevada Revised Statutes, enter into any reciprocity agreements. Nevada does have an endorsement program allowing Idaho licensees to obtain a Nevada license by attending a three-hour law course and completing the application. Additional testing and education would not be necessary.

Robert Bainbridge

Correspondence was received from Robert Bainbridge regarding a recently settled dispute between the Oregon Real Estate Appraiser Board and Chicago Title-Market Intelligence (CITI). Mr. Bainbridge asked if Idaho views this issue the same as Oregon.

Mr. Limbaugh will reply to Mr. Bainbridge and advise him that Idaho is a mandatory licensing state and Oregon is not. Any opinion of value in Idaho is considered an appraisal, and persons performing appraisals must be licensed.

Wells Fargo Home Mortgage Resources

Correspondence received from Walt Correll, Jr., Appraisal Services Manager, Wells Fargo Home Mortgage Resources was discussed. Mr. Correll states that they have been advised that a number of states have taken a different position from USPAP's position as to when an appraiser can or cannot provide a different opinion of value than that provided by the original appraiser. They are requesting the assistance of each state in providing them with their requirements regarding this matter.

Mr. Hales will reply to their request advising that that an appraiser can have a different opinion of value so long as it is supported by appropriate data, analysis, conclusions and Standard 3 of USPAP.

Newsletter

The Board was informed that the newsletter has been mailed to all licensed/certified appraisers.

Continuing Education

Marcie McGinty, Bureau Continuing Education Secretary met with the Board to review

continuing education courses submitted for approval.

Moved by Gordean Briggs, seconded by Paul Morgan and carried the Board approve the USPAP course being given by the McKissock Data Systems for pre-certification and continuing education credit.

Moved by Gordean, seconded by Paul Morgan and carried the Board approves the course Introduction to Commercial Appraising presented by the Chicopee Group for pre-certification and continuing education for licensed residential and certified residential appraisers only.

Mr. Limbaugh has been in contact with Carl Dutch, Instructor for the Chicopee Group regarding courses being submitted for approval. Mr. Dutch expressed his frustration with not being able to locate the Board's policy of approving non-foundation courses for a two year period in either the Board's Statute or Rules. Mr. Limbaugh prepared a letter to Mr. Dutch notifying him of the Board's Official Policy and listed courses that are currently approved or under review for approval.

Mr. Limbaugh was asked by Carl Dutch if the course "Appraising Small Income Properties" presented by the Chicopee Group had been approved by the Board. Moved by Gordean Briggs, seconded by Paul Morgan and carried that the course Appraising Small Income Properties, presented by the Chicopee Group was approved April, 2000 and was approved for a two year time period.

Mr. Dutch also asked Mr. Limbaugh where he would file a complaint against the Bureau and was informed it could be filed with either the Bureau or through the Governor's office.

Moved by Gordean Briggs, seconded by Paul Morgan and carried the Board approves the course Exchanges of Investment Properties in Idaho for seven hours of continuing education credit.

Moved by Paul Morgan, seconded by Gordean Briggs and carried that Lee & Grant on line fifteen hour course "The Appraiser's Inspection and Valuation of the Single Family Home" is not approved for pre-certification or continuing education.

McKissock Data Systems Courses: Moved by Gordean Briggs, seconded by Paul Morgan and carried the McKissock USPAP 2001 Update on-line course is approved for 7 hours of continuing education credit.

Moved by Gordean Briggs, seconded by Paul Morgan and carried the McKissock course Information Technology and the Appraiser is approved for 7 hours of continuing education credit.

Moved by Paul Morgan, seconded by Gordean Briggs and carried the McKissock course Factory-built Housing is approved for 7 hours of continuing education credit.

AARO Spring Meeting

Moved by Gordean Briggs, seconded by Paul Morgan and carried that Tom Limbaugh and Stan Moe attend the spring AARO meeting April 28-May 1, 2001 in Atlanta, Georgia.

Applications Reviewed

The Board approved seven (7) applications for examination and deferred one (1) application.

The Board authorized the issuance of the following certificates/licenses to these individuals having met the educational and experience requirements and passing an examination required by the Board.

Licensed Residential

Jeffrey Wood reciprocity with Washington LRA-395
Teresa Banks LRA-396
Jay Denning reciprocity with Montana LRA-399

Certified Residential

Jay Wardle CRA-393
Susan Schilling CRA-394
Michael Scott CRA-398

Certified General

Brent Clark reciprocity with Utah CGA-397
Jeffrey Sutton CGA-400

Meeting adjourned at 3:15 .m.

R. Doyle Pugmire, Chairman

Ruby Stroschein, Vice Chairman

Gordean Briggs, Secretary

Stanley Moe

Paul Morgan

Thomas E. Limbaugh, Chief
Bureau of Occupational Licenses

Approved 5/21/01