



Kansas Real Estate Appraisal Board 2003 Fall Newsletter

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SIGNIFICANT PROFESSIONAL ASSISTANCE

Standards Rule (SR) 2-3 of the Uniform Standards of Professional Appraisal Practice (USPAP) requires that each report contain a signed certification which includes a statement, if true, similar in content to the following:

"I certify that, to the best of my knowledge and belief, no one provided significant professional assistance to the person signing this report."

If the certification indicates that one provided significant professional assistance, providing contradictory information elsewhere in the report may be misleading and a violation of USPAP SR-2-1(a) and SR 2-3.

For licensing purposes, applicants claiming experience for providing significant professional assistance (assisting in the preparation of appraisals) must have effectively used the appraisal process performing market research, data analysis and applying appropriate appraisal techniques. The work must have gone beyond such tasks as taking photographs, typing the report, measuring improvements or finding sales that may or may not be used in the appraisal.

Reports submitted for experience credit must be exact copies of the actual report submitted to the client. Modifications to the report for purposes of submitting the appraisal for experience credit is not permitted.

Each appraisal report must be signed by the applicant or the preparer of the report who supervised the applicant, certifying that the report is in compliance with USPAP. If the applicant does not sign the appraisal report, the preparer shall describe, in the certification page of the appraisal report, the extent to which the ap-

plicant provided assistance in developing, preparing or communicating the appraisal through generally accepted appraisal methods and techniques.



Our thoughts and prayers are with all of the men and women who are serving their country in Iraq.

JAMES M. HAND, Warrant Officer 3, 244th Aviation Brigade. Mr. Hand makes his home in Lenexa and has carried a certified residential classification since March 6, 1995.

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DEFINITIONS

The following terms continue to generate questions.

FEDERALLY RELATED TRANSACTION

Any real estate-related financial transaction which a federal financial institution's regulatory agency engages in contracts for, or regulates, and which requires the services of a real estate appraiser or state certified real estate appraiser. "Federal Financial Institution's Regulatory Agency" includes the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Office of Thrift Supervision, Federal Home Loan Bank System, National Credit Union Administration and the Resolution Trust Corporation.

Typical reasons for appraisals that are **not** federally related transactions include: estate, divorce, insurance and market value estimates for marketing purposes.

TRANSACTION VALUE

Transaction value is a fundamental criterion for determining whether an appraisal is required and, if it is required, whether it needs to be performed by a State Licensed or State Certified appraiser.

- For loans or other extensions of credit, transaction value means the amount of the loan or extension of credit.
- For sales, leases, purchases and investments in or exchanges of real property, transaction value means the market value of the real property interest involved; and
- For the pooling of loans or interests in real property for resale or purchase, transaction value means the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.

In other words, for lending purposes, including renewals, transaction value refers to the proposed loan amount. For sale, lease, investment exchange or other similar transactions, however, the basis for transaction value is the market value of the real property interest involved. This could apply to the market value of the fee simple interest in a property or in the case of a lease, the market value of the leased fee or leasehold interest as applicable.



Henry Ward Beecher

PROTECTING YOUR DIGITAL-SIGNATURE

By Sean Heath

Source: Working RE Magazine

Something occurred to me as I was going through my mail. No one is rushing out to forge my TV Guide renewals or my letters to Mom. We don't hear of anyone forging junk-mail removal requests or party invitations, either.

Obviously, these types of documents are trivial compared with documents of monetary value like checks, loan applications and appraisals. It is basic but important to realize that the greater the intrinsic value of our signature, the greater the odds of forgery.

An appraiser's signature has value on a couple of levels—to himself, since his reputation is based on his word, and to others for the service he provides.

LAYING DOWN THE LAW

Electronic forgeries create a vexing problem for regulators because this type of fraud often involves a signature that is created authentically; it's the misuse of the signature that is fraudulent.

"As transactions become more involved, risks of fraud increase, as do the measures necessary to provide authentication", stated Bob Cohen of the Information Technology Association of America

Consequently, state appraisal boards are taking a fresh look at the definition of a signature—which is particularly timely considering that cases of identity theft are rising by 30% to 40% each year, according to one US Postal Service study.

In the State of California, the Office of Real Estate Appraisers fined a Los Angeles appraiser \$1,000 and denied her license renewal for submitting an appraisal with a forged signature of another licensed appraiser. The OREA fined a San Bernardino appraiser \$5,000 for, among other things, signing the name of other appraisers on two reports.

The Colorado Board of Real Estate Appraisers decided to amend their regulations to add the following clause specifically targeting the unauthorized use of digital signatures. "No licensee shall permit, through action or inaction, their name or signature to be affixed to an appraisal report or other appraisal related work product without their first personally examining and approving such report or other work product."

AS GOOD AS GOLD

In July of 2000, President Clinton signed the Electronic Signatures in Global and National Commerce Act, which provided digital signatures the same weight and consideration as their

pen-and-ink counterparts. A similar revision was made to the Uniform Standards of Professional Appraisal Practice, as outlined below.

“SIGNATURE: personalized evidence indicating authentication of the work performed by the appraiser and the acceptance of the responsibility for content, analyses, and the conclusions in the report. Comment: A signature can be represented by a handwritten mark, a digitized image controlled by a personalized identification number, or other media, where the appraiser has sole personalized control of affixing the signature.”

TAMPER PROOF

In most software systems, digital signatures provide security through the use of two security “keys”. Tamper with the data in an appraisal, and the signature disappears. It works like this:

1. Mary writes an appraisal, drops in her electronic signature, and e-mails it to her client. To do this, Mary uses the EDI option in her appraisal software to send the report.
2. Her client, who also has the same software on his computer, is able to pull up the report, view and print it through the use of a “public” key which is sent along with the appraisal. If he tries to tamper with the report, Mary’s signature disappears.
3. However, inside the software on Mary’s computer is a second “private key” which allows her to make changes to the report, and to add and remove signatures.

Now let’s assume that Mary knows the private key and has felonious intentions. She decides to scan in the signature of her boss from a letter she found in the trash. The problem with this level of security is that the private key does not know the difference between an authorized and an unauthorized user.

This is the problem which has some state agencies concerned. Mike O’Leary works in the appraisal department of Instafi.com, an Irvine, California mortgage company offering full online loan service. O’Leary says that because of the volume of appraisals he handles (approximately 10,000 to 12,000 a year), he doesn’t have the time or resources to verify the authenticity of each signature.

“If you’re mailing me copies of an appraisal, how do I know it’s yours? I deal with hundreds of reports every day. You (as the appraiser) have to be honest with how you represent yourself. We might compare a digital signature with the appraiser’s original application with us, but to a large degree, it’s the appraiser’s problem. I suppose someone could obtain someone else’s password to forge an appraisal, but it would be very short-sighted to do that. You’d lose your job, your license, reputation, everything.”

Saving a file in a portable document format (PDF) using Adobe Acrobat or Adobe Distiller offers an additional level of security, since the process essentially creates an electronic “photocopy” of the report before it is sent.

“The PDF format is considered an original copy nowadays,” added O’Leary. “We don’t require hard copies anymore. Most of our [loan] buyers consider a PDF as a hard copy also.”

KEEPING SAFE

Keeping a tight control over your passwords may be the best way to prevent electronic forgery, at least for now. A future security option would be biometrics—or the use of automated authentication based on specific human characteristics, like fingerprints.

DigitalPersona, a computer-device maker in Redwood City, Calif., has developed a fingerprint reader the size of a small trackball, which will be used to identify a particular user. Gateway will also be offering this device with its new computers.

Some argue that an electronic signature is not a true signature, since it does not express the intention of the signer. According to Bruce Schneier, in his Crypto Gram Newsletter: “In law, a signature serves to indicate agreement to, or at least acknowledgement of, the document signed. When a judge sees a paper document signed by Alice, he knows that Alice held the document in her hands, and has reason to believe that Alice read and agreed to the words on the document. When the same judge sees a digital signature, he doesn’t know if Alice agreed to the document, or if she ever saw it.”

Whether due to convenience, speed or a curiosity for innovation, we have moved past the point where we need to question whether digital signatures should be used in our reports. The issue instead should be the responsible use of these images.

When we electronically “sign” an appraisal and send it over the Internet, we enter into a relationship of trust with our clients that the information in the report is correct, and that our electronic signature is our own and not forged by someone else.

After all, at the end of the day, all an appraiser has is his word. Even if it is digital.

Sean Heath is a certified Residential appraiser based in San Diego and has been appraising for 13 years. Mr. Heath is also a member of the International Right-of-Way Association and publishes a monthly newsletter for the San Diego chapter. Mr. Heath can be contacted at (858) 673-1177 or by e-mail at sean@heath-group.com.



DO APPRAISERS REALLY CARE?

By Larry Disney

Source: *Communicator Magazine*

"The times, they are a changing." The preceding is from a popular song of the 1960's, a time our country and world was experiencing rapid change in social and political ideals. Much of this change was fostered by academia and a reversal of what was earlier viewed as morally right and wrong.

In no way am I attempting to trivialize the 1960's movement with the current identified changes in the real estate appraisal profession, but it certainly can be proven that the professional world of real estate appraising has experienced more rapid change during the past decade beginning with Title XI and the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989 than ever before in history, dating to the early 1930's.

It appears change in the real property appraisal profession has created resistance from within, at various levels. During the past few months, I have attended meetings of the Appraisal Standards Board, the Appraiser Qualifications Board, the Appraisal Foundation Appraiser Regulatory Advisory Board, The Association of Appraiser Regulatory Officials, and multiple professional appraisal organizations. The one common goal of these groups is to promote and maintain a high level of public trust in professional appraisal practice, and I have concluded that each group identified is striving diligently to achieve the stated goal and to enhance the appraisal profession. However, there is no unified agreement, between the parties involved, of how to achieve this goal.

One primary problem of resistance can be observed in the absence of voice by the majority of individuals identified as appraisers (real property, personal property, and intangible property) throughout the States and territories. The real property appraisal professional faces significant changes during 2003, specifically requirements established by the users of appraiser services (supplemental standards), edits to the Uniform Standards of Professional Appraisal Practice (USPAP) and a major increase of minimum qualifications criteria for licensed and certified appraisers. However, there is not one unified professional voice that can address the changes prior to them becoming effective.

The Chair of the Appraisal Standards Board (ASB), Mr. Danny Wiley, reported at the public meeting in Atlanta on April 7, 2003, the responses to current Exposure Draft contacts of the proposed USPAP edits contained a much greater depth and breadth of rationale than in

years past. However, the number of exposure comments represented a fraction of the number of identified licensed and certified real property appraisers. It was also disturbing to learn that only three State regulatory agencies responded. From this one might assume, "does anyone care?" If not ambivalence, what is the problem?

Each year during the Kentucky Real Estate Appraisers Board meetings, meetings of professional organizations, meetings of the two boards of the Appraisal Foundation, meetings of regulatory agencies and conversations with individual appraisers I hear the same comments, "USPAP is not written with clarity and cannot be understood or enforced", "USPAP should not be edited or changed so often", or "we are not consulted before changes are made." My answer to those comments is "did you make any attempt to have your voice heard before the edits were approved and published?"

The interesting corollary to the ASB exposure and number of public meeting attendees was provided in a report by Mr. Ed Morse, Chair of the Appraiser Qualifications Board at the public meeting in New Orleans on April 11, 2003. The fourth exposure draft of the amended qualifications criteria for licensed/certified real property appraisers received few comments when one considers the significance of the proposed changes and the total number of licensed/certified real property appraisers.

Based upon my observations during meetings, conversations with various appraisers, organization members (regulatory and others), I have concluded that there is an unusually high feeling of apathy in the appraisal profession. I can think of no other profession where so many would remain totally silent while the professional standards and the qualifications for entry receive the most significant change in the profession's history.

There should be no blame placed upon the individuals charged with the responsibility for standards and qualification revisions when they act within their defined duties. They are simply doing their job. The time to object and comment is during the exposure comment period, not after the final results have been completed and published. Regardless of whether the contents are considered good or bad, everyone/anyone involved (regulators, appraisers, educators, etc.) is urged to provide written comments with rationale and support for their ideas.

The time has come when a critical decision must be made; "Is the act of appraising real estate a profession?" If the answer is yes, it is time to become involved in determining the future standards for those persons who will be identified as professional appraisers.

I truly believe that prior to convincing the public (users of appraiser's services) to have and maintain a high level of public trust in professional appraisal practice, professional appraisers must first develop this as a goal for their day-to-day business practice.

If you, the professional appraiser, believe that there is nothing more you can learn, that someone else will do the jobs required for moving the profession forward, or if you simply believe that your time is best spent working and you have no time to invest in your professional standards, qualifications, laws and regulations, I direct you to a quote from Henry Ward Beecher. "If a man has come to that point where he is so content that he says I do not want to know any more, or do any more or be anymore, he is in a state which he ought to be changed into a mummy."

Everyone must realize and know that their State regulatory agency, their professional organization, the Appraisal Subcommittee, the Appraisal Foundation's two independent Boards, nor any other group or person cannot work in the best interest of the profession without first hearing the needs and desires of the professional who will be most impacted by the proposed changes.

I urge each licensed/certified real property appraiser in this country to become involved. There is always an open invitation to participate in your state Board's activities, write responses to the ASB and AQB and become proactive instead of indifferent. Remember, we give up the right to complain if we do not participate and offer our views as alternatives to any decision made for us by others who are proactive in our absence and simply do their jobs to the best of their ability without having the benefit of input from professionals who refuse to get involved.

Larry Disney is the Chief Investigator and Director of Education for the Kentucky Real Estate Appraisers Board.



HUD ISSUES FINAL FHA APPRAISER ROSTER RULE

On May 16, 2003, the Department of Housing and Urban Development (HUD) published a Final Rule to strengthen the licensing and certification requirements for placement of appraisers on the FHA Appraiser Roster. Loans submitted for FHA insurance must have an appraisal performed by an appraiser selected from the FHA Appraiser Roster, which is maintained by HUD. The Final Rule requires appraisers on the Ap-

praiser Roster to have credentials that are based on the minimum licensing/certification standards issued by the Appraiser Qualifications Board of the Appraisal Foundation. It also establishes procedures for removal of an appraiser from the Roster if the appraiser loses his or her license or certification in any state due to disciplinary action, and for automatic suspension from the Roster of an appraiser whose license or certification in any state has been revoked, suspended, or surrendered as a result of a state disciplinary action.

Department of Housing and Urban Development 24 CFR Part 200 Appraiser Qualifications for Placement on FHA Single Family Appraiser Roster; Final Rule

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26946 Federal Register / Vol. 68, No. 95 / Fri-
day, May 16, 2003 / Rules and Regulations
[Docket No. FR-4620-F-02]
RIN 2502-AH59

AGENCY: Office of the Assistant Secretary for
Housing—Federal Housing Commissioner,
HUD.

ACTION: Final rule.

SUMMARY: This final rule makes several changes designed to strengthen the licensing and certification requirements for placement on the Federal Housing Administration (FHA) Appraiser Roster (Appraiser Roster or FHA Appraiser Roster). First, the final rule requires that appraisers on the Appraiser Roster must have credentials that are based on the minimum licensing/certification standards issued by the Appraiser Qualifications Board of the Appraisal Foundation. The final rule also clarifies that an appraiser may be removed from the Appraiser Roster if the appraiser loses his or her license or certification in any state due to disciplinary action, even if the appraiser continues to be licensed or certified in another state. Further, the final rule provides that an appraiser whose license or certification in any state has been revoked, suspended, or surrendered as a result of a state disciplinary action will be automatically suspended from the Appraiser Roster until HUD receives evidence demonstrating that the state imposed sanction has been lifted. An appraiser whose licensing or certification in a state has expired is automatically suspended from the Appraiser Roster in that state and may not conduct

FHA appraisals in that state until HUD receives evidence that demonstrates renewal, but may continue to perform FHA appraisals in other states in which the appraiser is licensed or certified. This final rule follows publication of a November 30, 2001, proposed rule and takes into consideration the public comments received on the proposed rule.

DATES: *Effective Date:* With the exception of § 200.202(b)(1) and (c), this final rule is effective on June 16, 2003. HUD will publish a notice in the **Federal Register** announcing the effective date of § 200.202(b)(1) and (c).

FOR FURTHER INFORMATION CONTACT:

Vance T. Morris, Director, Office of Single Family Program Development, Room 9266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone (202) 708-2121 (this is not a toll-free number). Hearing- or speech impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

On November 30, 2001 (66 FR 60128), HUD published a proposed rule designed to strengthen the licensing and certification requirements for placement on the Appraiser Roster. The Appraiser Roster lists those appraisers who are eligible to perform FHA single family appraisals. HUD maintains the Appraiser Roster to provide a means by which HUD can ensure the competency of appraisers performing FHA appraisals. The Appraiser Roster regulations are located in 24 CFR part 200, subpart G (consisting of §§ 200.200-200.206). Under the November 30, 2001, proposed rule, appraisers on the Appraiser Roster would be required to have credentials based on the minimum licensing/certification standards issued by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. Further, an appraiser would be subject to removal from the Appraiser Roster if the appraiser loses his or her license or certification in any state due to disciplinary action, even if the appraiser continues to be licensed or certified in another state. The proposed rule also provides that an appraiser who is licensed or certified in a single state and whose state license or certification has expired, or has been revoked, suspended, or surrendered as a result of a state disciplinary action would be automatically suspended from the Appraiser Roster and prohibited from conducting FHA appraisals until HUD receives evidence demonstrating license or certification renewal or that the state imposed

sanction has been lifted. The preamble to the November 30, 2001, proposed rule provides additional details regarding the proposed amendments to the FHA Appraiser Roster licensing and certification requirements.

II. This Final Rule

This final rule follows publication of the November 30, 2001, proposed rule and takes into consideration the public comments received on the proposed rule. The most significant differences between this final rule and the November 30, 2001, proposed rule are as follows:

1. *Twelve-month phase-in of AQB requirements for appraisers listed on the Appraiser Roster.* The final rule provides that an appraiser who is included on the Appraiser Roster on the effective date of this rule, but he does not meet the minimum AQB licensing/certification criteria in effect on that date, has until 12 months following the effective date of the final rule to fully comply with the AQB criteria and submit evidence of such compliance to HUD. Failure to submit such evidence to HUD by the deadline date constitutes cause for removal from the Appraiser Roster. The phase-in period does not restrict HUD's ability to remove an unsatisfactory appraiser from the Appraiser Roster for any other cause identified in § 200.204.
2. *Automatic suspension of appraisers licensed or certified in multiple states.* The final rule provides that an appraiser whose license or certification in any state has been revoked, suspended, or surrendered as a result of a state disciplinary action will be automatically suspended from the Appraiser Roster until HUD receives evidence demonstrating that the state-imposed sanction has been lifted. The proposed rule would have limited automatic suspension to appraisers licensed or certified in a single state.
3. *Clarification of scope of automatic suspensions not due to state disciplinary action.* The final rule clarifies that an appraiser whose licensing or certification in a state has expired is automatically suspended from the Appraiser Roster in that state and may not conduct FHA appraisals in that state until HUD receives evidence that demonstrates renewal. The appraiser may continue to perform FHA appraisals in other states in which the appraiser is licensed or certified.



AQB ISSUES EXPOSURE DRAFT ON REAL PROPERTY APPRAISER QUALIFICATION CRITERIA

The Appraiser Qualifications Board (AQB) has released an exposure draft that proposes an increase in the minimum qualification criteria for state licensed and certified appraisers entering the valuation profession in the United States.

The Exposure Draft on Proposed Modifications to the *Real Property Appraiser Qualification Criteria* is the fifth such draft issued in a series of pending changes to the Criteria. These proposed changes include:

- Increases in the qualifying education requirements for Licensed Residential, Certified Residential, and Certified General appraisers to 150 hours, 200 hours and 300 hours respectively;
- An Appendix with a required core curriculum and a Guide-Note section with suggested course curriculum content;
- College-level education requirements for Certified Residential and Certified General appraisers;
- Removal of limitations on state licensing/certification examination re-takes; and
- Clarification on distance education requirements.

While the comments period for this draft ended on October 23, 2003, make sure you check out the Foundation's website at appraisal-foundation.org periodically for new drafts. Make your voice heard!



ASB ADOPTS 2004 USPAP

The Appraisal Standards Board (ASB) has adopted modifications to the *Uniform Standards of Professional Appraisal Practice (USPAP)*. The modifications, which will be effective January 1, 2004, were the result of two public exposure drafts released earlier this year. The members of the ASB deliberated over numerous written comments and oral testimony.

Modifications that will be incorporated into the 2004 Edition of the *Uniform Standards of Professional Appraisal Practice (USPAP)* include:

- Adoption of four new Advisory Opinions: AO-24, Normal Course of Business; AO-25, Clarification of the Client in a Federally Related Transaction; AO-26, Readdressing (Transferring) a Report to Another Party; and

AO-27, Appraising the Same Property for a New Client.

- Advisory Opinion 10 (AO-10), Clarification of the Client in a Federally Related Transaction was retired as it became obsolete with the adoption of the new advisory opinions.
- Clarifying edits were made to the PREAMBLE.
- Professional assistance edits were made to STANDARD 10.
- The Board approved removing the Glossary from the bound edition of USPAP.
- Two definitions MARKET ANALYSIS and INVESTMENT ANALYSIS were deleted due to their limited use in USPAP.
- Clarifying edits were made to the Management and Record Keeping sections of the ETHICS RULE.



IN MEMORY

John W. Heline, 74, of Salina, died September 2, 2003, following a sudden illness. Mr. Heline has carried a General Certification since December 13, 1991.

2ND CONCEPT PAPER ON THE ROLE OF DEPARTURE AND SCOPE OF WORK

The ASB views The Role of Departure and Scope of Work concept as a relatively long-term project, and no changes to USPAP related to this topic are planned for 2004. The intent is to receive comments and suggestions throughout for the remainder of the year. Based on this feedback, the ASB intends to draft exposure material for release in 2004, with changes to USPAP, if any, becoming effective in 2005 or later.

The ASB encourages all interested parties to comment in writing to the Appraisal Standards Board (ASB) of the Appraisal Foundation by **December 31, 2003**. Comments are also invited at the following ASB public meetings:

10/24/2003
01/23/2004

Washington, DC
Tampa, FL

Interested parties are invited to submit written comments on this concept paper to: ASB Comments, The Appraisal Foundation, 1029 Vermont Ave. NW., Ste. 900, Washington, DC 20005-3517. Comments may also be submitted by facsimile to (202) 347-7727 or by e-mail to: comments@appraisalfoundation.org.

If you have any questions regarding this concept paper, or wish to provide comments on the material, please contact The Appraisal Foundation at (202) 347-7722.



DISCIPLINARY ACTIONS

RALPH GINGERICH (L-240) COMPLAINT #316 HUTCHINSON, KS

VIOLATIONS: K.S.A. 58-4141, K.S.A. 4118(a)(6), K.S.A. 58-4118(a)(7), K.S.A. 58-4118(a)(8).

ACTION: A Consent Agreement and Order was entered into on August 7, 2003, with the following terms and conditions: That Gingerich take and pass the examination of a 15-hour tested Uniform Standards of Professional Appraisal Practice course on or prior to June 30, 2004; and that Gingerich pay \$240 to cover the cost of the review associated with this complaint within 30 days from the date of the Agreement.



USPAP Q & A

Q I have been asked to perform a retrospective appraisal on a piece of real property. The effective date of the appraisal is September 1, 1995. Must I analyze listings of the subject that were current at that time and/or the sales history of the subject?

A Yes. Standards Rules 1-5(a) and (b) state:

In developing a real property appraisal, when the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:

(a) analyze all agreements of sale, options, or listings of the subject property current as of the effective date of the appraisal; and

(b) analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.

If this information is available in the normal course of business, it must be analyzed and reported in conformance with Standards Rule 2-2(a)(ix), 2-2(b)(ix), or 2-2(c)(ix), whichever is applicable.

Q May I label a real property appraisal report using a term other than, or in place of, Self-Contained, Summary or Restricted Use Appraisal Report?

A The Comment to Standards Rule 2-2 states, in part:

An appraiser may use any other label in addition to, but not in place of, the label set forth in this Standard for the type of report provided.

Q Is it true that the Advisory Opinions are not part of the Uniform Standards of Professional Appraisal Practice (USPAP)?

A Yes. The Advisory Opinions, which are published in the same document as the Standards and Statements, are a form of "other" communications issued by the Appraisal Standards Board (ASB). Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

Q I have been asked to perform an appraisal assignment that includes providing a retrospective value as well as a current value. Can I report both value opinions within one appraisal report?

A Yes, you can communicate both within one appraisal report. Since two opinions of value (appraisals) are included in the report, both opinions must be developed in conformance with the appropriate STANDARD (1, 6, 7 or 9).

Q Does USPAP require real property appraisers to reconcile the comparable sales used in the sales comparison approach to value?

A Yes. Standards Rules 1-6 states:

In developing a real property appraisal, an appraiser must:

(a) reconcile the quality and quantity of data available and analyzed **within the approaches used**; and

(b) reconcile the applicability or suitability of the approaches used to arrive at the value conclusion(s).

Comment: See the Comments to Standards Rules 2-2(a)(ix), 2-2(b)(ix), and 2-2(c)(ix) for corresponding reporting requirements. (Bold added for emphasis)

Q The Standards Rules require all appraisal reports to disclose the effective date of the appraisal. Must the date be reported as a specific day, month and year, or is it sufficient to simply provide the month and year?

A The effective date of an appraisal is determined by the intended use and the intended user. In most cases the intended use and/or the intended user dictates that the date provided be a specific day, month, and year. However, in some circumstances it may be acceptable to be less specific (e.g. in a prospective appraisal assignment).

Q The Management section of the ETHICS RULE requires an appraiser to disclose, "...fees, commission, or things of value..." paid in connection with the procurement of an assignment. If a referral fee was paid in conjunction with an assignment, must the amount of the fee be disclosed, or is it sufficient to simply disclose that a fee was paid?

A Disclosing the fact that a payment was made is sufficient to meet the requirement. However, this is a minimum requirement and does not prohibit full disclosure of the amount of the fee.



THE COMPLAINT PROCESS

The Board receives complaints from many sources, including: individuals, financial institutions, federal entities, reviewers, anonymous sources, or the Board may initiate a complaint.

When the Board receives a complaint, we will determine if there is probable cause before proceeding with investigation of the complaint. The Board then initiates a complaint file and the investigation proceeds in the following manner (these steps may vary depending on the information provided in the original complaint):

- The appraiser is notified of the complaint and provided any supporting documentation the Board received concerning the complaint. The appraiser is instructed to respond to the complaint. The appraiser must provide the Board with a copy of the report, work-files and other supporting documentation the appraiser considers appropriate in responding to the complaint.
- Once received, the above information, including the original complaint, is then forwarded to a third party review appraiser.
- After the review is complete all of the information concerning the complaint is distributed to the Investigative Committee of the Board. The Investigative Committee will then determine appropriate action to be taken for settlement of the matter.
- Settlement may occur by dismissal, a cautionary or warning letter, a Consent Agreement and Order or by a hearing. The most common form of settlement is by a Consent Agreement and Order. This is an order that is entered into by the appraiser and the Board to settle the matter by agreeing to certain terms and conditions.
- Terms and conditions that are often used in a Consent Agreement and Order may include one or more of the following: requiring additional education, recovery of the expenses associated with the cost of the review, fines, probation, limitations to the scope of work performed by the appraiser, submitting logs of work performed, suspension or revocation.
- An appraiser may not agree to accept the terms and conditions of the Consent Agreement and Order. In those cases, the appraiser may address the Investigative Committee in writing and request modifications to the agreement and their justification for those modifications; or the matter may go directly to hearing. If the matter cannot be settled by mutual agreement, the appraiser may request a hearing in the matter which is then set before the Hearing Panel.
- If the appraiser does not request a hearing and does not enter into a Consent Agreement and Order, the Board will file a Petition for Revocation and the matter will go to hearing

GOOD STANDING

Once an appraiser is disciplined by the Board, the appraiser is not considered to be in "good standing" until they have completed the terms and conditions of the Consent Agreement and Order or the terms of a Final Order issued by the Board.

SUPERVISING

Unless otherwise stipulated in the Consent Agreement, a Supervisor must be in good standing with the Board in order to supervise provisional/trainee appraisers.

PUBLICATION

Not all final orders are published. Complaints that are not published are still considered to be an open record. All disciplinary action is reported to the Appraisal Subcommittee and will be added to the National Registry.

OPEN RECORDS

A complaint that is in the Investigative process is considered to be confidential and any information pertaining to the complaint is not considered to be an open record.

After a complaint has been adjudicated, information concerning the complaint becomes an open record.




LICENSED/CERTIFIED APPRAISERS AS OF NOVEMBER 6, 2003

GENERAL CERTIFIED	420
RESIDENTIAL CERTIFIED	330
STATE LICENSED	291
PROVISIONAL (TRAINEE)	150
TOTAL.....	1,191

Since July 1, 2003, the Board has issued 86 new license/certificates:

GENERAL CERTIFIED	8
RESIDENTIAL CERTIFIED	7
STATE LICENSED	22
PROVISIONAL (TRAINEE)	49

Since July 1, 2003, the Board has issued 70 Temporary Practice permits to appraisers not currently licensed in Kansas.



2004 USPAPs Ordered

The Board has placed their order for the 2004 USPAP. These will be mailed to each licensed/certified appraiser, at their residence address, by the Foundation. Copies should be mailed out by December 31, 2003.

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VICE-CHAIRMAN

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PUBLIC SERVICE EXECUTIVE

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CONTINUING EDUCATION

It's not too early to begin thinking about the continuing education needed for your 2004 renewal, due May 31st. Keep in mind that all appraisers licensed prior to July 1, 2003, are required to have completed 14 hours of approved continuing education **after** June 30, 2003, in order to renew. Appraisers licensed after July 1, 2003, are exempt from continuing education at their first renewal.

July 1, 2003 was the beginning of the first two-year education cycle. The 7-hour USPAP update course may be completed for **either** the 2004 or 2005 renewal.