

# Kansas Real Estate Appraisal Board

## 2003

### Spring Newsletter



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#### 2003 USPAP MODIFICATIONS

Source: *The Appraisal Foundation  
Summary Report*

The ASB approved several modifications to USPAP for the 2003 edition. For a detailed description of the approved edits, you can visit the Foundation's web site at [www.appraisalfoundation.org](http://www.appraisalfoundation.org) and read the "Summary of Actions." A description of some of the more significant edits and rationale for the edits are outlined below.

#### SUBJECT PROPERTY

**Standards Rule 1-5 (SR 1-5)** in USPAP has always required real property appraisers to analyze the subject property's sales history for a minimum of one year for one-to-four family residential properties and three years for all other property types. For 2003, SR 1-5 has been modified to require that appraisers analyze the sales history for all property types for a minimum of three years, if such information is available to the appraiser in the normal course of business.

**Standards Rule 7-5 (SR 7-5)**, which applies to personal property appraisers, was modified to indicate that all prior sales of the subject property that occurred within a reasonable and applicable time-period, given the pur-

pose of the assignment, and the type of property involved, must be analyzed.

#### WHY WE DID IT

Over the years, the Board has received requests from appraisers, regulators, and appraisal user groups, to consider increasing the subject property prior sales history analysis requirement for one-to-four family residential properties to three (3) years to be synonymous with all other property types.

The ASB decided that in order to maintain the high level of public trust that USPAP promotes, a three-year reporting requirement for one-to-four family dwellings was appropriate. However, recognizing that in certain areas of the country this requirement could be particularly onerous, the Board also voted to include the phrase *"...if such information is available in the normal course of business."*

#### ENVIRONMENTAL CONTAMINATION

**Advisory Opinion 9 (AO-9)** has been revised to provide guidance to appraisers who may choose to undertake an appraisal assignment of real property that may be impacted by environmental contamination.

#### WHY WE DID IT

Market transactions and mortgage loans involving contaminated properties were virtually non-existent in years past. Today, however, they are more common, and the value of these properties has become a critical question. The revisions to this Advisory Opinion expand this guidance to provide appraisers with a better understanding of USPAP's application to these assignments.

**UPDATING AN APPRAISAL  
Advisory Opinion 3 (AO-3)** addresses one of the most common requests for appraisal services, "updating" an appraisal that was previously completed on a given property. The existing **AO-3** includes advice on certain conditions for "updates" of prior appraisal reports relied on by a client for a prior business decision.

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Visit the Board's website at [www.accesskansas.org/kreab](http://www.accesskansas.org/kreab)

The revised **AO-3** removes these conditions and discusses commonly used terminology. It also discusses how an appraisal or an analysis of a property, that happens to have been the subject of a prior assignment, can be accomplished by attachment of, and in certain cases, reference to a prior report. The intent is to clearly show that “updates” are merely new appraisal, appraisal review, or appraisal consulting assignments that may involve a different scope of work than the original assignment.

**Statement No. 7 (STM-7)**, was edited by removing the “Clarification of Nomenclature” section, which defined and discussed “updates” and “re-certifications of value” as well as “letter opinions of value.”

#### WHY WE DID IT

The ASB determined that the conditions suggested in **AO-3** for appraisal updates lack proper foundation in USPAP.

Users of appraisal services may use terminology (i.e., re-certification of value, update, re-appraisal, etc.) that serves their purpose, but these terms have little bearing on the actual service provided by the appraiser.

The ASB determined that the “Clarification of Nomenclature” was misplaced. Because a number of respondents to the Exposure Drafts recommended retention of this section, it was moved into **AO-3** and edited for clarity.

#### STANDARD 3

Several revisions to **STANDARD 3** were adopted. The

The most significant aspects of the revisions are:

- **STANDARD 3** will be inclusive of all appraisal disciplines - Real Property and Personal Property (including Mass Appraisal) and Business Valuation. Currently only the Real Property and Personal Property disciplines (not including Mass Appraisal) are included.
- An appraisal review that includes the reviewer’s own opinion of value must be reported in at least a Summary Appraisal Report format.
- Remove the requirement that the scope of work in an appraisal review match the scope of work in the appraisal under review (Complete or Limited).

#### WHY WE DID IT

In the current and previous editions of USPAP, **STANDARD 3** has been applicable to only the Real Property and Personal Property disciplines. The ASB has been encouraged by various entities to modify **STANDARD 3** to include all appraisal activities addressed in USPAP (Real Property, Personal Property, Mass Appraisal, and Business Valuation).

The reporting requirement in **SR3-2(d)** was revised to require a minimum level of a Summary Appraisal Report (or its equivalent in the various Standards) for the reviewer’s report content. Previously, the format was required to match the report type of the appraisal report under review.

Addressing the case in which a reviewer develops his or her own opinion of value, wording was added to clarify that the effective date

of the reviewer’s opinion of value may be the same or different from that in the work under review.

Finally, the language that required that the scope of work match the scope of work in the original appraisal was removed and replaced with a sentence that allows the reviewer to determine the appropriate scope of work. ■

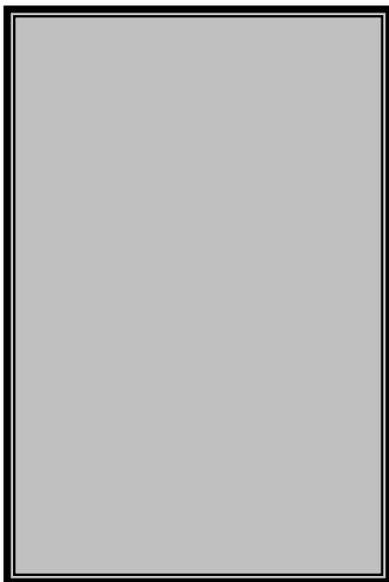
#### **PLEASE PROOF**

Often, typographical errors, software problems, and clerical mistakes are blamed for errors in an appraisal report. While no one can avoid these errors all of the time, this does not excuse the appraiser’s responsibility for the content of an appraisal report. In these busy times, it is easy to let things slip out the door without the appropriate checks – but being busy, or not understanding your software, has not proven to be a strong defense when responding to a complaint submitted to the Board. A quick “once-over” takes a lot less time than defending an appraisal (see article titled “An Overview of the Complaint Process”, Fall 2002 Newsletter).■

#### **FOURTH EXPOSURE DRAFT ON REVISING APPRAISER QUALIFICATION CRITERIA**

On March 10, 2003, the AQB issued a Fourth Exposure Draft regarding appraiser qualification criteria for written comments. A copy of the draft may be obtained from The Foundation’s website at [www.appraisalfoundation.org](http://www.appraisalfoundation.org). Click on Qualifications and again on Current Exposure

Drafts. All interested parties should respond in writing to the AQB of the Appraisal Foundation before the deadline of **June 2, 2003** to: AQB Comments, The Appraisal Foundation, 1029 Vermont Avenue, NW, Suite 900, Washington, DC 20005-3517. Comments may also be submitted by facsimile to (202) 347-7727 or (202) 624-3054 or by e-mail to: [com-ments@appraisalfoundation.org](mailto:comments@appraisalfoundation.org) . ■



### WHO DO I ASK?

The Kansas Real Estate Appraisal Board staff is always ready and willing to provide assistance to both appraisers and the public. However, questions regarding the interpretation or application of USPAP must be directed to the Appraisal Foundation. Contact numbers for The Foundation are:

(202) 347-7722 (phone)

(202) 347-7727 (fax)

[info@appraisalfoundation.org](mailto:info@appraisalfoundation.org)

or

<http://www.appraisalfoundation.org>

If you have a question and need the assistance of the Board, please submit the question **IN WRITING** and it will be addressed at a regular meeting of the Board or you will be directed on whom to contact. Have you tried visiting the Board's website at [www.accesskansas.org/krea](http://www.accesskansas.org/krea) for information? You can access a directory of appraisers, a current list of both pre-license and continuing education sponsors and their courses, application forms, current and past newsletters, as well as the current statutes and regulations. ■

### LICENSEES IN MILITARY SERVICE ACT

We thought we would remind you of the Licensees in Military Service Act that was passed in 1991. In order to be on record as in the military service, be sure to notify this office in writing, attaching a copy of your orders calling you to active duty.

K.S.A. 48-3402(a) states: *The license of a licensee shall continue to be valid while the licensee is in the military service and for six months following release therefrom. No licensee shall be required to pay a renewal fee, submit a renewal application, obtain continuing education or meet other conditions to maintain a license while such licensee is in the military service. No license of any licensee shall expire, lapse or be canceled, revoked or suspended because of the failure to timely renew such license, including the failure to meet any conditions prerequisite to renewal, during the period of military service.*

"Military Service" is defined as "active duty by a licensee in the army, navy, marine corps, air force, air or army national guard, coast guard or any branch of the military reserves of the United States."

K.S.A. 48-3403 (a) & (b) state:

(a) *A licensee who desires to engage in or practice an occupation or profession in this state after release from military service shall submit, within six months after such release, but not later than two weeks after engaging in or practicing such occupation or profession in this state after such release, the renewal fee required by law for the current license period with a completed renewal application, and thereupon, the licensee shall be deemed to have complied with all requirements of law relating to payment of licensure renewal fees. A licensee who submits the renewal fee and completed renewal application in accordance with this section shall not be charged any late payment fees or penalties. The license of a licensee who fails to renew the license pursuant to this section may be canceled, revoked or suspended in accordance with the applicable law.*

(b) *A licensee who is required by law to obtain continuing education as a condition prerequisite to renewal of a license shall be given a one-year period of time for fulfillment of such continuing education requirement, such period of time to commence on the date the licensee submits the renewal fee and completed renewal application in accordance with subsection (a). ■*

## USPAP Q & A

**Q** I have an assignment that involves a tract of land that is improved with two structures. However, the client has requested that I appraise the underlying land and only one of the two structures, without mentioning the other structure. Is it ethical to not disclose the presence of the second structure?

**A** No. The Conduct section of the ETHICS RULE states:

*An appraiser must not communicate assignment results in a misleading or fraudulent manner. An appraiser must not use or communicate a misleading or fraudulent report or knowingly permit an employee or other person to communicate a misleading or fraudulent report.*

In the situation described, performing an appraisal without disclosing the existence of both structures in the report would be misleading.

**Q** What is the primary intent of USPAP?

**A** The intent of USPAP is to promote and maintain a high level of public trust in professional appraisal practice. This concept is emphasized at the very beginning of the PREAMBLE:

*The intent of these Standards is to promote and maintain a high level of public trust in professional appraisal practice.*

The development of "trust" between the general public and the professional appraiser is not unique to the appraisal profession – it is also inherent in other professions such as medical practice and accountancy.

Contained within this notion of "trust" is a relationship that requires the professional to provide more than their skill or expertise. There is a distinct ethical obligation to act in the behalf of the public's interest, not out of self-interest. Because of the public interest aspect of the service the public must be able to trust that a professional will act in an ethical and competent manner.

**Q** I was recently hired to perform an appraisal assignment for a government

agency. The agency has a regulation that requires me to provide the appraisal report to other government agencies if requested. Does this regulation create a jurisdictional exception to the Confidentiality section of the ETHICS RULE?

**A** No. The Confidentiality section of the ETHICS RULE reads, in part

***An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and person specifically authorized by the client; state enforcement agencies and such third parties as may be authorized by due process of law; and a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation. It is unethical for a member of a duly authorized professional peer review committee to disclose confidential information presented to the committee.*** (Bold added for emphasis)

Since the Confidentiality section of the ETHICS RULE allows for the disclosure of confidential information to "persons specifically authorized by the client" and "such third parties as may be authorized by due process of law", the JURISDICTIONAL EXCEPTION RULE would not apply.

**Q** I understand that USPAP has been revised to require real property appraisers to analyze all sales of the subject property that occurred in the three years prior to the appraisal date, even for one-to-four family dwellings. Is this true?

**A** Yes. As of January 1, 2003 Standards Rule 1-5, a binding requirement, has been modified to read as follows:

*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.**

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

For analysis and reporting of prior sales, previous editions of USPAP made a distinction between the time period required for one-to-four family residential properties and the time period required for all other types of real estate. That distinction no longer exists. The three year time period now applies to all real property appraisals.

**Q** I was told that as of January 1, 2003, USPAP now requires real property and personal property appraisers to analyze previous sales of comparable properties used in the sales comparison approach to value. Is this true?

**A** No. The 2003 edition of USPAP includes changes to SR 1-5 and SR 7-5 regarding the analysis of prior sales of the **subject property only**. USPAP does not require analysis of the sales history of comparable sales. However, appraisers may be subject to Supplemental Standards in certain appraisal assignments that require the appraiser to provide a more detailed analysis than otherwise required by USPAP.

**Q** I noticed that the 2003 edition of USPAP no longer contains SR 1-5(c) or SR 7-5(c). Does this mean the reconciliation process is no longer required by USPAP in real property and personal property appraisal assignments?

**A** No. In fact, USPAP has been modified to emphasize the importance of the reconciliation process. Standards Rules 1-5(c) and 7-5(c) were removed and Standards Rules 1-6 and 7-6 were inserted in order to clearly demonstrate that reconciliation is a separate component of the appraisal process rather than a function within the analysis of sales history.

**Q** I am currently appraising an office building that was transferred 18 months ago via a deed in lieu of foreclosure. Am I required to analyze this transaction?

**A** Yes. Advisory Opinion 4 (AO-4) states:

*The intent of Standards Rule 1-5(b) is to encourage the research and analysis of prior sales of the subject property. All sales of the appraised property within the 3 year time period stated in Standards Rule 1-5(b) includes transfers in lieu of foreclosure and foreclosure sales.*

This AO goes on to state:

*Foreclosure sales and voluntary transfers of title by mortgagor to mortgagee in lieu of foreclosure are transactions grounded in objective necessity. Nevertheless, they are sales because they transfer ownership of and title to property for a valuable consideration.*

**Q** In an appraisal review assignment that includes the reviewer's own opinion of value, is the reviewer required to use the same scope of work as the original appraiser?

**A** No. Standards Rule 3-1(c) states, in part:

*In developing an appraisal review, the reviewer must:*

...  
*(c) identify the scope of work to be performed;*

Comment: ... *When the scope of work of the assignment includes a requirement for the reviewer to develop his or her own opinion of value, the following apply:*

- ***The reviewer's scope of work in developing his or her own opinion of value may be different from that of the work under review.*** (Bold added for emphasis)

For example, the scope of work in the original appraisal may have included an interior and exterior inspection of the subject property, and the scope of work for the appraisal review may include only an exterior inspection or no inspection at all.

**Q** Recently one of my appraisal reports was reviewed. The review report contained information that could not have been available to me at the time I completed my appraisal report. The reviewer used this additional information to discredit my opinion of value. Is this appropriate?

**A** No. Standards Rule 3-1(c) allows a reviewer to use additional information

*that was not available to the original appraiser in the development of his or her value opinion; however, **the reviewer must not use such information as the basis to discredit the original appraiser's opinion of value.*** (Bold added for emphasis)

**Q** In an appraisal review assignment for which the reviewer develops his or her own opinion of value, is it permissible for the reviewer to use an effective date that differs from the work under review?

**A** Yes. The Comment to Standards Rule 3-1(c) states, in part:

*The effective date of the reviewer's opinion of value may be the same or different from the date of the work under review.*

**Q** I have been asked to provide a client with a "condition and marketability" report on a residential property. I am to complete a form used by some lenders and secondary market participants. Since this assignment is part of appraisal practice (because I am providing this service as an appraiser), must I conform with the requirements in Standards Rule 1-5(a) to, *analyze all agreements of sale, options, or listings of the subject 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?*

**A** No. Standards Rule 1-5 only applies to the development of a real property appraisal. The assignment described in this question is not an appraisal since developing an opinion of value is not part of the assignment. While the requirements of STANDARD 1 are not applicable, USPAP obligations for ethical behavior and competent performance do apply to the assignment.

**Q** I was recently asked to update an appraisal performed by another appraiser who works for a different appraisal company. Can I prepare an update if the original appraisal was performed by another appraiser?

**A** Yes. Advisory Opinion 3 provides advice on how such an assignment can be performed in conformance with USPAP.

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. The ASB USPAP Q&A is issued to inform appraisers, regulators, and users of appraisal services of the ASB responses to questions raised by regulators and individuals; to illustrate the applicability of the Uniform Standards of Professional Appraisal Practice (USPAP) in specific situations; and to offer advice from the ASB for the resolution of appraisal issues and problems. This question and answer section does not constitute a legal opinion of the ASB. ■

### RENEWAL EDUCATION CYCLES TO CHANGE JULY 1, 2003

This is just a reminder that effective July 1, 2003, all appraisers will begin a new education cycle. As set out in previous newsletter articles, the new education cycle will be two (2) years in length. You will still be required to meet the 14-hour per year renewal requirement, however, once during each two year cycle, seven of those hours must be in the National USPAP Update course (this is not a tested course). Carryover will be allowed **only** during the two-year cycle. The easiest way to remember this is that on July 1 of every odd year, you will begin a new cycle and nothing previous to that date can be carried forward.

You will continue to log your hours for each cycle on your renewal application. **PLEASE DO NOT MAIL YOUR CERTIFICATES INTO THE BOARD** unless specifically requested to do so by this office (ie, disciplinary action, audit, etc.).

### DISCIPLINARY ACTIONS



**STEPHEN DEARL DRENNAN, L-1089  
COMPLAINTS 278 & 282, WICHITA**

**VIOLATIONS:** K.S.A. 58-4121; 58-4118(a)(6); 58-4118(a)(7); and (58-4118(a)(8).

**ACTION:** A Consent Agreement and Order was entered into with the following terms and conditions: That Drennan cease and desist performing appraisals on small residential income properties, limiting his appraisals to single family residential. That Drennan pay \$720 to cover the cost of the reviews associated with these complaints within 30 days from the date the Agreement. That Drennan pay a \$500 fine within 30 days from the date of the Agreement. That

Drennan take and pass the examination of a 15-hour USPAP course on or prior to June 30, 2003. That Drennan take and pass the examination of a minimum 24-hour small residential income course on or prior to June 30, 2003.

**RONALD GINGERICH, R-595  
COMPLAINTS 192 & 210, HUTCHINSON**

**VIOLATIONS:** K.S.A. 58-4121; 58-4118(a)(6); 58-4118(a)(7); and (58-4118(a)(8).

**ACTION:** A Consent Agreement and Order was entered into with the following terms and conditions: That Gingerich's residential certification be suspended, said suspension to be stayed upon completion of 60 hours of Board approved, tested, education, comprised of a 15-hour USPAP course, a minimum of 20 hours of appraisal principles and a minimum of 20 hours of 2-4 family residential appraisal. That Gingerich pay a fine of \$1,000 within 30 days from the date of the Agreement. That Gingerich pay \$500 to cover the cost of the reviews associated with these complaints within 30 days from the date of the Agreement. That upon stay of the suspension, Gingerich will maintain a log of all appraisals for a period of six months. The log will be submitted to the Board monthly. The Board's Investigative Committee will review the logs and will select a minimum of three appraisals for additional review. That Gingerich pay the cost of the additional appraisal reviews within 30 days from the date of notice by the Board.

**JOHN H. HUGHES, L-907  
COMPLAINTS 211, 229, 230 & 291, TOPEKA**

**VIOLATIONS:** K.S.A. 58-4121; 58-4118(a)(6); 58-4118(a)(7); and (58-4118(a)(8).

**ACTION:** A Consent Agreement and Order was entered into with the following terms and conditions: That Hughes' state license be suspended, said suspension to be stayed upon completion of 60 hours of Board approved, tested, education, comprised of a 15-hour USPAP course, a minimum of 15 hours of residential property appraisal and 15 hours of income capitalization. That Hughes pay a fine of \$1,000 within 30 days from the date of the Agreement. That Hughes pay \$450 to cover the cost of the reviews associated with these complaints. That upon stay of the suspension, Hughes will maintain a log of all appraisals for a period of six months. The log will be submitted to the Board monthly. The Board's Investigative Committee will review the

log and select a minimum of three appraisals for additional review. That Hughes pay the cost of the additional reviews within 30 days from the date of notice by the Board.

**GARY GRAY NEWCOME, L-510  
COMPLAINT #295, WICHITA**

**VIOLATIONS:** K.S.A. 58-4121; 58-4118(a)(6); 58-4118(a)(7); and (58-4118(a)(8).

**ACTION:** A Consent Agreement and Order was entered into with the following terms and conditions: That Newcome take and pass the examination of a 15-hour USPAP course on or prior to June 30, 2003. That Newcome pay \$200 to cover the cost of the review associated with this complaint. That Newcome maintain a monthly log of all appraisals from the date of the Agreement through June 30, 2003. The log will be submitted to the Board monthly. The Board's Investigative Committee will review the logs and choose two appraisals for additional review. That Newcome pay the cost of the additional reviews within 30 days of notice by the Board.

**GARY KEN PATTERSON, L-773  
COMPLAINTS 280 & 285, OXFORD**

**VIOLATIONS:** K.S.A. 58-4121; 58-4118(a)(6); 58-4118(a)(7); and (58-4118(a)(8).

**ACTION:** A Consent Agreement and Order was entered into with the following terms and conditions: That Patterson's state license be suspended, said suspension to be stayed upon completion of 75 hours of Board approved, tested education, to include a 15-hour USPAP course, and a minimum 24 hour residential report writing course. That Patterson pay \$440 to cover the cost of the reviews associated with these complaints within 30 days of the Agreement. That Patterson pay a fine of \$500 within 30 days from the date of the Agreement.

**BOARD ELECTS NEW CHAIR  
& VICE-CHAIR**

At their December 13 meeting, the Board elected Steven R. Adams (Wichita) as Chairman and Ronald D. Aul (Lawrence) as Vice Chairman. Congratulations to both.

KANSAS REAL ESTATE APPRAISAL BOARD  
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543

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Licensed/Certified Appraisers As Of  
April 8, 2003

General Certified .....	430
Residential Certified .....	337
State Licensed .....	250
Provisional (Trainee) .....	129
Total .....	1,146

**WEB SITES**

The Appraisal Subcommittee: [www.asc.gov](http://www.asc.gov)  
The Appraisal Foundation: [www.appraisalfoundation.org](http://www.appraisalfoundation.org)

**Other Links**

See the Board's website for "Other Links" which provides e-mail and website addresses for appraisal regulatory agencies in other states.

**APPRAISAL BOARD MEMBERS**

STEVEN R. ADAMS, CHAIRMAN  
RONALD D. AUL, VICE-CHAIR  
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DONNA HUTCHESON, MEMBER  
RALPH LENO, MEMBER  
KENNETH LICKTEIG, MEMBER  
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