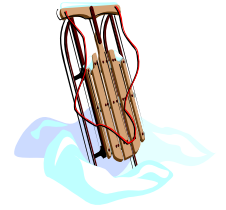




Kansas Real Estate Appraisal Board

2007

Winter Newsletter



January, 2007

No. 1

IMPORTANT NOTICE FOR APPRAISERS ORIGINALLY LICENSED BETWEEN JULY 1 AND DECEMBER 31, 2006

On May 5, 2006, the Appraiser Qualifications Board (AQB) issued an interpretation of the Real Property Appraiser Qualification Criteria as it relates to continuing education requirements for appraisers licensed for partial years, as follows:

Credentialed appraisers are required to complete continuing education for a partial year in a continuing education cycle as follows:

1. For continuing education cycle periods of 185 days or more, 14 hours of continuing education is required.
2. For continuing education cycle periods of less than 185 days, no hours of continuing education are required.

This interpretation took effect on January 1, 2007.

Those affected by the new interpretation will be Kansas appraisers who were originally licensed on or after July 1, 2006, but prior to January 1, 2007. Kansas law (K.S.A. 58-4112) currently states that an appraiser is exempt from continuing education at their first renewal. The Board is in the process of changing the statute to remove the exemption from continuing education and write a regulation to ensure that Kansas appraisers are in compliance with AQB criteria; however, in the mean time, we have contacted the Appraisal Subcommittee (ASC) for clarification as to how this will effect our 2007 renewals and what steps can be taken to minimize the disruption to those affected Kansas appraisers. What follows is the process Kansas will follow until, by statute and regulation, the continuing education for partial year licenses can be set.

1. For those appraisers licensed on or after January 1, 2007, no continuing education will be required for the 2007 renewal.
2. For those appraisers licensed on or after July 1, 2006, but prior to January 1, 2007, while the 14 hours of continuing education (including the 7-hour USPAP Update course) is required, we cannot

deny their renewal due to existing Kansas statute. However, those who choose to renew without meeting the 14 hours of continuing education (including the 7-hour USPAP Update course) will be reported to the ASC as "AQB non-complaint" and will be so shown on the National Registry. As such, these appraisers would not be eligible to perform an appraisal that is part of a federally related transaction. Once the necessary education was completed and reported to the Board, it would be voided (this would make the education ineligible for the 2008 renewal) and the appraiser would be changed to "AQB compliant".

3. For those appraisers licensed on or after July 1, 2006, but prior to January 1, 2007, who log the necessary continuing education (14-hours, completed on or after the original Kansas license date and including the 7-hour USPAP Update course), will be renewed as "AQB compliant".

Any questions with regard to renewal or continuing education should be directed to the Board staff at (785) 271-3373 or at cheryl.magathan@kreab.ks.gov.



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DEFINITIONS

Here are a few terms that continue to generate questions:

FEDERALLY-RELATED TRANSACTIONS: Any real estate-related financial transaction which a federal financial institutions 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 Institutions 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: estates, 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 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, and 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.

COMPLEX APPRAISALS: A licensed appraiser can perform "non-complex" appraisals on residential properties of up to \$1 million value, and "complex" appraisals on residential properties of up to \$250,000 value. So, what is a "complex" appraisal?

The determination of the complexity is a judgment of the lending institution. "Complex" generally refers to situations in which the property, the market conditions or the form of ownership is atypical. Factors to consider in determining whether a property is atypical would be:

- Architectural style of the improvements;
- age of the improvements;
- size of the improvements;
- size of the lot;
- use of the property in relation to other; or
- presence of potential environmental hazard liability.

Other atypical conditions may include:

- Changes in the neighborhood characteristics suggesting that the highest and best use has changed; or
- form of ownership other than fee simple, such as leaseholds, life estates, easements, and time-shares.

Note: These examples are illustrative and are not meant to be inclusive.



APPRAISAL STANDARDS BOARD RELEASES EXPOSURE DRAFT

The ASB released a First Exposure Draft on proposed changes to the 2006 Edition of USPAP on December 15, 2006. While written comments on the First Draft were requested by January 25, 2007, it is anticipated that a Second Exposure Draft will be released in February, 2007.

The proposed changes covered by the First Exposure Draft are:

- Definition of Supplemental Standards and the SUPPLEMENTAL STANDARDS RULE
- STATEMENT 10, *Assignments for Use by a Federally Insured Depository Institution in a Federally Related Transaction*
- Advocacy in the Conduct section of the ETHICS RULE and the definition of Advocacy
- Clarification of report certification requirements
- Requirements related to highest and best use (most appropriate market or market level) in STANDARD 7, *Personal Property Appraisal, Development*, STANDARD 8, *Personal Property Appraisal, Development, and* STANDARD 6, *Mass Appraisal Development and Reporting*
- Edits to reconciliation and reporting requirements for consistency and clarity
- Proposed Advisory Opinion on the application of USPAP to assignments that involve more than one appraiser and proposed retirement of Advi-

sory Opinion 5, *Assistance in the Preparation of an Appraisal*

- Proposed Advisory Opinion on the application of USPAP to ad valorem property tax appraisal and mass appraisal assignments

Full content of the First Exposure Draft can be accessed at The Appraisal Foundation website at www.appraisalfoundation.org.



2007 RENEWALS

Renewal applications for 2007 will be mailed to each appraiser's mailing address the last week of February. If you have not received your renewal application by March 5, go to the Board's website at www.kansas.gov/kreab and click on Renewal Information to download a generic form.

2008 QUALIFYING EDUCATION REQUIREMENT CHANGES

PROVISIONAL (TRAINEE)

A trainee must meet all qualifying education requirements for the license/certification level they are applying for. See State Licensed, Certified Residential or Certified General classifications.

STATE LICENSED

150 HOURS (COMPRISED OF THE FOLLOWING MODULES)

30 Hours	Basic Appraisal Principles
30 Hours	Basic Appraisal Procedures
15 Hours	National USPAP Course (Completed within two years from the date of application)
15 Hours	Residential Market Analysis and Highest and Best Use
15 Hours	Residential Appraiser Site Valuation and Cost Approach
30 Hours	Residential Sales Comparison and Income Approaches
15 Hours	Residential Report Writing and Case Studies

CERTIFIED RESIDENTIAL

200 HOURS (COMPRISED OF THE MODULES LISTED BELOW) AND AN ASSOCIATE DEGREE, OR HIGHER, FROM AN ACCREDITED COLLEGE, JUNIOR COLLEGE, COMMUNITY COLLEGE, OR UNIVERSITY **OR** IN LIEU OF THE ASSOCIATE DEGREE, AN APPLICANT MUST SUCCESSFULLY PASS THE FOLLOWING COLLEGIATE SUBJECT MATTER COURSES FROM AN ACCREDITED COLLEGE, JUNIOR COLLEGE, COM-

MUNITY COLLEGE, OR UNIVERSITY: ENGLISH COMPOSITION; PRINCIPLES OF ECONOMICS (MICRO OR MACRO); FINANCE; ALGEBRA, GEOMETRY, OR HIGHER MATHEMATICS; STATISTICS; INTRO. TO COMPUTERS-WORD PROCESSING/SPREADSHEETS; AND BUSINESS OR REAL ESTATE LAW.

30 Hours	Basic Appraisal Principles
30 Hours	Basic Appraisal Procedures
15 Hours	National USPAP Course (Completed within two years from the date of application)
15 Hours	Residential Market Analysis and Highest and Best Use
15 Hours	Residential Appraiser Site Valuation and Cost Approach
30 Hours	Residential Sales Comparison and Income Approaches
15 Hours	Residential Report Writing and Case Studies
15 Hours	Statistics, Modeling and Finance
15 Hours	Advanced Residential Applications and Case Studies
20 Hours	Appraisal Subject Matter Electives (this may include hours over the minimums shown above in other modules)

CERTIFIED GENERAL

300 HOURS (COMPRISED OF THE MODULES LISTED BELOW) AND A BACHELORS DEGREE, OR HIGHER, FROM AN ACCREDITED COLLEGE, JUNIOR COLLEGE, COMMUNITY COLLEGE, OR UNIVERSITY **OR** IN LIEU OF THE BACHELORS DEGREE, AN APPLICANT MUST SUCCESSFULLY PASS THE FOLLOWING COLLEGIATE SUBJECT MATTER COURSES FROM AN ACCREDITED COLLEGE, JUNIOR COLLEGE, COMMUNITY COLLEGE, OR UNIVERSITY: ENGLISH COMPOSITION; MICRO ECONOMICS; MACRO ECONOMICS; FINANCE; ALGEBRA, GEOMETRY, OR HIGHER MATHEMATICS; STATISTICS; INTRO. TO COMPUTERS-WORD PROCESSING/SPREADSHEETS; BUSINESS OR REAL ESTATE LAW; TWO ELECTIVE COURSES IN ACCOUNTING, GEOGRAPHY, AGECONOMICS, AND BUSINESS MANAGEMENT, OR REAL ESTATE.

30 Hours	Basic Appraisal Principles
30 Hours	Basic Appraisal Procedures
15 Hours	National USPAP Course (Completed within two years from the date of application)
30 Hours	General Appraiser Market Analysis and Highest and Best Use
15 Hours	Statistics, Modeling and Finance
30 Hours	General Appraiser Sales Comparison Approach
30 Hours	General Appraiser Site Valuation and Cost Approach
60 Hours	General Appraiser Income Approach
30 Hours	General Appraiser Report Writing and Case Studies
30 Hours	Appraisal Subject Matter Electives (this may include hours over the minimums shown above in other modules)

MODULES

MINIMUM HOURS	MODULE	LICENSE/CERTIFICATION LEVEL		
		STATE LICENSED	CERTIFIED RESIDENTIAL	CERTIFIED GENERAL
30	Basic Appraisal Principles	✓	✓	✓
30	Basic Appraisal Procedures	✓	✓	✓
15	National USPAP Course	✓	✓	✓
15	Residential Market Analysis and Highest and Best Use	✓	✓	
15	Residential Appraiser Site Valuation and Cost Approach	✓	✓	
30	Residential Sales Comparison and Income Approaches	✓	✓	
15	Residential Report Writing and Case Studies	✓	✓	
15	Statistics, Modeling and Finance		✓	✓
15	Advanced Residential Applications and Case Studies		✓	
30	General Appraiser Market Analysis and Highest and Best Use			✓
30	General Appraiser Sales Comparison Approach			✓
30	General Appraiser Site Valuation and Cost Approach			✓
60	General Appraiser Income Approach			✓
30	General Appraiser Report Writing and Case Studies			✓
	Appraisal Subject Matter Electives (May include hours over the minimum requirements in the above modules or in modules not required.)		20 Hours	30 Hours

MODULE SUBTOPICS

WHAT FOLLOWS IS A LISTING OF EACH MODULE BROKEN DOWN INTO SUBTOPICS.

BASIC APPRAISAL PRINCIPLES (30 HOURS)

- A. Real Property Concepts and Characteristics
 - 1. Basic Real Property Concepts
 - 2. Real Property Characteristics
 - 3. Legal Description
- B. Legal Consideration
 - 1. Forms of Ownership
 - 2. Public and Private Controls
 - 3. Real Estate Contracts
 - 4. Leases
- C. Influences on Real Estate Values
 - 1. Governmental
 - 2. Economic
 - 3. Social
 - 4. Environmental, Geographic and Physical
- D. Types of Value
 - 1. Market Value

- 2. Other Value Types
- E. Economic Principles
 - 1. Classical Economic Principles
 - 2. Application and Illustrations of the Economic Principles
- F. Overview of Real Estate Markets and Analysis
 - 1. Market Fundamentals, Characteristics, and Definitions
 - 2. Supply Analysis
 - 3. Demand Analysis
 - 4. Use of Market Analysis
- G. Ethics and How They Apply in Appraisal Theory and Practice

BASIC APPRAISAL PROCEDURES (30 HOURS)

- A. Overview of Approaches to Value
- B. Valuation Procedures
 - 1. Defining the Problem
 - 2. Collecting and Selecting Data
 - 3. Analyzing
 - 4. Reconciling and Final Value Opinion

- 5. Communicating the Appraisal
- C. Property Description
 - 1. Geographic Characteristics of the Land/Site
 - 2. Geologic Characteristics of the Land/Site
 - 3. Location and Neighborhood Characteristics
 - 4. Land/Site Considerations for Highest and Best Use
 - 5. Improvements – Architectural Styles and Types of Construction
- D. Residential Applications

THE NATIONAL USPAP COURSE (15 HOURS)

- A. Preamble and Ethics Rule
- B. Standard 1
- C. Standard 2
- D. Standards 3 to 10
- E. Statements and Advisory Opinions

RESIDENTIAL MARKET ANALYSIS AND HIGHEST AND BEST USE (15 HOURS)

- A. Residential Markets and Analysis
 - 1. Market Fundamentals, Characteristics and Definitions
 - 2. Supply Analysis
 - 3. Demand Analysis
 - 4. Use of Market Analysis
- B. Highest and Best Use
 - 1. Test Constraints
 - 2. Application of Highest and Best use
 - 3. Special Considerations
 - 4. Market Analysis
 - 5. Case Studies

RESIDENTIAL APPRAISER SITE VALUATION AND COST APPROACH (15 HOURS)

- A. Site Valuation
 - 1. Methods
 - 2. Case Studies
- B. Cost Approach
 - 1. Concepts and Definitions
 - 2. Replacement/Reproduction Cost New
 - 3. Accrued Depreciation
 - 4. Methods of Estimating Accrued Depreciation
 - 5. Case Studies

RESIDENTIAL SALES COMPARISON AND INCOME APPROACHES (30 HOURS)

- A. Valuation Principles & Procedures – Sales Comparison Approach
- B. Valuation Principles & Procedures – Income Approach
- C. Finance and Case Equivalency
- D. Financial Calculator Introduction
- E. Identification, Derivation and Measurement of Adjustments
- F. Gross Rent Multipliers
- G. Partial Interests
- H. Reconciliation
- I. Case Studies and Applications

RESIDENTIAL REPORT WRITING AND CASE STUDIES (15 HOURS)

- A. Writing and Reasoning Skills
- B. Common Writing Problems
- C. Form Reports
- D. Report Options and USPAP Compliance
- E. Case Studies

STATISTICS, MODELING AND FINANCE (15 HOURS)

- A. Statistics
- B. Valuation Models (AVM's and Mass Appraisal)
- C. Real Estate Finance

ADVANCED RESIDENTIAL APPLICATIONS AND CASE STUDIES (15 HOURS)

- A. Complex Property, Ownership and Market Conditions
- B. Deriving and Supporting Adjustments
- C. Residential Market Analysis
- D. Advanced Case Studies

GENERAL APPRAISER MARKET ANALYSIS AND HIGHEST AND BEST USE (30 HOURS)

- A. Real Estate Markets and Analysis
 - 1. Market Fundamentals, Characteristics and Definitions
 - 2. Supply Analysis
 - 3. Demand Analysis
 - 4. Use of Market Analysis
- B. Highest and Best use
 - 1. Test Constraints
 - 2. Application of Highest and Best Use
 - 3. Special Considerations
 - 4. Market Analysis
 - 5. Case Studies

GENERAL APPRAISER SALES COMPARISON APPROACH (30 HOURS)

- A. Value Principles
- B. Procedures
- C. Identification and Measurement of Adjustments
- D. Reconciliation
- E. Case Studies

GENERAL APPRAISER SITE VALUATION AND COST APPROACH (30 HOURS)

- A. Site Valuation
 - 1. Methods
 - 2. Case Studies
- B. Cost Approach
 - 1. Concepts and Definitions
 - 2. Replacement/Reproduction Cost New
 - 3. Accrued Depreciation
 - 4. Methods of Estimating Accrued Depreciation
 - 5. Case Studies

GENERAL APPRAISER INCOME APPROACH (60 HOURS)

- A. Overview
- B. Compound Interest
- C. Lease Analysis
- D. Income Analysis
- E. Vacancy and Collection Loss
- F. Estimating Operating Expenses and Reserves
- G. Reconstructed Income and Expense Statement
- H. Stabilized Net Operating Income Estimate
- I. Direct Capitalization
- J. Discounted Cash Flow
- K. Yield Capitalization
- L. Partial Interests
- M. Case Studies

**GENERAL APPRAISER REPORT WRITING AND
CASE STUDIES (30 HOURS)**

- A. Writing and Reasoning Skills
- B. Common Writing Problems
- C. Report Options and USPAP Compliance
- D. Case Studies



**BOARD TESTING SERVICE
CHANGES HANDS**

Promissor, the testing service used by the Kansas Real Estate Appraisal Board, has been acquired by Pearson VUE. While the availability of the exam will not change, effective December 10, 2006, there has been two changes in the test sites.

Topeka Pearson Professional Center
Gage Office Center Suites
4125 SW Gage Center Drive, Suite 201
Topeka, KS 66604

Hays Pearson Professional Center
Hadley Center
205 E. 7th St., Ste. 237
Hays, KS 67601

If you are scheduled for an exam on or after December 10, 2006, and you have any questions about the location of the test site, please call Pearson VUE at (800) 274-7488.



USPAP Q & A

APPRAISAL FEE PAID AT CLOSE OF FINANCING TRANSACTION

Q. I have a potential lending client that wants to arrange for my appraisal fees to be paid at the closing of each financing transaction. Does USPAP permit this fee arrangement?

A. USPAP does not address the time frame for payment of fees. In the situation described there must be a clear arrangement that the fee cannot depend on the closing of the financing transaction. Accepting an assignment where the appraisal fee is paid *only* upon successful closing of the transaction is a violation of the Management section of the ETHICS RULE:

It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an assignment, that is contingent on any of the following:

1. the reporting of a predetermined result (e.g. opinion of value);
2. a direction in assignment results that favors the cause of the client;
3. the amount of a value opinion;
4. the attainment of a stipulated result; or
5. **the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.** (Bold added for emphasis)

One way appraisers can avoid any ambiguity is by having a written agreement with the client detailing the manner in which the appraisal fee will be paid if the transaction does not close.

"DISCOUNTED" APPRAISAL FEES

Q. Is it a violation of USPAP to offer reduced appraisal fees for clients that send me a large volume of business? Could I also offer a discount for the method of payment, such as collecting the fee from the borrower at the time of inspection?

A. An appraiser may establish his or her fees based on a number of factors, including the amount of business received, business relationships, method of payment, client-specific requirements, etc. However, the appraiser must ensure that they comply with the Management section the ETHICS RULE.

CLIENT APPROVED FOR FUTURE ASSIGNMENTS

Q. Some of my clients include a condition in engagement correspondence that addresses future assignments for the same subject property. Specifically, my acceptance of the assignment requires that I agree to obtain client approval before I accept future assignments related to the subject from another party. Advisory Opinion 27, *Appraising the Same Property for a New Client*, states that USPAP does not require a release to accept the new assignment. Can I accept assignments where the client requires a release for future assignments related to the subject?

A. Yes. Appraisers are often subject to agreements that exceed the requirements of USPAP. These additional client requirements are permissible so long as they do not conflict with the requirements of USPAP. Although USPAP does not require obtaining approval from a prior client before accepting an assignment to appraise the same property for a new client, a client can establish such a relationship.

COMMUNICATING ASSIGNMENT RESULTS WITHOUT A WRITTEN REPORT

Q. My clients sometimes want me to communicate results verbally, instead of issuing a written appraisal report. Does USPAP allow me to do this?

A. Yes. USPAP defines “report” as follows:

*...any communication, written or **oral**, of an appraisal, appraisal review, or appraisal consulting service that is transmitted to the client upon completion of an assignment. (Bold added for emphasis)*

Therefore, verbally communicating assignment results constitutes an oral report under USPAP. The use of an oral report must be appropriate given the intended use of the assignment results, and the report must comply with the applicable reporting requirements (i.e. Standards Rules 2-4, 3-4, 5-4, 8-4 and 10-4). The Record Keeping section of the ETHICS RULE also requires that the appraiser’s workfile for an oral report include a summary of the oral report and a signed and dated certification.

CONFLICTS OF INTEREST

Q. The principals of a local mortgage company propose to acquire an appraisal firm and have the appraisal firm complete assignments for the mortgage company. Is this a conflict of interest for the appraisers completing assignments for the mortgage company?

A. An appraiser should review the ETHICS RULE and Standards Rule 2-3 when completing appraisal assignments in situations where the appraisal company that engages (by employment or contract) the appraiser is owned by the client.

It is important to note that USPAP does not prohibit the acceptance of an assignment in this specific situation. In an appraisal assignment developed under STANDARD 1 and reported under STANDARD 2, an appraiser must specify the particulars in a situation where he or she has any present or prospective interest with respect to the parties involved in the property that is the subject of the report.

The engagement of an appraiser by an appraisal company that is owned by the client or by owners of the client does not, in and of itself, mean that the appraiser has an interest or bias with respect to the property or properties involved. If the appraiser has an interest but could provide the service in an ethical, unbiased manner then the appraiser could accept the assignment as long as the appraiser was competent and properly disclosed the interest in accordance with Standards Rule 2-3.

If the appraiser’s interest in the property or the parties involved in the assignment prevented the appraiser from providing an unbiased service, then the appraiser should not accept the assignment for it would be in violation of the ETHICS RULE and parts of the appraiser’s certification in Standards Rule 2-3.

SAMPLE APPRAISALS AND THE ETHICS RULE

Q. I am a fee appraiser currently seeking to get on the approved list for a local mortgage company. In order to be considered for approval, this lender requires appraisers to provide sample appraisal reports performed within the past year. Is there a way that I can accomplish this without violating USPAP?

A. In order to provide this information any appraiser must satisfy the Confidentiality section of the ETHICS RULE. This section states:

An appraiser must protect the confidential nature of the appraiser-client relationship.

An appraiser must act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of assignment results.

An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment.

An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons 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.

The Comment further explains that if all essential elements of confidential information are removed through redaction or the process of aggregation, client authorization is not required for the disclosure of the remaining information, as modified.

The appraiser in this case has three options:

1. Turn down the request to provide the information, or
2. Secure a release from the client of each sample appraisal report, or
3. Provide sample reports, but redact all information that should not be provided to anyone other than the client, such as confidential information or assignment results.

RESPONSIBILITY FOR WORKFILE RETENTION

Q. (a) Jim, an independent contractor, works for my appraisal company on a regular basis. I have always kept all appraisal file documentation (including hard copies of appraisal reports, field notes, drawings, etc.) at my office. Now Jim wants to keep the files relating to his work in his own possession. Under USPAP, which appraiser should keep the workfile?

(b) Is the Record Keeping section of the ETHICS RULE upheld if an institutionally employed appraiser ensures that his organization retains copies of his appraisal work for five years? Or, must the appraiser also maintain a personal file of all work performed?

(c) A client's attorney requested that I supply all of my files/records regarding an assignment. Can I do this and still be in compliance with the record keeping requirements for USPAP? Also, what must I retain in my files as proof that the files are now the responsibility of the attorney? Will a simple letter from the client be sufficient?

A. According to USPAP, the **appraiser**, not the appraiser's employer or client, is ultimately responsible for the retention of the workfile for the prescribed period. (See Record Keeping section of the ETHICS RULE.)

An appraiser who is employed by, or works in conjunction with, another party must make arrangements with that party to protect and preserve the workfile and to allow the appraiser to make the workfile available to other parties (e.g. State Appraisal Boards and such representatives) when required by due process of law.

There are a number of ways an appraiser who works for or with another party can ensure that files are retained so that the appraiser can have access to the files to meet the requirements of the ETHICS RULE. For example, an appraiser and his employer or colleague may agree that the files will remain in the employer's or colleague's custody for the duration of the requisite retention period and that the appraiser will have access to those files, if needed.

USPAP does not dictate the form or format of the workfile documentation. It is not necessary to include original documents in the file; photocopies and electronic files are acceptable as "true copies." Because there have been cases where employers and others have denied appraisers access to workfiles, an appraiser may wish to make and retain copies of workfiles. However, USPAP does not address any specific manner by which an employer or contractor and appraiser should handle record retention. This is a business matter, which should be arranged in the context of the employer- or contractor-appraiser relationship.

By the same token, providing the workfile to a duly authorized party, such as a client's attorney, is permitted by USPAP. However, this does not relieve the appraiser of the responsibility for that workfile. At no time may an appraiser abdicate his or her responsibility for a workfile. Therefore, when an appraiser relinquishes possession of a file to a client or the client's representative, the appraiser should retain ei-

ther a copy of the workfile or a written reference to an agreement with the client that the appraiser will have access to the workfile, if the need arises.

APPRAISAL MANAGEMENT COMPANY AS AUTHORIZED AGENT FOR A CLIENT

Q. I accept assignments from an Appraisal Management Company (AMC) that has informed me they are an authorized agent for the lenders they represent. The AMC does not want me to list their name as the client, and asks that I only list the name of the lender they are representing. USPAP says the appraiser's client is the party who engages the appraiser. Is it ethical to omit the AMC's name as the client on my reports?

A. Yes. If the AMC is acting as a duly authorized agent for a lender, identifying only the lender's name as your client is acceptable.

SUBSEQUENT USER REQUESTS A "RELIANCE LETTER"

Q. I delivered an appraisal report to my client. A week later, an entity other than one of the identified intended users contacted me and asked that I provide a "reliance letter," enabling them to rely on the appraisal report for their own investment use. My client says they have no problem with my doing that. Can I provide this entity with such a letter, even though I had not originally identified them as an intended user?

A. No. You cannot add what is in effect a new "intended user" after the completion of an assignment, no matter what terminology you use.

USPAP defines Intended User as:

*The client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report by the appraiser on the basis of communication with the client **at the time of the assignment.** (Bold added as emphasis.)*

The proper way to handle this is to initiate a new assignment with this entity as the client and provide them an appraisal, being careful to develop an appropriate scope of work consistent with their own intended use.

This new assignment could be based on virtually the same data and analysis, and the value conclusion might be the same. However, in the new assignment you must consider the assignment elements most appropriate to the scope of work for that client and the assignment, which could well be different from those of your prior client.

PURCHASE CONTRACT IS NOT PROVIDED TO THE APPRAISER

Q. I was recently engaged to conduct a market value appraisal of a one-to-four unit residential

property. The intended use of this appraisal is to assist the client in analyzing the loan collateral associated with the property's purchase. I requested a copy of the purchase contract from the client, but they refused to provide it although they acknowledged that a contract for purchase of the property in fee simple exists. They did, however, provide a sale price orally. Can I continue this assignment, without the purchase contract, and comply with USPAP?

A. Yes, you can complete the assignment in compliance with USPAP. However, you will need to ensure compliance with Standards Rule 1-5(a) in developing the appraisal, and with Standards Rule 2-2(a)(viii), (b)(viii), or (c)(viii), as applicable to the type of appraisal report determined most appropriate, given the intended users, in reporting the assignment results.

Standards Rule 1-5(a) states:

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...

The Comment to Standards Rule 1-5 states:

See the Comments to Standards Rules 2-2(a)(viii), 2-2(b)(viii) and 2-2(c)(viii) for corresponding reporting requirements relating to the availability and relevance of information.

For example, the corresponding reporting requirements in Standards Rule 2-2(a)(viii), in the Comment, are, in part:

...If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required.

Complying with these Standards Rules ensures that the existence and unavailability of the purchase contract is appropriately disclosed, and intended users will not be misled as to how this situation was handled in the analysis and report.

UPDATE OF AN APPRAISAL COMPLETED BY ANOTHER APPRAISER

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, *Update to a Prior Assignment*, provides advice on how such an assignment can be performed in conformance with USPAP.

"EFFECTIVE DATE" OF USPAP

Q. Does the 2006 USPAP apply in 2007?

A. Yes. The 2006 edition of USPAP became effective on July 1, 2006 and remains in effect until a new edition of USPAP is adopted.

CHANGES TO 2006 USPAP

Q. Is the Appraisal Standards Board considering changes to the 2006 edition of USPAP?

A. Yes. The Appraisal Standards Board (ASB) regularly receives comments and suggestions for improving USPAP. The ASB has released for public comment an Exposure Draft that presents proposed changes for the next edition of USPAP. The Exposure Draft can be accessed at The Appraisal Foundation website: www.appraisalfoundation.org. The deadline for written comments is January 25, 2007. Comments are also invited at the ASB Public Meeting on February 2, 2007 in San Francisco, CA.

NEXT EDITION OF USPAP

Q. When will the next edition of USPAP be available?

A. The next edition of USPAP is planned for 2008 and is currently scheduled to be available in the fall of 2007. The 2008 edition of USPAP is scheduled to be effective on January 1, 2008 and is planned to remain in effect through the end of 2009. This is consistent with the ASB's goal of changing USPAP less often and moving to a two-year cycle publication schedule.

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.



DISCIPLINARY ACTIONS

**JEFFREY L. FRENCH (R-1673), SHAWNEE
COMPLAINT #493**

Violations: K.S.A. 58-4121, 58-4118(a)(6), (7) and (8).

Action: A Consent Order was entered into on December 20, 2006, with the following terms and conditions: That French take and pass the examination of the 15-hour USPAP course on or prior to June 30, 2007; that French cease and desist from all supervi-

sion of appraisers/trainees, commencing the date of the Order and ending 12 months following completion of the above shown education; that French maintain a log of all appraisals he performs or in which he participates for a period of 12 months from the date of the Order, said log to be submitted to the Board office on or immediately following the first working day of each month; and that should any review of any appraisal taken from the aforementioned log indicate that the appraisal report is not in substantial compliance with USPAP, French will pay the costs of the additional reviews within 30 days of notice by the Board, and a new complaint will be filed.

**KENT L. WOOTEN (G-112), MISSION HILLS
COMPLAINT #469**

Violations: K.S.A. 58-4121, 58-4118(a)(6), (7) and (8).

Action: The Board alleged and Wooten denied that reports contained violations of USPAP. However, a Consent Order was entered into on December 20, 2006, with the following terms and conditions: That Wooten take and pass the examination of the 15-hour USPAP course on or prior to June 30, 2007; that Wooten pay a fine of \$250 within 30 days from the date of the order; that Wooten maintain a log of appraisals which he performs or in which he participates for a period of six (6) months, commencing the date of the Order. Said log to be submitted to the Board office on or immediately following the first working day of each month; that the Board may select up to three (3) reports from the logs for additional review; that Wooten pay the costs of the additional reviews if said reviews and any proceedings of the Board thereafter result in a determination that the reviewed appraisal(s) are not in compliance with applicable law or USPAP; and that Wooten cease and desist from all supervision of appraisers/trainees for a period to commence the date of the Order and end six (6) months following completion of the above shown education

**HAROLD C. DWIGHT (R-855), KC, KS
COMPLAINTS #366, 367 & 368**

Violations: K.S.A. 58-4121, 58-4118(a)(6), (7) and (8).

Action: A Consent Order was entered into on December 23, 2006, with the following terms and conditions: That on or after the effective date of the Order, Dwight take and pass the 120 hours of qualifying education for the Certified Residential classification; that effective the date of the Order, Dwight's residential certification be suspended, said suspension to be lifted upon evidence of successful completion of the above shown education; that after release from suspension, Dwight will work under the supervision of a certified appraiser for a period of 12 months; that said

supervisor is subject to approval by the Board; that Dwight maintain a log of all appraisals he performs or in which he participates during the 12 months of supervised work; that the supervisor must sign each entry on Dwight's log; that the Board may select up to 3 reports from the logs for additional review; and that should any review of a report taken from the log indicate the appraisal is not in substantial compliance with USPAP, Dwight's residential certification will be revoked.

**EDWARD J. NEWSOME (R-882) KC, MO
COMPLAINT #492**

Violations: K.S.A. 58-4121, 58-4118(a)(6), (7) and (8).

Action: A Consent Order was entered into on January 2, 2007, with the following terms and conditions: That Newsome take and pass the examination of the 15-hour USPAP course on or prior to June 30, 2007; that Newsome take and pass the examination of a minimum 15-hour sales comparison course on or prior to June 30, 2007; that Newsome pay a fine of \$500 within 30 days from the date of the Order; that Newsome cease and desist from all supervision for appraisers/trainees, commencing the date of the Order and ending 12 months following completion of the above noted education.

**MICHELE RENE LOGUE (R-1502), PLATTE CITY, MO
CASE NO. 06-27**

Violations: K.A.R. 117-6-1(d)(3).

Action: A Summary Proceeding Order was issued, effective January 13, 2007, revoking Logue's residential certification for failure to respond to a Board audit of Logue's continuing education.

**MELISSA D. ZELLER (P-1881), HERINGTON
CASE NO. 06-28**

Violations: K.A.R. 117-6-1(d)(3).

Action: A Summary Proceeding Order was issued, effective January 13, 2007, revoking Zeller's provisional (trainee) license for failure to respond to a Board audit of Zeller's continuing education.



**APPRAISAL BOARD PUBLISHES NOTICE OF
HEARING ON 2008 CRITERIA REGULATIONS**

The Kansas Real Estate Appraisal Board (KREAB) published their Notice of Hearing on Proposed Administrative Regulations, to be held on March 1, 2007, in the December 28, 2006 Kansas Register. Those regulations affected by the 2008 Criteria are

K.A.R. 117-1-1, 2-1, 2-2, 2-3, 2-4, 3-1, 3-2, 3-4, 4-1, 4-2, 4-3, 4-4, 6-1, and 6-2. The hearing has been set for Thursday, March 1 at 10:00 a.m.

This is a public comment period for the purpose of receiving written public comments on the proposed regulations. All interested parties may submit written comments prior to the hearing to the KREAB, 1100 SW Wanamaker Rd., Ste. 104, Topeka, KS 66604.

Copies of the regulations and the economic impact statement may be obtained by contacting the KREB at (785) 271-3373, fax at (785) 271-3370, e-mail to cheryl.magathan@kreab.ks.gov, or from the Board's website at www.kansas.gov/kreab, then click on Regulations and Statutes.



2008 CRITERIA CHANGES TO SCOPE OF PRACTICE

EFFECTIVE JANUARY 1, 2008, THE FOLLOWING CHANGES TO THE SCOPE OF PRACTICE

WILL LIMIT ALL AGRICULTURAL AND COMMERCIAL APPRAISALS TO THE CERTIFIED GENERAL CLASSIFICATION.

K.A.R. 117-2-4. LICENSED CLASSIFICATION, SCOPE OF PRACTICE. (a) (1) The licensed classification shall apply to the appraisal of the following:

(A) Non-complex residential units for one to four families, with a transaction value of less than \$1,000,000; and

(B) complex residential units for one to four families, with a transaction value of less than \$250,000.

(2) For the purposes for this regulation, the following definitions shall apply:

(A) A complex one-family to four-family residential property appraisal shall mean an appraisal in which the property to be appraised, the form of ownership, or the market conditions are atypical.

(B) For non-federally related transaction appraisals, transaction value shall mean market value.

(b) The licensed classification shall include the appraisal of vacant or unimproved land that is utilized for one-family to four-family purposes and where the highest and best use is for one-family to four-family purposes. The licensed classification shall not include the appraisal of subdivisions in which a development analysis or appraisal is necessary and utilized.

(1) Each licensed appraiser shall comply with the competency rule of the uniform standards of professional appraisal practice (USPAP), as adopted in K.A.R. 117-8-1.

(2) Each licensed appraiser shall perform and practice in compliance with the USPAP, as adopted in K.A.R. 117-8-1.

K.A.R. 117-4-4. RESIDENTIAL CLASSIFICATION, SCOPE OF WORK. (a) The residential classification shall apply to the appraisal of residential units for one to four families without regard to transaction value or complexity.

(b) The residential classification shall include the appraisal of vacant or unimproved land that is utilized for one-family to four-family purposes and where the highest and best use is for one-family to four-family purposes. The residential classification shall not include the appraisal of subdivisions in which a development analysis or appraisal is necessary and utilized.

(c) Each certified residential appraiser shall comply with the competency rule of the uniform standards of professional appraisal practice (USPAP), as adopted in K.A.R. 117-8-1.

(d) Each certified residential appraiser shall perform and practice in compliance with the USPAP, as adopted in K.A.R. 117-8-1.

117-3-4. GENERAL CLASSIFICATION; SCOPE OF PRACTICE. (a) The general classification shall apply to the appraisal of all types of real property.

(b) Each certified general appraiser shall comply with the competency rule of the uniform standards of professional appraisal practice (USPAP), as adopted in K.A.R. 117-8-1.

(c) Each certified general appraiser shall perform and practice in compliance with the USPAP, as adopted in K.A.R. 117-8-1.



2007 EXPERIENCE SUPERVISION CHANGES

Effective July 1, 2007, K.A.R. 117-2-2a, 117-3-2a, 117-4-2a, and 117-5-2a will go into effect. These regulations deal exclusively with experience supervision for each of the four appraiser license/certification types available. The major changes made are:

- **ALL EXPERIENCE SUBMITTED TO MEET THE REQUIREMENTS OF ANY LICENSE/ CERTIFICATION MUST HAVE BEEN SUPERVISED. PLEASE NOTE:** The Board acknowledges that this portion of 117-3-2a and 117-4-2a is too general and is preparing to make a change to these regulations which will require that only experience submitted for an initial license/certification **or** experience that lies outside of the appraiser's current license/certification scope of work must be supervised. This change would allow a State Licensed appraiser to submit experience that was not supervised to meet the Certified Residential requirement; however, would require that a State Licensed or Certified Residential appraiser seeking a Certified General classification, be supervised for that portion of their ex-

perience that lies outside of their current scope of work.

- ALL SUPERVISORS MUST CARRY EITHER A CERTIFIED RESIDENTIAL OR CERTIFIED GENERAL CLASSIFICATION AND HAVE HELD SAID CLASSIFICATION FOR A MINIMUM OF 2 YEARS AT THE TIME OF SUPERVISION.
- NO APPRAISER MAY SUPERVISE MORE THAN 3 TRAINEE/APPLICANT/APPAISERS (APPLICANT) AT ONE TIME.
- A SUPERVISOR MUST ENSURE THAT, AT A MINIMUM, THE FIRST 25 PROPERTIES FOR WHICH THE APPLICANT PROVIDED ASSISTANCE IN DEVELOPING, PREPARING, OR COMMUNICATING AN APPRAISAL REPORT, WERE PERSONALLY INSPECTED BY A SUPERVISOR, AND EACH SUPERVISOR MUST CONTINUE TO INSPECT UNTIL SATISFIED THE APPLICANT IS COMPETENT. PLEASE

NOTE: The emphasis on “a” is to allow for changes or multiple supervisors. Example A: A trainee has accrued 500 hours of experience under Supervisor A, but is changing to Supervisor B. Supervisor B would need to review the applicant’s log sheet, determine if the first 25 properties were inspected by the previous supervisor, and then inspect all properties under their supervision until satisfied that the applicant is competent. If the applicant has not assisted in 25 appraisals at the time they change supervisor, the second supervisor would be responsible for inspecting the remainder needed to meet the 25 required and then continue until satisfied that the applicant is competent. Example B: A trainee is working under 2 different supervisors at the same time. It would be each supervisor’s responsibility to know if the instant appraisal falls within the first 25 properties and must be inspected by that supervisor, and regardless of whether the 25 properties have been met, both are responsible for continuing to inspect until satisfied the applicant is competent.



SUMMARY OF COMPLAINTS RECEIVED AND DISCIPLINARY ACTIONS TAKEN BY THE BOARD

During the period of July 1, 2005 through June 30, 2006, the Board received 49 new complaints.

Complaints Dismissed:	10
Consent Agreements	23
Requested Hearing	6
Revoked	1
Settlement Pending	5
Did Not Renew	0
Letter of Censure	1
Pending Outside Investigation	0
In process of investigation:	3

The Board currently has 25 open cases. Most are still in the investigative stage; however, approximately 8 have requested hearing.



KANSAS APPRAISERS AS OF JANUARY 29, 2007

Certified General.....	426
Certified Residential.....	369
State Licensed	395
Provisional (Trainee).....	91

Total: 1,281

During the period of January 1, 2006 through December 31, 2006, the Board issued 102 new license/certificates. These included individuals new to the industry as well as appraisers securing a higher classification.

Of the 1,281 appraisers licensed in Kansas, approximately 415 are non-residents.



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