



Kansas Real Estate Appraisal Board

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AARO ISSUES PRESS RELEASE

August 28, 2008

The Association of Appraiser Regulatory Officials (AARO) is an association of appraiser regulatory member jurisdictions (state agencies) whose mission is to improve administration and enforcement of real estate appraisal laws in each jurisdiction. We strive to accomplish this mission through communication, research, education, and cooperation among the membership. Currently 46 of the 55 states and US territories are members of AARO.

Through Title XI of FIRREA, Congress established an unfunded federal mandate for US states and territories to pay their own way in the organization and administration of their appraisal regulatory programs that certify and regulate real estate appraisers. The resulting "national system" of real estate appraisal regulation was the subject of criticism in an Associated Press report published August 17, 2008, which characterizes the system as "crippled" and "ineffective." Such characterizations are incorrect because the majority of appraiser regulatory agencies function properly and in compliance with FIRREA.

Since the inception of the current system of mandatory appraiser regulation, jurisdictions have imposed thousands of sanctions nationwide against appraisers including: 1,000+ revocations, 1,000+ suspensions (of three to nine months), 300+ license/certification surrenders in lieu of other disciplinary action(s) plus over 7,000 other disciplinary actions including suspensions of less than three months, monetary fines, reprimands, and mandatory appraisal education. Prior to the current system of national regulation there were no such disciplinary actions levied against unethical or incompetent appraisers. Additionally, thousands of appraiser applications for licensure or certification have been denied thus preventing unqualified or unethical individuals from entering the appraisal profession.

The Appraisal Subcommittee (ASC) is the federal agency Congress has designated to provide oversight of state regulatory agencies to ensure compliance with the

many appraiser-regulatory aspects of Title XI of FIRREA. Biennial ASC field audits of regulatory jurisdictions are performed to ensure compliance with FIRREA. The vast majority of jurisdictions take swift, corrective action in response to unfavorable ASC audit findings.

Over the past four years AARO has developed a unique 2.5-day Appraiser Regulatory Investigator Training Course. The course will dramatically improve a jurisdiction's ability to process appraiser enforcement cases and will promote a much higher degree of consistency of enforcement between jurisdictions and within each jurisdiction. AARO is in the final stages of a joint project with the Appraisal Foundation and the ASC to provide the funding necessary to provide this important training to all jurisdictions. The initial training is targeted to begin the first quarter of 2009.

AARO conducts semi-annual conferences that are three to four-day events featuring: ASC reports on recent field audit findings; reports from The Appraisal Foundation; important messages from speakers representing Fannie Mae, Freddie Mac, VA, FHA, professional appraiser

continued on page 2

INSIDE THIS ISSUE

ASB ISSUES EXPOSURE DRAFT.....	2
FHA NEW LEGISLATION	3
BOARD ACCEPTING RESUMES	3
AQB ISSUES EXPOSURE DRAFT	3
USPAP Q & A	4-5
DISCIPLINARY ACTIONS	5
HOW COMPLAINTS ARE FILED	6
INVESTIGATION OF COMPLAINTS.....	6-7
REVIEWING THE RENEWAL PROCESS.....	7
CONTACT INFORMATION	8

continued from page 1

organizations, FBI investigators addressing current fraud cases and how to detect fraud; technology advances, and a host of other relevant regulatory topics.

The current system of appraiser regulation provides for: minimum pre-certification qualifications, including a college degree; a minimum of 2,500 hours of supervised appraisal experience; the successful completion of a rigorous national appraiser examination; and adherence to the Uniform Standards of Professional Appraisal Practice, which includes ethical and competency requirements. Furthermore, the system has resulted in the sanction of about 10,000 appraisers, including revocations and suspensions.

Ineffective appraiser regulation plays a part in the current national mortgage and housing crisis, but it is a very small part in comparison to mortgage fraud and unsound lending practices.



**ASB ISSUES FIRST EXPOSURE DRAFT
OF PROPOSED CHANGES TO THE
2010-11 EDITION OF USPAP**

Date: October 3, 2008

Comment Deadline: November 10, 2008

Starting in December 2007, the Appraisal Standards Board (ASB) launched a campaign asking appraisers, users of appraisal services, regulators, educators, and others how well the Uniform Standards of Professional Appraisal Practice (USPAP) was serving their needs. This was accomplished with a series of public documents and public meetings. The ASB received written comments representing almost 2,000 individuals, as well as oral comments offered at public meetings. The ASB considered every comment, developed a work plan to address the issues brought forward, and asked for and received public comment on the proposed work plan, which included changes for the next edition (2010- 11) of USPAP as well as additional changes (such as those involving the issue of reporting) for the subsequent edition (2012-13) of USPAP.

As a result, the ASB is now presenting its First Exposure Draft of proposed changes to the 2010-11 edition of USPAP, which consists of proposed edits relating to:

- Definition of Signature
- Definition of Jurisdictional Exception and the JURISDICTIONAL EXCEPTION RULE
- The ETHICS RULE
- The COMPETENCY RULE

- STANDARD 3, Appraisal Review, Development and Reporting

The intent of this exposure draft is to obtain comments from appraisers, professional appraisal organizations, users of appraisal services, educators, regulators, state enforcement agencies and the general public. All interested parties are encouraged to comment in writing to the Appraisal Standards Board (ASB) before the deadline of November 10, 2008. Respondents should be assured that each member of the ASB will thoroughly read and consider all comments. Comments are also invited at the ASB Public Meeting on November 18, 2008, in Arlington, Virginia.

The goal of the Uniform Standards of Professional Appraisal Practice is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers. The Appraisal Standards Board regularly receives comments and suggestions for improving USPAP. All potential changes and additions to USPAP are evaluated in light of this goal. The proposed changes in this exposure draft are believed to improve USPAP understanding and enforcement, and thereby achieve the goal of promoting and maintaining public trust in appraisal practice.

Written comments on this exposure draft can be submitted by mail, e-mail and facsimile.

Mail: Appraisal Standards Board

The Appraisal Foundation

1155 15th Street, NW, Suite 1111

Washington, DC 20005

E-mail: comments@appraisalfoundation.org

Facsimile: (202) 347-7727

IMPORTANT NOTE: All written comments will be posted for public viewing, exactly as submitted, on the website of The Appraisal Foundation. The Appraisal Foundation reserves the right not to post written comments that contain offensive or inappropriate statements.

It is anticipated that a Second Exposure Draft on these topics will be released in December 2008. The Second Exposure Draft may incorporate changes and will respond to issues raised in public comments to the First Exposure Draft.

If you have any questions regarding the exposure draft, please contact The Appraisal Foundation at (202) 347-7722.

Full text of the exposure draft can be viewed at

http://www.appraisalfoundation.org/s_appraisal/sec.asp?CID=142&DID=200.



Don't leave completing your continuing education until the last minute. Find a course **NOW** that is of interest to you instead of waiting until May and taking a course simply because it is available. A listing of approved courses is on the Board's website at <http://www.kansas.gov/kreab/education>.

FHA ANNOUNCES NEW APPRAISERS LEGISLATION

Effective October 1, 2008, only appraisers who are state-certified and meet all other eligibility criteria may apply for placement on the FHA Appraiser Roster. FHA will no longer accept application from state-licensed appraisers. This change was made to comply with requirements mandated by the Housing and Economic Recovery Act of 2008, which was signed into law on July 30, 2008.

Future changes that will affect licensed appraisers who are currently on the FHA Appraiser Roster will be provided in a mortgagee letter, which will be published shortly and appear on HUD's website. The following link will take you to a current listing of mortgagee letters available from HUD

<http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/>

If you are currently on the roster and need to update your record, including address, phone number, e-mail address or for renewals, please visit

<http://www.hud.gov/appraisers> for complete instructions.

Also, effective immediately, licensed appraisers who were approved for placement on the FHA appraiser roster, but who have not kept their roster status current due to the failure to renew an appraisal license, sanctioning or other constraints, and who are now requesting reinstatement to the roster will be treated like new applicants (see above) and, therefore, are NOT ELIGIBLE for reinstatement. Only certified appraisers may request and receive reinstatement on the FHA appraiser roster.

Kansas appraisers wanting to upgrade their state license to certified residential or general can download the requirements and all application forms from the Board's website at <http://www.kansas.gov/kreab/licensing>.

PLEASE NOTE, all questions regarding the FHA Appraiser Roster must be directed to the FHA. The Board staff does not maintain information regarding the implementation of these regulation changes.



BOARD ACCEPTING RESUMES FOR REVIEWER POSITIONS

The Board is now accepting resumes from certified appraisers for desk reviewer. The preference is for appraisers with five to ten years of experience and a thorough understanding of Uniform Standards. Reviewers are contracted each fiscal year (July 1 through June 30).

If you are a certified appraiser and would be interested in contracting with the Board as a reviewer, please submit your resume, three letters of reference, and a cover letter with current contact information to:

Kansas Real Estate Appraisal Board
Jayhawk Tower, Roof Garden Level
700 SW Jackson, Ste. 1102
Topeka, KS 66603.



AQB ISSUES EXPOSURE DRAFT

Date: September 17, 2008

Comment Deadline: November 14, 2008

The Appraiser Qualifications Board (AQB) has issued an exposure draft of an interpretation and a Guide Note applying to the Real Property Appraiser Qualification Criteria. The intent of this document is to obtain comments from appraisers, users of appraisal services, regulators, academicians, and the public.

Interpretations are essential to proper understanding of the requirements set forth in the Criteria and as such, are binding upon users of the Criteria. Guide Notes are advisory in nature and are not binding upon users of the Criteria. The following material is included as part of the Exposure Draft:

- Interpretation – Graduate Degrees and Qualifying Education
- Guide Note 7 – Graduate Degree Programs

We encourage all interested parties to respond in writing to the AQB of the Appraisal Foundation before the written comment deadline of **November 14, 2008**. Interested parties are invited to submit written comments on this Exposure Draft to: AQB Comments, The Appraisal Foundation, 1155 15th St. NW, Ste. 1111, Washington, DC 20005. Comments may also be submitted by facsimile to (202) 347-7727 or via e-mail to comments@appraisalfoundation.org.

IMPORTANT NOTICE: All written comments will be posted for public viewing, exactly as submitted, on the website of The Appraisal Foundation. The Appraisal Foundation reserves the right not to post written comments that contain offensive or inappropriate statements.

Full text of the draft can be viewed at:
http://www.appraisalfoundation.org/s_appraisal/bin.asp?CID=5&DID=1245&DOC=FILE.PDF.



USPAP Q & A

The Appraisal Standards Board (ASB) of The Appraisal Foundation develops, interprets, and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. The USPAP Q&A is a form of guidance issued by the ASB to respond to questions raised by appraisers, enforcement officials, users of appraisal services and the public to illustrate the applicability of USPAP in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems. The USPAP Q&A may not represent the only possible solution to the issues discussed nor may the advice provided be applied equally to seemingly similar situations. USPAP Q&A does not establish new standards or interpret existing standards. USPAP Q&A is not part of USPAP and is approved by the ASB without public exposure and comment.

Q. If the party to whom an appraisal report is addressed is the client and is also the only intended user, does USPAP require the report to state the intended user by name or type?

A. While USPAP requires all reports to state the client and any other intended user(s), USPAP does not dictate how this should be done. When there is only a single intended user (the client), a simple statement as part of the salutation may be sufficient; however, in other cases, it may not be adequate. The report must clearly and accurately set forth the appraisal in a manner that will not be misleading and must contain sufficient information to enable intended users to understand the report properly.

The purpose of reporting requirements related to client and intended user identification is to: (1) ensure that the client and any other intended users can recognize their relationship to the assignment and report; and (2) ensure that unintended users will not be misled by notifying them that they are neither the client nor an intended user.

STATEMENT 9, *Identification of Intended Use and Intended Users*, provides extensive information on this topic in addition to several examples of statements that may be appropriate for inclusion in a report, such as the following:

This report is intended for use only by (identify the client) and (identify any other intended users by name or type). Use of this report by others is not intended by the appraiser.

Q. Does USPAP require appraisers to be covered by Errors and Omissions (E&O) insurance?

A. USPAP does not address E&O insurance. However, if an appraiser is required to have E&O insurance as a matter of law or regulation, he or she must comply with that requirement under the COMPETENCY RULE which requires recognition of, and compliance with, laws and regulations that apply to the appraiser or the assignment.

Q. I was recently contacted by a client for whom I had previously completed an appraisal. The client asked if I could simply tell them that there have been no changes in the market since the time of my appraisal, and that the value of the property remains the same. Am I permitted to do this under USPAP?

A. Yes. However, it must also be understood that an appraiser making a determination that the value of a property has not changed is performing an appraisal as defined in USPAP. The Comment to the definition of "Appraisal" states:

*An appraisal must be numerically expressed as a specific amount, as a range of numbers, **or as a relationship (e.g., not more than, not less than) to a previous value opinion** or numerical benchmark (e.g., assessed value, collateral value).* (Bold added for emphasis)

In addition, the appraiser is obligated to comply with the reporting requirements of USPAP. The request from the client should be treated as a new assignment, which could be completed in accordance with Advisory Opinion 3, *Update of a Prior Appraisal*.

Q. I have received an assignment to appraise a property with newly constructed improvements. Because the property includes new construction, there is no prior sales history of the property as it now exists. However, I do have information pertaining to a prior sale of the site (without the improvements). Does Standards Rule 1-5(b) require me to analyze this prior sale of the site?

A. Yes. The goal of USPAP is to promote public trust in the appraisal profession. Standards Rule 1-5 provides for a research and analysis requirement for information that is judged to be important to the credibility of the appraisal process. To be consistent with the purpose of USPAP as well as the intent of SR 1-5, an appraiser is required to analyze all prior sales that include the subject property. This includes: 1) prior sales of a property that includes the subject property; and 2) prior sales of a portion of the subject property.

In this case, the analysis of the prior sale of the unimproved site would be necessary to comply with Standards Rule 1-5(b). The site in this instance is a component of the subject property.

Another example might be the appraisal of a leased fee interest in a property. The appraiser must research and analyze prior sales of the subject, even if these sales include a fee simple interest in the property.

An additional example might be the appraisal of 20 acres subdivided from a 200-acre parcel. The appraiser must research and analyze prior sales of the subject, even if these sales include the 200-acre site in its entirety.

Q. Does USPAP require an appraiser to certify in the appraisal report that he or she has not been coerced to provide predetermined results?

A. No. However, such a statement would be consistent with the requirements of USPAP. Standards Rule 2-3 essentially requires the appraiser to certify that he or she has not been coerced, without specifically using that term. SR 2-3 requires the appraiser to certify, among other things, that:

- my engagement in this assignment was not contingent upon developing or reporting predetermined results.

An appraiser would be unethical to affirm this statement in the certification if the appraiser had been coerced into providing predetermined assignment results.

Q. A few weeks ago I performed an appraisal for a lender client. I was recently contacted by an individual who claims that she is a review appraiser that has been hired by the lender, and wanted to ask me some questions about my appraisal. Can I discuss my appraisal with her?

A. Yes, if you receive authorization from the client. The Confidentiality section of the ETHICS RULE states, in part:

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

Appraisers may disclose confidential information or assignment results relating to an assignment to:

...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. (Bold added for emphasis)

Q. I have several clients that request I include a copy of my state appraisal license in each appraisal report I perform. Does USPAP permit me to do this?

A. USPAP does not directly address issues of appraiser licensing or credentials. However, some licensing jurisdictions have laws that govern the circumstances under which a licensee may provide a copy of his or her license. If so, appraisers are required to comply with such laws in order to comply with USPAP.

The USPAP Q&A is posted each month on The Appraisal Foundation website (www.appraisalfoundation.org). The ASB compiles the monthly USPAP Q&A into the USPAP Frequently Asked Questions (USPAP FAQ) for publication with each edition of USPAP. In addition to incorporating the most recent questions and responses issued by the ASB, the USPAP FAQ is reviewed and updated to ensure that it represents the most recent guidance from the ASB.



DISCIPLINARY ACTIONS

Richard G. Knowles (R-2283), Wichita
Complaint #578

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

Action: A Consent Order was entered into on September 19, 2008 with the following terms and conditions: That Knowles take and pass the examination of Qualifying Education Module #3 (USPAP), Qualifying Education Module #4 (Residential Market Analysis and Highest & Best Use) and Qualifying Education Module #9 (Advanced Residential Applications and Case Studies) on or prior to June 30, 2009; that Knowles pay a fine of \$1,000 within 30 days from the date of the Order; that Knowles pay \$450 to cover the cost of the review associated with this complaint within 30 days from the date of the Order; that Knowles maintain a log, commencing the date of the Order and ending six (6) months following completion of all education specified; and that the Board may select up to three (3) reports from said logs for additional review.

James E. Atherton (G-407), Wichita
Complaint #572

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

Action: A Consent Order was entered into on September 25, 2008 with the following terms and conditions: That Atherton take and pass the examination of the 15-hour USPAP course on or prior to June 30, 2009; Qualifying Education Module #6 (Residential Sales Comparison & Income Approaches) on or prior to June 30, 2009; and that Atherton pay \$750 to cover the cost of the review

associated with this complaint within 30 days from the date of the Order.

Matthew B. Couch (L-2419), Overland Park
Complaint #571

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

Action: A Consent Order was entered into on September 25, 2008, with the following terms and conditions: That Couch take and pass the examination of the 15-hr USPAP course on or prior to June 30, 2009; that Couch take and pass the examination of Qualifying Education Module #4 (Res. Market Analysis & Highest & Best Use) on or prior to June 30, 2009; that Couch take and pass the examination of Qualifying Education Module #5 (Res. Appraiser Site Valuation & Cost Approach) on or prior to June 30, 2009; that Couch take and pass the examination of Qualifying Education Module #9 (Advanced Res. Applications & Case Studies) on or prior to June 30, 2009; that Couch maintain a log for 6 months following completion of the education specified above; that the Board may select up to 3 reports from said log for additional review; and that Couch pay \$1,625 Recovery of Expense within 30 days from the date of the Order.

Stacy E. Salters (R-1289), Topeka
Complaint #561

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

Action: A Consent Order was entered into on October 3, 2008, with the following terms and conditions. That Salters take and pass the exam of the 15-hour USPAP course on or prior to June 30, 2009; that Salters take and pass the exam of Qualifying Education Module #7 (Residential Report Writing and Case Studies) on or prior to June 30, 2009; and that Salters pay \$325 to cover the cost of the review associated with this complaint within 30 days from the date of the Order.



HOW COMPLAINTS ARE RECEIVED

The Board receives complaints from many sources, which include the client, the property owner, reviewers, HUD and appraisers. A complaint may also be filed against an appraiser by the Board. It is a common practice of the Board to file a complaint against a supervising appraiser when an applicant's experience is denied based upon reviews performed on the reports.

Anonymous complaints are accepted by the Board; however, before the Board will proceed with investigating a complaint, they request a copy of the report and evidence of USPAP violations or other violations relating to the

Appraisers Act. A copy of an appraisal report or other documentation that contains clear errors may be treated as a written complaint. All complaints sent to the Board must be in writing.

During the investigative process, a complaint is considered to be confidential and information pertaining to the complaint is not considered an open record. After a complaint has been adjudicated, certain information concerning the complaint becomes an open record and may be obtained from the Board by submitting a request in writing.

PUBLICATION OF DISCIPLINARY ACTIONS

Effective March 31, 2006, the Board adopted a Policy Statement regarding the publication of disciplinary actions on the Board's website and quarterly newsletter (see article, page **). Prior to that date, publication of disciplinary actions was considered a negotiating tool to be used when settling complaints, therefore, not all disciplinary actions taken prior to March 31, 2006 were published in the newsletter or on the Board's website. However, all disciplinary action taken by the Board **must be reported** to the Appraisal Subcommittee and added to the Federal Registry. In order to find out if an appraiser has had disciplinary action, but is not listed on our website, please contact the Board office.



FILING A COMPLAINT

To file a complaint against an appraiser, in letter form, detail the problems you have with the appraisal performed and then submit the letter with a copy of the appraisal to the Board at Jayhawk Tower, Roof Garden Level, 700 SW Jackson, Ste. 1102, Topeka, KS 66603.

While the Board will accept anonymous complaints, there must be a cover-letter which details the problems. A copy of an appraisal received without a cover-letter will not automatically trigger an investigation.

INVESTIGATION OF COMPLAINTS: THE HEARING PROCESS

BY: CAMILLE NOHE, ASST. ATTORNEY GENERAL

Disciplinary matters which cannot be settled by a Consent Agreement and Order are referred for prosecution and a hearing is set. In this event, the United States Constitution guarantees a licensed or certified appraiser a hearing by a fair and impartial hearing panel. It is for this

reason that Board members who serve on the Investigative Committee never serve on the Board's Hearing Panel.

Like a jury in a civil or criminal case, the (usually) three Board members who decide a case are provided with very limited information about the case prior to the hearing. Hearing Panel members are given a copy of the charging document called a Petition. This document, filed by the Board's prosecuting attorney, contains the factual allegations and the laws and USPAP violations that are charged. A copy of the Petition is also mailed to the appraiser, often with a Notice of Hearing. If the appraiser files an answer or response to the matters charged in the Petition, a copy is provided to the Hearing Panel members.

In many cases the appraiser retains a lawyer in order to defend against the allegations. Whether or not a lawyer represents the appraiser, he or she has a right to obtain copies of any documents or other evidence that the prosecutor intends to present at the hearing. In some cases, the appraiser's lawyer takes the deposition of the prosecutor's expert witness in order to obtain a preview of that witness' testimony and the basis for the expert's opinions. The appraiser may also decide to hire an expert witness as a part of the defense.

The hearing is conducted much like a trial although the rules of evidence and procedure are somewhat relaxed. The hearing can last anywhere from ½ day to 2 days, depending on how many counts are charged, the complexity of the legal and factual issues, and how many witnesses testify. The Hearing Panel listens to all the testimony and reviews all the evidence that is admitted. At the conclusion of the hearing, the Hearing Panel deliberates and decides whether clear and convincing evidence has been presented to establish the charges. The Hearing Panel's decision, called a Final Order, is mailed to the appraiser and the prosecutor. If the appraiser is dissatisfied with the decision, the appraiser may appeal to district court for judicial review.



REVIEWING THE RENEWAL PROCESS

The renewal of appraisal license/certificates is an annual process in Kansas. The renewal period begins March 1 each year and ends May 31 (for "on-time" renewals) and September 30 (for "late" renewals). Renewal applications are mailed to each appraiser on or immediately following March 1. It is the responsibility of each appraiser to ensure that the Board office has the most current residence, business, and/or mailing address on record (Ref. K.S.A. 58-4114).

Continuing education is reported to the Board office during each "odd" year renewal. For the upcoming 2009 renewal, appraisers will be required to log evidence of

completion of the required CE hours on their renewal application. What follows is a chart of hours required:

- Appraisers originally licensed/certified on or prior to December 31, 2007, will be required to log evidence of 28 hours, completed on or after July 1, 2007 or their original license date, whichever is later. Of the 28 hours, 7 hours must be in USPAP Update. The 15-hour USPAP course may be used as CE; **however**, it does not meet the USPAP requirement and must be taken **in addition** to the 7-hour update course.
- Appraisers originally licensed/certified on or after January 1, 2008, but prior to January 1, 2009, will be required to log evidence of 14 hours, completed on or after their original license date. Of the 14 hours, 7 hours must be in USPAP Update. The 15-hour USPAP course may be used as CE; **however**, it does not meet the USPAP requirement and must be taken **in addition** to the 7-hour update course.
- Appraisers originally licensed/certified on or after January 1, 2009 are exempt from continuing education for the 2009 renewal.

DO'S AND DON'TS

- Review your application prior to submitting to ensure that all questions have been answered, education has been properly logged, the application has been signed, and the appropriate fee attached.
- Certificates of completion **are not** mailed into the Board office unless requested as part of the education audit.
- All continuing education must have been completed prior to filing the renewal.
- Renewals postmarked **after** May 31 are subject to a \$50 late fee.



KANSAS APPRAISERS	
Certified General	459
Certified Residential	404
State Licensed.....	326
Provisional (Trainee)	41
Total	1,230

KANSAS REAL ESTATE APPRAISAL BOARD
JAYHAWK TOWER, ROOF GARDEN LEVEL
700 SW JACKSON, STE. 1102
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(785) 368-6443 (FAX)
<http://www.kansas.gov/kreab>

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THE NATIONAL REGISTRY
http://www.asc.gov/contnt/category1/nr_intro.aspx?id=10