



Kansas Real Estate Appraisal Board 2016 Winter Newsletter

January, 2016

No. 1

FHA EAD SYSTEM

The Federal Housing Administration's (FHA) Electronic Appraisal Delivery (EAD) portal is the system through which all appraisals will be submitted to FHA by its mortgagees or their designated third-party service providers. Mortgagees will be onboarding to the portal throughout fall 2015 and spring 2016, and the portal becomes mandatory for use on or after June 27, 2016. **As an FHA Roster Appraiser, you need to be familiar with the EAD portal's general functionality, and how this functionality affects the appraisal reports you send to FHA mortgagees.**

The EAD portal is built to mirror, in large part, the electronic appraisal technology currently in use for conventional mortgages, but with some variation in certain data points and formats specific to FHA's business and systems. FHA Roster Appraisers should review FHA's new EAD Portal [Common Appraisal Data Errors](#) fact sheet, which provides details on some of the appraisal report data formatting errors that could prohibit a successful EAD portal submission. The requirements for appraisal reporting and data formats can be found in the FHA [Single Family Appraisal Report and Data Delivery Guide](#).

FHA has worked with the major appraisal form software vendors. They are incorporating FHA requirements into your software, and will also provide rule checking functions on your desktop. If you haven't recently updated your software, **FHA advises all FHA Roster Appraisers to contact their software company to make sure they have the latest versions that include the updates which correspond with FHA's EAD portal submission requirements.**



TAF ANNOUNCES DISCUSSION DRAFT OF POTENTIAL AREAS OF CHANGE FOR 2018-2019 EDITION OF USPAP

On January 15, 2016, the Appraisal Foundation (TAF) announced that the Appraisal Standards Board has issued the **Discussion Draft of Potential Areas of Change for the 2018-19 Edition of the *Uniform Standards of Professional Appraisal Practice***.

Link:

https://appraisalfoundation.org/imis/TAF/Standards/Exposure_Drafts/TAF/Exposure_Drafts.aspx?hkey=5b393d7e-4ed0-4c45-bf13-21ed4e2d14c5

Written comments are requested by February 17, 2016. Send comments to ASBComments@appraisalfoundation.org. Questions should be directed to Aida Dedajic, Standards Administrator, (202) 624.3058.



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CLARIFICATION ON FHA SCOPE OF WORK

It's been brought to our attention that the FHA appraisal guidelines may be requiring appraisers to make determinations on the plumbing, electrical, and mechanical systems that are beyond their expertise. The FHA has said that the following phrase is acceptable to put in the scope of work on FHA reports:

"The term "Inspection", as used in this report, is not the same level of inspection that is required for a "Professional Home Inspection". The appraiser does not fully inspect the electrical system, plumbing system, mechanical systems, appliances, foundation system, floor structure, or subfloor. In testing appliances and mechanical systems the appraiser checked that they functioned but did not run through their entire cycle to verify the extent and quality of their functionality. They appeared to be fully functioning or they were noted in the repairs and the appraisal is subject to them being repaired. The appraiser is not an expert in construction materials or mechanical systems."

The appraisal board is providing this for your information only. It is not a requirement that appraisers add this to their reports. We are simply offering this as an example of the wording that the FHA has indicated is acceptable.



APB ISSUES EXPOSURE DRAFT

On January 14, 2016, the Appraisal Practices Board (APB) of The Appraisal Foundation has issued the following: *First Exposure Draft – Valuation of Green and High Performance Property: 1-to-4-Unit Residential.*

All interested parties are encouraged to comment in writing to the APB before the deadline of March 14, 2016. Respondents should be assured that each member of the APB and the SME Group will thoroughly read and consider all comments.

Written comments on this Exposure Draft can be submitted by mail, e-mail, and facsimile at:

Mail

Staci Stewart
The Appraisal Foundation
1155 15th St. N.W., Ste. 1111
Washington, DC 20005

E-Mail

APBcomments@appraisalfoundation.org

Fax

(202) 347-7727



THE APPRAISAL FOUNDATION SEEKS CANDIDATES

The Appraisal Foundation (TAF) seeks candidates for the Board of Trustees (BOT) and the Appraisal Practices Board (APB). The application deadline is March 11, 2016.

Board of Trustees

TAF is seeking qualified candidates to serve as At-Large members on its BOT. The BOT is the governing body of TAF and provides financial support and oversight to the three independent TAF Boards. Completed applications for the three At-Large Trustee vacancies must be received by March 11, 2016.

- Applications are encouraged from individuals with leadership experience who have an interest in the valuation profession.
- At least one of the three Trustees chosen for the class of 2017 will be an individual whose main profession is in academia at a college or university.
- To learn more about the vacancies on the BOT and review a list of qualifications, please [click here](#).
- To complete an online application for the BOT, please [click here](#).

Appraisal Practices Board

TAF is seeking up to three qualified candidates to serve on the Appraisal Practices Board (APB). The APB is charged with identifying and issuing Valuation Advisories, which serve as voluntary guidance that may apply to the disciplines within the appraisal profession. Completed applications for the vacancies must be received by March 11, 2016.

- TAF will consider qualified leaders in the valuation profession or individuals involved in various appraisal disciplines such as real property, business valuation and personal property.
- APB members oversee the development of Valuation Advisories which are written by panels of Subject Matter Experts (SMEs).
- To find out more about the vacancies on the APB and review a list of qualifications, please [click here](#).
- To complete an online application for the APB, please [click here](#).

Questions? Please contact Arika Cole, Councils Administrator at (202) 624-3072.





Q. My state requires that when property owners seek an exception to a zoning requirement they demonstrate that the exception will not diminish the value of surrounding properties. I am occasionally engaged to render an opinion in these matters. Is the service that I am providing an appraisal?

A. Yes. USPAP defines *appraisal*, in part, as “the act or process of developing an opinion of value.” The Comment to this definition goes on to explain that the opinion of value does not necessarily have to be a number; it can be a relationship (i.e., equal to, more than, not less than) to a numerical benchmark (e.g., market value, assessed value, collateral value). In this example, the question could be restated as: Will the market value of the surrounding properties be less than their current market value if the exception is granted? Therefore, the resulting response is an appraisal.

Q. I recently received a notice from an Appraisal Management Company (AMC) requesting that I provide a copy of my complete workfile upon their request. What steps should I take to comply with this request without violating USPAP?

A. Providing the AMC with a copy of the workfile is not prohibited by USPAP. However, the appraiser must comply with the Confidentiality section of the ETHICS RULE. The workfile might contain assignment results from another assignment, or confidential information obtained from another client. If so, the appraiser must have authorization from that other client to disclose assignment results or any confidential information related to that assignment.

In addition, the appraiser must be aware of any other laws or regulations applicable to those past assignments, including privacy requirements such as those contained in the Gramm-Leach-Bliley Bank Modernization Act.

Q. I have a lender client that wants a market value appraisal completed. The property consists of two separate legal lots. The highest and best use for each of these lots is as a separate one-unit residential site. However, the client wants them appraised as though they were one legal lot. The intended use is for mortgage lending purposes.

May this assignment be completed treating these two lots as if they were one legal lot with the highest and best use as one legal lot?

A. If the appraiser knows that the highest and best use of the properties is as two separate one-unit residential sites, then complying with the lender's request will require use of a hypothetical condition. If the client is a

federally regulated financial institution, it will also need an “as-is” appraisal.

If the appraisal were based on a hypothetical condition (i.e., market value of the subject as if it were a single lot), the appraiser would have to develop an opinion of highest and best use. If this leads to the conclusion that the highest and best use would be subdivision into two or more lots, the appraiser must perform the appraisal recognizing that potential use and may need to perform a subdivision analysis to reach a credible opinion of the highest and best use of the hypothetical parcel.

Q. When the certification for a commercial appraisal report is signed by two certified general appraisers, does USPAP require each appraiser to specify which part of the appraisal he or she performed?

A. No. If both appraisers sign the certification, they both accept full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. When more than one person signs the certification, USPAP requires only that they disclose which individuals did and which individuals did not inspect the subject property.

According to Standards Rule 2-3: *If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.*

For additional guidance, see Advisory Opinion 31: *Assignments Involving More than One Appraiser.*

Q. Does STANDARD 3 apply to a review of an appraisal report performed by an Ethics Committee or a Board of Examiners of a professional appraisal organization?

A. STANDARD 3 applies to appraisal review in general, but unlike the other Standards its application is only in the context of an assignment. STANDARD 3 begins: *In developing an appraisal review assignment, an appraiser must ...*

So, if the service provided is an appraisal review (as defined in USPAP) and is part of an assignment (as defined in USPAP), STANDARD 3 applies. Even when STANDARD 3 does not apply, other parts of USPAP will apply if the service falls within the scope of USPAP's definition of appraisal practice.

Whether compliance with USPAP is required in any given situation is different question. The PREAMBLE states, in part: *An appraiser must comply with USPAP when either the service or the appraiser is required by law, regulation, or agreement with the client or intended user.*

Therefore, questions relating to reviews by an Ethics Committee, Board of Examiners, or similar body must be analyzed on a case-by-case basis in the context of the

various definitions and the applicable laws, regulations, or agreements.

Q. An appraiser performed a review of an appraisal report for 123 Main Street. Seven months later, he was asked to review another appraisal report regarding the same property prepared by the same appraiser. The appraiser is unsure if he must disclose to the client that he provided a prior service regarding the subject property. He knows an appraisal review is the development and communication regarding the quality of another appraiser's work. He thinks a review assignment is not about a property, it is about an appraiser. Is the reviewer correct that the subject of an appraisal review is the appraiser and no disclosure of any prior services is necessary?

A. No. An appraisal review assignment is not about an appraiser, but the work of the appraiser. As such, an appraisal review is a prior service. Standards Rule 3-2 provides additional insight into developing an appraisal review. The reviewer must: (b) *identify the purpose of the appraisal review, including whether the assignment includes the development of the reviewer's own opinion of value or review opinion related to the work under review; If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.*

(d) *identify the work under review and the characteristics of that work which are relevant to the intended use and purpose of the appraisal review, including:*

(vi) *the physical, legal, and economic characteristics of the property, properties, property type(s), or market area in the work under review.*

Comment: The subject of an appraisal review assignment may be all or part of a report, a workfile, or a combination of these, and may be related to an appraisal or appraisal review assignment.

Q. USPAP is clear with regard to the rules reviewers must follow when developing their own opinions of value. In assignments like this, are review appraisers required to provide their own definitions of value in the Appraisal Review Reports?

A commonly used residential review form does not provide this information nor have a field for reviewers to provide this information in those cases when reviewers provide their own opinions of value. I recognize that the onus is on the appraiser for USPAP compliance rather than form.

I'm not clear on whether the market value definition used in the original appraisal is implied, should be clarified with an extraordinary assumption, or simply defined in the Appraisal Review Report.

A. USPAP does not specifically address this issue in STANDARD 3. Absent a statement otherwise by

the reviewer, it would be assumed that the reviewer's opinion of value would be based upon the definition of value in the appraisal report being reviewed.

Neither does USPAP prohibit the reviewer from utilizing another value definition. The reviewer, when rendering his or her own opinion of value, must comply with STANDARD 1 (see S.R. 1-2 (c)), which states an appraiser must "identify the type and definition of value..."

Q. I am aware that the ASB changed the definition of assignment results to specify that physical characteristics are not assignment results. Does this mean that physical characteristics are not confidential?

A. Yes. Because physical characteristics are not assignment results, they are not confidential unless identified as such by the client and they are not available from any other source. Physical characteristics are attributes that are observable or measurable. This differs from opinions and conclusions, which are the result of some level of analysis or judgment.

Q. I read an appraisal report that included the paragraph below regarding the subject property's improvements. The paragraph appears to include both a description of the physical characteristics, as well as the appraiser's opinions (i.e., assignment results). I would like clarification on which items are physical characteristics and which are assignment results.

"The subject property is located at 245 Broad Street. The improvements were constructed in 1985 and were renovated in 2010 with all new appliances, bathroom fixtures, and heat/AC. The house, however, has functional problems. There are two bedrooms on the second floor with no bathroom on that floor. The interior decor is dated, and some of the walls are pink, yellow, and purple."

A. Items that fall under the category of physical characteristics include: the address (245 Broad Street); the age of the improvements (constructed in 1985); the appliances, bathroom fixtures, and heat/AC; the number of bedrooms and baths on the second floor; and the color of the walls (pink, yellow, and purple).

Assignment results (the appraiser's analyses, opinions, and conclusions) include: identifying "functional problems"; and the "interior décor is dated."

Q. I am trying to distinguish between physical characteristics and assignment results in a residential appraisal assignment. Which of the following ten terms are physical characteristics and which are assignment results?

1. *Living area is 2,000 SF*
2. *Property is in good condition*
3. *The property has functional problems*
4. *The improvements were constructed in 2005*
5. *The carpet is new*

6. 2nd floor has 2 bedrooms, no baths
7. Well landscaped
8. Poor floor plan
9. Carpet needs replacing
10. Walls are painted pink, yellow, and purple

A Physical characteristics do not include an appraiser's opinions. The items listed above shown as #1, 4, 5, 6 & 10 are examples of physical characteristics.

Assignment results include an appraiser's opinions. The items listed above shown as #2, 3, 7, 8 & 9 are examples of an appraiser's opinions, and therefore, are assignment results.

Q I am trying to distinguish between physical characteristics and assignment results in a non-residential appraisal assignment. Which of the following ten terms are physical characteristics and which are assignment results?

1. Building contains 10,316 SF
2. There is a low land to building ratio
3. The mechanicals are in fair condition
4. The heat/AC equipment is 20 years old
5. Parking access is poor
6. There is 2,000 SF of mezzanine office space
7. There are 4 parking spaces per 1,000 SF of office area
8. The warehouse ceiling height is 14 feet
9. The building has functional problems
10. The building is Class A construction according to Marshall & Swift description

A Physical characteristics do not include an appraiser's opinions. The items listed above shown as #1, 4, 6, 7, 8 & 10 are examples of physical characteristics.

Assignment results include an appraiser's opinions. The items listed above shown as #2, 3, 5 & 9 are examples of an appraiser's opinions, and therefore, are assignment results.

Q USPAP now requires that an appraiser "take reasonable steps to safeguard access to confidential information." What are reasonable steps?

A The Confidentiality section of the ETHICS RULE stipulates that except in certain circumstances, the appraiser must not disclose confidential information or assignment results (both as defined in USPAP). Safeguarding confidential information and assignment results requires the appraiser to make a decision as to what is reasonable.

One dictionary defines reasonable as being based in sound judgment. Sound judgment is not a one-size-fits-all proposition. For example, what are reasonable steps for an appraiser who is working in a public space where others

might be able to see the work papers or computer screen? The reasonable steps necessary to safeguard private documents from public view could vary.

The same judgment extends to the appraiser's office. It is up to the appraiser to determine when confidential information and assignment results should be kept under lock and key or in a closed folder. The answer could vary depending on the office environment; reasonable steps for an appraiser working from a home office might be different from those required in a large firm with appraisers and others having access to the workspace. USPAP requires an appraiser to exercise good judgment; it does not list steps the appraiser should take to comply.

Confidential information and assignment results can also be stored electronically. This information kept in desktop computers can be safeguarded in the same manner as physical files. The information can also be kept on an array of portable devices (e.g., laptops, external disk drives, small flash drives, smart phones, etc.). These devices may be easily misplaced, lost or stolen. The loss of one of these devices carries the same risk as orally disclosing confidential information or misplacing printed copies of reports.

USPAP cannot specify the steps an appraiser should take to prevent losing these devices or documents, nor can it specify what to do if that happens. Over time, new data storage and security technologies will evolve. USPAP does not specify whether these devices must be encrypted or password protected, nor the level of protection. USPAP cannot specify whether the appraiser must have the ability to remotely erase confidential information.

USPAP can only require the appraiser to exercise sound judgment. Therefore, relying on best professional practices, individual appraisers must seek "reasonable" and practical solutions to maintaining client confidentiality.

The USPAP Q&A is posted on The Appraisal Foundation website (www.appraisalfoundation.org). The ASB compiles the 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. The USPAP Frequently Asked Questions can be purchased (along with USPAP and USPAP Advisory Opinions) by visiting the "Foundation Store" page on The Appraisal Foundation website



IMPORTANT REMINDER

The 2016 renewal applications will mail to each appraiser's mailing address during the first week of March.

There is no continuing education due for the 2016 renewal.



DISCIPLINARY ACTIONS

SMITH, STEVEN R., L, WICHITA
VIOLATIONS: K.S.A. 58-4121, 58-4118(a)(6), (7), & (8)

A Consent Order was entered into on October 7, 2015, with the following terms and conditions: That Smith take and pass the exam of Qualifying Education Module (QEM) #3, 15-Hour USPAP Course on or prior to June 30, 2016; that Smith take and pass the exam of QEM #6, Residential Sales Comparison and Income Approaches on or prior to June 30, 2016; and that Smith pay \$800 to cover the cost of the review associated with this complaint within 30 days from the date of the Order.

HOFFMAN, KALEN M., R, WICHITA
VIOLATIONS: K.S.A. 58-4121, 58-4118(a)(6), (7), & (8)

A Consent Order was entered into on October 27, 2015, with the following terms and conditions: That Hoffman take and pass the examination of QEM #3, USPAP, and QEM #5, Residential Site Valuation and Cost Approach; and that Hoffman pay \$800 to cover the cost of the review associated with this complaint within 30 days from the date of this Order.

ECTON-YACK, SUZANNE M., R, KC., MO.
VIOLATIONS: K.S.A. 58-4121, 58-4118(a)(6), (7), & (8)

A Consent Order was entered into on January 14, 2016 with the following terms and conditions: That Ecton-Yack take and pass the exam of Qualifying Education Module (QEM) #3, USPAP, on or prior to June 30, 2016; that Ecton-Yack take and pass the exam of QEM #4, Residential Market Analysis & Highest & Best Use, on or prior to June 30, 2016, that none of this education may be used to meet any continuing education requirement in Kansas; and that Ecton-Yack pay \$990 to cover the cost of the review associated with this complaint within 30 days from the date of the Order.

**KANSAS APPRAISERS AND AMCS
AS OF AUGUST 17, 2015**

CERTIFIED GENERAL	477
CERTIFIED RESIDENTIAL	428
STATE LICENSED.....	106
PROVISIONAL (TRAINEE).....	11
TOTAL	1022
APPRAISAL MANAGEMENT CO.....	120

ADDRESS CHANGES

K.S.A. 58-4114 requires that each appraiser report any change of business and/or residence address immediately upon the change. Failure to notify us of your address change can result in missing your renewal notice, notice of education audit, etc.

Failure to report a change of e-mail address can mean that you miss e-mail blasts that address statute, regulation or procedural changes that directly affect your license. The Board's address change form is located at http://www.kansas.gov/kreab/pdf/licensing/Address_Change.pdf

KANSAS REAL ESTATE APPRAISAL BOARD

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