



NORTH CAROLINA APPRAISAL BOARD

APPRAISER REPORT

Volume 20

February 2010

Number 1

Appraisal Board PROPOSES TO Amend Rules

The North Carolina Appraisal Board has voted to amend several rules. If approved by the Rules Review Commission, the changes will be effective July 1, 2010. A summary of the rule changes follows.

◇ Prequalifying Education

All courses to become a trainee must be taken in a classroom setting. All other prequalifying education may be taken online, except for Residential Sales Comparison and Income Approach and General Appraiser Income Approach.

◇ Continuing Education

The amount of continuing education for participation in appraisal education activities (teaching appraisal courses, writing appraisal textbooks, development of instructional materials on appraisal subjects, etc.) is limited to 14 hours per CE cycle. No continuing education will be given for Basic Appraisal Principles and Basic Appraisal Procedures. Equivalent approval for continuing education not approved in North Carolina will be given only in 7 hour increments. A licensee who became licensed by reciprocity who then moves to NC may renew by letter of good standing only for the first renewal. After that, the licensee must comply with the instate CE requirements.

◇ Appraisal Reports

Significant appraisal assistance must be disclosed in the body of the appraisal report. An appraiser who signs a report has a right to a copy of the report if the copy is made at the time the report is completed, and must be given a copy upon request for the purpose of submission of the report and work file to the Board, compliance with due process of law, submission to a peer review committee, or in accordance with retrieval arrangements. Appraisal reports sent electronically must be sent in a secure and unalterable format, such as Adobe PDF.

◇ Trainee Supervision

A significant change to note: A supervisor must accompany the trainee on the first 50 inspections **or the first 1500 hours of experience**, whichever comes first. This addresses the concern that trainees in commercial firms were unfairly required to have most of their inspections supervised since they receive more points for each appraisal. Also, all appraisers signing an appraisal report where a trainee provides significant professional assistance or signs a report must have been declared a supervisor for the trainee before the appraisal is signed.

◇ Course Completion Standards

Licensees who take a precertification course for CE no longer have to take the examination but may do so.

◇ Instructor Requirements

If a USPAP instructor fails to renew or loses his or her AQB certification, the instructor must immediately stop teaching and notify the Board. Current Appraisal Board members cannot teach precertification courses or continuing education courses.

APPRAISER REPORT

Published as a service to appraisers to promote a better understanding of the Law, Rules and Regulations, and proficiency in ethical appraisal practice. The articles published herein shall not be reprinted or reproduced in any other publication, without specific reference being made to their original publication in the **North Carolina Appraisal Board Appraiser report**.

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APPRAISER COUNT

(As of January 6, 2010)

| | |
|-----------------------|------|
| Trainees | 550 |
| Licensed Residential | 223 |
| Certified Residential | 2200 |
| Certified General | 1174 |
| Total Number | 4147 |

APPRAISER

EXAMINATION RESULTS

July 2009 – December 2009

| Examination | Total | Passed | Failed |
|-----------------------|-------|--------|--------|
| Trainee | 52 | 38 | 14 |
| Certified Residential | 21 | 13 | 8 |
| Certified General | 0 | 0 | 0 |

Examinations are administered by a national testing service. To apply for the examination, please submit an application which may be downloaded from the Appraisal Board's website at <http://www.ncappraisalboard.org/forms/ApplicationFormLicensure.pdf>

2010 Renewal Information

All registrations, licenses and certificates expire on June 30th and must be renewed before this date to maintain your current status. Renewal notice forms will be mailed in early May. Please access your record through the licensee login on our website and make sure we have your correct mailing address so the renewal notice will reach you. You may update your contact information through the licensee login section. You will only receive one renewal notice.

If you do not renew by June 30, your registration, license or certificate will expire. Any person who acts as a trainee, licensed or certified real estate appraiser while expired shall be subject to disciplinary action and penalties as prescribed by the Appraiser's Act. **You are not required to have continuing education in order to renew this year.** You will be required to have 28 hours of continuing education of which 7 hours must be the National 7-Hour USPAP Update course by May 31, 2011 to renew next year. It is strongly suggested that you not wait until next year to obtain all of your required continuing education.

The renewal fee is \$200.00 and if you want to be on the National Registry, there is an additional fee of \$45.00. You must be on the National Registry to prepare appraisals related to federally related transactions. Registered trainees are not permitted to be on the Registry, but are allowed to work on any assignments their supervising appraiser is allowed to prepare.

If you allow your license to lapse, you may late renew with late penalty fees for the first 12 month period and may reinstate in the second 12 month period by making a full application. After 24 months, you must start over and meet all the current education and experience requirements plus pass the exam.

In Memory



Bart Bryson

The North Carolina Appraisal Board, with regret, announces the death of former member Bart Bryson.

Mr. Bryson was appointed to the Appraisal Board, by the Speaker of the House, in the summer of 1999 and served on the Board for two terms ending in the fall of 2005. He was also a former member of the North Carolina Real Estate Commission and is the only person to have served as Chairman of both the Appraisal Board and Real Estate Commission.

A Certified General Appraiser Mr. Bryson worked eleven years with the North Carolina Department of Transportation Appraisal Department. He later opened his own appraisal office, Bryson and Associates in Hendersonville, NC.

Mr. Bryson was a graduate of Western Carolina University, earned his MAI designation in 1969 and his SRA designation in 1967. He was also an instructor of real estate and appraisal courses at the university and community college level.

The members and staff of the Appraisal Board offer our deepest sympathy to his wife, Joyce, and son Byron.

IMPORTANT CHANGES TO USPAP EFFECTIVE JANUARY 1, 2010

The 2010-2011 edition of USPAP is now in effect and will be valid through December 31, 2011. This edition includes guidance from the ASB in the form of the USPAP Advisory Opinions and the USPAP Frequently Asked Questions (FAQs). Trainees and appraisers are encouraged to take the 7 hour update as soon as possible to make sure you are following the current version in your appraisal activities.

One very important change affects every assignment you now perform. Appraisers are now required to disclose to their client, prior to engagement (as well as within the certification of the report): **“Any services regarding the subject property performed by the appraiser within the prior three years, as an appraiser or in any other capacity.”**

Because there have been questions from appraisers and users of appraisal services regarding this particular new requirement, the Appraisal Standards Board issued a series of questions and answers in its April 2009 USPAP Q&A document, which is printed elsewhere in this newsletter.

JESSUP REAPPOINTED

Senate Pro Tempore Marc Basnight has reappointed Ms. Sidney Jessup to a new three year term, which will expire June 30, 2012. Ms. Jessup is an attorney from Kill Devil Hills and has served on the Board since 2008.

2010 Board Meeting Dates

| | |
|----------------------|----------------------|
| January – No meeting | July – No meeting |
| February 9 | August 18 |
| March 23 | September 21 |
| April – No meeting | October – No meeting |
| May 25 | November 9 |
| June 22 | December 14 |

All meetings are conducted at the North Carolina Appraisal Board building located at 5830 Six Forks Road, Raleigh.

EMAIL ADDRESS

Please be sure the Board has your current email address on file. In order to do so, please login under the licensee login section on our website at www.ncappraisalboard.org. Current licensees may login by entering their User ID and password. The User ID is the same as an individuals' license number and will start with the letter "A" or "T". The password is the licensees' last four digits of their social security number.

AMC Legislation Update

The Board has received numerous inquiries regarding the pending legislation to regulate Appraisal Management Companies. Senate Bill 829 will be taken up by the NC House during the 2010 legislative session. You may follow the progress of the bill at the following link: <http://www.ncga.state.nc.us/gascripts/BillLookUp/BillLookUp.pl?Session=2009&BillID=S829>

QUESTIONS REGARDING 2010-11 REVISIONS TO THE ETHICS RULE

The Appraisal Standards Board (ASB) the USPAP Q&A as to illustrate the applicability of USPAP in specific situations and to offer advice for the resolution of appraisal issues and problems. Many questions have arisen about the change to the Conduct section of the Ethics Rule regarding disclosure of prior services performed by the appraiser regarding the subject property to the client. These are some of the questions answered by the ASB about this issue. The full documents may be found in the April and December 2009 and the January 2010 Q & As on the Appraisal Foundation website at http://www.appraisalfoundation.org/s_appraisal/sec.asp?CID=12&DID=12

The Conduct section of the Ethics Rule now includes:

If known prior to accepting an assignment, and/or if discovered at any time during the assignment, an appraiser must disclose to the client, and in the subsequent report certification: any current or prospective interest in the subject property or parties involved; and any services regarding the subject property performed by the appraiser within the three year period immediately preceding acceptance of the assignment, as an appraiser or in any other capacity.

Comment: Disclosing the fact that the appraiser has previously appraised the property is permitted except in the case when an appraiser has agreed with the client to keep the mere occurrence of a prior assignment confidential. If an appraiser has agreed with a client not to disclose that he or she has appraised a property, the appraiser must decline all subsequent assignments that fall within the three year period.

Question: I heard about the changes to the Conduct section of the ETHICS RULE and I am concerned. Is it true that I will not be able to reappraise a property for three years after a prior appraisal?

Response: No. The revised ETHICS RULE that goes into effect on January 1, 2010, will require appraisers to disclose any services regarding the subject property provided as an appraiser or in any other capacity during the three years prior to the new assignment. It does not include any prohibition against reappraising a property.

Question: I occasionally receive requests to appraise a property that I have appraised in the past. With the changes to the ETHICS RULE, I will be required to disclose any assignments that I performed within the three years prior to the date of acceptance of the assignment. Is such a disclosure not a violation of an appraiser's responsibility under the Confidentiality section of the ETHICS RULE?

Response: Generally, no. The Confidentiality section of the ETHICS RULE prohibits, with some exceptions, the disclosure of "confidential information or assignment results prepared for a client." The mere fact that an appraiser appraised a property is not confidential information as defined in USPAP. However, the appraiser must be careful not to disclose confidential information from a previous assignment in the new assignment

Question: I am concerned that when I tell a prospective client that I have previously provided a service related to a property, it will lead to questions that I cannot answer without violating the Confidentiality section of the ETHICS RULE. I am sure the new client will want to know when I appraised it, and what my value conclusion had been. How can I address these questions and comply with USPAP?

Response: It is likely that many potential clients will ask such questions. However, without authorization from the original client, the appraiser cannot disclose the results of the previous appraisal or any other confidential information. One way to address this problem would be to explain that as an appraiser, you are subject to confidentiality requirements and cannot disclose that information. You could go on to explain that the confidentiality requirements are in place to protect clients, including the one who is engaging you for the new assignment. Those parties who regularly order appraisals will become accustomed to the new disclosure requirements, and will likely stop asking after a relatively short time.

Question: Some of my best clients require me to keep all information regarding any assignments that I perform for them confidential. The Comment states, in part, "If an appraiser has agreed with a client not to disclose that he or she has appraised a property, the appraiser must decline all subsequent assignments that fall within the three-year period." Will this prevent me from appraising a property for a different client during that three-year period?

Response: Perhaps. The new requirement states, in part, "...an appraiser must disclose...any services...performed by the appraiser..." The appraiser is not required to disclose specific details beyond noting the *type* of service. For example, the disclosure, both prior to accepting the assignment and in the report's certification, could include a statement similar to one of the following:

"I have performed (*note type of services(s)*) regarding the subject property within the three years prior to this assignment"; or "I have previously appraised this property in the three years prior to this assignment."

But, if an appraiser cannot make such a statement without violating an agreement with a previous client, the appraiser must not accept the new assignment. Appraisers should review their client agreements to specifically determine what information they have agreed to keep confidential.

Question: May the disclosure that must be made at the time of acceptance be oral? May it be made in an email to the client?

Response: USPAP does not specify how the disclosure upon acceptance or discovery must be made. It may be appropriate in some cases to provide an initial oral disclosure. If the client decides to proceed, it may be appropriate that the appraiser's disclosure be restated in writing. One way to accomplish this is by including it in a letter of engagement. In other cases an email would be appropriate.

The Record Keeping section of the ETHICS RULE requires that the appraiser's workfile include "all data, information, and documentation necessary to...show compliance with this

Rule...” So, the disclosure prior to acceptance or upon discovery must be documented in the appraiser’s workfile.

Question: If I have appraised a property multiple times within the previous three years, do I have to disclose the *number* of appraisal services? (e.g., “I have appraised the subject property three times during the previous three years.”)

Response: Yes. Each prior service must be disclosed to the client and included in the report certification. This disclosure is similar to when an appraiser has any current or prospective interest in the subject property or the parties involved, which requires that *each interest* be specified.

Therefore, *each service* must be disclosed to the client and appear in the certification.

Question: If I have performed a service other than appraisal practice, such as acting as a general contractor within the prior three years, do I have to describe the specific service or merely state a service was performed?

Response: You must disclose to the client the type of prior service you performed regarding the property and this must be included in the report certification. This disclosure is not limited to services provided as part of appraisal practice. Therefore, *each service* must be disclosed to the client and appear in the certification.

THE COMPETENCY RULE

The USPAP Competency Rule requires that, prior to accepting an assignment or entering into an agreement to perform any assignment, an appraiser must determine that he or she can perform the assignment competently. To be competent, the appraiser must be able to properly identify the problem to be addressed, possess the knowledge and experience to complete the assignment competently, and be able to recognize laws and regulations that apply to the assignment.

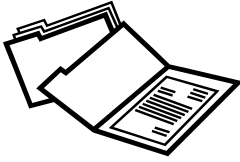
If the appraiser does not believe he or she is competent to perform the assignment, the appraiser must disclose the lack of knowledge to the client, take steps to complete the assignment competently, and describe the lack of knowledge and or experience and the steps taken to complete the assignment competently in the report. The Competency Rule also states that if facts or conditions are discovered during the course of the assignment that indicate the appraiser does not have the knowledge and experience to complete the assignment competently, the appraiser must notify the client and follow the above steps.

Competency can apply to geographic area, market area, property type, or appraisal methodology. For example, an appraiser may have knowledge and experience in appraising residential properties in a certain city, but may not be competent to appraise farms located within those city limits. Or, an appraiser may be competent to perform a sales comparison approach, but less competent to perform an income approach on a commercial property. Just because an appraiser has obtained a level of licensure does not mean that the appraiser is automatically competent to perform assignments associated with that license level. For example, a certified general appraiser is allowed to appraise a nuclear power plant, but may not be competent to do so. Likewise, a certified general appraiser is allowed to appraise a single-family residential property but may not have the competency to do so.

The Appraisal Board occasionally gets complaints that appraisers are coming from other market areas to do appraisals. If an appraiser is asked to go outside his normal practice area, he should make sure he either has or can obtain competency to do the assignment. USPAP does not require that an appraiser belong to the local MLS, only that the appraiser can access market data. If the appraiser does not have the requisite knowledge and experience to perform an appraisal, the appraiser should either affiliate with a local appraiser or decline the assignment. If the local appraiser provides significant professional assistance, that assistance should be noted in the appraisal.

Appraisers should be aware that many MLS boards are now insisting that only appraisers who are members of their board may use their service. The MLS is the private property of the local board of Realtors® and they control who can access their service. Local appraisers and real estate agents may refuse to provide access to their MLS in order not to violate their contract with the MLS. Appraisers should keep this in mind when accepting an assignment in an area where they do not already have MLS access.

When appraising in an unfamiliar market, appraisers should be very wary of comparable sales data or other information provided by an interested party, such as a listing or selling broker or the seller. An out of the area appraiser may decide to rely on tax data if he cannot access the local MLS, but he must carefully verify that information with another source.



UPDATE OF AN APPRAISAL

The Board receives a lot of inquiries about appraisal updates. Updates generally fall into two categories. Some are done when the original appraisal has been done subject to completion, and the work is now finished. Others are done when an appraisal was performed and the lender wants new data or a more current effective date. Both types of updates present problems for appraisers.

The first type of update is generally done for new construction or renovations. After completion, the client may ask the appraiser to complete a “satisfactory completion certificate” or other document attesting that the construction is done. Often the client will also ask if the value has remained the same as in the original appraisal, and if there are changes, to explain. If the update refers only to whether the construction was completed as planned, the request is actually for a recertification. If the update request includes any reference to value, it is an appraisal, and you must comply with USPAP reporting requirements. Even if all the client wants is a statement that the value has not changed, it is still an appraisal

Even though an update is a new assignment, this does not mean you have to start from scratch. You don’t have to duplicate all the steps taken in the first assignment. And you don’t have to have as much detail in an update, depending on how you report it. Your scope of work may be less. You may be able to do a drive by inspection instead of an interior inspection. You cannot, however, use confidential information from the first assignment, including value, for anyone except the original client and persons authorized by that client.

Some types of updates typically seen by appraisers are requests for a change of lender or borrower, or a change in the contract price. Sometimes after an appraisal is transmitted, the contract price may be lowered. Appraisers should be very careful not to just change the information in the report and keep the same effective date and signature date. If the contract was changed after the effective date of the appraisal, the effective date cannot be any earlier than the date of the new contract. The earlier contract should also be mentioned in the updated report. Of course, if the lender changes, it is a new assignment and should be treated as such.

On some occasions the property may be appraised for refinance, but it is also listed for sale. When the appraiser

notes the current listing in the report, the client may tell the borrower to take the property off the market, and then ask the appraiser to remove the reference to the listing. The appraiser must have a new effective date for the updated report. Although Standards Rule 1-5(a) requires that the appraiser must analyze all current listings of the subject property, if the subject was on the market and was just withdrawn, this information is relevant to the appraisal problem and must be considered in the analysis. FAQ 126 in USPAP covers this topic.

Clients may request clarification of items in the report, an explanation as to why certain information was not provided, or corrections of errors in the report. This is part of the original assignment, not an update. A request for more comparable sales or listings, while keeping the same effective date, is a new appraisal assignment, not an update. The appraiser is free to charge whatever he or she chooses for this assignment, or may charge no fee at all.

Advisory Opinion 3 outlines how to handle an appraisal update. AO3 makes it clear that when a client seeks more current value of the property that was the subject of a prior assignment, the request is not an extension of that assignment. It is a new assignment and must be treated as such. This Advisory Opinion gives examples of three ways to comply with USPAP when doing an update.

1. You can do a new report that contains all necessary data.
2. You can do a new report that incorporates some of the data from the prior report by attaching that data to the update.
3. You can do a new report that incorporates by attachment information or analyses from the first report. This can only be done if it is the original appraiser or an appraiser from that appraiser’s firm doing the update, and the same client and intended users are involved. It is assumed that the client and intended users have a copy of the original report.

An appraiser may perform an update of an appraisal performed by another appraiser even if the first report was not done by an appraiser in the same firm. In this case, the appraiser doing the update can only use one of the first two options above to perform the update.

Even though an update is a new assignment, it is up to the appraiser and client to decide what the compensation should be. Some appraisers believe that they must charge the same amount for each appraisal assignment, which is not true. If you do perform an update, you must make sure to retain a copy of the original report in the work file, along with copies of updates.

Disciplinary Actions:

The following is a summary of recent disciplinary actions taken by the Appraisal Board. This is only a summary; for brevity, some of the facts and conclusions may have not been included. Because these are summaries only, and because each case is unique, these summaries should not be relied on as precedent as to how similar cases may be handled.

In many cases appraisers are required to complete additional education as part of a consent order. Please check with the Board office if you have questions regarding an individual's current license status.

Arnold G. Anderson A3888 (Marion)

By consent, the Board suspended Mr. Anderson's residential certification for a period of five years effective January 1, 2010. His certification is lapsed. He may be reinstated on July 1, 2011 if he takes and passes the state certification examination and completes the following courses before that time: residential market analysis and highest and best use, valuation of vacant land, and appraiser liability. In order to be reinstated on July 1, 2011, Mr. Anderson must take all continuing education that would have been required had he been continually licensed by the Appraisal Board. He must also notify the Board by June 1, 2011 that he wishes to be reinstated. Failure to take the required education or to notify the Board by June 1, 2011 will result in denial of his reinstatement. He will then need to file a new application and comply with laws and rules in effect on the date of application in order to become licensed by the Board in any capacity. Mr. Anderson performed approximately 340 appraisals of vacant lots of land located in Spruce Pine, North Carolina from July 2005 through May 2007. The lots varied in size but most contained far less than one acre, and most were valued at \$125,000. The appraisals were all part of a development that was designed to create a 1,200 acre residential and commercial development. The development was advertised as having, upon completion, numerous amenities such as a retail village center, equestrian center, golf course, walking paths and bike trails, private fishing reserve, river rafting, mountain hiking, scenic pocket parks, and a stream-fed lake. At the time the appraisals were performed, none of the amenities were complete. There was no vertical construction, and the only development was the cutting of gravel roads throughout the project and the occasional artist's rendering of the proposed construction. In June 2006, the developers withdrew their plan for a sanitary sewer district and had no other plans to provide water and sewer service to the subject properties. None of this was adequately described in the appraisals.

Most of the subject properties were wooded tracts that could not provide water or waste removal, had no ingress or egress, and could not support a dwelling. Mr. Anderson stated in all of his appraisals in the subject subdivision that the highest and best use of the subject properties was "present use". He disclosed that the roads and utilities were not yet fully in place. He did not make any extraordinary assumptions in any of his appraisals, nor did he perform any of his appraisals subject to any hypothetical conditions. He used comparable sales that were all from within the subject's subdivision. All were marketed to buyers outside the local market. None were arms-length transactions. Mr. Anderson was not aware of the marketing scheme employed by the developers, which involved sales incentives that were not disclosed to him. There is no evidence that Mr. Anderson participated in any marketing plan, fraudulent transactions or activities or investment schemes.

Edward B. Anderson A1968 (Marion)

By consent, the Board suspended Mr. Anderson's general certification for a period of three years effective February 1, 2010. The first year of the suspension is active. Before the end of the first year, Mr. Anderson must complete the precertification course known as Residential Sales Comparison and Income Approach (including examination). His certification will not be reissued at the end of the active year of suspension unless he has taken and passed the state certification examination. Mr. Anderson performed several appraisals of vacant lots of land located in Spruce Pine, North Carolina from July 2005 through November 2006. The lots varied in size but most contained less than one acre, and most were valued at \$125,000. The appraisals were all part of a development that was designed to create a 1,200 acre residential and commercial development. The development was advertised as having, upon completion, numerous amenities such as a retail village center, equestrian center, golf course, walking paths and bike trails, private fishing reserve, river rafting, mountain hiking, scenic pocket parks, and a stream-fed lake. At the time the appraisals were performed, none of the amenities were complete. There was no vertical construction, and the only development was the cutting of gravel roads throughout the project and the occasional artist's rendering of the proposed construction. In June 2006, the developers withdrew their plan for a sanitary sewer district and had no other plans to provide water and sewer service to

the subject properties. None of this was adequately described in the appraisals. Most of the subject properties were wooded tracts that could not provide water or waste removal, had no ingress or egress, and could not support a dwelling. Mr. Anderson stated in all of his appraisals in the subject subdivision that the highest and best use of the subject properties was "present use". He disclosed that the roads and utilities were not yet fully in place. He did not make any extraordinary assumptions in any of his appraisals, nor did he perform any of his appraisals subject to any hypothetical conditions. Mr. Anderson used comparable sales that were all from within the subject's subdivision. All were marketed to buyers outside the local market. None were true arms-length transactions. He was not aware of the marketing scheme employed by the developers, which involved sales incentives that were not disclosed to him. There is no evidence that Mr. Anderson participated in any marketing plan, fraudulent transactions or activities or investment schemes.

Berthadale R. Best A 3820 (Surf City)

By consent, the Board accepted the voluntary surrender of Ms. Best's residential certification.

Henry C. Blake, Jr. A2041 (Riegelwood)

By consent, the Board accepted the voluntary surrender of Mr. Blake's residential certification.

Kelly Carlton A2694 (Wilson)

By consent, the Board and Mr. Carlton agreed to the following terms. Mr. Carlton will surrender his general certification and will immediately be issued a certification as a certified residential appraiser. He will take the 15 hour National USPAP course (including taking and passing the exam) and will take a 7 hour course in Scope of Work. Both courses must be completed by June 1, 2010. If both courses are not completed by that date, a six month suspension will begin on June 1, 2010. He will perform all commercial or general real estate appraisal assignments that require the services of a certified general appraiser under the supervision of a certified general real estate appraiser, and that general appraiser will sign the appraisal reports. In order to regain his general certification, he must take 90 hours of additional education as follows: 30 hours in General Appraiser Market Analysis and Highest and Best Use and 60 hours in General Appraiser Income Approach. Once he completes all of his education and has completed 60 points of

supervised commercial real estate appraisal experience, he may file an application to upgrade to certified general. Once his application is complete, he will be issued an exam ticket to take the certified general examination. Upon passing the examination, his certification as a general real estate appraiser will be issued. His general certification will not be issued any sooner than January 31, 2011. Mr. Carlton appraised two properties in 2007 as part of one assignment. Both properties are located in an area of Rocky Mount, NC that the city has targeted for development. Several buildings in the area have been demolished. The two buildings that are the subjects of the appraisals are to remain along with a few other building as the basis for a mixed-use project that the city hopes will revitalize the area. The first subject property is a two story commercial building containing 5,298 square feet of gross building area. It is of masonry and wood frame construction on a slab, with a rubber roof. Mr. Carlton appraised this property three times. His first value was \$23,000, the second was \$32,000 and the third was \$45,000. The second subject property contains a two story masonry and wood frame commercial building with approximately 11,323 square feet. Mr. Carlton valued the second property at \$150,000. He did not conduct complete interior and exterior inspections of the subjects, but did not indicate this on his appraisal reports. The large number of errors and omissions led to several misleading reports. Mr. Carlton did not fully support his conclusions in the appraisals. Due to the number of errors and omissions, it is apparent that this particular assignment was beyond Mr. Carlton's capabilities at the time of the assignment.

**William Todd Darnell A3250
(Lexington)**

By consent, the Board suspended Mr. Darnell's residential certification for a period of six months. The suspension is stayed until March 1, 2010. If Mr. Darnell completes the thirty hour precertification course known as residential sales comparison and income approach and passes the exam by that date, the suspension shall be inactive. Mr. Darnell performed an appraisal of a property located in Pfafftown, North Carolina in February 2004, finding an appraised value of \$450,000. The subject property is an "A Frame" style home containing 4 bedrooms and 2 baths, located on over 14 acres of land. Mr. Darnell stated in the appraisal that the subject had 2400 square feet of gross living area, when it had 1,184 square feet of gross living area with a 1,150 square foot walk out basement that was finished. The comparable sales ranged

in gross living area from 2,485 to 3,575 square feet, and all had basements. Mr. Darnell chose comparable sales that were larger than the subject, and he made incorrect size adjustments. He chose his sales because they were located on large tracts of land similar to the subject. There were sales of properties similar in design to the subject that could have been used in the report, but they had much smaller sites and were located further from the subject.

Richard C. Chapman A1634 (Emerald Isle)

By consent, the Board suspended Mr. Chapman's residential certification for a period of six months. The first two months are active and the remainder is stayed until May 1, 2010. If Mr. Chapman completes a course in measuring residential properties and a course in business practices and ethics by that date, the remainder of the suspension shall be inactive. Mr. Chapman performed an appraisal assignment of a property located in Newport, NC. He appraised the property for \$129,500 as of 2/19/2009 with signature date of 2/23/2009; for \$129,500 as of 2/19/2009 with signature date of 3/26/2009, and for \$140,000 as of 4/6/2009 with signature date of 4/9/2009. The subject property is a 2 bedroom dwelling with two baths, a 784 square foot attached two car garage and a storage shed. It contains a total gross living area of approximately 1114 square feet. The first appraisal indicated 588 square feet for the subject property. The second indicated 746 square feet, and the third indicated 1138 square feet. On the first report, Mr. Chapman had an office assistant with him to help measure the property, and they transposed their measurements. After the square footage was questioned, he measured the home, but could not access the full property and missed a corner. He finally measured it correctly for the third report.

Austin Hatcher, Jr. A1237 (Ocean Isle Beach)

By consent, the Board accepted the voluntary surrender of Mr. Hatcher's residential certification.

Jerry G. Holmes A1566 (Louisburg)

By consent, the Board issued a reprimand to Mr. Holmes. He must complete a course in sales comparison, a course in residential design and functional utility and a course in scope of work by March 1, 2010, or he will receive a one month active suspension. Mr. Holmes performed an appraisal of a property located in Youngsville, North Carolina. The subject property is a 2864 square foot dwelling

that includes a converted garage family room and a 2 car garage attached by a breezeway. Mr. Holmes produced a report and a revised appraisal report for the subject, both effective June 17, 2008. In the first report he valued the subject at \$324,500, and in the revised report he valued it at \$309,900. In both reports, Mr. Holmes included the 590 square feet of the converted garage in the gross living area for the subject. Although this area was enclosed and finished with walls, windows, doors, heating and air conditioning and a painted concrete floor, the Board believes that it should not have been given full value. In his initial report, due to his decision to lump the square footage, Mr. Holmes limited his comparable search to properties similar in size, which eliminated all of the sales in the subject subdivision. In the revised report, he added one sale from the subdivision, which resulted in a lower value for the subject.

C. Allen Land A980 (Winston-Salem)

By consent, the Board issued a reprimand to Mr. Land. He must complete the 15 hour National USPAP course by January 1, 2010 or he will receive a one month active suspension. Mr. Land performed an appraisal of a property located in Summerfield, North Carolina in February 2008, finding an appraised value of \$474,000. The subject property is a 3,208 square foot dwelling. The appraisal report contained many omissions and errors, including failing to note the taxes, assignment type, city/state/zip for the comparable sales. In addition, the report failed to explain adjustments and failed to contain a complete sales history for the comparable sales. Mr. Land did issue a revised report before the complaint was filed that addressed most of these issues.

Donnell Patterson A6006 (Pikeville)

By consent, the Board suspended Mr. Patterson's residential certification for a period of one year. The first three months of the suspension are active. If Mr. Patterson completes the following courses by February 28, 2010, the remaining nine months will be inactive: Residential Sales Comparison and Income Approaches, Appraiser Liability, and Business Practices and Ethics. Mr. Patterson performed an appraisal of a property located in Rocky Mount, North Carolina in June 25, 2008, finding a value of \$455,000. The subject property is a 30-year-old frame dwelling containing 3,500 square feet. The subject is also improved with an ancillary building that serves as a storage/vehicle shed area and has finished area that serves as an office and recreational room. Mr. Patterson's appraisal report contained

numerous errors, such as erroneous owner's name and incorrect distances to the comparable sales. The properties chosen for the sales comparison approach were located in traditional suburban subdivisions and the subject was located in a rural, remote location. Inadequate adjustments were made for the differences. He made an across the board \$100,000 adjustment for the ancillary building that was not adequately explained. Mr. Patterson stated that the subject property contained 3146 square feet, when it actually contains approximately 3580 square feet. He stated that the deck contained 544 square feet when it actually contains approximately 823 square feet. The sketch in the appraisal for the dwelling and deck matches the sketch in the tax card. The work file included a handwritten sketch of the subject property with dimensions that would support his measurements for the dwelling, but no measurements for the deck.

David K. Peterson A4239 (Roxboro)

Following a hearing, the Board revoked Mr. Peterson's residential certification. Mr. Peterson performed an appraisal of a property located at 212 Alexander Avenue, Oxford, NC on May 30, 2007, finding a value of \$115,000. The subject property is a residential dwelling built in 1901. It is located in an urban area developed with similar properties. Mr. Peterson stated in his appraisal report that the subject had 1040 square feet of gross living area when his sketch indicates that it had 1441 square feet of gross living area. He used five comparable sales in his appraisal report. His fourth and fifth comparable sales are located in a rural area and are not comparable to the subject. Mr. Peterson stated in the report that these sales were 0.23 to 3.0 miles away when they were actually 8 to 11 miles away. Comparable sale 4 sold for more than the list price because it included additional land with the sale. Mr. Peterson failed to verify the information on this sale and failed to include an analysis of this additional land in his sales comparison approach. His report contains conflicting information. The prior sales price for the subject was reported in one place at \$105,000 in October 2006 and in another at \$92,000 in December 2006. The December date and price were correct. The subject and comparable sales locator map was

incorrect. The map in the appraisal sent in by Mr. Peterson did not match the map in the appraisal sent in with the complaint. The work file sent in response to this complaint does not contain any information on two of his sales. It does not contain a complete copy of the appraisal or any supporting documentation. According to the appraisal report, Mr. Peterson had previously appraised the subject property. He was asked several times to send in copies of prior appraisal reports but he failed to do so. He was also asked several times to send in additional documents and to explain the discrepancies in the appraisal, but he did not do so. The HUD Settlement Statement for the closing of the subject property indicates that Mr. Peterson was paid an extra \$1,750 in addition to the appraisal fee of \$350. He was asked to explain why he received this additional fee at the closing, but he failed to do so. Although he received timely notice, Mr. Peterson did not appear at the hearing.

William A. Strickland A3659 (Raleigh)

By consent, the Board suspended Mr. Strickland's residential certification for a period of six months. If Mr. Strickland completes a course in review appraising and a course in sales comparison, the suspension shall be inactive. Mr. Strickland performed a field review of an appraisal of a property located in Youngsville, North Carolina. The effective date of the appraisal and the review was March 13, 2008. Mr. Strickland valued the property at \$285,000. The subject property is a 2-year-old home containing approximately 2,671 square feet. Mr. Strickland did not report the transfer of the property in April 2007. One of his sales, although an arms length transaction, could not be confirmed in public records, and information regarding the sale in the review was incorrect. Mr. Strickland did not identify in the report the intended use and intended users, purpose of the report or scope of work used to develop the review. He did not state which information in the appraisal under review that he accepted as credible and used in developing his opinion of value.

Charles R. Terry A1303 (Raleigh)

By consent, the Board accepted the

voluntary surrender of Mr. Terry's right to renew his residential certification.

Norman L. Ward A4192 (Moyock)

Following a hearing, the Board suspended Mr. Ward's residential certification for a period of six months. The first month of the suspension will be active and the remainder stayed. If Mr. Ward completes the 15 hour National USPAP course and a sales comparison class and passes the examinations for those classes, the remainder of the suspension will be inactive. The Board found that Mr. Ward performed an appraisal of a property located in Duck, North Carolina valuing the property at \$850,000 as of January 10, 2007. The appraisal was performed for a refinance transaction. The order form for the appraisal stated that the loan amount and estimated value were both \$850,000. The subject is a beach house built in 2003. It is located on the west (sound) side of Highway 12. Properties west of the highway are locally known and marketed as sound-side properties. Properties on the east are known as ocean-side properties. There are significant value differences for location and proximity to the ocean. Mr. Ward incorrectly noted in his appraisal report that the subject was located on the ocean side of the highway. In his original appraisal report, Mr. Ward chose three comparable sales for his sales comparison approach. All three sales were located on the east side of Highway 12, which is the ocean side. Although all three properties were located in a superior area, Mr. Ward made no adjustment for location on two of his sales and made an erroneous positive adjustment on one sale. In his revised appraisal report, Mr. Ward added one comparable sale that was also located on the east side of Highway 12 in a superior location, and he failed to make a location adjustment. Mr. Ward valued the land at \$400,000 in the cost approach, which was not supported by any data in the work file, and which he admits was incorrect. Had he made appropriate adjustments to his sales for location or used sales on the west side of the highway, his appraised value would have been lower. Mr. Ward did not have a copy of the first report in his work file. He was competent to do this appraisal assignment, but he did not perform this assignment competently.

To view a current list of continuing education courses approved by the Board, please visit our website at http://www.ncappraisalboard.org/education/contin_edu.htm

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.

Application of Appraisal Reporting Requirements

Question: If an appraiser is bound by USPAP for a particular assignment, when must the appraiser comply with the USPAP appraisal reporting requirements?

Response: Whenever a value opinion is communicated, compliance with USPAP's appraisal reporting requirements is required.

It may seem obvious in many cases that an appraiser must abide by the appraisal reporting requirements. However, in other cases it is not as obvious, such as the following examples:

Selecting and providing a client with comparable sales for a known property is an appraisal assignment as defined by USPAP.

Informing a property owner that their property tax assessment is too high is an appraisal report as defined in USPAP

Providing an opinion of market rent is an appraisal report as defined in USPAP.

Providing an opinion of the most probable selling price for a homeowner is an appraisal report as defined in USPAP.

Preparing, analyzing and communicating the results of an automated valuation model (AVM) for a property is an appraisal assignment.

It is important to remember that the applicability of USPAP is not affected by the amount or the lack of a fee.

Multiple Intended Uses in the Same Appraisal Report

Question: May I perform an appraisal with multiple intended uses and communicate the results in a single report with a single valuation and be in compliance with USPAP? All of the intended uses have the same type and definition of value and were performed with the same scope of work.

Response: Yes. USPAP requires the appraiser to identify the intended use of the appraisal opinions and conclusions. USPAP requires that the report states the intended use of the appraisal. Intended use is defined as:

*The **use or uses** of an appraiser's reported appraisal, appraisal review, or appraisal consulting assignment opinions and conclusions, as identified by the appraiser based on communication with the client at the time of the assignment.* (Bold added for emphasis)

Therefore an assignment may have multiple intended uses with a single value opinion in the same report as long as the uses have the same definition of value and the same scope of work.

An example with multiple intended uses with the same type and definition of value and same scope of work could include a market value appraisal being prepared for a possible donation and being prepared for a possible sale.

It should be noted that there are many circumstances when appraisers provide multiple value opinions in a single report with multiple intended uses (such as for market value, liquidation value and insurable value all in the same report). In this example, each intended use has a different type and definition of value, different scope of work, and likely will have differing conclusions.

Appraiser's Obligations Under the Home Valuation Code of Conduct (HVCC)

Question: I understand that the Home Valuation Code of Conduct (HVCC) prohibits mortgage brokers or real estate agents from engaging appraisers in appraisals for loans eligible for sale on the secondary mortgage market to Fannie Mae or Freddie Mac. What are my obligations as an appraiser if a mortgage broker or real estate agent contacts me and attempts to engage me in such an assignment?

Response: Similar to the guidance provided in Advisory Opinion 25, *Clarification of the Client in a Federally Related Transaction*, appraisers have certain obligations when being engaged in appraisal assignments that fall under HVCC requirements.

If a mortgage broker or real estate agent attempts to engage an appraiser in an assignment subject to HVCC requirements, the appraiser is obligated to inform the mortgage broker or real estate agent that they are prohibited from engaging appraisers under provisions of the HVCC.

If the mortgage broker or real estate agent wishes to engage the appraiser despite the appraiser's disclosure, the appraiser may accept the assignment. It would be prudent to recite disclosures in the engagement letter and in the report. Also refer to STATEMENT ON APPRAISAL STANDARDS NO. 9 (SMT-9) for additional information relating to intended use and intended users.

Appraiser's Obligations Under the Home Valuation Code of Conduct (HVCC)

Question: Does an appraiser have an obligation to determine whether or not the appraisal is to be used in a transaction that is subject to the requirements of HVCC?

Response: Yes. Appraisers are obligated to identify the intended use and intended users in an assignment, along with all applicable assignment conditions.

Disposal of Workfiles

Question: I am aware of and comply with the workfile retention requirements in the Record Keeping section of the ETHICS RULE in USPAP. However, once the required retention period has passed, does USPAP dictate a method I must employ to dispose of the workfiles?

Response: No, USPAP does not dictate a particular method for disposal of workfiles. However, because there are no provisions in USPAP for termination of the appraiser-client relationship and the appraiser's respective confidentiality obligations, appraisers must ensure that they do not violate the Confidentiality section of the ETHICS RULE even when disposing of workfiles.

This means that appraisers must ensure that whatever method they employ to dispose of workfiles does not allow for the communication of *assignment results* or *confidential information* (both, as defined in USPAP) in the disposal process.

Due Process of Law

Question: I am a personal property appraiser that specializes in the appraisal of coins and currency. I am required, by federal law, to report United States counterfeit coins and currency to the U.S. Secret Service. In reporting these counterfeit coins and currency, I am also required under federal law to provide them with the name and contact information of my client. Would disclosing my client's name under these circumstances be a jurisdictional exception under USPAP?

Response: No, this issue does not constitute a jurisdictional exception. The Confidentiality section of the ETHICS RULE in USPAP prohibits an appraiser from disclosing *confidential information* (as defined in USPAP). However, it is not a violation of USPAP to disclose the name of the appraiser's client. This would only hold true if the client's name qualified as *confidential information* (as defined in USPAP), or if the appraiser contractually agreed with the client not to disclose the client's name.

Even if the appraiser agreed not to disclose the name of the client, the Confidentiality section of the ETHICS RULE permits the appraiser to disclose the client's name to "such third parties as may be authorized by due process of law." If federal law mandates an appraiser to communicate confidential information, the appraiser must comply with that law.

Mission Statement

The mission of the North Carolina Appraisal Board is to protect consumers of real estate services provided by its licensees by assuring that these licensees are sufficiently trained and tested to assure competency and independent judgment. In addition, the Board will protect the public interest by enforcing state law and Appraisal Board rules to assure that its licensees act in accordance with professional standards and ethics.

NORTH CAROLINA APPRAISAL BOARD

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