

NORTH CAROLINA APPRAISAL BOARD



APPRAISER REPORT

Volume 22

September 2012

Number 2

RECENT BOARD APPOINTMENTS

Since the last issue of this publication there have been two reappointments and one new appointment to the Board.

Governor Beverly E. Perdue reappointed Mr. Thomas A. Barton to a new term. Mr. Barton is a certified residential appraiser and operates his own appraisal business in New Bern, NC. He has served on the Board since 2009.

Governor Beverly E. Perdue also reappointed Mr. Charles J. Moody, III to a new term. Mr. Moody is a certified general appraiser located in New Bern, NC. He has served on the Board since 2009.

President Pro Tempore of the Senate Phil Berger appointed Fern H. Shubert, CPA to the Appraisal Board for a three-year term ending June 30, 2015. Ms. Shubert is a '69 graduate of Duke University and a long time Certified Public Accountant with extensive experience working with businesses of all sizes. Ms. Shubert served in the NC House of Representatives for six years, 1995-1998 and 2001-2002. In 2002 she was elected to the NC Senate and served as Senate Republican Whip during the 2003-2004 sessions.

BOARD ELECTS OFFICERS

John D. Lyon, Jr. has been elected Chairman of the Appraisal Board for 2012-2013. Governor Michael F. Easley appointed Mr. Lyon to the Board in February 2008.

Mr. Lyon graduated from the University of North Carolina with a BA degree in political science. He has been an appraiser for 21 years and is certified general. Mr. Lyon is a North Carolina Superior Court Mediator and also holds a North Carolina Real Estate Broker license.

Thomas A. Barton has been elected Vice-Chairman of the Appraisal Board for 2012-2013. Governor Beverly E. Perdue appointed Mr. Barton to the Board in 2009.

Mr. Barton is a certified residential appraiser and operates his own appraisal business. He specializes in residential real estate in eastern North Carolina with over 22 years of appraisal experience. Mr. Barton is the past treasurer for the North Carolina Association of Realtors and serving his second two year term on the National Association of Realtors Appraisal Committee. He has been "Member of the Year" and Chairman of the Board for the New Bern area Chamber of Commerce.

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**.

NORTH CAROLINA APPRAISAL BOARD

5830 Six Forks Road
Raleigh, North Carolina 27609
Phone: 919/870-4854
Fax: 919/870-4859

Website:
www.ncappraisalboard.org

Email Address:
ncab@ncab.org

Beverly E. Perdue, Governor

APPRAISAL BOARD MEMBERS

John D. Lyon, Jr.	
Chairman	Raleigh
Thomas A. Barton	
Vice-Chairman	New Bern
David B. Goldberg	Chapel Hill
Clifford A. Maske	Concord
Charles L. McGill	Raleigh
Charles J. Moody, III	New Bern
Fern Shubert	Marshville
Timothy N. Tallent	Concord
Timothy C. Theriot	Winston-Salem

STAFF

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Thomas W. Lewis, III, *Deputy Director*
Jeffrey H. Davison, *Investigator*
Terri S. Haywood, *Investigator*
H. Eugene Jordan, *Investigator*
Jacqueline Kelty, *Administrative Assistant*
Deborah C. Liggins, *Administrative Assistant*
Pam A. Privette, *Administrative Assistant*
Mindy M. Sealy, *Administrative Assistant*

APPRAISER COUNT

(As of September 24, 2012)

Trainees	361
Licensed Residential	119
Certified Residential	2067
Certified General	1233
Total Number	3780

APPRAISER

EXAMINATION RESULTS

March 1, 2012 – September 30, 2012

Examination	Total	Passed	Failed
Trainee	54	40	14
Certified Residential	14	13	1
Certified General	12	10	2

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/ApplicationForLicensure.pdf>

RULE CHANGES EFFECTIVE JANUARY 1, 2013

The Appraisal Board has voted to change some of its rules effective January 1, 2013. These rules must still be approved by the Rules Review Commission. Appraisers will be notified once they are approved. Send an email to Roberta@ncab.org if you have any questions.

Here are a few highlights from the rules as adopted by the Board:

Trainees/Supervisors:

- Removes the state trainee examination.
- Deletes the reference to trainees residing in another state being able to renew with a letter of good standing.
- Allows trainee applicants to take either the residential or general market analysis and highest and best use course to become a trainee.
- Removes the ability of a licensed appraiser to supervise a trainee.
- Requires the supervisor to have been certified for at least 3 years.
- Removes the requirement that all appraisers signing the report must have declared the trainee, and adds a requirement that the appraiser with the highest level of licensure must have declared the trainee.

Certified appraisers:

- Amends the 5 year rule for qualifying education and experience for certified appraisers.
- Allows applicants who are residents in North Carolina to be certified through a credential held in another state.

General:

- Deletes the requirement that an applicant must wait six months if an application is withdrawn, cancelled or denied to reapply.

Education:

- Allows some qualifying education to be used as continuing education.
- Clarifies that no CE credit will be given for courses taken before someone is registered, licensed or certified.

Renewal:

- Requires appraisers residing in another state to show proof they have taken the most recent version of USPAP.

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LEGISLATIVE UPDATES

The Legislature enacted several bills that have an impact on appraisers, appraisal management companies and real estate brokers.

Appraisal Management Companies:

Session law 2012-65 amended N.C.G.S. § 93E-2-9 and now requires the Appraisal Board to submit an annual report to the Department of Revenue containing the following information about registered appraisal management companies:

- (1) Name and name used to do business in the State.
- (2) Main address of company.
- (3) Name and address of agent for service of process in the State if not domiciled in the State.
- (4) Legal structure, such as domestic corporation, foreign corporation, domestic partnership, or foreign partnership.
- (5) Employer identification number or social security number.
- (6) Secretary of State identification number if required.

Appraisers and Brokers:

Session law 2012-163 amended the Appraiser's Act to allow brokers to do broker price opinions under certain circumstances. Appraisers may do broker price opinions as long as they are licensed by the North Carolina Real Estate Commission as a broker, follow all guidelines set forth in the law and rules, and do not refer to themselves as an appraiser in the BPO. Refer to the separate article in this newsletter for more information.

Sponsors and instructors:

- Deletes the requirement of sponsors providing evaluation forms and adds a requirement of informing students of contact information for the Board.
- Changes the approval and renewal cycles for the seven hour USPAP course to run from October 1 in an odd numbered year for the even-numbered edition of USPAP; the approval will expire on the next December 31 of the even-numbered year. The renewal will expire on September 30 of the next odd-numbered year.

Appraisal Management Companies

- Adds a requirement that an applicant must respond to requests for information within 90 days or the application is cancelled.
- Removes the requirement to send a notice of removal to the address in the Appraisal Board's records, and allows the notice to be sent by any means that shows proof of delivery.
- Clarifies that an AMC may request that the appraiser consider additional appropriate property information, including relevant sales data and property characteristics, within 30 days of the date the appraisal is first transmitted by the appraiser to the AMC. There is no time limit if an AMC requests that an appraiser provide further detail, substantiation, or explanation for the appraiser's value conclusion, or to correct errors in an appraisal report.



2012 Board Meeting Dates

November 13

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

CHANGES TO LAWS REGARDING BROKER PRICE OPINIONS

As of October 1, 2012, licensed real estate brokers may perform broker price opinions for a fee. Provisional brokers may not perform a BPO under any circumstances.

Under the new law, a BPO is defined as an estimate prepared by a licensed real estate broker that details the probable selling price or leasing price of a particular parcel of or interest in property and provides a varying level of detail about the property's condition, market, and neighborhood, and information on comparable properties. A BPO may not use the terms "value" or "worth"; it may only report price.

A broker may do a BPO for an existing or potential buyer, seller, lessor or lessee of a parcel of real property. A BPO may also be performed for a third party making decisions or performing due diligence related to the potential listing, offering, sale, option, lease, or acquisition price of a parcel of or interest in real property. An existing or potential lien holder or other third party can order a BPO for any purpose **other than as the basis to determine the value of a parcel of or interest in property for a mortgage loan origination, including first and second mortgages, refinances, or equity lines of credit.**

Broker Price Opinions must be in writing and must include:

- (1) A statement of the intended purpose of the broker price opinion.
- (2) A brief description of the subject property and property interest to be priced.
- (3) The basis of reasoning used to reach the conclusion of the price, including the applicable market data or capitalization computation.
- (4) Any assumptions or limiting conditions.
- (5) A disclosure of any existing or contemplated interest of the broker issuing the broker price opinion, including the possibility of representing the landlord/tenant or seller/buyer.
- (6) The effective date of the broker price opinion.
- (7) The name and signature of the broker issuing the broker price opinion and broker license number.
- (8) The name of the real estate brokerage firm for which the broker is acting.
- (9) The signature date.
- (10) A disclaimer stating that "This opinion is not an appraisal of the market value of the property, and may not be used in lieu of an appraisal. If an appraisal is desired, the services of a licensed or certified appraiser shall be obtained. This opinion may not be used by any party as the primary basis to determine the value of a parcel of or interest in real property for a mortgage loan origination, including first and second mortgages, refinances, or equity lines of credit."
- (11) A copy of the assignment request for the broker price opinion or comparative market analysis.

The new law specifically states that a broker price opinion that estimates the value of or worth a parcel of or interest in real estate rather than sales or leasing price is deemed to be an appraisal and may not be prepared by a licensed broker, but may only be prepared by a duly licensed or certified appraiser. A BPO may not ever be referred to as an appraisal.

The change in this law also allows certified real estate appraisers to perform a BPO for a fee if they are also licensed brokers in North Carolina. An appraiser may not refer to herself or himself as an appraiser in the BPO.

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

FORMER BOARD MEMBER HENRY FAIRCLOTH RECEIVES ORDER OF THE LONG LEAF PINE



On July 16, 2012, Board Chairman John D. Lyon, Jr. presented former Board member Henry Faircloth with the Order of the Long Leaf Pine.

Created in the mid-1960s, the Order of the Long Leaf Pine award is given to residents in recognition of a proven record of service or some other special achievement. A licensed general contractor, Mr. Faircloth served as a public member for 20 years on the Appraisal Board. He was elected chairman six times and vice chairman seven times.

Mr. Faircloth has also served on the Sampson County Schools advisory committees, both for the Lakewood district and for all of Sampson County Schools; the Sampson County Library Board, where he was a sitting member for four years, the Industrial Development Commission for Sampson County, where he served for eight years, and 17 years on the Sampson Community College Board of Trustees.

APPRAISER AUDIT PROGRAM TO RESUME

The Appraisal Board will resume its program of audits within the next few months. Board investigators will visit licensees in all parts of the state in order to assure that they are complying with all Appraisal Board rules. The board staff will look at advertising, office procedures, trainee supervision, record keeping and appraisal logs. In addition, several appraisal reports and files will be selected and viewed to assure compliance with USPAP. In the past, these audits were unannounced, but now appraisers will be contacted a few days in advance of the audit.

North Carolina is very well respected nationwide in the appraisal industry for the quality of its appraisers. The audit process is designed to continue the tradition of quality appraising in North Carolina and to help improve any possible deficiencies which might exist.

Please remember that failure to produce appraisal files for inspection by the Board is grounds for disciplinary action. We anticipate that all appraisers will fully cooperate with the staff members as they conduct these audits.

PAYMENT OF APPRAISAL FEES BY AMCS

The North Carolina Appraiser's Act requires that Appraisal Management Companies "shall pay fees to an appraiser within 30 days of the date the appraisal is transmitted by the real estate appraiser to the registrant, except in cases of noncompliance with the conditions of the management. In such cases, the registrant shall notify the real estate appraiser in writing that the fees will not be paid." There appears to be some misunderstanding regarding this provision.

An AMC must cut the check within 30 days of the date the appraisal is first transmitted to the AMC, not within 30 days of when the report is "accepted". Checks should be mailed as soon as possible.

There is no requirement that the appraiser actually receive the fee within the 30 day period. If you have not received a check on the 31st day, please wait a few days for the check to be received.

When you do receive the check, you should look at your billing system to match the check to your invoices. There have been several cases where an appraiser insists an invoice is several months old, only to discover that they did indeed receive payment. There have also been instances where an appraiser did not notify the AMC of a change in physical address or email address, and checks were returned to the sender. Appraisers should make sure their information is up to date with the AMC.

INSPECTING THE SUBJECT PROPERTY

There has been an alarming rise in the number of cases involving an appraiser who signed an appraiser report and did not note that another person provided significant professional assistance. In some instances it has been a trainee who provided the assistance, but in others it is another appraiser. USPAP requires that anyone who provides significant real property appraisal experience must be noted in the report. Failing to note the assistance of a trainee in a report will result in the denial of experience credit for the trainee and may result in disciplinary action for the appraiser.

Board staff has seen repeated instances where trainees and other appraisers have performed the inspection of the subject property, but the supervising appraiser is the only one to sign the appraisal report. In some cases there may be a mention about the trainee or other appraiser providing assistance, but no mention is made in the report that the trainee or other appraiser was the only one to inspect the property. This is a violation of USPAP and Appraisal Board rules.

There are some clients who will not accept an appraisal report if a trainee signs it, or if it is signed by an appraiser who is not on their list of approved appraisers. If the trainee or other appraiser who works on the preparation of the appraisal does not sign the report, the supervising appraiser must make a full disclosure in the report as to who provided assistance and provide a detailed explanation of the extent of the assistance. This information can appear in an addendum, as long as the addendum is incorporated into the appraisal report and sent to the client.

If an appraiser signs the report that indicates the appraiser inspected the subject property when he or she did not, the appraiser will be sanctioned.

If the Board receives an appraisal report in support of experience credit that is not signed by the trainee or appraiser, or does not contain the appropriate information regarding the assistance provided by the trainee or appraiser, experience credit will be denied. The Board will also pursue disciplinary action against the supervising appraiser for failure to comply with USPAP and Board Rules.

Grandfathered Education to End December 2012

In January 2008 the Appraiser Qualifications Board (AQB) increased the number of hours of qualifying education from 120 to 200 for Certified Residential and from 180 to 300 for Certified General. The R and G series courses were eliminated and a new curriculum was implemented that begins with Basic Appraisal Principles and Basic Appraisal Procedures. In addition to the new appraisal education, applicants were required to have an associate's degree or equivalent for Certified Residential and a bachelor's degree or equivalent for Certified General.

When the new criteria went into effect, North Carolina adopted the segmented approach. Under this approach, individuals who finished their education requirements under the old criteria (the R and G courses) had five years to complete their experience and apply for upgrade. At the end of 2012, all of the education taken under the old approach will have exceeded five years and no one will be allowed to use this education to upgrade. If you did complete your education in late 2007 and have completed your experience, you need to apply and receive your examination ticket prior to the end of 2012. If you do not complete the experience and file your application by December 31, 2012, you will be required to meet the new criteria beginning January 1, 2013. Applicants that do get their exam tickets will be given one year in order to take the exam up to three times. If the applicant does not pass the exam they will then have to meet the new criteria.

Beginning on January 1, 2015, applicants for upgrade to Certified Residential and Certified General will be required to have a bachelor's degree. There will no longer be any "in lieu of" education allowed for upgrade to Certified Residential or Certified General as of that date. There will be no segmented approach or "grandfathering" so applicants for Certified Residential who do not have a bachelor's degree must complete their education and experience, submit their application and pass the examination prior to January 1, 2015. Applicants who do not meet the deadline will be required to have a bachelor's degree in order to upgrade.

Anyone planning to upgrade this year using the segmented approach (R and G courses) must file a complete application by December 10, 2012. If you will not complete all of your experience by that date, but will have the required experience to upgrade by 12/31/2012, and still hope to upgrade, you should contact staff immediately to discuss your individual application procedure.

Question 1: I completed G-1 on December 15, 2007, but I do not have enough experience to upgrade to Certified Residential. If I submit my application on December 15 but do not have enough experience to upgrade when I file my application, will this be enough to grandfather me in so I can avoid taking further qualifying education?

Answer: No. You must have completed all experience required when you file your application or your application will be returned to you as incomplete. You will have to take all education required under the 2008 criteria to upgrade, plus have a college degree.

Question 2: If I finish my experience and submit my application before the end of this year, must I pass the exam by December 31?

Answer: No. As long as you have been issued a ticket by the end of this year, you may still upgrade as long as you pass the exam within a year.

Question 3: If I apply by December 10, 2012 and am given a ticket to take the exam, what happens if I fail the examination three times, or fail to pass it in a year? Can I get another test ticket under the old criteria?

Answer: No. If you fail the exam three times or fail to pass it in a year, your application is cancelled and you must reapply. When you do so, you will be held to the new criteria in effect when you reapply.

SAFETY TIPS

Considering the current market environment and pressures surrounding the residential mortgage industry, it is not unusual for appraisers to find themselves in a situation where they are face to face with an unhappy borrower or homeowner. The Appraisal Board advises all licensees to take common sense steps in order to ensure your safety while conducting business in the field and in your office. Here are a few tips:

- Always let someone know where you are. Alert coworkers or family of your schedule, including the addresses where you will be. Have a fully charged cell phone on your person at all times.
- Have a pre-arranged distress signal in case you want to call someone to alert them but cannot speak freely. For example, you could work the word “orange” into a sentence if you want law enforcement to be called to your location.
- Avoid going into small rooms or basements with an individual if that person appears threatening.
- Remain as calm as possible when confronted by an angry individual. While your presence on the property might be authorized, there is nothing that says you have to remain if you should feel threatened. If you are told to leave, you should do so immediately.
- Always be prepared to leave rapidly if necessary. Make sure that your exit path is unrestricted and that your belongings are accessible for a quick retreat.
- If you are going to be on foot and away from your vehicle, lock your car and park in such a way to leave without having to turn into the property’s driveway. Keep your keys with you. Always visibly check in and around your car upon your return. Be aware of any obstacles on the property and of course, any small children that might be playing outside.
- On occasion, members of the public will call law enforcement when they see you taking photographs. If approached by law enforcement personnel, always follow their commands and act in a non-threatening manner. Avoid sudden movements and place your hands where they are visible.
- Carry your pocket card and your business card in order to identify yourself as an appraiser to a property owner or to law enforcement.
- Pay attention to “no trespassing” signs and other advisories and utilize common sense. “No trespassing signs” are a clear indicator that the property owner does not want anyone to enter the property without permission. The same can be said of a locked gate. When in doubt, you should attempt to contact the homeowner or other person (a real estate agent, for example) for permission to enter the property. Just because you are on a professional business assignment does not give you any greater right to be on the property than anyone else. A good zoom lens may allow you to take acceptable photographs a safe distance from the house.
- Trust your instincts. If you have a bad feeling about a situation, listen to it and protect yourself.

No amount of preparation or precaution will measure up to common sense. The Board advises all licensees to think about their actions and consider the dangers involved in any assignment they pursue. It is always a good idea to inform your client of any altercation with the borrower and provide explanation as to why certain tasks might not have been accomplished due to an encounter with an unhappy property owner.

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.

The Appraisal Board’s next course in trainee supervision is tentatively scheduled to be held in Winston-Salem. The date and time will be determined at a later date. Please check our website or call for further information.

CONFIDENTIALITY

Question:

A property owner applied for a refinance and an appraiser was engaged by the lender to do the appraisal. During the inspection, the appraiser noted that there was an illegal addition on the house. The appraiser went back to his office and discussed the appraisal with members of his company, which he does on a routine basis, and the issue of the illegal addition came up. Another appraiser in the company then contacted the property tax office to tell them of the illegal addition. As a result, the property owner is facing a fine and may be required to remove the addition. Did the appraiser engaged by the lender violate confidentiality by discussing his inspection of the property assignment results with his colleagues? Or is there some sort of implied confidentiality in discussing the assignment with others in the office since these appraisers work together in a firm? Did the appraiser who reported the results of the property inspection violate confidentiality by reporting this issue to the tax office?

Answer:

Within USPAP, the requirements apply to *the appraiser*, not an appraisal firm. Therefore, technically speaking, unless the appraiser obtained permission from the client to communicate *assignment results* or *confidential information* (both, as defined in USPAP) to other members of the appraiser's firm, he is in violation of USPAP. It is possible that some firms have engagement letters that acknowledge the appraiser may share information with others in a firm, and if agreed to by the client, would allow such communication. There is no "implied confidentiality" just because an appraiser is part of the same firm. Regarding the appraiser who reported the information to the tax office, since he did not have an appraiser-client relationship with the client, he is not bound by the requirements in the Confidentiality section of the ETHICS RULE. There is, however, the possibility that the appraiser's conduct violated the Appraiser's Act as it could be considered improper conduct.

YOU MUST REPORT CRIMINAL CONVICTIONS, CIVIL JUDGMENTS AND LICENSE SANCTIONS TO THE BOARD

The Appraiser's Act and Board rules require appraisers to report all criminal convictions to the Appraisal Board. This includes convictions for DWI or DUI. Also, if you have had disciplinary action in another state regarding your appraisal license, you must report this to the Board. You must also report any action taken on any professional license in this state or any other.

The Appraiser's Act also requires you to report to the Board if a final civil judgment has been entered against you on the grounds of fraud, misrepresentation, or deceit in the making of any appraisal of real estate.

You must report a conviction or final judgment to the Board within 60 days of the judgment or order. You can use the reporting form on the Board's website, or send a letter. Make sure to attach a copy of the final judgment.

The form is located here:

<http://www.ncappraisalboard.org/forms/criminalreport.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.

2012-04: ETHICS RULE – MANAGEMENT

Appraisal Fees for “Assessment Appeal” Assignments

Question: I am aware of some appraisers who perform property tax assessment appeal assignments where their fee is based on a percentage of the tax savings to the property owner. Doesn't USPAP prohibit an individual, who is acting as an appraiser, from accepting assignments where the fee is based on a specific outcome?

Response: Yes. The Management section of the ETHICS RULE states, in part:

An appraiser must not accept an assignment, or have a compensation arrangement for an assignment, that is contingent on any of the following:

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

2012-05: APPRAISAL DEVELOPMENT – SCOPE OF WORK ISSUES

Alternative Valuation Products

Question: I am a state certified appraiser and as such, perform real property appraisals in compliance with USPAP. However, I have recently been asked by a client to provide them with an “alternative valuation product” that they have designed. This product, as designed, does not appear to comply with USPAP. Am I allowed to perform such an assignment as an appraiser?

Response: First, it is important to understand that appraisers, not report forms, must comply with USPAP.

If you are able to perform an acceptable scope of work and make modifications and/or additions to the report that would result in USPAP compliance, then you may perform such an assignment as an appraiser.

Otherwise, you must decline or withdraw from the assignment.

2012-06: ETHICS RULE - CONDUCT

Appraising a Property More Than Once in Three Years

Question: I am aware of the USPAP requirements to disclose to the client, both prior to accepting an assignment as well as in the certification of the report, services I performed on a property within the prior three years. However, I have been told that based on this requirement, USPAP prohibits me from appraising a property more than once within a three-year period. Is this true?

Response: No. The requirements in the Conduct section of the ETHICS RULE exist to inform the client of services that the appraiser has performed within the prior three years. USPAP places no restrictions on how many times an appraiser can appraise a specific property. It should be noted that some appraisers may contractually agree with a client not to appraise a property for another client within a specified time frame, but agreements of this type are business decisions made by appraisers, and are not USPAP requirements.

2012-07: APPRAISAL DEVELOPMENT – APPRAISAL DATES

Date of Report

Question: I was recently asked by a client to change the date of an appraisal report that I had submitted. I have always used the date that I began writing the report as my report date. My client wants me to use the date the report was submitted. Is my client correct in asking me to change the date?

Response: Yes. The date of the report is the date that it is completed and transmitted to the client. According to USPAP, a report is a communication “transmitted to the client upon completion of the assignment.” Given that language, the appraiser's document is not a “report” until it is transmitted to the client.

In addition, if the certification is dated, that date should also be based on the date the report is completed and transmitted, not when it is begun. Logically, one cannot certify regarding what has been done before it has been done.

2012-08: APPRAISAL DEVELOPMENT – APPRAISAL DATES

Date of Revised Report

Question: In response to a client request, I recently made some minor edits to a report. The assignment results were unchanged, but I corrected a few minor typographical errors and entered the census tract number which had been omitted from the original report. Because the results did not change, this was essentially the same report, so I did not change either the effective date or the date of the report. My client now wants me to resubmit the report with the current report and certification date. Should the new report be dated as of the date revised?

Response: Yes. The date of the revised report should be the date that it is completed and transmitted to the client. According to USPAP, a report is a communication “transmitted to the client upon completion of an assignment.” Since, in this case, a new report is being completed and transmitted, it should be dated accordingly. This is true even when the only changes are minor corrections and the assignment results are unchanged.

In addition, if the certification is dated, that date should also be based on the date the report is resubmitted. In the resubmission, the appraiser is certifying the content of the revised report, so any certification date cannot precede the completion of the revisions. The new report date will also help to avoid any confusion between the two documents that have been completed and transmitted. If a revision is made on the same date as the prior transmittal, referencing the earlier report in any revised document might help prevent confusion of the two documents.

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.

Joseph J. Burke A4803 (Kure Beach)

By consent, the Board voted to suspend Mr. Burke’s residential certification a period of six months. The first month of the suspension is active and the remainder is stayed until September 1, 2012. If Mr. Burke completes a class in sales comparison and a class in scope of work by that date, the remainder of the suspension will be inactive. Mr. Burke performed an appraisal of a property located in Wilmington, North Carolina in November 2006, finding a value of \$395,000. The subject property is a 1993 square foot ranch built in 1983 with a pool, a screened porch, a two car garage, and a pool house. It is located in a residential subdivision. Mr. Burke

used three sales in his appraisal that ranged in sales price from \$362,500 to \$390,500 and in size from 2031 to 2228 square feet. These sales were all located over 3 miles from the subject. The subject was located in an older golf subdivision, while the sales were located in newer, more popular developments. There were 15 closed sales in the subject subdivision that had sold within 12 months prior to appraisal date. These sales ranged in price from \$249,900 to \$365,000. Mr. Burke did not use subdivision sales as he said the subject had been upgraded to nearly new condition, while the subdivision sales had not. His appraisal report, however, did not explain the upgrades to the subject.

David M. Deese, Jr. A698 (Winston-Salem)

By consent, the Board voted to suspend Mr. Deese’s residential certification for a period of six months. The suspension is stayed until June 1, 2012. If Mr. Deese completes the 30 hour Residential Sales Comparison and Income Approaches class by that date, the suspension will be inactive. Mr. Deese performed three appraisals of a property located in Advance, North Carolina. The first was in August 2006, the second in October 2006, and the third in July 2007. In the first two appraisals, Mr. Deese valued the subject at \$492,000. In the last appraisal, he valued the subject at \$503,500. The subject property is a 2-story 3376 square foot detached single family home located in a

subdivision. It was built in 2001. It had numerous custom features that were not present in other homes in the subject subdivision. The subdivision in which the subject is located has homes ranging in age from 5 years to around 11 years old and ranging in size from 1500 to 3400 square feet. Most of the comparable sales in the appraisals were located in golf course communities with mostly custom built homes with a superior quality of construction, view and neighborhood. Mr. Deese made inadequate adjustments for location. There were sales available in the subject neighborhood that could have been used as comparable sales that were smaller in size and did not have as many custom features as the subject, but those sales would have led to a more credible analysis. In his sales comparison analysis, Mr. Deese used the gross living area from the MLS records, but deducted living areas of the bonus rooms from the gross living area. The living areas of the bonus rooms of the comparables were adjusted in another section of the grid. This was not explained in the report.

**Carolyn J. Eppley A2686
(Charlotte)**

By consent, the Board issued a reprimand to Ms. Eppley. Ms. Eppley agrees to complete a sales comparison class and a class in appraising in a declining market by December 1, 2012. If she fails to complete both classes by that time, the reprimand will be vacated and a one month suspension shall be imposed on that date. Ms. Eppley performed an appraisal of a property located in Charlotte, North Carolina in October 2011, valuing the subject at \$44,000. The subject property is

an 816 square foot one story home located in a residential neighborhood. Although the comparable sales chosen shared an average degree of comparability with the subject property and were reasonable physical substitutes, all of the comparables were foreclosed sales. There were available comparables in the market area of the subject that would have been reasonable substitutes, and if they had been used, the value would have been considerably higher. Although there were sales in the subject subdivision that could have been used in the appraisal, Ms. Eppley used sales from slightly inferior areas without making location adjustments.

**Melanie B. Gainey A3501
(Zebulon)
Kathryn J. Jacobs A3327
(Raleigh)**

By consent, the Board voted to suspend Ms. Gainey's and Ms. Jacobs' general certifications for a period of two years. The first three months of the suspensions are active and the remainder is stayed until December 1, 2012. If Ms. Gainey and Ms. Jacobs complete the following courses by that date, the remainder of the suspensions shall be inactive: General Appraiser Site Valuation and Cost Approach, General Appraiser Report Writing and Case Studies, and the 15 hour National USPAP course (including taking and passing the examinations in each of the courses). The hours from these courses may not be used for their continuing education requirements. In addition, they agree that they will send a log of all appraisal assignments to the Board on the first of every month for two years, beginning

September 1, 2012 and ending on August 1, 2014. Board staff will request, and they must send, copies of appraisals and work files selected by the Board staff to the Board's legal counsel. Ms. Gainey and Ms. Jacobs appraised a property located in Franklin County effective April 12, 2007, finding a value of \$6,554,000. The subject property consists of 3 adjacent parcels that total 262 acres of vacant land adjacent to an airport. The subject property is part of a network of specialized industrial parks being developed in the area. One of the three parcels containing 214 acres had transferred to the county in December 2006 for \$11,666 per acre. While they did note this sale in the report, there was no analysis as to whether this sale was an arm's length transaction. Ms. Gainey and Ms. Jacobs used 5 sales for comparison with the subject property. These properties ranged in size from 19.4 to 106 acres, and in adjusted price per acre from \$25,002 (for the 106 acre tract) to \$34,067 (for the 19.4 acre tract). They valued the subject property at \$25,000 per acre. There is little information provided in the report that reasonably supports their value opinion. Although they intended to produce a Summary Report, the Respondents reported their appraisal in what they mistakenly termed a "complete self-contained" narrative format. They used a template produced by another appraiser, utilized the services of a third-party typist and failed to appropriately proofread the report before signing it. The appraisal report did not contain sufficient information for a self-contained report. The report summarized but did not adequately describe the subject property, the information

analyzed, the appraisal methods and techniques employed, or the reasoning that supports their analyses, opinions, and conclusions; and did not address the reasoning behind the exclusion of the income approach and cost approaches.

**Vonn Isenhour A1247
(Gastonia)**

By consent, the Board suspended Mr. Isenhour's residential certification for a period of twelve months effective October 1, 2012. The first two months of the suspension are active and the remainder is stayed until March 1, 2013. If Mr. Isenhour successfully completes the 15 hour USPAP course, including passing the examination, by March 1, 2013, the remainder of the suspension will be stayed. Mr. Isenhour performed an appraisal of a property located in Charlotte, North Carolina in February 2008, finding an appraised value of \$236,000. The subject is a 2 story vinyl sided dwelling built in 2005 that is located on a .15 acre lot in a large residential subdivision that is located east of a major highway. Mr. Isenhour sales in neighborhoods west of the highway that were superior to the subject, and he failed to make appropriate adjustments. There were several resales of properties in the subject subdivision. These properties sold for \$162,000 to \$191,000. Mr. Isenhour had moved and was unable to retrieve his work file for this assignment.

**James R. Jayroe, Jr. A3275
(Myrtle Beach, SC)**

By consent, the Board accepted the surrender of Mr. Jayroe's right to renew his lapsed general certification.

**Dwight M. Jester A1568
(Lewisville)**

By consent, the Board accepted the surrender of Mr. Jester's general certification.

**Marjorie Menard A6834
(Dallas, TX)**

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

**Terry W. Phillips A4704
(Murphy)**

By consent, the Board accepted the surrender of Mr. Phillips' residential certification.

**Jeffrey A. Piscorik A4968
(Winterville)**

By consent, the Board suspended Mr. Piscorik's residential certification of a period of 12 months. The first month of the suspension is active and the remainder is stayed until December 1, 2012. If Mr. Piscorik completes the 15 hour National USPAP class by that date, the remainder of the suspension shall be inactive. Mr. Piscorik also agrees that he will no longer have any trainees working under his supervision. Mr. Piscorik appraised a property located in Tarboro, North Carolina in September 2011, finding a value of \$79,000. The subject property is a one story frame bungalow with 1800 square feet constructed in 1924. A trainee working under the supervision of the Respondent was the only one who inspected the interior of the subject property. Respondent did not perform an exterior inspection. Respondent was the only one who signed the appraisal report. He did

note in the report that the trainee assisted with the inspection, selection of comparable sales and completion of the written report. Although the certification in the appraisal report stated that Respondent personally inspected the interior and exterior of the subject property, he did not do so.

**James W. Powell A3657
(Shallotte)**

By consent, the Board imposed an inactive suspension on Mr. Powell. Mr. Powell agrees to complete a course in the appraisal of vacant land, a course in sales comparison and a course in appraisal challenges by December 21, 2012. If he fails to complete all three courses, a one month suspension shall begin on that date. Mr. Powell performed an appraisal of a property located in Ocean Isle Beach, North Carolina in June 2006, finding a value of \$300,000. The subject property is a vacant tract of land located in a development that was under construction on the effective date of the appraisal. The subject parcel and one or two of the comparable sales participated in an incentive program in which the buyer received two years of interest against the sales price that was either escrowed or credited against the balance. Although the program may not have had an impact on value, the Respondent was unaware of this program and did not report this information in his appraisal report. Respondent stated in the report that he gave a "prospective" value for the subject property. He should have stated that he appraised it subject to the extraordinary assumption that the development would be completed as planned.

Fred A. Smith A3337 (South Hill, VA)

By consent, the Board accepted the surrender of Mr. Smith's right to renew his lapsed general certification.

Alan C. Sullivan A3467 (Raleigh)

By consent, the Board voted to suspend Mr. Sullivan's residential certification for a period of five years. The first year of the suspension is active. Before the end of the first year, Mr. Sullivan must complete the precertification courses known as Residential Market Analysis and Highest USPAP course (including taking and passing the examinations in each of the courses). Mr. Sullivan also agreed his certification will not be reissued at the end of the active portion of the suspension unless he has taken and passed the state certified residential examination and has completed all required continuing education. There were two cases against Mr. Sullivan. In the first case, Mr. Sullivan performed approximately 250 appraisals of vacant lots of land located in Carteret County, North Carolina. The subject properties are tracts of vacant land in subdivisions that were under development at the time of the appraisals. He prepared reports starting in February 2006 and ending in February 2007. The subject subdivisions were planned to have superb amenities such as boat slips, clubhouses, community pools, and in some cases sound

front and ocean views. The lots were aggressively marketed, and investors were assertively sought out and recruited. In most cases, buyers received an interest-only loan with no payments due for two years. Mr. Sullivan reported his appraisals on the Land Appraisal Report Form. The work files were minimally documented, containing only a copy of a sales contract, engagement order and a copy of the respective report. None of the reports stated the purpose, intended use, intended user, or the three year sales history of the subject property. None of the reports indicate any analysis of the sales contract, and sales concessions were not addressed. Mr. Sullivan initially relied on closed sales from outside of the subject neighborhood. These sales were in the larger market area and had physical characteristics that mitigated the fact that they did not have the same amenities proposed in the subject subdivision. Later, he relied exclusively on sales in the subject subdivisions. The subdivision sales were not arm's length transactions. The buyers were uninformed and not typically motivated, and there were special or creative concessions that affected the sales. These sales should not have been used in the appraisals. Although Mr. Sullivan noted in the reports that his appraised values were dependent upon the extraordinary assumption that the amenities will be completed, he failed to state how his values would be affected if the amenities were not completed. On numerous occasions, he identified

the owner or occupant of the lot to be the seller on the purchase contract, when the seller was not the owner of record. In many cases a lot transferred to the seller on the contract and then to the buyer on the same day at some point after the report was completed. Mr. Sullivan relied upon several of these transfers for comparable sales, using only the second sale, with no mention of the first sale. There was no evidence that Mr. Sullivan participated in any marketing plan, fraudulent transactions or activities or investment schemes. In the second case, Mr. Sullivan appraised a property located in Morehead City, North Carolina in November 2009, finding a value of \$390,000. The subject is a 2316 square foot 1.5 story house built in 1946. The subject site is located across the street from the sound and includes three lots. The house was located on one lot and encroached on a second lot, and there was a storage shed on the third lot. Mr. Sullivan valued the property at \$390,000 as of November 28, 2009. He valued the site in the cost approach at \$400,000. The three lots of the subject were buildable, but he stated that highest and best use was its present use. Nearby building lots sold for \$232,500 and \$350,000. Mr. Sullivan did not perform an appropriate highest and best use analysis to determine the feasibility of removing the improvements and selling the three lots as separate building lots.