



# APPRAISER REPORT

## NEW BOARD APPOINTMENTS

Governor Pat McCrory has appointed three new members to the Appraisal Board with all three terms being from July 1, 2013 to June 30, 2016.

Cory Gore, CDA of Wilmington is the owner of Gore Properties and Appraisal Group, LLC and Partner of Wilmington Appraisal Group, LLC. He is a designated member and serves as the Vice President of the North Carolina Appraisers Coalition (NCPAC). He is past President of the Southeast Chapter of NCPAC and past Chair of the Wilmington Regional Appraisal Council. He holds a Bachelor of Science degree in Economics from the University of North Carolina – Wilmington. Mr. Gore has 33 years experience in real estate appraisal and banking. He is also a licensed real estate broker and general contractor. He resides in Wilmington with his wife, Jill Gore, and has two daughters; Lauren and Rachel.

David E. Reitzel is a graduate of the University of North Carolina – Charlotte. He is a certified general appraiser and has been involved in the Appraisal/Financial industry since 1985. Mr. Reitzel is currently President of Real Estate Advisory Services, Inc., President of Community Bank Real Estate Solutions, Inc., and Senior Vice-President of Peoples Bank. He has served in various leadership roles with the North Carolina Association of Realtors Appraisal Section and is a member of the Catawba Valley Realtor Association and the Charlotte Regional Realtor Association. Mr. Reitzel serves as Chair of University Christian High School Board at Lenoir-Rhyne University, and is involved in various civic and community organizations. He and his wife, Mary, have two sons and reside in Conover, North Carolina.

Dwight C. Vinson is a graduate of Appalachian State University. He is a certified general appraiser and is currently owner and president of Vinson Appraisal Services. Mr. Vinson is affiliated with NCPAC and holds a CDA designation. He performs both residential and commercial valuations as well as consultation and expert witness services. He began his appraisal career in 1987 as a bank staff appraiser, opening a private practice in 1998. Mr. Vinson has also been involved in various civic organizations. He was founding president of the Delta Chi Fraternity at Appalachian State University. He is a founding member of Blue Ridge, a southern gospel quartet, who has performed in various parts of the United States and Canada and has had several charting songs in the recording industry. He also is currently part of the ministry staff at his home church where he is the music director. Mr. Vinson and his wife, Martha, make their home in Franklin and their daughter, Carmen, is a senior at Appalachian State University in Boone, NC.

# APPRAISERREPORT

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 Appraisereport**.

## NORTH CAROLINA APPRAISAL BOARD

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Pat McCrory, Governor

## APPRAISAL BOARD MEMBERS

Thomas A. Barton	Chairman	New Bern
Charles J. Moody, III	Vice-Chairman	New Bern
David B. Goldberg		Chapel Hill
Samuel Cory Gore		Wilmington
Charles L. McGill		Raleigh
David E. Reitzel		Conover
Fern Shubert		Marshville
Timothy N. Tallent		Concord
Dwight C. Vinson		Franklin

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

## APPRAISER COUNT

(As of August 31, 2013)

Trainees	445
Licensed Residential	110
Certified Residential	2022
Certified General	1243
Total Number	3820

## APPRAISER

## EXAMINATION RESULTS

March 1, 2013 – August 31, 2013

Examination	Total	Passed	Failed
Certified Residential	16	8	8
Certified General	5	3	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/ApplicationF orLicensure.pdf>

## BOARD ELECTS OFFICERS

Thomas A. Barton has been elected Chairman of the Appraisal Board for 2013-2014. Governor Beverly Perdue appointed Mr. Barton to the Board in July 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 25 years of appraisal experience. Mr. Barton is past treasurer for the North Carolina Association of Realtors and has been "Member of the Year" and Chairman of the Board for the New Bern area Chamber of Commerce. He and his wife, Pam, have a daughter and son and make their home in New Bern.

Charles J. Moody, III has been elected Vice-Chairman of the Appraisal Board for 2013-2014. Governor Beverly Perdue appointed Mr. Moody to the Board in 2009.

Mr. Moody is a certified general appraiser and was one of the Founders of Realty Services of Eastern Carolina. He received a BS degree from Virginia Tech in Forest Management. Mr. Moody has the designation of MAI from the Appraisal Institute and is a Registered Forester. He has 33 years of experience with a special emphasis on the valuation of timberland, agricultural and conservation use properties. He and his wife, Anne, have two married sons, four grandchildren, and make their home in New Bern.

## NEW EDITION OF USPAP EFFECTIVE JANUARY 1, 2014

The 2014-2015 edition of USPAP has been adopted by the Appraisal Standards Board and will be valid for two years, effective January 1, 2014 through December 31, 2015. As with the current edition of USPAP, the new edition will include guidance from the ASB in the form of the USPAP Advisory Opinions and the USPAP Frequently Asked Questions (FAQs).

As a reminder, appraisers must take the 2014-2015 7 hour USPAP by May 31, 2014 in order to renew in 2014.

## 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 Jurisdictional Exception Rule of USPAP

## What is the Jurisdictional Exception Rule of USPAP?

One of the most misunderstood provisions of USPAP is the Jurisdictional Exception Rule.

The Rule states that: “If any applicable law or regulation precludes compliance with any part of USPAP, only that part of USPAP becomes void for that assignment”. If an assignment involves a jurisdictional exception, the appraiser must:

1. identify the law or regulation that precludes compliance,
2. comply with that law or regulation,
3. clearly and conspicuously disclose in the report the part of USPAP that is voided and
4. cite in the report the law or regulation requiring this exception.

This Rule is intended to address assignment conditions in which there is a conflict between USPAP and federal or state laws or rules.

If there is a law that states you must do something *in addition* to USPAP, compliance with that law that is an assignment condition and is part of your Scope of Work. For example, if your state has a law that all appraisals must contain the fee paid to the appraiser, the appraiser may comply with this law and comply with USPAP. There is no need to invoke the Jurisdictional Exception Rule.

As another example, suppose an agency’s properly promulgated rule requires you to give a copy of your appraisal to another appraiser instead of sending it directly to the client. This may seem to be a violation of the Confidentiality Provision, and you may be tempted to invoke the Jurisdictional Exception Rule. If you look at the Confidentiality Provision, however, this requirement fits two of the exceptions for confidentiality. Since your client ordered the report knowing it had to go to another person, you have the client’s permission to send it. In addition, disclosing the assignment results to another party is required under due process of law. The Jurisdictional Exception Rule, therefore, does not apply in this situation.

If there is a law that states you must *refrain* from doing something that is required by USPAP, you must properly invoke the Jurisdictional Exception Rule. For example, a

state law may require that you report your appraisal results in a certain format, such as a form specifically outlined in the law. Using this form to report your appraisal requires you to violate USPAP, so you must invoke the Jurisdictional Exception Rule. You must still maintain a complete work file for the assignment. The report you do provide must state that you have invoked the Jurisdictional Exception Rule and state the statute that requires you to violate USPAP.

As another example, for probate work, a state law may require you to be paid a percentage of the value of the estate you are appraising. The Management section of the Ethics Rule prohibits such arrangements, but since the statute mandates it, it becomes a jurisdictional exception. Again, you would have to state in your report that you have invoked the exception and cite the appropriate law.

## Examples

To illustrate the application of the Jurisdictional Exception Rule, consider the following scenarios:

### **Scenario 1:**

On a single family residential property that is 40 years old, the Cost Approach is usually not necessary for credible results. In addition to the Sales Comparison Approach, my client wants me to perform the cost approach, probably for insurance purposes. If I perform this additional approach to value, is this a jurisdictional exception?

### **Answer:**

No. Performing an unnecessary Cost Approach is an addition to your USPAP requirements, thus is a Scope of Work decision.

### Scenario 2:

The Sales Comparison approach is the most applicable and is necessary for credible results. There is adequate sales data to perform this approach. The client, however, wants me to perform *only* the Cost Approach. Is this a jurisdictional exception?

Answer:

No. Again, this is a Scope of Work decision. There is no law or rule that says you cannot perform the Sales Comparison Approach. As the appraiser, you may not allow assignment conditions to limit your scope of work to such a degree that the assignment results are not credible. If your client will not allow you to develop and report the Sales Comparison Approach, you should decline the assignment.

Scenario 3:

If my client tells me that there are guidelines that dictate the use of *only* the Cost Approach, is this a jurisdictional exception?

**Answer:**

Probably not. The Jurisdictional Exception Rule only applies if there is a specific statute, case law, administrative rule or ordinance that has legal force. You should ask your client for a copy of the guideline and a legal cite to it. If your client cannot provide a legal cite, the guideline does not have force of law and you cannot invoke the Jurisdictional Exception Rule.

**Scenario 4:**

The client for this assignment is an attorney. What if she tells me that the court only will accept the Cost Approach?

**Answer:**

Instructions from an attorney do not establish a jurisdictional exception. You should ask the attorney if her instructions are based on case law. If not, you should tell her you cannot comply with her instructions and, if she does not allow you to modify the Scope of Work to include the Sales Comparison Approach, you must decline the assignment.

If, however, the attorney states that there is case law instructing how the appraisal must be performed, ask for a citation to the case and a copy of it. When you receive these, you may invoke the Jurisdictional Exception Rule. You must clearly and conspicuously state in the report the part of USPAP that is voided by that case, and cite the case in the report. Failing to include this information in your report is a violation of USPAP.

**Scenario 5:**

The client has a form they want me to use to report the results of my analysis. This form does not comply with USPAP. Does the use of the form invoke the Jurisdictional Exception Rule?

**Answer:**

No. The Appraisal Board does not approve any form as compliant with USPAP. Most form reports are deficient and must be supplemented in some manner by the appraiser. If your client wants you to use a specific form, you can do so, but you must use an addendum to add the required information to your report, and must make sure to sign a USPAP-compliant certification. In addition, you must comply with Appraisal Board rules regarding signing the report, such as noting anyone who provides significant real estate appraisal assistance.

### Invoking the Jurisdictional Exception Rule

If indeed there is a law, rule, or case that states you must refrain from doing something that USPAP requires, you must state the exception and cite the law, rule or case. For example, a state law could say that for estate purposes you may only do the cost approach and may not perform a sales comparison or income approach even though the property is an income-producing four unit property. In order to comply with USPAP in reporting your appraisal, you will need a statement similar to the following:

“North Carolina state law N.C.G.S. 299B.0901(a) states that for estate purposes, an appraiser must do only the cost approach and may not do the sales comparison or income approaches in any appraisal performed for estate purposes. The appraiser is therefore invoking the Jurisdictional Exception Rule and has developed only the cost approach and not the sales or income approaches for the subject property.”

If this hypothetical law states that an appraiser must do the cost approach but is silent on the sales comparison or income approaches, the appraiser may not invoke the Jurisdictional Exception Rule, and must complete the approaches to value that are necessary for credible assignment results.

If you do not know or if your client cannot give you a citation to a specific law, rule or case, you may not invoke the Jurisdictional Exception Rule.

If you are asked to perform an appraisal assignment or report the results of that assignment in a way that you think conflicts with USPAP, feel free to contact the Appraisal Board staff for guidance.

## Knowing When to Say No

One comment often encountered when investigating a complaint is “I wish I never took that assignment”. Another is “I should have walked away when I saw the property”. How can you avoid that uneasy feeling when completing an assignment?

If this is a typical residential mortgage transaction, things may go fairly smoothly. If the assignment involves appraising a property in a divorce, estate, tax appeal, or anything that might end up in litigation, you should meet with your client to assess whether there could be trouble ahead. One way to avoid this type of surprise is to not consider assignments as being routine. Each assignment regardless of purpose or intent has the potential to become complex. One of the first steps that you should complete is a thorough scope of work analysis.

Part of your scope of work analysis requires you to consider whether you are comfortable with the assignment conditions before acceptance. Clients will often expect a certain outcome from your appraisal to support their position, and if the client seems emotional about the outcome, you may want to consider whether you want to take the assignment. Attempts to influence you on behalf of the client and interactions with emotional parties that have a stake in the process can often be telltale indicators that the matter will be contentious. These actions alone might be reasonable support to walk away from the assignment.

Often the client will request a form type report as they believe that it will cost less, not understanding that the analysis required is the same no matter what form is used. Regardless of the format, it is your responsibility to ensure that the results are communicated in a credible manner. For example, a client may tell you to report the results of an appraisal of a manufactured house on the 1004 form,

even though that is an inappropriate form. You should discuss this with your client and explain the type of report that will provide credible results. After all, as the appraiser you are the one to decide the Scope of Work for the assignment. If the client insists that you use an inappropriate reporting format, you should decline the assignment as this could point to unacceptable assignment conditions.

Another time to be careful about accepting an assignment is if the client needs the report in a hurry, especially over a weekend or in response to some immediate legal or administrative requirement. The client may tell you that another appraiser backed out and that they will pay you a rush fee. If you accept an assignment on this basis, make sure that you have adequate time and opportunity to verify the information you plan to use in your analysis. There are very few “appraisal emergencies”, and acceptance of an assignment that must be completed in a rush makes you no less responsible for the results.

Another comment that is sometime uttered by an appraiser looking at possible disciplinary action is, “I did it as a favor for a friend”. Often the licensee is told “I only need it for the file.” The reality is that once your report is submitted to the client you have very little control over where it might end up.

Competence is an ongoing requirement. Think about the assignment – are you competent to take it? If not, decline it, or figure out how you will attain competency. If the subject property is outside your usual market area, consider whether you are geographically competent to accept it. Ask yourself why a local appraiser has not taken the assignment. There may be something going on in this market area that local appraisers are fully aware of but that you won’t know about. Be sure to consult with local appraisers or real estate agents to talk about the subject and market area so that you don’t miss anything.

What about the situation when you accept an assignment and then discover a problem? It could be that there are simply no comparable sales, the property is not as described, or the assignment is much more complicated than you expected. Your scope of work for any assignment may change as you being your work. You should always remember that you as the appraiser determine the scope of work necessary for the assignment. Discovering an issue during the process should trigger additional scope of work discussions between you and your client to ensure that you return the most credible results possible. Should you encounter an issue that you cannot overcome with regard to competence or an unacceptable assignment condition, you can terminate the assignment. So many licensees will tell the investigator at some point they knew there was ample pause to walk away from the assignment, but felt that they could not as once they had accepted the assignment that they were bound to complete it. This is not the case. You can walk away, and in some cases you should. It is far better to risk the wrath of a potential client by declining an assignment than to complete an assignment for which you are not competent or to deliver results that are misleading.

Of course if you have an uneasy feeling about the client or the assignment, it is better to walk away early in the process in order to minimize the impact on the client. This also minimizes the likelihood of the client complaining to the Appraisal Board.

In conclusion, the Board encourages you to thoroughly consider all of the conditions known and those that might develop as part of any assignment. Each assignment, regardless of appearance, can be unique and has the potential to be complex. The Board expects you to thoroughly analyze each assignment and exercise good judgment with regard to legitimacy of the assignment and its conditions and your abilities as a licensee.

# TRAINEES BEWARE:

## MAKE SURE YOUR APPRAISAL REPORTS COMPLY WITH USPAP, OR YOU MAY LOSE EXPERIENCE CREDIT

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There has been a disturbing increase in the number of trainees losing experience credit based on failure to comply with the Appraiser's Act, Board Rules and USPAP. Some of the situations that led to this denial of credit are outlined in the following scenarios.

**Question 1:** I started work with a supervisor in January 2013 but he did not declare me as his trainee until July 2013. May I receive experience credit for appraisals I performed from January until July?

**Answer:** Board Rule 21 NCAC 57A .0407(e) states that "Trainees must assure that the supervisor has completed and sent the Supervisor Declaration Form to the Appraisal Board on or before the day the trainee begins assisting the supervising appraiser. Trainees shall not receive appraisal experience credit for appraisals performed in violation of this Paragraph." Based on this rule, the staff will not grant experience credit for work done during the time before the supervisor declared you as his trainee.

**Question 2:** My supervisor properly declared me as her trainee. I do a significant amount of work on each appraisal assignment, and have noted these assignments on my log which my supervisor signs. The appraisal reports, however, do not state that I provided significant professional assistance to the supervisor and I did not sign the reports. May I receive experience credit for these reports?

**Answer:** USPAP Standards Rule 2-3 requires an appraiser to note whether anyone has provided "significant professional assistance" in the preparation of an appraisal. Standards Rules 2-2 requires that the signing appraiser must also state the extent of that assistance. North Carolina Appraisal Board Rule 57A .0405 (a) requires that the appraisal report "shall identify any other person who assists in the appraisal process other than by providing clerical assistance." The appraisal reports do not comply with USPAP or Board Rules, and the Board cannot grant experience credit for them.

**Question 3:** My supervisor told me to make a copy of every appraisal I worked on to keep for my records as he planned to retire three years after he hired me. Unfortunately I did not do this, and my supervisor gave up his license and destroyed his files. He did sign my logs before he retired. May I get credit for appraisals if I do not have copies of them?

**Answer:** The Record Keeping Rule of USPAP requires you to keep copies of your appraisals and work files for at least five years. If you don't have copies, you must make appropriate work file retention, access and retrieval arrangements with the person having custody of the work file. You knew that your supervisor was going to retire but you did not make retain copies as required. It is your burden to prove to the Board that you did the appraisals in question, and without the appraisals and work files the Board cannot grant you experience credit.

**Question 4:** I sent my check in to renew my registration in May 2013. Apparently it was returned to me because I did not complete 21 hours of continuing education credit, but I do not remember receiving it back. By the time I realized I did not have my new pocket card, I had already done 20 appraisals. May I get credit for the appraisals done when my registration was lapsed, even though I thought it was renewed?

**Answer:** The Appraiser's Act, G.S. §93E -1 *et seq*, states that it is a violation of state law to appraise property located in North Carolina without a proper registration, license, certificate or temporary practice permit. Since these appraisals were done in violation of state law, you may not get credit for them.

**Question 5:** My supervisor accompanied me on inspections for my first fifty appraisal assignments, and now she only accompanies me if the subject property is more than 50 miles from her office. She always notes my assistance in the reports, but does not let me sign them. She signs a certification that she inspected the interior and exterior of the subject property when she did not do so. Since I am mentioned in the report, shouldn't I receive experience credit for these reports?

**Answer:** This question is a little more complicated. The certifications on the reports she signed stated that she inspected the interior and exteriors of the subject properties when she did not do so. These reports are misleading, thus they violate Standard 2 of USPAP. The Appraisal Board does not give experience credit for appraisals that do not comply with USPAP. Even though you did not sign the reports, you knew she would sign a certification that stated she inspected the interior and exterior of the subject properties when she did not do so. This is a violation of the Ethics Rule. Based on that, experience credit would not be given.

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## TIPS

In order to avoid being denied experience credit, remember to do the following:

1. Make sure that your supervisor has declared you before you begin working with him/her. If you have not received a letter from the Board confirming this, you should call or email the Board to make sure you have been properly declared.
2. Keep a copy (either paper or electronic) of every appraisal you work on. You have a legal right to do so in this state; if your supervisor states that you cannot make a copy, contact the Board for advice.
3. If you do not sign the report, make sure that the appraisal report states that you have provided significant real estate appraisal assistance in the preparation of the report.
4. Make sure that your supervisor accompanied you on the first 50 appraisals you do once you are registered.
5. Make sure your supervisor goes with you on **all** inspections of the subject property, no matter how many appraisals you have done, if the property is located more than 50 miles from the supervisor's primary business location.
6. Keep your appraisal log updated, and have your supervisor sign it at least once a month.

Remember, if you are uneasy about the way your supervisor is training you or signing the appraisal reports, contact the Board for advice. You can do so anonymously if you prefer. It is far better to take a few minutes to speak with the staff now than to lose hard-earned experience credit after.

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# 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.

## **2013-01: APPRAISAL DEVELOPMENT – SCOPE OF WORK ISSUES**

### **Utilizing a Data Entry Service**

**Question:** I primarily perform residential appraisal assignments for mortgage finance purposes. I recently received a solicitation from a company that is offering to enter all the data into my appraisal software program for me at a very low cost. Is this something that is allowed under USPAP?

**Response:** There are two primary concerns. The first concern is whether the service provider is performing significant real property appraisal assistance. If the service provider simply performs clerical tasks, such as entering information provided by the appraiser, USPAP does not require disclosure; this would be a clerical service, not significant real property appraisal assistance. However, if the service includes performing tasks that require appraisal competency, the name of each individual performing that service must be stated in the certification as having provided significant real property appraisal assistance, and the extent of the assistance must be addressed within the appraisal report. Tasks that require appraisal competency include, but are not limited to, rating a property's quality or condition, estimating remaining economic life, and selecting comparable data.

For additional clarification on significant appraisal assistance, please refer to FAQ 243 in the 2012-13 edition or FAQ 247 in the 2014-15 edition.

The second concern deals with the issue of appraiser-client confidentiality. The Confidentiality section of the ETHICS RULE states, in part:

*An appraiser must not disclose: (1) confidential information; or (2) assignment results to anyone other than:*

- *the client;*
- *persons specifically authorized by the client;*
- *state appraiser regulatory agencies;*
- *third parties as may be authorized by due process of law; or*
- *a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.*

Therefore, the appraiser is prohibited from disclosing *confidential information* or *assignment results* (both, as defined in USPAP) to anyone other than the parties identified in the ETHICS RULE without the client's permission.

## **2013-02: APPRAISAL DEVELOPMENT – CLIENT ISSUES**

### **Shelf-Life of an Appraisal or Appraisal Report**

**Question:** I've received inquiries from some of my clients asking me how long my appraisal reports are valid. In other words, what is the useful life or shelf-life of my appraisal? Is this addressed in USPAP?

**Response:** USPAP does not determine the length of time for which an appraisal or appraisal report is valid. Various users of appraisal services may establish their own requirements or guidelines for the validity period of an appraisal or appraisal report. It is also important to note that USPAP distinguishes an appraisal from an appraisal report. An appraisal is an opinion of value while an appraisal report is any communication, written or oral, of an appraisal that is transmitted to the client upon completion of an assignment. Two dates are essential to an appraisal report: the effective date of the appraisal and the date of the report. The effective date of the appraisal establishes the context for the value opinion, while the date of the report indicates whether the perspective of the appraiser on the market and property as of the effective date of the appraisal was prospective, current, or retrospective.



As such, the effective date of the appraisal, the date of report, or both may be important reference points when determining when a new appraisal or appraisal report is required.

### **2013-03: APPRAISAL REVIEW REPORTING**

#### **Templates or Forms used in Appraisal Review Assignments and USPAP Compliance**

**Question:** I am often asked to perform appraisal review assignments using a particular report form. Standards Rules 2-2 and 8-2 include language that specifically requires appraisers to supplement a report form when necessary to ensure that intended users are not misled and to that the report complies with USPAP. If an appraisal review report form does not adequately address the minimum requirements of USPAP, am I required to supplement it with the necessary information?

**Response:** Yes. Each assignment is different, and no form could cover all USPAP requirements for all assignments. Templates or forms are simply tools to assist in organizing the reporting of assignment results. It is the responsibility of the appraiser to properly develop an appraisal review and to properly report the assignment results. A template or form may or may not be adequate to report the assignment results and comply with USPAP. In these situations, the appraiser must ensure the report complies with the minimum reporting requirements set forth in USPAP for communicating an appraisal review assignment. The substantive content of a report determines its compliance.

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## **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.

### **Krista L. Bowers A3929 (Albemarle)**

Following a hearing, the Board revoked Ms. Bowers' residential certification. There were two complaints against Ms. Bowers. The Board found that on or about February 13, 2012, the Appraisal Board received a complaint against Ms. Bowers regarding a property located in Albemarle, North Carolina. The Complainant alleged that he paid Ms. Bowers upfront for an appraisal that was never delivered, and the appraisal fee was never refunded. Ms. Bowers was notified of the complaint by letter dated February 14, 2012. When she did not respond to this letter, a letter was sent by certified mail to her address of record on May 2, 2012. Ms. Bowers failed to renew her certification in 2012, thus her certification expired in June of 2012. Or about July 6, 2012, 2012, the Appraisal Board received a complaint against Ms. Bowers regarding a

property located in Albemarle, North Carolina. This Complainant alleged that she paid Ms. Bowers upfront for an appraisal, but the full report was never delivered. Specifically, this Complainant requested copies of photographs taken by Ms. Bowers of the subject property, but she would not provide them. Ms. Bowers was notified of this complaint by letter dated July 9, 2012. When she did not respond to this letter, a letter was sent by certified mail to her address of record on September 5, 2012. Staff was directed to inform the Board attorney should Ms. Bowers attempt to renew her certification. In September 2012, she contacted the Board and expressed her desire to renew her certification. She was informed that there were two open complaints that had to be responded to in order to renew her license. Ms. Bowers sent a letter to the Board stating that she knew of the complaints and would send the responses and required

documentation to answer both complaints under separate cover. This letter was received on September 27, 2012. Ms. Bowers also sent an email to the Board on September 28, 2012 in which she stated that she had prepared and sent the responses to the complaints. She also confirmed that her address was the same as that in the Board's records. Once the Board staff received acknowledgement that Ms. Bowers had received the complaints and would respond to them and provide the required documentation, her certification was renewed. As of the date of the hearing in this matter, Board staff did not receive any of these materials. Ms. Bowers stated that she never received any of the letters from the Board regarding the two complaints. She also stated that she never received the pocket card noting her renewal in September 2012. Her statements that she did not receive any correspondence from the Board were found not to be credible.

Ms. Bowers stated that she did not refund the appraisal fees to the Complainants as she was under the impression she could not contact them. She referred to a letter sent to her in December 2012 regarding the hearing in which it was stated that she was to have no contact with the witnesses in this matter as the basis for her belief. As she acknowledged in September 2012 that she knew of the complaints, she could have refunded the fees to the Complainants during the time period from September to December, but she failed to do so. Her explanation of her reasons for not refunding the appraisal fees was found not to be credible.

**Brian P. Cahill A4583 (Garner)**

By consent, the Board voted to suspend Mr. Cahill's residential certification for a period of three months. The suspension is stayed until September 1, 2013. If Mr. Cahill completes a course in sales comparison and a course in appraiser liability by that date, the suspension will be inactive. Mr. Cahill appraised a residential property located in Raleigh, North Carolina effective February 8, 2012, finding a value of \$260,000. The subject is an updated 2 story dwelling built in 1921 that is located in a historic overlay district. Mr. Cahill stated that the dwelling was on a crawl space. The subject actually has a basement that is walled, has a concrete floor, and housed the laundry equipment. There were no recent sales in the immediate area for comparison with the subject. Two of the comparable sales were located in inferior locations, and inadequate adjustments were made for this factor. One of his sales was a converted duplex that did not have the street appeal of the subject; Mr. Cahill, however, noted that it was equal in design/style to the subject.

**Devin Chapman A6922 (Asheville)**

By consent, the Board suspended Mr. Chapman's residential certification for a period of six months. The first month of the suspension is active and the remainder is stayed until August 1, 2013. If Mr. Chapman completes the 15 hour National USPAP course and a class in scope of work by that date, the remainder of the suspension will be inactive. Mr. Chapman valued a property located in Highlands, North Carolina in August 2011, finding a value of \$483,000. A trainee performed the inspection of the subject property. Mr. Chapman did view the exterior but not the interior of the subject property. His certification indicated that he had personally inspected the interior and exterior of the property. The appraisal report noted that the trainee contributed significant field research, but did not mention that he inspected the property. The appraisal itself was compliant, with appropriate explanation regarding the necessity to include additional data at the client's request.

**Dawn G. Merritt A3704 (Monroe)**

By consent, the Board issued a reprimand to Ms. Merritt and ordered her to complete the 15 hour National USPAP class. Ms. Merritt performed an appraisal of a property located in Waxhaw, North Carolina in January 2012, valuing the subject at \$339,000. The subject property is a ranch style home that was constructed in 2006, with a finished area over the 3-car garage that is used as a recreation/bonus room. Originally, Ms. Merritt valued the subject at \$339,000. In this appraisal, she made a positive adjustment of \$5,000 for the subject's triple garage versus the double garages of the comparable sales. Her value in the cost approach was \$347,490. After speaking with the homeowner, she revised her appraisal report a few days later. In this revised report, she changed the

garage adjustment to \$10,000, which increased the value by \$5,000. There was no explanation in the second report as to why the value was increased. Her second value was within the range of her adjusted sales prices in the first appraisal. Her cost approach remained the same.

**B. Derek Parker A4184 (Smithfield)**

By consent, the Board suspended Mr. Parker's residential certification for a period of six months. The first month of the suspension is active and the remainder is stayed until October 1, 2013. If Mr. Parker completes the 15 hour National USPAP course and a class in scope of work by that date, the remainder of the suspension will be inactive. Mr. Parker appraised a 1464 square foot residential property located in Goldsboro, North Carolina effective February 2, 2012, finding a value of \$87,000. He did not personally view the interior of the subject property, although he did perform an exterior inspection. Although another certified residential appraiser did the interior inspection, there was no mention in the appraisal report of the significant professional real estate appraisal assistance provided by that appraiser. Mr. Parker's certification indicated that he had personally inspected the interior and exterior of the property. The appraisal report was misleading.

**Stephen C. Ratley A6606 (Castle Hayne)**

By consent, the Board suspended Mr. Ratley's residential certification for a period of one year. The first two months of the suspension are active and the remainder is stayed until December 1, 2013. If Mr. Ratley completes the 15 hour National USPAP course and a course in appraiser liability by that date, the remainder of the suspension will be inactive. Mr. Ratley will not be allowed to have any trainees in North

Carolina as of July 1, 2013. A trainee filed an application to upgrade his status. In reviewing his application, it was noted that his supervisor, Mr. Ratley, had never declared the trainee as his trainee and had never taken the Board's Supervisor class.

At the time of the trainee's application, Mr. Ratley had a business and personal address in Decatur, Alabama. After this complaint was filed, he changed his address to North Carolina.

At the time of the trainee's application, Mr. Ratley was not registered to vote in North Carolina and he held an out of state driver's license that was renewed during the time he stated he was living in this state. He has trainees in Alabama that have been under his supervision during the same period of time in which he supervised his North Carolina trainee. Although Mr. Ratley indicates that he has lived in North Carolina for several years, he renewed his North Carolina certification by reciprocity with Alabama in 2009 and 2011. The trainee's log indicated that Mr. Ratley accompanied him on all inspections of the subject property. There is no evidence that this is not true.

#### **Robert J. Ruark A6258 (Garner)**

By consent, the Board suspended Mr. Ruark's residential certification for a period of six months. The suspension is stayed until September 1, 2013. If Mr. Ruark completes the 15 hour National USPAP class, a class in valuing small income properties and the 30 hour Residential Sales Comparison and Income Approaches class by that date, the suspension will be inactive. Mr. Ruark appraised a residential property located in Rocky Mount, North Carolina effective January 2010, finding a value of \$260,000. The subject property had been destroyed by fire, and Mr. Ruark valued it for insurance purposes after the fire. The subject property was a 2-story brick building

containing 5495 square feet. The building had three rental units, each with its own kitchen and bathroom, which was noted in the report. He thought the subject had been a single family property converted to three units, although there is no evidence to support his belief. His client instructed him to appraise the property as a single family residence. Mr. Ruark did not utilize an extraordinary assumption or hypothetical condition that the subject was a single family residence. He chose comparable sales that were single family homes. After the report was issued, Mr. Ruark discussed the assignment results with the Complainant. He did not have his client's permission to do so.

#### **Katherine L. Stafford A2998 (Concord)**

By consent, the Board issued a reprimand to Ms. Stafford. Ms. Stafford also agrees to complete a course in appraising historic properties and a sales comparison class. If she does not do so, this reprimand will be vacated and a one month suspension imposed in its place. Ms. Stafford appraised a property located in Salisbury, North Carolina effective April 12, 2012, finding a value of \$204,000. The subject property is a two story dwelling that is located in a historic district. In the appraisal report, Ms. Stafford did not correctly identify the materials for the roof, gutters, interior walls, window frames and floor coverings. Her report listed the square feet as 3698, while it actually contained 3444 square feet. She did not correctly measure the second floor. One of the comparables sold in July 2011 for \$252,000. Ms. Stafford reported that it had sold in October 2011, but did not report the prior sale of this comparable.

#### **B. Porter Stokes A3845 (Winterville)**

By consent, the Board issued a reprimand to Mr. Stokes. He agrees to complete a course in appraiser liability and a course on appraisal report writing by September 1, 2013. If he does not complete the courses by that date, this reprimand will be withdrawn and a one month suspension will be activated on that date. Mr. Stokes appraised a residential property located in Ayden, North Carolina effective April 1, 2008, finding a value of \$220,000. The subject property is a one story detached home containing 1789 square feet and a two-car attached garage. There is a finished room over the garage. Two of the comparable sales used in this report sold one year prior to the date noted in the appraisal report. In May 2012, Mr. Stokes was notified that his client had a review done on the report. He then provided the client with new comparable sales in a revised report with a new value opinion of \$222,500. In this new report, he included two sales from the subject subdivision that were not included in the original appraisal. One of these sales was a transfer from the building company to the building company's president. The property had never been listed or otherwise exposed to the market.

#### **Sandra M. Yorke A4684 (Swansboro)**

Following a hearing, the Board suspended Ms. Yorke's residential certification for a period of two years. Before Ms. Yorke's certification may be reinstated, she must complete the 15 hour national USPAP class, including passing the examination. If and when she regains her certification, she may not supervise any trainees. The Board found that Ms. Yorke accepted an appraisal assignment of a property located in Atlantic Beach, North Carolina in October 2010. The subject property

is located in a condominium complex with unusual provisions in the recorded documents. Among other provision, there is a "Transfer of Units" provision in the condominium documents that requires a seller to first offer for sale to the condominium corporation at the same price and terms under which the highest bona fide offer has been made for the unit. The HOA has 30 days to exercise the option to purchase as a group, or on behalf of one or more individual unit owners. There are limits on who may inherit the property and on mortgaging the property. As a result of these limitations, the subject property has a limited market. Sales in the subject project are not exposed to the open market. The appraisal report stated that the property right appraised were "Fee Simple", which was not correct. She compared the subject property to condominiums that were not subject to the same restrictions as the subject and made no adjustments for the differences. Ms. Yorke should have either used a hypothetical condition that the property rights were fee simple or valued the property with its limited property rights. Ms. Yorke's certification stated that she personally inspected the subject property and that she inspected the comparable sales from the street. In fact, a trainee performed the interior inspection of the subject and viewed the exteriors of the comparable sales. Ms. Yorke admitted that she did not accompany the trainee on the inspection. In the report submitted by Ms. Yorke, there was a supplemental addendum stating "I have performed an exterior inspection . . . The named trainee provided significant assistance . . . that included data retrieval, interior inspection, exterior inspection of comparables. Presented the report for review. I have reviewed the interior photos and field notes made by the trainee during the inspection of the property. I did not inspect the comparables from the street except for those comparables that were used

in prior reports prepared by me." The appraisal submitted with the complaint did not have this addendum. Board staff requested a copy of the appraisal report from the client, an AMC. The appraisal sent by the client also did not include the supplemental addendum. Staff contacted the AMC to specifically ask if they had received the addendum and were told they had not received it. The engagement order from the client stated that the appraisal assignment must be completed and signed by the assigned appraiser only, and that interoffice re-assignments to anyone other than the assigned appraiser is not permitted. The trainee performed the appraisal assignment and transmitted his results to Ms. Yorke for review. Ms. Yorke did not conform to her client's requirements, as she allowed an unauthorized person to complete the appraisal. The Uniform Standards of Professional Appraisal Practice (USPAP) and Appraisal Board rule 21 NCAC 57A .0405 (a) require that an appraiser must note in the appraisal report any significant real property appraisal assistance provided by any person in the completion of that assignment. Ms. Yorke failed to note the assistance of her trainee as required by USPAP and Board rule.

When the trainee who completed the inspection in this case filed an application to upgrade, staff requested copies of several appraisals from his log. In addition, staff requested a log from Ms. Yorke of all appraisals she performed from December 31, 2009 through December 31, 2010. Staff then selected five appraisals from Ms. Yorke's log and requested that the Respondent send the appraisals to staff, which she did. One of those appraisals, that of a property located in Harker's Island, North Carolina, was also on the trainee's log. There was a statement in the appraisal that the trainee provided significant real

property appraisal experience. There was no mention as to the nature and extent of such assistance. The Verification of Supervised Appraisal Experience form contained in the work file for that assignment stated that Ms. Yorke accompanied the trainee on the inspection of that property. This form was completed and signed by Ms. Yorke. The trainee's log indicated that Ms. Yorke did not accompany him on the inspection of the subject property. Ms. Yorke's certification stated that she personally inspected the subject property and that she inspected the comparable sales from the street. The trainee was the only person who inspected the subject property. The engagement order from the client stated that the appraisal assignment must be completed and signed by the assigned appraiser only, and that interoffice re-assignment to anyone other than the assigned appraiser is not permitted. The trainee performed the appraisal assignment and transmitted his results to Ms. Yorke for review. She did not conform to her client's requirements, as she allowed an unauthorized person to complete the appraisal. When the trainee provided the appraisal to Ms. Yorke for review, he included a complete description as to the nature and extent of his description in the body of the report. This description was removed from the report before it was sent to the client.

### **Thomas J. Yorke A3233 (Raleigh)**

By consent, the Board suspended Mr. Yorke's residential certification for a period of three months. The suspension is stayed until September 1, 2013. If Mr. Yorke completes a class in sales comparison and a class in challenging appraisal assignments by that date, the suspension will be inactive. If he fails to complete the classes by that time, the suspension will be imposed on that date. Mr. Yorke performed an appraisal of a property located in Cary, North

Carolina in August 2007, valuing the subject at \$390,000. The subject property is a two story dwelling that has 2111 square feet on the main level, 904 square feet in the finished basement, and 449 square feet in the partially finished lower basement. The subject was located in a cul-de-sac in a residential neighborhood of

similar homes. Mr. Yorke selected sales from areas where properties sold from \$315,000 to \$428,500. The four sales he selected sold for \$375,000 to \$439,500. One sale had a smaller basement and was adjusted upward \$12,800 for basement. Three sales were adjusted upward \$40,000 for no basement. There were sales

available in the subject subdivision that sold for \$206,000 to \$235,000 that either had no basement or a smaller basement. Had Mr. Yorke used these sales and made necessary adjustments, his value would have been lower.

### APPRAISER'S ACT AMENDED

Several changes were made to the Appraiser's Act. Rule-making is in progress to reflect these changes. Some of the more important changes are:

1. The 2015 AQB criteria will become effective. To become certified residential, an applicant will be required to have a four year bachelor's degree or higher. Applicants for certified residential and certified general may no longer use individual courses to satisfy the college degree requirement.
2. All education for upgrade must have been completed on or after January 1, 2008. The five year rule is eliminated.
3. All experience must have been acquired in the **eight** years before application, not five.
4. The licensed residential category will be reinstated.
5. The criminal background check will include a fingerprint check.
6. Both supervisors **and trainees** will have to attend a trainee/supervisor course **before** the trainee may begin working for the supervisor.
7. Appraisal management companies will be required to post and maintain a \$25,000 bond.

Most of the above changes will become effective on January 1, 2015. The Board plans to begin a comprehensive rulemaking to address these changes and others later this year. Check the Board's website for information regarding the rulemaking process.

#### **NOTE:**

##### **Small Claims Court Limit Raised**

The General Assembly has raised the amount in Small Claims Court from \$5,000 to \$10,000 effective August 1, 2013.

#### **2014-2015 USPAP ORDERS**

The Appraisal Board voted to purchase the 2014-15 edition of USPAP for all licensees and AMC Compliance Managers. You will only have to pay the \$10 shipping & handling fee. Order forms will be emailed and are also available on the website.

### **NC ALERT NOW IN EFFECT**

The North Carolina Appraisal Board has contracted with Castlebranch, Inc. to provide a service called NC Alert. NC Alert automatically notifies the Board if a trainee or appraiser has been arrested or charged with a criminal violation. No action will be taken against a licensee just because he or she has been arrested. Remember, however, you must notify the Board within 60 days if you have been convicted of or entered a plea of guilty or no contest to a criminal offense.