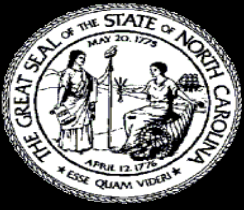


NORTH CAROLINA APPRAISAL BOARD



APPRAISER REPORT

Volume 28

Spring 2018

Number 1

REMINDER:

TRAINEES AND APPRAISERS MUST TAKE THE 2018-2019 7-HOUR USPAP UPDATE BY MAY 31, 2018 IN ORDER TO RENEW IN 2018.

APPRAISER RENEWAL INFORMATION

All registrations, licenses and certificates expire on June 30th and must be renewed before this date to maintain your current status. Renewals will be mailed in early May and payment cannot be made until renewal notices are mailed out. If you do not renew by June 30th, your registration, license or certificate will expire. Any person who acts as a trainee, licensed or certified real estate appraiser while expired shall be subject to disciplinary action and penalties as prescribed by the Appraiser's Act.

The renewal fee is \$200.00 and if you want to be on the National Registry, there is an additional fee of \$60.00. You must be on the National Registry to prepare appraisals related to federally related transactions. Registered trainees are not permitted to be on the Registry. If you allow your license to lapse, you may late renew with late penalty fees for the first 12 month period and may reinstate in the second 12 month period by making a full application. After 24 months, you must start over and meet all the current education and experience requirements plus pass the exam. See below for specific renewal requirements.

IN-STATE LICENSEES

You are required to have the 2018-2019 7-Hour National USPAP Update course completed by May 31, 2018 in order to renew on time. The remaining 21 hours of continuing education is due by May 31, 2019 to renew next year. It is strongly suggested that you not wait until the last minute to obtain your required continuing education.

OUT-OF-STATE LICENSEES

You are also required to have the 2018-2019 7-Hour National USPAP Update course completed by May 31, 2018 in order to renew on time.

If you complete the USPAP Update through a **Board approved** course sponsor, the sponsor will report your course completion directly to the Board electronically; you DO NOT need to do so. *Please make sure to provide the course sponsor with your current NC license number.* All Board approved sponsors are listed on the Board website under the link to education.

If you complete the USPAP Update class through a **non-Board approved** sponsor (any sponsor NOT listed on the Board website), you must sign the USPAP Affidavit form and return it to the Board. You may request a copy of this form by emailing the Board at ncab@ncab.org.

APPRAISERREPORT

Published as a service to appraisers to promote a better understanding of the Appraiser's Act and Board rules, as well as proficiency in appraisal practice. Information in the articles published herein may be superseded by changes in laws, rules, or USPAP. No part of this publication may be reprinted or reproduced in any other publication without specific reference being made to their original publication in the North Carolina Appraisal Board *Appraiserreport*.

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APPRAISER COUNT

(As of February 28, 2018)

Trainees	422
Licensed Residential	77
Certified Residential	1883
Certified General	1300
Total Number	3682

APPRAISER

EXAMINATION RESULTS

September 1, 2017 – February 28, 2018

Examination	Total	Passed	Failed
Certified Residential	8	4	4
Certified General	7	3	4

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/ApplicationFormorLicensure.pdf>

AMC Renewals

All Appraisal Management Company registrations expire June 30, 2018, and must be renewed before this date to maintain its current status. The renewal fee is \$2,000. Each renewal shall post with the Board a surety bond in the amount of \$25,000. The bond must not expire before June 30, 2019.

A rider to a current bond is acceptable. The renewal application and bond forms are available on our website under the forms section. All registrations reinstated after the expiration date are subject to a late filing fee of \$20.00 for each month or part thereof that the registration is lapsed, not to exceed \$120.00. In the event a registrant fails to reinstate the registration within six months after the expiration date, the registration shall expire and the registrant shall be required to file a new application for registration. Reinstatement of a registration shall not be retroactive.

Note for AMCs:

North Carolina law requires an AMC to make payment to an appraiser within 30 days of the date the appraisal is first transmitted to the AMC. It is immaterial when the appraisal is considered "complete" by the AMC. The 30 days period for payment begins to run the day the appraisal is first sent. If the appraiser fails to comply with the assignment conditions and the AMC decides not to pay the appraiser, the company must notify the appraiser in writing of the reason for nonpayment.

The law does not allow an AMC to pay an appraiser beyond thirty days just because the appraiser does not have a W9 on file with the AMC. The IRS has a process called "backup withholding" for independent contractors who have not furnished a W9. If an AMC finds that the payment deadline is approaching and no W9 is on file, the AMC should check with its legal counsel or accountant as to how to pay the appraiser even though there is no W9.

IMPORTANT APPLICATION AND RENEWAL INFORMATION!

Pursuant to a new state law passed last year, effective January 1, 2018 anyone filing an application with an occupational licensing board must certify that they have read and understand the Public Notice Statement from the Employee Classification Section of the State Industrial Commission. This includes applications for registration, licensure, and certification, temporary practice permits, and renewals. The Public Notice Statement is on the back of the renewal slip, and there is a place on it for the licensee to sign. See below for a sample.

Trainees, appraisers, and appraisal management companies must sign the certification and return it with proper payment. If a signed form is not received, your check will be sent back to you and your renewal will be delayed. If a company sends one check to cover all trainees and appraisers in the firm, each licensee must sign the certification and those forms must all be received by the Board in order to process those renewals. If one form is missing, the entire renewal package and check will be returned.

The full text of the law may be found here:

<https://www.ncleg.net/Sessions/2017/Bills/Senate/PDF/S407v5.pdf>

PUBLIC NOTICE STATEMENT required by N.C. Gen. Stat. §143-764(a)(5), effective December 31,2017

Any worker who is defined as an employee by N.C. Gen. Stat. §§95-25.2(4) (NC Department Of Labor), 143-762(a)(3) (Employee Fair Classification Act), 96-1(b)(10)(Employment Security Act), 97-2(2) (Workers' Compensation Act), or 105-163.1(4) (Withholding; Estimated Income Tax for Individuals) shall be treated as an employee unless the individual is an independent contractor.

Employee misclassification is defined as avoiding tax liabilities and other obligations imposed by Chapter 95, 96, 97, 015 or 143 of the General Statutes by misclassifying an employee as an independent contractor. Employees who believe that they have been misclassified as an independent contractor by an employer may report the suspected misclassification to the Employee Classification Section within the Industrial Commission. In making such a report, the employee shall provide the physical location, mailing address, telephone number, and e-mail address where the alleged incidents of employee misclassification occurred. The report shall be sent to the Employee Misclassification Section within the Industrial Commission. Contact information for the Employee Misclassification Section:

Employee Classification Section
North Carolina Industrial Commission
1233 Mail Service Center
Raleigh, NC 27699-1233

E-mail: emp.classification@ic.nc.gov
Telephone: (919) 807-2582
Fax: (919) 715-0282

I certify that I have read and understand the above and that I have not been the subject of an investigation for employment misclassification within one year of this application for renewal. _____

2018 PROPOSED RULE CHANGES

The North Carolina Appraisal Board has commenced rulemaking for 2018. A public hearing on the proposed changes will be held at 9:00 am on April 24, 2018 at the Board's offices in Raleigh. Written comments will be accepted until that date for all rules except 21 NCAC 57A .0501. Comments for that rule will be accepted until April 30, 2018. Comments may be directed to the Board's legal counsel, Roberta Ouellette (Roberta@ncab.org), may be faxed to 919-870-4859 or may be sent to 5830 Six Forks Road, Raleigh, NC 27609. The text of the rule changes can be found on the Board's website at <http://ncappraisalboard.org/RuleMaking.pdf?rulemaking=Proposed+Rules>

Appraiser rule changes:

57A .0204 Continuing Education

Makes it clear that online courses must be IDECC approved.

57A .0405 Appraisal Reports

Requires an appraiser to state the fee paid for an appraisal of a one to four family residential dwelling in the body of the appraisal report.

57A .0501 Appraisal Standards

Amends the rule to reflect 2018 changes to USPAP.

57B .0101 Registered Trainee Course Requirements

57B .0102 Licensed Residential and Certified Residential Real Estate Appraiser Requirement

57B .0103 Certified General Real Estate Appraiser Course Requirements

Removes the restriction regarding online courses, thus allowing all qualifying education to be taken online.

57B .0613 Payment of Fee Required by G.S. 93E-7(c)

Requires the fee to the Board for each licensee completing a continuing education course to be sent within thirty days after the date the course is completed, instead of with the roster.

AMC rule changes:

57D .0202 Registration Renewal

Requires an AMC to pay the AMC National Registry fee with its renewal each year.

57D .0311 Removal of an Appraiser from an Appraiser Panel

Adds a requirement that an AMC not remove an appraiser from its panel in retaliation for filing a complaint against the company.

Adds a new Section 57D.0500 to address customary and reasonable fees for appraisers

57D .0501 General Provisions

Requires an AMC to compensate appraisers in accordance with the provisions of 15 U.S.C. §1601 et seq and 12 C.F.R. §1026.42.

57D .0502 Definition of Market Area

Defines market area as county or metropolitan statistical area (MSA), as defined by the North Carolina Office of State Budget and Management

57D .0503 Records

Requires an AMC to keep records supporting its determination of customary and reasonable fees for at least five years after the assignment was completed.

Background Checks

As of late the Board Staff has received multiple inquiries from appraiser licensees regarding whether or not they are required to pay for background checks. Typically these questions have revolved around appraisal orders and assignments received from Appraisal Management Companies.

This matter is addressed by NC Appraisal Board Rule 21 NCAC 57D .0403 which notes that an AMC can request a criminal background check from an appraiser. If, however, the appraiser has had a criminal background check performed within the preceding 12 months, the appraiser may provide a complete copy of that background check to the AMC. As long as that background check meets the requirements of the Board as indicated in 21 NCAC 57A .0202 (e) the AMC cannot require the appraiser to pay for another background check during the next 12 months.

It is the appraiser's responsibility to provide the AMC with a complete copy of the background check. Board rules do not require an AMC to obtain a copy of a background check that was done for another AMC or other party. If the appraiser cannot provide a copy, then the AMC may require the appraiser to pay for another background check.

If the background check that is required by the lender is considerably more comprehensive than the background check authorized by the Board, the AMC can require the appraiser to obtain that background check, but cannot require the appraiser to pay for it. Appraiser licensees should note that this rule applies to AMCs only. Lending institutions and other clients that engage the appraiser directly are not subject to this rule.

The current CE cycle is June 1, 2017 – May 31, 2019

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. All CE may be taken online or in class.

To view your individual CE record and verify your correct mailing address before May 1st, please sign in using the licensee login section on our website. Your password is the last four digits of your Social Security number. You can access the login section here:

<https://www.membersbase.com/ncab/directory/login.asp>.

Requests for Information from an AMC After the Report is Transmitted

Board staff often gets questions on what type of information an AMC may ask for after the appraisal is transmitted. It is not unusual for an appraiser licensee to receive requests to consider additional information or to conduct further research.

According to North Carolina Appraisal Board rule 21 NCAC 57D .0312, an AMC may ask an appraiser to consider additional information. That request, however, must be made within 30 days after the date that the appraisal was first transmitted to the AMC. Within these 30 days the AMC can request the appraiser to consider additional appropriate property information that could include relevant sales data and property characteristics. This could include asking the appraiser to consider additional comparable sales.

AMCs may also ask an appraiser to

- provide further detail
- provide further substantiation or explanation for the value conclusion
- correct errors in the appraisal report

There are no time limits related to these requests, which must be provided in writing to the appraiser.

Here are some examples of appropriate/inappropriate requests:

Scenario: The appraiser completed and transmitted the appraisal report 60 days ago. The AMC contacts the appraiser and requests a correction with regard to the flood map number. Is this an appropriate request?

Answer: Yes, as this is a request for a correction. There is no time limit for this type of request.

Scenario: The report was submitted 10 days ago. The AMC contacts the appraiser and requests that the appraiser consider another sale that was not noted in the original report. Is this an appropriate request?

Answer: Yes, the AMC is asking the appraiser to consider additional information within the 30 day period.

Scenario: What if the report was transmitted 50 days ago?

Answer: This would not be an appropriate request as the 30 day time period had ended. This type of request is not a correction nor is this a request to provide further substantiation or explanation with regard to the value conclusion. This request is not to obtain further detail. A request for an appraiser to consider a specific sale after the time period has expired would be inappropriate.

Scenario: The appraiser transmitted the appraisal report 60 days ago. The AMC contacts the appraiser to request that appraiser provide comment in the report with regard to the presence of a swimming pool on the subject and whether it is typical in the subject's immediate market area. Is this an appropriate request?

Answer: Yes, this is appropriate as the AMC is requesting further detail, explanation, and substantiation related to the value opinion.

If an AMC requests that an appraiser consider additional property information that might include analyzing additional comparable sales after the 30 day period, the appraiser may refuse or may comply. Whether the appraiser chooses to require a fee for this additional service or not amounts to a business decision.

This rule applies only to appraisal management companies. The Appraisal Board cannot restrict questions directed to the appraiser by the lender or any other party. NCAB Rules may be accessed via this link:

http://www.ncappraisalboard.org/rules/board_rules.pdf

THE APPRAISER

COMPLAINT PROCESS

The North Carolina Appraisal Board handles many complaints every year. The threshold for filing a complaint in NC is minimal, which increases the probability that a complaint might be received. Appraisal Board rules state that to be acceptable, a complaint

- must be in writing,
- must identify the trainee or appraiser,
- and must state the facts which form the basis of the complaint.

Members of the public often do not understand the appraisal process, so a complaint may simply state, for example, that "the value is too low". Although the complaint appears to be solely about value, an investigation may reveal flaws in the appraisal analysis or report that rise to a level requiring disciplinary action.

The NCAB's complaint process must be performed in accordance with the Appraisal Subcommittee's Policy Statements. Policy Statement 7B requires state appraisal boards to "analyze each complaint to determine whether additional violations, especially those relating to USPAP, should be added to the complaint." The Board therefore opens all complaints where the Board has jurisdiction.

The Board cannot accept an anonymous complaint. The Board also will not accept a complaint if the appraisal involved in the complaint is more than five years old (or two years after testimony was given regarding the appraisal, whichever is later).

Process

Once a complaint is received, a copy of the complaint is sent to the licensee along with a letter asking the licensee to respond to the complaint. Licensees must send in a complete copy of the work file, including all copies of reports sent to the client. Responses are due within 30 days of the date you receive the letter. Extensions of the due date may be granted if necessary.

When the response is received, it is given to the Deputy Director, who then assigns the case to an investigator. The investigator will contact the person who filed the complaint (the Complainant) and the licensee (the Respondent). The appraisal and work file will be examined, and additional research will be done. Often a trip is made to the subject property and market area in order to gather evidence. Additional parties or witnesses may be contacted. If another licensee appraised the subject property, the investigator may obtain a copy of that appraisal as well.

Once the investigator completes the investigation, a report is sent to the Board's legal counsel who prepares a summary that will be presented to the Board for Probable Cause. At this stage, the Board can:

- dismiss the case,
- dismiss with a letter of warning,
- dismiss with the condition that the Respondent takes further education,
- ask the staff to do more investigation, or
- find probable cause and request a hearing.

The Respondent and Complainant are notified of the outcome. In the case of a hearing, the Board's legal counsel will make reasonable attempts to settle the case by consent. Consent orders must be approved by the Board.

The Appraisal Subcommittee requires that states complete all administrative steps in a complaint within one year of the date the complaint was filed. The North Carolina Appraisal Board generally closes all cases well within that period of time. The complaint process was studied for the years 2015 and 2016. During that time, the Board disposed of most cases within 156 days after receipt of the complaint in the 181 appraiser complaint cases received.

How can an appraiser get the investigation to move faster?

Cases are investigated in order of the date the response was received. To make sure the case moves along as fast as possible, a licensee should:

- Be sure that the Board always has current contact information. If your mailing address is incorrect, it may take longer for the complaint to make its way to you.
- Respond as quickly as possible. You must respond within 30 days, but may receive an extension if you need more time.
- Respond fully. If a response letter is received but no work file is attached, the investigation will not begin until your response is complete.
- Cooperate with the investigator. He or she may be able to conduct a telephone interview, or may require an in person meeting. In either event, the sooner you meet with the investigator, the sooner your case can be processed. Return phone calls and emails, send documents as requested, and be on time for the appointment with the investigator should one be scheduled.

What might delay an investigation?

- An investigation could be delayed if the Complainant and Respondent are involved in litigation. In most

cases the Board Staff will not proceed with an investigation if they become aware that the parties are involved in litigation. The Board has a long standing policy to remain uninvolved until the litigation is concluded.

- Multiple complaints on the same appraiser licensee can also delay the process. Generally, the Board Staff will wait until all of the cases are investigated prior to bringing the matter before the Board.

Should I get an attorney?

You are entitled to have an attorney represent you at any point during the complaint process. The Board cannot advise you whether you should obtain an attorney. You may want to check with your E & O insurance company to see if they can assist you. Some E & O companies require you to notify them if you receive a complaint.

What if I am not satisfied with the result of the investigation?

If the case is called to a hearing, you will be able to present your side of the story to the Appraisal Board members in a full, formal hearing. You have the right to have an attorney with you. If you lose, the case can be appealed to the Superior Court.

Conclusion

The NC Appraisal Board strives to handle appraiser complaints in a fair and timely manner and has created this process to ensure that the appraiser licensee and the complainant are afforded due process. While the Board would hope that none of their appraiser licensees are faced with a complaint, the Board and staff are committed to see that the case is processed and decided in the fairest and most objective way possible.

2018 **Board Meeting Dates**

February 20	August 7
April 24	September 25
June 12	November 8

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

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.

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.

2018-01: APPRAISAL REPORTING – USE AND FORMAT ISSUES

Communicating Assignment Results Without an Appraisal Report

Question: I was engaged to perform an appraisal of a single-unit residential property for a mortgage lending transaction. After inspecting the property and collecting the necessary data, I concluded that the highest and best use was as a two-unit dwelling. I informed the client of this conclusion prior to completing the appraisal and the client then canceled the assignment. Does USPAP allow an appraiser to convey an opinion of highest and best use prior to transmitting an appraisal report?

Response: Yes. Nothing in USPAP prohibits communication with the client during an assignment. However, highest and best use opinions are assignment results and any such communications are subject to specific prohibitions stated in the Conduct section of the ETHICS RULE and the workfile requirements of the RECORD KEEPING RULE.

2018-02: RECORD KEEPING RULE

Workfile Requirements When Communicating Assignment Results

Question: I was engaged to perform an appraisal of a single-unit residential property for a mortgage lending transaction. After inspecting the property and collecting the necessary data, I concluded that the highest and best use was as a two-unit dwelling. I informed the client of this conclusion prior to completing the appraisal and the client then canceled the assignment. Since there was no appraisal performed and no appraisal report transmitted, must a workfile be kept for the prescribed timeframes?

Response: Yes. The RECORD KEEPING RULE states, “An appraiser must prepare a workfile for each appraisal or appraisal review assignment.” The Rule is not limited to completed assignments or to assignments in which a report was transmitted. In fact, it specifies that the workfile “must be in existence prior to the issuance of any report or other communication of assignment results.”

2018-03: APPRAISAL DEVELOPMENT – CLIENT ISSUES

Adding an Intended User

I was performing an appraisal of a small retail property for the property owner. The intended use of the appraisal is for estate planning. Before I could complete the appraisal report, the client informed me that he has hired a new financial planner and we agreed that the financial planner should be identified as an additional intended user. Now I have some questions regarding the assignment.

Question #1: Did adding an intended user change the scope of work?

Response #1: Not if the appraiser can confirm that the use of the financial planner does not trigger any additional appraisal development-related requirements. However, the financial planner may not be as familiar with the subject property as the owner is, so the content necessary for the intended users to understand the report may differ, which could affect the amount of information and level of detail necessary in the report.

Question #2: Does adding an intended user require the request to be treated as a new assignment?

Response #2: No. As long as the change is *during* the assignment, USPAP does not require it to be treated as a new assignment. On the other hand, there is nothing in USPAP that would prohibit the appraiser from calling it a new assignment.

Question #3: What if I had been asked to make the change *after* the report was issued?

Response #3: If the change occurs *after* the appraiser performed the scope of work and issued the report, it is not “at the time of the assignment.” (See definition of intended user.) The only way to accommodate adding an intended user after issuing a report would be in a new assignment.

2018-04: APPRAISAL DEVELOPMENT – CLIENT ISSUES

Assignment Conditions versus Client Conditions

Question: I agreed to perform a market value appraisal of a property with proposed improvements under the following client-imposed conditions:

- a. The appraiser must develop at least two approaches to value;
- b. The property must be appraised as if it had been completed per plans and specifications as of the date of inspection;
- c. The report must include photographs of abutting properties;
- d. The report must include an as-is market value for the subject property; and
- e. The report must be transmitted to the client within 30 days of the agreement to perform the appraisal.

I am unsure whether all of these are actual assignment conditions as defined in USPAP, and which may be client conditions only. Which, if any, of these conditions are assignment conditions?

Response: Assignment conditions are only those items that affect the appraiser’s scope of work. Therefore, only items a, b, and d are assignment conditions under USPAP.

2018-05: APPRAISAL DEVELOPMENT – EXTRAORDINARY ASSUMPTIONS AND HYPOTHETICAL CONDITIONS

Proposed Construction Employing an Extraordinary Assumption

Question: I have agreed to perform a market value appraisal of a property with proposed improvements. The assignment calls for a prospective appraisal with an effective date that is 120 days after the date the appraisal report is submitted. The client and I believe that the construction will have been completed and a certificate of occupancy issued prior to the effective date. What assumptions, extraordinary assumptions, or hypothetical conditions might apply to this assignment?

Response: In this case, there are extraordinary assumptions, but no hypothetical conditions. The extraordinary assumptions include the assumption that the construction will be complete and the certificate of occupancy issued on or before the effective date and the assumption that the construction will be completed in accordance with the plans and specifications that were provided to the appraiser.

2018-06: APPRAISAL DEVELOPMENT – EXTRAORDINARY ASSUMPTIONS AND HYPOTHETICAL CONDITIONS?

Can an Extraordinary Assumption be used without a Reasonable Basis?

Question: A client has asked me to appraise a property subject to the extraordinary assumption that it would be possible to obtain a lot split of the existing property. I have researched the marketplace and have been unable to find any properties where a lot split was granted. I have confirmed the property’s zoning, and it appears that a lot split would not be possible due to the minimum lot size required for a new lot. May I use an extraordinary assumption in this case?

Response: No. The Comment to Standards Rule 1-2(f) states that an extraordinary assumption may be used in an assignment only if the appraiser has a reasonable basis for the assumption. In this case, the appraiser has no reasonable basis.

2018-07: APPRAISAL REPORTING – CERTIFICATION AND SIGNATURES

Personal Property Appraisal Assignment Involving Multiple Appraisers

Question: I have been hired to coordinate the appraisal of personal property for a large estate. The project will involve four different appraisers. I will appraise the furniture, decorative arts, and residential contents but will subcontract with three other specialty appraisers to appraise the gems and jewelry, fine arts, and automobiles. What is the correct way to prepare the signed certification?

Response: The Comment to Standards Rule 8-3 states that appraisers with different specialties may accept responsibility for the parts of the appraisal that are specific to their specialty. USPAP does not prescribe a single correct way to prepare the certification. If the terms of the certification are identical (i.e., if all appraisers have inspected and if none have performed any services within the prior three years), one way to accomplish this would be to state a limitation by each appraiser's signature (e.g., John Doe for furniture, David Jones for automobiles). Another way to address this would be to include separate certifications from each of the appraisers beginning with language such as, "For the furniture in this appraisal, I certify that, to the best of my knowledge and belief..." Another option is for all appraisers to sign the certification and state in the report who worked on what.

Appraisers must remember that in addition to the certification requirement, the Comment to Standards Rule 8-3 states, "the role of each appraiser signing the certification must be disclosed in the report." Clear disclosure of each appraiser's role helps to ensure that the report is not misleading.

2018-08: APPRAISAL DEVELOPMENT – SUBJECT PROPERTY SALES HISTORY

Sales History in Fine and Decorative Arts Appraisal Assignment

Question: The executor of an estate has hired an appraiser to provide an opinion of value of the fine and decorative arts in the estate. No records of prior sales have been provided to the appraiser. What are the appraiser's obligations under USPAP regarding the prior sales?

Response: The appraiser must consider whether the analysis of information about prior sales is necessary for credible assignment results. If not, then such analysis is not required to be performed or reported. If the analysis of prior sales is necessary for credible assignment results and if such information is available to the appraiser in the normal course of business (e.g., if the property was sold at a public auction), the appraiser is required to analyze all prior sales of the subject property that occurred within a reasonable and applicable time period. For example, if the appraiser researches public sales and discovers that some of the paintings were purchased within the past few years, the summary to be included in the appraisal report for each of the paintings would likely consider whether the sales were arm's-length transactions and might also discuss the level of trade of the sale venues.

2018-09: APPRAISAL DEVELOPMENT – SUBJECT PROPERTY SALES HISTORY

Sales History in Machinery and Equipment Appraisal Assignment

Question: A personal property appraiser has been engaged to perform an orderly liquidation value appraisal of the inventory of a used farm equipment dealership that owns 50 vehicles. There are no agreements of sale, validated offers or third-party offers to sell, or options related to any of the subject properties current as of the effective date of the appraisal. The appraiser determines it is not necessary for credible assignment results to research and analyze the prior sales of each of the properties. What are the appraiser's obligations under USPAP regarding the prior sales?

Response: Because the analyses of the prior sales are not necessary for credible assignment results, analyses are not required to be performed or reported.

2018-10: APPRAISAL DEVELOPMENT – SCOPE OF WORK ISSUES

Can I Perform an Appraisal if the Property Inspection was done by Someone Else?

Question: A client has asked me to perform an appraisal, but instead of requiring me to physically inspect the subject, they will provide me with the results of an inspection of the property done by someone else. Does USPAP allow this?

Response: Yes. USPAP does not require an appraiser to inspect the subject per the SCOPE OF WORK RULE. However, while an inspection is not required, appraisal reports for real and personal property must contain a signed certification which clearly states whether or not the appraiser personally inspected the subject.

Standards Rule 1-2(e) requires an appraiser to identify the characteristics of the property that are relevant to the type and definition of value and the intended use of the appraisal, including its legal and economic attributes. An appraiser may use any combination of property inspection, plans and specifications, public records, engineering reports, photographs, etc., to gather information about the relevant characteristics of the subject property.

Standards Rule 1-1(b) requires that an appraiser not commit a substantial error of omission or commission that significantly affects an appraisal. Therefore, the appraiser has to have a reasonable basis to believe the information provided by the client is credible. Furthermore, an appraiser must not allow assignment conditions to limit the scope of work to such a degree that the assignment results are not credible in the context of the intended use. If an appraiser determines that the only way to meet these criteria is by inspecting the property themselves, they must either discuss changing the scope of work with the client, or withdraw from the assignment.

Additional guidance about inspecting properties can be found in Advisory Opinion 2, *Inspection of Subject Property*, Advisory Opinion 23, *Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment*, and Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure*.

2018-11: APPRAISAL REPORTING – CERTIFICATION AND SIGNATURES

Does USPAP Require Disclosure of Assistance by a Non-Appraiser?

Question: A client has asked me to perform an appraisal, but instead of requiring me to physically inspect the subject, they will provide me with the results of an inspection of the property done by someone else. Does USPAP require me to disclose this person's name as having provided significant appraisal assistance and describe the assistance they provided?

Response: Generally, no. If the information provided in the inspection only includes *factual data* regarding the subject, professional assistance has not been provided. However, if the appraiser relies upon opinions and conclusions of the inspector regarding quality, condition and/or functional utility, this is professional assistance. In that case, yes, you must disclose the inspector's identity, if the individual performing the assistance is an appraiser, and describe the assistance they provided. It is a misconception that non-appraisers who provide assistance must be identified in the certification. The certification requirements in USPAP apply only to appraisers.

If disclosure is not required because an individual providing information is not an appraiser, the appraiser relying on such information still has obligations pertaining to the information used. First, it's important to remember that the appraiser signing the certification is taking full responsibility for the appraisal. The Comment to Standards Rule 2-3 states, in part:

In an assignment that includes only assignment results developed by the real property appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report.

Second, the appraiser has to have a reasonable basis to believe the information provided by others is credible. The Comment to SR 2-3 also states, in part:

When a signing appraiser(s) has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser(s) is required to have a

reasonable basis for believing that those individuals performing the work are competent. The signing appraiser(s) also must have no reason to doubt that the work of those individuals is credible.

Standard Rule 1-2(e), one of the first steps in the development of an appraisal, requires the appraiser to identify the relevant characteristics of the property. If the scope of work requires that the appraiser consider physical aspects that they would not already know without inspecting the property, the source and accuracy of this information becomes critically important.

At the present time USPAP neither requires nor prohibits the disclosure of the name of a non-appraiser inspector or the source of the inspection data. However, the ASB is examining whether USPAP should include such a requirement. The practice of using non-appraisers to perform an inspection is one example of an issue that the ASB will consider because USPAP is a “living document” that takes into account changes in the marketplace.

Revision of Previously Published (2018-12) Q&A:

In January 2018, the ASB published Q&A 2018-12, *Employing an Extraordinary Assumption when a Client Provides Inspection Data*. The original Q&A was retracted shortly after publication, and has been revised to more clearly convey the ASB’s guidance. The revised Q&A appears below.

2018-12: APPRAISAL DEVELOPMENT – EXTRAORDINARY ASSUMPTIONS AND HYPOTHETICAL CONDITIONS (revised 3/29/18)

Employing an Extraordinary Assumption when a Client Provides Inspection Data

Question: A client has asked me to perform an appraisal, but instead of requiring me to physically inspect the subject property, they will provide me with the results of an inspection done by someone else. If I rely upon that inspection, should I employ an extraordinary assumption?

Response: The answer to this question is dependent upon the appraiser’s judgment about the reliability and completeness of the information contained in the client-provided inspection report.

The Comment to Standards Rule 1-2(e) states, in part:

The information used by an appraiser to identify the property characteristics must be from sources the appraiser reasonably believes are reliable.

If the appraiser determines that the information contained in the inspection report is reliable and sufficient to allow the appraiser to identify the property characteristics and develop credible assignment results, then an extraordinary assumption would not be necessary.

However, Advisory Opinion 2, *Inspection of Subject Property*, contains the following advice:

The appraiser must ensure that the degree of inspection is adequate to develop a credible appraisal. An appraiser cannot develop a credible appraisal if adequate information about the relevant characteristics of the subject property is not available. When adequate information about relevant characteristics is not available through a personal inspection or from sources the appraiser believes are reliable, an appraiser must withdraw from the assignment unless the appraiser can:

- *modify the assignment conditions to expand the scope of work to include gathering the necessary information; or*
- *use an extraordinary assumption about such information, if credible assignment results can still be developed.*

An extraordinary assumption is an **assignment-specific assumption** that is made when an appraiser must rely upon uncertain information. The Comment to the USPAP definition of extraordinary assumption explains that: *Uncertain information might include physical, legal, or economic characteristics of the subject property; or conditions external to the property, such as market conditions or trends; or the integrity of data used in an analysis.*

If the appraiser determines that the client-provided inspection data is not adequate to identify the property characteristics or if the appraiser believes that the data source is not reliable, the appraiser has three choices:

- (1) expand the scope of work to include gathering the necessary information, a process that might include, for example, discussion with the property inspector, personal inspection by the appraiser, or research from other data sources;
- (2) use an extraordinary assumption about such information if credible assignment results can still be developed; or
- (3) withdraw from the assignment.

2018-13: APPRAISAL REPORTING – CERTIFICATIONS AND SIGNATURES

Signing and Labeling of Supplemental Certifications

Question: I am using an appraisal form that has an appraiser’s certification which cannot be altered. The certification does not include USPAP’s required disclosure on whether I performed any services on the property in the three years prior to the assignment. May I simply add such a statement elsewhere in the report, outside of the certification?

Response: No. Simply adding information in the body of a report is not the same as a signed certification. Any supplemental certification should be clearly identified, and it must be signed as required by Standards Rule 2-3.

USPAP does not require the report to be signed; it requires a signed certification. USPAP acknowledges that signatures may appear elsewhere in the report, and if so, per the Comment to Standards Rule 2-3, any party signing elsewhere must also sign the certification.

While USPAP does not require labeling the certification with that specific term, the certification must be similar in content to the language in USPAP’s Standards Rule 2-3, which starts with “I hereby certify that...” The Comment to Standards Rule 2-3 states that a “signed certification” is an integral part of the report, but it is a clearly differentiated part of the report. For example, it may be difficult for an appraiser to defend a statement on page 18 of an appraisal report as being a “signed certification” when the only signature is on page 6 below a list of items clearly labeled an Appraiser’s Certification.

The USPAP Q&A is posted on The Appraisal Foundation website (www.appraisalfoundation.org). The ASB compiles the USPAP Q&A into the USPAP Frequently Asked Questions (USPAP FAQ) for publication with each edition of USPAP. In addition to incorporating the most recent questions and responses issued by the ASB, the USPAP FAQ is reviewed and updated to ensure that it represents the most recent guidance from the ASB. The USPAP Frequently Asked Questions can be purchased (along with USPAP and USPAP Advisory Opinions) by visiting the “Foundation Store” page on The Appraisal Foundation website.

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.

Jeme Avent A5202 (Clayton)

By consent, the Board issued a reprimand to Ms. Avent effective December 1, 2017. Ms. Avent also agreed to complete a class in highest and best use and the 15 hour National USPAP class. If she fails to complete both classes by March 31, 2018, this reprimand will be vacated and a one month active suspension will be imposed as of that date. Ms. Avent performed an appraisal of a property located in Louisburg, North Carolina effective June 14, 2016, finding a value of \$125,000. The subject property is a two story home that contains 2300 square feet. In the report, Ms. Avent Respondent stated that the highest and best use for the property was "present use" and that the property was in legal compliance with zoning. On the effective date of the appraisal, the second floor of the subject was rented for \$400.00 per month. This unit had a bathroom, kitchen, living room, and bedroom and was separately metered for electricity and gas. This unit was not mentioned or described in the appraisal report. She did not analyze its effect on the value of the subject property, and failed to properly determine its highest and best use. In her appraisal report, Ms. Avent did not reconcile the sales approach nor was there a final reconciliation of value.

Michel Beaudoin A6067 (Conover)

By consent, the Board suspended Mr. Beaudoin's residential certification for a period of six months. The suspension is stayed until September 1, 2018. If he completes the 30 hour Residential Sales Comparison & Income Approach class by September 1, 2018, the suspension will be inactive. If he fails to do so, the suspension will become active on September 1, 2018 and shall continue until he completes the class. Mr. Beaudoin performed an appraisal of a property located in Hickory, North Carolina effective January 25, 2017. The subject is a 127 year old 1.5 story detached home containing 3950 square feet that is located in an historic district. It was under contract for \$560,000 on the effective date of the appraisal. Mr. Beaudoin valued the subject at \$560,000. Four of his five comparable sales sold for \$355,000 to \$580,000. The other comparable sale sold for \$999,900. He also included two active listings at \$439,000 and \$539,000. Excluding the property that sold for \$999,900, his indicated values for the subject were from \$442,618 to \$486,629. The active listings adjusted to \$487,618 and \$481,615. The comparable sale most similar to the subject, with a net adjustment of negative \$371, was located 0.17 mile from the subject and sold for

\$487,000. Mr. Beaudoin gave most weight to the property that sold for \$999,900. There was no reason to use the property that sold for \$999,900, as his other comparable sales were similar to the subject and most were located in the historic district like the subject.

Eugene C. Meyer A4777 (Garner)

By consent, the Board issued a reprimand to Mr. Meyer effective July 1, 2017. Mr. Meyer also agreed to complete a class in sales comparison by October 1, 2017. If he fails to do so, this reprimand will be vacated and a one month suspension imposed as of that date. Mr. Meyer performed an appraisal of a property located in Fayetteville, North Carolina. He originally valued the subject at \$208,400 effective October 5, 2016, based on an exterior inspection of the subject. He later performed an interior inspection and issued another report effective October 14, 2016 that valued the property at \$220,000. The subject is a 2,302 square foot one and a half story dwelling with four bedrooms and three and a half bathrooms. One of the comparable sales used in both reports was reported as a 2,294 square foot two story dwelling with no basement. This property actually had 1,792 square feet above ground and a 1,475 square foot

finished basement. Another sale had a pool, which was not mentioned in the report. Mr. Meyer described the condition of the subject as C3, stating that there have been no updates within the past 15 years. Two years prior to the appraisal, a new full bathroom was added on the second floor and there were numerous other updates to the subject. These updates were not mentioned in the report.

**Kathleen M. Seligson A5996
(Chapel Hill)**

By consent, the Board suspended Ms. Seligson's residential certification for a period of three months effective July 1, 2017. The suspension is stayed until March 1, 2018, provided that the Ms. Seligson completes the 15 hour National USPAP class, a class in appraiser liability, and a class in sales comparison by that date. In addition, she must take and pass the state certified residential examination by that date. The hours from these courses may not be used for Respondent's continuing education requirement. Ms. Seligson performed an appraisal of a property located in Burlington, North Carolina. She originally valued the subject at \$150,000 effective April 27, 2016. She later issued another report with the same effective date that valued the property at \$235,000. The subject is a 2887 square foot

brick 1.5 story built in 1939 and situated on a 18,861 square foot lot in a historic district of a small town. In the original appraisal report, the subject condition was rated as C4 with no updates in the prior 15 years. The owner was not available at the time of Respondent's inspection of the house. On his return he provided specific information about various updates. As a result, Ms. Seligson prepared a revised report in which she changed the condition rating from C4 to C3. She did not adequately explain in the report why she changed the condition rating. Ms. Seligson used five closed sales, four of which she noted to be private sales. Data for the sales price and square footage of these four sales was obtained online, and she utilized an extraordinary assumption regarding condition and terms of sale for these comparables without a conspicuous disclosure or indication as to how the assumption affected the assignment results. In the original report, Ms. Seligson noted the prior sale of the subject as \$95,000, with the data sources being MLS and public records. She revised her report stating that the sales price was \$190,000, with her data sources stated as the owner and public records. The owner indicated that following his mother's death he and his sister each had one-half interest in the

house and that the \$95,000 transfer represented payment for his sister's half interest in the house. Ms. Seligson concluded that the \$95,000 transfer was thus the equivalent of a \$190,000 sale. This was not adequately explained in the report. In the final report, Ms. Seligson changed the value from \$150,000 to \$235,000. She stated in this report that the change in the prior sales price for the subject was crucial in the formation of her value. She also changed the condition rating of one of her sales from C3 to C5, based on information obtained from the property owner who heard it from another person. This information could not be verified. As a result of the changes in condition ratings, her adjustments changed and the value was significantly increased. In the first report, Ms. Seligson indicated a value by the cost approach of \$157,992. In the final report, the indicated value by the cost approach increased to \$229,291. She increased the site value from \$7,000 to \$15,000, and increased the replacement cost of the dwelling from \$85 to \$115. Although she did not rely on the cost approach in valuing the subject, there was no support for this increase in value in the cost approach.

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