

# NORTH CAROLINA APPRAISAL BOARD

# APPRAISER REPORT

Volume 11

Summer 2001

Number 3

## The Gramm-Leach-Bliley Act

The Gramm-Leach-Bliley Act (GLB) became effective on July 1, 2001. This new federal law has far-reaching effects on the way financial institutions and appraisers will do business. This article attempts to address through a questions and answers format, the new law and implications for appraisers.

### A. What is the Gramm-Leach-Bliley Act?

On November 12, 1999, the Gramm-Leach-Bliley Act (hereinafter the GLB) was signed into law. The purpose of the act was to protect customers and consumers of financial institutions from the disclosure of nonpublic personal information without their consent. Nonpublic personal information is defined as any information collected, either directly or indirectly, from the customer or consumer when providing a financial product or service. Consumers are defined as non-lenders who obtain a financial product or service from an institution. Customers are defined as consumers who maintain a continuing relationship with the financial institution (hereinafter the term "clients" will be used when referring to both consumers and customers).

Under the GLB, financial institutions are required to implement privacy policies and to disclose them annually to all of their customers. In addition, their clients must be given the choice to "opt-out" of any marketing agreements an institution might have with any non-affiliated third parties. For example their clients must first be notified and provided with the opportunity to say 'no' before their private financial information can be sold to telemarketers or credit card lenders. However, financial institutions may still share the private information with affiliates within a holding company without the customers' consent. In other words the information can still be shared internally.

The Federal Trade Commission has adopted regulations to implement the GLB, which officially went into effect on July 1, 2001. These regulations are set out in the Federal Trade Commission, Privacy of Consumer Financial Information; Final Rule, 16 CFR Part 313 (hereinafter referred to as the "FTC Privacy Rule"). Although the rule clearly defines appraisers as financial institutions, who fall under the Act's requirements, the disclosure obligations of an appraiser vary depending on the status of the client contracting for the appraisal.

### B. What if my Client is a Lender?

Technically, appraisers who deliver services through a bank are not covered by the GLB since no direct client relationship has been developed. The lender will be required to provide their client with the appropriate disclosure notice with the mandatory opt-out provision, and must inform the appraiser of any privacy related restrictions on information provided to the appraiser in relation to the FTC Privacy Rule and the GLB Act. The lender should also specify any information where their clients have elected to exercise their opt-out rights, or where they have not yet indicated their opt-out decision. The appraiser must assume the responsibility of ensuring that the bank acted in accordance with the rules. The appraiser should also note which information has been marked as public, non-public/private, and where opt-out provisions apply.

### C. What if my Client is not a lender?

If a non-lender contracts directly with an appraiser, the appraiser clearly falls within the GLB and must conform to all requirements of the FTC Privacy Rule. Real estate

## Appraisers Act Amended

### Law for Mortgage Bankers and Mortgage Brokers Also Changed

The 2001 General Assembly amended the North Carolina Appraisers Act and the state statutes that govern the registration of mortgage bankers and brokers by approving a bill sponsored by Senator David Hoyle.

The changes in mortgage banker and broker law will prohibit mortgage bankers and brokers from influencing or attempting to influence through coercion, extortion, or bribery the development, reporting, result, or review of an appraisal. The amendment also prohibits mortgage bankers and brokers from failing to pay promptly when due for appraisal services requested in writing and performed for a mortgage loan. The North Carolina Office of the Commissioner of Banks will enforce these changes.

Changes to the Appraisers Act include: (1) an increase in the temporary practice permit fee for out-of-state appraisers from \$50 to \$150, (2) authority for the Board to more closely scrutinize an applicant's fitness for licensure (including any acts involving moral turpitude or disciplinary actions by another licensing board) and to discipline an appraiser for performing duties while impaired by drugs or alcohol, (3) a requirement that appraisers report criminal convictions, civil judgments, disciplinary actions, and findings of mental incompetence to the Board within 60 days of the final judgment (See "Appraisers Must Report Character Matters") (4) a statutory clarification that all activities of a trainee must be under supervision and that the supervisor must sign and accept

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# 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

**Mailing Address:**  
P.O. Box 20500

Raleigh, North Carolina 27619-0500

**Street Address:**  
3900 Barrett Drive, Suite 101  
Raleigh, North Carolina 27609  
Phone: 919/420-7920  
Fax: 919/420-7925

**Website:**  
www.ncappraisalboard.org

**Email Address:**  
ncab@ncab.org

Michael F. Easley, Governor

### APPRAISAL BOARD MEMBERS

Henry E. Faircloth  
Chairman .....Salemburg  
Bart Bryson  
Vice-Chairman .....Hendersonville  
Charles G. Bass .....Raleigh  
Bruce W. DesChamps .....Wilmington  
Jack O. Horton .....Elizabeth City  
E. Ossie Smith .....Oxford  
J. Vance Thompson .....Elkin

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Mel Black, *Executive Director*  
Roberta A. Ouellette, *Legal Counsel*  
John K. Weaver, *Deputy Director*  
Matthew W. Green, *Investigator*  
Donald T. Rodgers, *Investigator*  
Lynn P. Crawford, *Appraiser Secretary*  
Kim N. Giannattasio, *Administrative Assistant*  
Elizabeth M. Caudill, *Appraiser Clerk*  
Brian R. Miller, *Legal Intern*

### APPRAISER COUNT

(As of September 10, 2001)

Trainees .....	891
Licensed Residential .....	227
Certified Residential.....	1597
Certified General.....	820
Total Number .....	3535

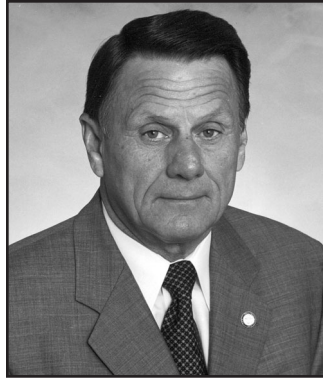
### APPRAISER EXAMINATION RESULTS

May, June, and July 2001

Examination	Total	Passed	Failed
Trainees	89	64	25
Licensed Residential	15	14	1
Certified Residential	37	31	6
Certified General	7	6	1

Examinations are administered by a national testing service. For information, please contact the North Carolina Appraisal Board in writing at Post Office Box 20500, Raleigh, North Carolina 27619-0500.

# Board Elects Officers



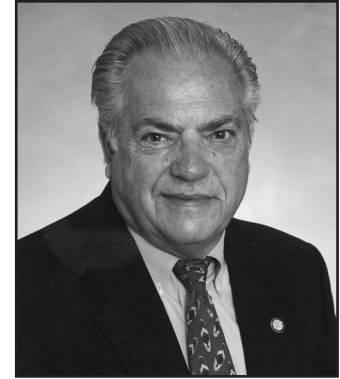
**Henry E. Faircloth**  
Chairman

**Henry E. Faircloth** of Salemburg has been elected Chairman of the Appraisal Board for the Board's fiscal year of July 1, 2001 to June 30, 2002. This election marks the third time that Mr. Faircloth has been chosen by the members of the Board to serve the Board as Chairman. He previously led the Board as Chairman in the Board's second year as an autonomous agency in 1995-1996 and then was elected by the members to serve as Chairman again in 1998-1999.

Mr. Faircloth has continuously been a member of the Board since he was first appointed on July 1, 1991 and is currently serving a three-year term set to expire June 30, 2002. Mr. Faircloth is the Board's only public member, as required by state statute, and has been appointed each time upon the recommendation of the President Pro Tempore of the North Carolina Senate.

Mr. Faircloth has been a building contractor for nearly three decades. He has been very active in both civic and community affairs over the years in Sampson County, serving on various boards, committees and advisory councils.

Mr. Faircloth and his wife, Faye, have one son and two grandsons. □



**Bart Bryson**  
Vice-Chairman

**Bart Bryson** of Hendersonville has been elected Vice-Chairman of the Appraisal Board for 2001-2002. Speaker of the House of Representatives, James B. Black, appointed Mr. Bryson to the Board in 1999 to serve a term that expires June 30, 2002.

A State Certified-General appraiser, Mr. Bryson worked eleven years with the North Carolina Department of Transportation Appraisal Department in Asheville. He currently heads Bryson & Associates in Hendersonville and has since 1970. He also holds a real estate brokers license in North Carolina and South Carolina.

Mr. Bryson earned his bachelor degree from Western Carolina University. He earned his MAI designation in 1969, his SRA designation in 1967, and has been an instructor of real estate and appraisal courses at the university and community college levels.

Mr. Bryson served on the North Carolina Real Estate Commission from 1979 to 1985; serving as Chairman from 1983 to 1984. He has also served as president of The Appraisal Institute, Chapter 40, the Society of Real Estate Appraisers, and the Hendersonville Board of Realtors.

Mr. Bryson and his wife, Joyce, have one son, Byron. □

# Gramm-Leach-Bliley Act

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appraisers must provide non-lenders with an initial disclosure notice and opt-out provision if they choose to release “non-public personal information.” Also, if that non-lender is a customer -once again defined as a consumer with a continuing relationship- then the appraiser will be required to provide an annual disclosure notice in addition to the initial disclosure notice and opt-out provision.

## D. What Constitutes Non-Public Personal Information for an Appraiser?

The best way to understand what is “non-public personal information” is to first define “publicly available.” Information is deemed “publicly available” if a real estate appraiser has a reasonable basis to believe that the information is lawfully made available to the general public from:

- official public records (i.e. deeds or security interest filings);
- widely distributed media (i.e. telephone book, television, radio, or newspapers);
- required Federal, State, or local government disclosures (i.e. securities disclosure documents or HUD settlement statements).

Appraisers are considered to have a reasonable basis for believing that information is made lawfully available to the public if they have, 1) taken steps to ensure that the information is available, and 2) have determined whether a non-lender has a right to restrict such information to the general public, and, if so, whether a non-lender has elected to do so. If appraisers have taken these steps they may disclose the information.

Next an appraiser must understand what is meant by “personally identifiable.” “Personally identifiable financial information” includes:

- Information that a client provides to an appraiser in order to obtain a financial product or service,
- Information resulting from a transaction between a client and an appraiser involving a financial product or service,
- Information that an appraiser otherwise obtains in connection with providing a client with a financial product or service.

“Personally identifiable financial information” *does not* include:

- A list of names and addresses of clients of an entity that is not a finan-

cial institution.

- Information that does not identify the client (i.e. aggregate information or blind data that does not contain personal identifiers such as account numbers, names, or addresses.)

Finally, “non public personal information” would include any list, description, or other grouping of clients (and publicly available information pertaining to them) that is derived using other than publicly available information.

## E. Is an Appraiser Always Required to Provide the Disclosure Notice?

The general rule is that an appraiser must provide a disclosure notice and an opt-out provision whenever releasing nonpublic personal information, but some exceptions have developed. Appraisers are not required to provide an opt-out provision if their disclosure of the information is made pursuant to a contract for Service Providers or Joint Marketing. Also, a notice is not required if the appraiser only discloses nonpublic personal information necessary to effect a transaction authorized by the client. Unfortunately, the FTC fails to state what information may be considered necessary to complete a transaction, so appraisers must use their discretion. Whenever in doubt, the best policy would be to offer the client a disclosure notice and opt-out provision.

## F. What Should the Disclosure Notice Contain?

There are no standard forms that will assist everyone in the completion of the disclosure form. The FTC requires each financial institution to tailor its form in accordance with its own rules and policies regarding non-public personal information, which for appraisers would obviously be USPAP. However, it is important to realize that while USPAP defines confidential information as: information received from a client, not available from any other source, which the client identifies as confidential when providing it to an appraiser; the GLB does not require that the client make such an identification. According to the GLB, regardless of whether the client mentions nonpublic personal information as confidential, it should be treated as such. In this instance the GLB is stricter than USPAP, and the GLB will apply.

All disclosure notices should be clear and conspicuous. The notices may either be delivered by hand, by mail, or if a client conducts transactions electronically, then through e-mail. Nine points must

be covered in a disclosure form:

- 1) the categories of nonpublic personal information that are collected;
- 2) the categories of nonpublic personal information that are disclosed;
- 3) the categories of affiliated and non-affiliated third parties (unless an exception applies) to whom nonpublic personal information is disclosed;
- 4) the categories of nonpublic personal information disclosed about former customers, and to whom it is disclosed;
- 5) if nonpublic personal information is disclosed to a nonaffiliated third party who provides services or function on behalf of the business, the categories of information used must be disclosed as well as the categories of nonaffiliated third parties with whom the third party has contracted;
- 6) an explanation of the consumer’s right to opt out of the disclosure of nonpublic personal information to nonaffiliated parties and how the consumer may exercise that right;
- 7) any disclosure required under the Fair Credit Reporting Act relating to the ability of a consumer to opt out of the disclosure of personal information to affiliated parties;
- 8) the policies and practices followed to protect the confidentiality and security of the nonpublic personal information collected; and
- 9) notice of any disclosure of nonpublic personal information permitted under the exceptions contained in the regulations.

These may not be the only items that need to be covered in a disclosure form. For more specific instructions it is suggested that an appraiser seek legal counsel.

## G. What Should an “Opt-Out Provision” Contain?

An opt-out provision should clearly and conspicuously state that an appraiser reserves the right to disclose nonpublic personal information about his or her client to a nonaffiliated third party, and that the consumer has a right to opt-out of that disclosure. The provision should be sent to the client via hand delivery, mail, or by e-mail (if that is the client’s preferred medium). The provision should also suggest a reasonable means for clients to inform the appraiser of their intent to exercise their opt-out rights. Such means typically include mail, e-mail, or a toll-free telephone number.

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## Gramm-Leach-Bliley Act

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### H. Summary

The GLB became effective July 1, 2001 and appraisers need to make themselves familiar with the bill, since it does include them as financial institutions. Appraisers will only be affected by the GLB when their clients are non-lenders as opposed to lenders. To satisfy the GLB, appraisers must provide non-lender clients with a disclosure notice along with an opt-out provision that suggests a reasonable means for a client to pursue his rights. Although appraisers do not fall under the GLB when their client is a lender, they should still take the necessary steps to ensure that the Bank has complied with the Bill. To answer any technical questions that apply to the GLB, an appraiser should seek legal counsel.

To learn more about the GLB, read "The Appraisal Foundation White Paper: Privacy Regulation and the Appraiser" found at <https://www.appraisalfoundation.org/ASBPrivacyGuidance.pdf>. □

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## Appraisers Act Amended

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shared responsibility for the appraisal report (5) protection for appraisers under investigation by the Board from third parties who wish to obtain documents related to the investigation before the documents are entered into evidence (6) authority for the Board to purchase office space, (7) the ability to change state qualification requirements as federal guidelines change, (8) a limit of three of the seven Board members who are members of the same appraiser trade organization, (9) the proscription of appraising of any real property in North Carolina without a license, and (10) codification of the Board's policy of providing a limited exception from licensure requirements for real estate agents performing a comparative market analysis.

For the full text of the bill go to: <http://www.ncga.state.nc.us/> and search for "s1066." □

## APPRAISAL BOARD WEBSITE

The Board has a new website.

Please visit us at:

[www.ncappraisalboard.org](http://www.ncappraisalboard.org)

# Appraisers Must Report Character Matters

Individuals applying for licensure have been required to answer certain questions that disclose matters related to their character and fitness for licensure. With the recent change to the Appraisers Act, all appraisers and trainees now have a duty to report certain matters that arise after they have been registered, licensed, or certified.

Beginning October 1, 2001, appraisers and trainees must report the matters below to the Board within 60 days of the final judgment or order in the case. Only matters that reach their final judgment or order on or after October 1, 2001 must be reported. Appraisers and trainees are not required to report matters that were finalized prior to this date.

**Criminal Matters**-Appraisers and trainees must report all matters where the appraiser or trainee was convicted of or entered a plea of guilty or no contest to a criminal offense. This includes matters in North Carolina and in any other state. Convictions or guilty pleas on charges of driving while intoxicated or while under the influence of alcohol or drugs must be reported. Appraisers and trainees are not required to report speeding convictions and parking citations.

**Civil Judgments**-Appraisers and trainees must report civil judgments that have been entered against them on the grounds of fraud, misrepresentation, or deceit in the making of any appraisal of real estate.

**Appraiser Disciplinary Actions in Other Jurisdictions** -Appraisers and trainees must report disciplinary actions against their appraiser registration, license, or certificate in another state.

**Disciplinary Actions in Other Professions** - Appraisers and trainees must report any disciplinary action taken against any other professional license in North Carolina or any other state.

**Mental Incompetence** - Appraisers and trainees must report if they are adjudged mentally incompetent by a court.

Instances of the above matters must be reported to the Board in writing with a copy of the final judgment or order attached. Any questions on the reporting format should be directed to the Board's Legal Counsel. □

## N.C. Historically Underutilized Business (HUB) Program

Within the state of North Carolina, Executive Order 150 is designed to increase the amount of goods and services acquired by the state from businesses owned by HUBs; to ensure the absence of barriers that reduce their participation; and to encourage purchasing officers within State agencies, departments and universities to identify prospective HUB vendors and service providers. The order also creates the Office of Historically Underutilized Businesses (HUB Office) to serve as an advocate for minority, women and disabled-owned businesses in their efforts to conduct business with the State of North Carolina.

Historically Underutilized Businesses (HUBs) consist of minority, women and disabled business firms that are at least fifty-one per cent owned and operated by individual(s) of the aforementioned categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled.

If your firm qualifies as a HUB based on the information in this announcement and provides services such as real estate appraisal, survey and/or environmental studies, the State Property Office requests that you contact June W. Michaux of the State Property Office at 919-733-4346 or Bridget L. Wall of the HUB Office at 919-807-2330.

The State Property Office (SPO) would also like to inform you that if you are a HUB and own property and/or your firm manages property, the SPO places requests for proposals to lease space in a newspaper of general circulation in the location where the space is needed. The SPO welcomes your participation in the bidding process. □

# Approved Continuing Education Courses

(As of August 31, 2001)

Listed below are the courses approved for appraiser continuing education credit as of date shown above. Course sponsors are listed alphabetically with their approved courses. Shown parenthetically beside each course title are sets of numbers [for example: (15/10)]. The first number indicates the number of actual classroom hours and the second number indicates the number of approved continuing education credit hours. You must contact the course sponsor at the address or telephone number provided to obtain information regarding course schedules and locations.

## ALAMANCE COMMUNITY COLLEGE

P.O. Box 8000  
Graham, NC 27253 (336)578-2002

Appraising Small Residential Income Prop (10/10)  
Construction Methods I: Print Reading (5/5)  
Construction Methods II: Foundations & Masonry (5/5)  
Ethical Principles of Appraisal I (4/4)  
Intro to Commercial Real Estate (4/4)  
New Exstg Residential Codes Affecting RE Appr (10/10)  
Real Estate Finance (4/4)

## ALLSTATE HOME INSPECTION TRAINING INSTITUTE

Route 1, Box 130  
Randolph Center, VT 05061 (800)245-9932

Environmental Awareness Seminar (8/8)  
FHA Test Preparation (8/8)  
Introduction to Home Inspection (8/8)  
USPAP Refresher (8/8)

## AM SOC FARM MANGRS & RURAL APPR

950 S. Cherry Street, Suite 508  
Denver, CO 80222 (303)758-3513

A-12 (II) Nat USPAP (15/15)  
A-12 Part I ASFMRA Code of Ethics (7/7)  
Adv Appraisal Review A-35 (49/30)  
Advanced Resource Appraisal A-34 (30/30)  
Appraising Rural Residential Property (16/14.5)  
Conservation Easement (16/16)  
Fed Land Exchng & Acqstn: App (18.5/18.5)  
Fractional Interests (16/16)  
Highest & Best Use A-29 (15/15)  
Rural Business Valuation Seminar (16/16)  
Timber & Timberland Value (16/16)  
Uniform Agriculture App Report (15/15)

## AMERICAN SOCIETY OF APPR (THE)

535 Herndon Parkway, Suite 150  
Herndon, VA 22070 (703)478-2228

SE100: National USPAP (15/14)

## AM SOCIETY OF APPRAISERS NC CHAPTER

605 NC Highway 54 West  
Chapel Hill, NC 27516 (919)967-3338

SE100 USPAP (15/15)

## AMERICAN SCHOOL OF RE APPR

P.O. Box 275  
Cherryville, NC 28021 (704)435-1111

Current Issues & Problem Solving (14/14)  
Today's Analysis of Residential Appr (10/10)  
USPAP (15/15)

## APPRAISAL ACADEMY (THE)

3802 North University Street  
Peoria, IL 61614 (309)681-8100

Adj, The Appraisal & The Underwriter (4/4)  
Atmtd or Streamlined Underwriting (4/4)  
Onsite Observation & Reporting Req F (4/4)  
Tough Residential Assignments (4/4)

## APPRAISAL INSTITUTE

c/o AMA, 950 S. Cherry Street, Suite 508  
Denver, CO 80246 (303)758-3513

320 General Applications (39/30)  
410 National USPAP (16/16)  
420 SPPB (7/7)  
430C Standards of Prof Practice - Part C (15/15)  
500 Adv Residential Form & Narrative Writing (40/30)  
520 High & Best Use & Market Analysis (40/30)  
530 Adv Sales Comp & Cost Approach (40/30)  
600 Inc Val of Small Mixed-Use Prop (15/15)

610 Cost Val of Small Mixed-Use Prop (15/15)  
620 Sales Comp Val Small Mixed-Use Prop (15/15)  
705 Litigation Appr: Specialized Topics (16/16)  
710 Condemnation Appr: Basic Prin & Apps (15/15)  
720 Condemnation Appr: Adv Topics & Apps (15/15)  
Gen Demo Appraisal Rpt Writing Seminar (14/14)  
Residential Demo Appraisal Rpt Writing Seminar (14/14)

## APPRAISAL INSTITUTE, NC CHAPTER

2306 W. Meadowview Road, Suite 101  
Greensboro, NC 27407 (336)297-9511

RE Fraud: Appr Rspnsblts & Lblt (7/7)  
State of the Valuation Profess (4/4)

## ASHEVILLE-BUNCOMBE TECH CC

340 Victoria Road  
Asheville, NC 28801 (828)254-1921

PDH RE - Basic Surveying (5/5)  
Residential Building Code Changes in NC (5/5)  
The UDO: Regulating RE Use & Dev (4/4)  
USPAP 2001 (15/15)

## CCIM INSTITUTE

430 N Michigan Avenue, 8th Floor  
Chicago, IL 60611-4092 (312)321-4473

C1101 Fin Analysis Comm Invest (30/30)  
C1102 Market Analysis Comm In (30/30)  
C1103 User Decision Analysis Comm (30/30)  
C1104 Invest analysis Comm Inv (30/30)  
Intro to Com Investment RE An (12/12)

## CENTRAL PIEDMONT COMMUNITY COLLEGE

P.O. Box 35009  
Charlotte, NC 28235 (704)330-6493

Challenging the Appraisal (4/4)  
Maximizing Value (4/4)

## COLLEGE OF THE ALBEMARLE

P.O. Box 2327  
Elizabeth City, NC 27906-2327 (252)335-0821

Residential Sales Comp Approach & Ef (14/14)  
The Tough Ones: Complex Residential Prop (14/14)  
The Uniform Standards Today (14/14)

## DAN MOHR RE SCHOOLS

1400 Battleground Avenue, Suite 150  
Greensboro, NC 27408 (336)274-9994

Depreciation Workshop (7/7)  
Environmental Hazards-Residential Prop (7/7)  
Extraction of Data from Market Res (7/7)  
HP 12C Course (7/7)  
Intro to Residential Construction (30/30)  
Res Appr & Conventional Underwriting Guide (7/7)  
Residential Construction Seminar (14/14)  
Rules & Regs FHA/HUD Requirements (14/14)  
The Narrative Appraisal Report (7/7)  
Using Streamlined Appraisal Report Forms (7/7)  
USPAP 2001 (15/15)

## DENNIS BADGER & ASSOC., INC.

P.O. Box 23220  
Lexington, KY 40523 (859)252-3445

Mfg Housing Appraisal as Appls to RE (7/7)

## DUKE UNIVERSITY

A108B LSRC/Box 90328  
Durham, NC 27708 (919)684-2135

What's it worth - Forest Appraisal (36/30)

## EAST CAROLINA UNIVERSITY

School of Business 1200 Gen Classroom  
Greenville, NC 27858-4353 (252)328-6377

Appraisal 2001 (7/7)  
USPAP 2001 (7/7)

## EDGECOMBE CC

225 Tarboro Street  
Rocky Mount, NC 27801 (252)446-0436

Appraising Mfg, Mod & Mobile (A) (7/7)  
Appraising Mfg, Mod & Mobile (B) (7/7)  
Mfg Modular & Mobile (4/4)  
Narrative Appraisal Report Writing (14/14)  
Pricing Small Income Properties (4/4)  
Principles & Tech Val 2-4 Units Res Prop (14/14)  
RE Finance for Appraisers (14/14)  
Rural Valuation Seminar (14/14)  
Single Family Residential App (14/14)  
Standards of Professional Practice (15/15)  
USPAP & NC Board Rules & Regs Fo (15/15)

## FREDDIE F. STELL APPRAISAL SCHOOL

2121 Guess Road  
Durham, NC 27705 (919)416-1117

Fannie Mae Underwriting Guidelines (7/7)  
Questions & Answers on Appr (7/7)  
Res/Invstmnt/Com/Indstrl Forms (10.5/10.5)  
The Site Inspection (7.5/7.5)

## FYI SEMINARS LLC

P.O. Box 50201  
Columbia, SC 29250 (803)787-7075

Square Footage Calculation (8/8)  
USPAP (15/15)

## HALL INSTITUTE

P.O. Box 52214  
Raleigh, NC 27612-0214 (919)481-2080

Researching and Buying Raw Land (4/4)

## HISTORIC PRESERVATION CONSULTING

22 Pan Will Road  
Mineral Bluff, GA 30559 (706)492-7234

Marketing & Appraising Historic Property (14/14)

## IAAO

130 East Randolph Street, Suite 850  
Chicago, IL 60601 (312)819-6100

101 Fund of Real Prop Appr (30/30)  
102 Inc Approach to Valuation (30/30)  
Marshall & Swift - Commercial (18.5/18.5)  
Multiple Regression Analysis (24/24)  
600 Prin & Tech of Cadastral Mapping (30/15)  
Val of Assisted Living Care Fac (7/7)  
Val of Commercial Retail Prop (7/7)

## INSTITUTE OF GOVERNMENT

223 Knapp Building, CB#3330  
Chapel Hill, NC 27599-3330 (919)966-4372

Standards of Practice & Pro Ethics (18.5/18.5)

## INTERNATIONAL RIGHT OF WAY ASSOCIATION

13650 S. Vermont Avenue, Suite 220  
Torrance, CA 90502-1144 (213)538-0233

103 Ethics & Right of Way Profession (8/8)  
402 Intro to Inc Approach to Val (8/8)  
403 Easement Valuation (8/8)  
801 Land Titles (10/10)

## JOHNSTON CC

P.O. Box 2350  
Smithfield, NC 27577 (919)934-3051

Continued on page 6

# Approved Continuing Education Courses

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Appraisal 2001 (7/7)  
USPAP 2001 (7/7)

## LENOIR CC

P.O. Box 188  
Kinston, NC 28502-9946 (252)527-6223

Appraising Mfg, Mod, & Mobile (A) (7/7)  
Appraising Mfg, Mod, & Mobile (B) (7/7)  
Challenging the Appraisal (4/4)  
Manufactured, Modular & Mobile (4/4)  
Maximizing Value (4/4)  
Pricing Complex Properties (4/4)  
Pricing Small Income Properties (4/4)  
Principles/Techniques Val 2-4 Unit Residential (14/14)  
USPAP & NC Rules & Regs for App (15/15)

## M CURTIS WEST

P.O. Box 947  
Zebulon, NC 27597 (919)217-8040

Inc Cap Approach - Past, Present, Future (10.5/10.5)  
Property Tax Values & Appeals (6/6)

## MCKISSOCK DATA SYSTEMS

P.O. Box 1673  
Warren, PA 16365 (814)723-6979

RE Fraud & Appr's Role (7/7)  
The Appraiser as Expert Witness (7/7)  
Vacant Land Appraisal (7/7)

## MINGLE SCHOOL OF REAL ESTATE

P.O. Box 35511  
Charlotte, NC 28235 (704)372-2984

Commercial RE Development (10/10)  
Is This A Commercial Appraisal? (4/4)  
NC RE Appr Act & Appr Board Rules (10/10)  
Role of the Supervisory Appraiser (4/4)

## NAIFA

7501 Murdoch Avenue  
St. Louis, MO 63119 (314)781-6688

1031 Like Kind Exchange (4/4)  
11.8 Calc Gross Living Area Using (7/7)  
2.0 Financial Analysis Inc Property (15/15)  
4.0 Marshall & Swift Valuation Guides (15/15)  
4.1 Marshall & Swift Residential Cost M (8/8)  
5.0 Pro Standards of Practice (15/15)  
5.0A Standards Review (8/8)  
Blue Print Reading Seminar (4/4)  
Bridging the Gap Between Lend & (4/4)  
Calc Gross Living Area Using ANSI (4/4)  
Commercial Report Writing (15/15)  
Environmental Concerns Seminar (4/4)  
HUD Review Update (4/4)  
Internet & Appraisal Practice Seminar (4/4)  
Intro to Auto Val Mod Tech Seminar (4/4)  
Preparing Your Listing for FHA (4/4)  
Relocation Seminar (4/4)  
Valuing Undivided Interest (4/4)

## NAMA/LINCOLN GRADUATE CENTER

P.O. Box 12528  
San Antonio, TX 78212 (800)531-5333

Environmental Site Assessment (15/15)  
HUD Appraisal Standards Update (7/7)  
Manufactured Housing Appraisal (15/15)  
National USPAP Course (15/15)  
Principles of Property Inspection (20/20)  
Principles of Appraisal Review (15/15)  
Real Estate Environmental Screening (7/7)  
Residential Environmental Screening (7/7)  
Residential Appraisal Review (7/7)  
USPAP Update (7/7)

## NC RE EDUCATION FOUNDATION (NCAR)

2901 Seawell Road  
Greensboro, NC 27406 (800)443-9956

Fund of HP-12C in Appr Work (7/7)  
Inc Cap for Small Com Props (7/7)

Legal Issues in Real Estate (7/7)  
Residential Construction (7/7)  
Residential RE as an Investment (7/7)  
Tax Planning for the RE Agent (7/7)

## NCSU AGRICULTURAL & RESOURCE ECONOMICS

Campus Box 8109  
Raleigh, NC 27695-8190 (919)515-4670

(B) Con Easements & Other Land Prsr (7/7)  
Conservation Easements & Other Land Prsr (8/8)

## NCSU FORESTRY ED OUTREACH PROGRAM

Campus Box 8003  
Raleigh, NC 27695 (919)515-3184

Accurate Forest Inventory (12.5/12.5)  
Applied Intermediate GIS - Foresters (15/15)  
Intro to Applied GIS - Foresters (15/15)  
Intro to Applied GIS - Foresters (13/13)

## NCSU SOIL SCIENCE DEPT

Campus Box 7619  
Raleigh, NC 27695 (919)513-1678

Basics of On-Site Sewage (6/6)  
Getting the Dirt on Soils (6/6)  
On-Site System Tech Refresh (6/6)  
Wells & Septic Systems (4/4)

## RANDOLPH CC

P.O. Box 1009  
Asheboro, NC 27204 (336)629-1471

Timber Appraisal Overview (10.5/10.5)

## SCHOOL OF REAL ESTATE APPRAISING

62 N. Chapel Street #204  
Newark, DE 19711 (302)368-2855

Guide to Relocation Appraisal (7/7)  
Review of USPAP (7/7)

## SOUTHEASTERN CC

P.O. Box 151  
Whiteville, NC 28472 (910)642-7141

Applied Sales Comp Approach (10/10)  
Mathematics of Finance (14/14)  
Rural Valuation Seminar (10.5/10.5)

## STACEY P. ANFINDSEN

1145-E Executive Circle  
Cary, NC 27511 (919)460-7993

Appraisal Process and Val of Residential Prop (4/4)

## SURRY CC

P.O. Box 304  
Dobson, NC 27017 (910)386-8121

Appr/Math Using HP12-C (15/15)  
Reviewing a Residential Appr (8/8)  
Testing Highest & Best Use (8/8)  
USPAP 2000 (15/15)

## TRIANGLE APPRAISAL & RE SCHOOL

4525 Falls of Neuse Road  
Raleigh, NC 27609 (919)876-9596

Overview of FNMA (14/14)

## WAKE TECH CC

9101 Fayetteville Road  
Raleigh, NC 27603-5696 (919)772-0551

Appraising Mfg, Modular, & Mobile Part A (7/7)  
Appraising Mfg, Modular, & Mobile Part B (7/7)  
Challenging the Appraisal (4/4)  
Manufactured, Modular, & M (4/4)  
Maximizing Value (4/4)  
Pricing Complex Properties (4/4)

## WENDELL HAHN & ASSOCIATES

P.O. Box 5313  
Columbia, SC 29250 (803)779-4721

Appraisal Update 2001 (7/7)  
Computers 2001 (7/7)  
FHA Guidelines 2001(7/7)  
The Modern Appraisal Office - Part I (7/7)  
The Modern Appraisal Office - Part II (7/7)  
USPAP 2001 (14/14)

## WESTERN PIEDMOND COMMUNITY COLLEGE

1001 Burkemont Avenue  
Morganton, NC 28655 (828)738-6104

Appraising Manufactured, Modular & Mobile (14/14)  
Manufactured, Modular & Mobile (4/4)  
Pricing Complex Properties (4/4)  
USPAP & NC Rules and Regulations for App (15/15)

## WILLIAMS APPRAISERS ED CENTER

P.O. Box 33786  
Raleigh, NC 27636 (919)424-1900

Applied Income Capitalization (14/14)  
Income Cap Techniques (8/8)  
Introduction to GIS in Real Estate (8/8)

## YVONNE C. SHARP & ASSOCIATES

66 River Oak Court  
Temple, GA 30179 (770)562-1999

The Inspection (14/14)

# Changes To USPAP Effective July 1, 2001

Due to the enactment of the Gramm-Leach-Bliley Act, the Appraisal Standards Board has made changes to USPAP that became effective July 1, 2001. The first change is to the Confidentiality Section of the Ethics Rule. A sentence has been added that reads:

*An appraiser must be aware of and comply with all confidentiality and privacy laws and regulations applicable in an assignment.*

Additional text was added regarding disclosure of confidential information to professional peer review committees. That text reads: *"except when such disclosure to a committee would violate applicable law or regulation."*

The second change is to the definition of Confidential Information. The definition now reads:

**CONFIDENTIAL INFORMATION:** *information that is either:*

- *Identified by the client as confidential when providing it to an appraiser and that is not available from any other source; or*
- *Classified as confidential or private by applicable law or regulation.*

Finally, Statement No. 5 (SMT-5) has been retired. This means that SMT-5 no longer has any force or effect.

The ASB has indicated that they are considering rewriting SMT-5 in light of the Gramm-Leach Bliley Act.

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# USPAP Q & A

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This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. The ASB USPAP Q&A is issued to inform appraisers, regulators, and users of appraisal services of the ASB responses to questions raised by regulators and individuals; to illustrate the applicability of the Uniform Standards of Professional Appraisal Practice (USPAP) in specific situations; and to offer advice from the ASB for the resolution of appraisal issues and problems. The ASB USPAP Q&A do not constitute a legal opinion of the ASB.

The ASB received a few letters on last month's question regarding a hypothetical condition. The question was written as follows:

I have been asked by a client to appraise only the underlying land of a farm for the purpose of estimating the value of a conservation easement. Since the improvements are not being considered in the appraisal, does this assignment involve a hypothetical condition? [Question #1-Vol. 3 #5 May 2001]

The ASB appreciates the interest these respondents showed in this question and the reference to the Federal Agency guidelines, which contain additional requirements to those in USPAP, particularly with respect to the "larger parcel" issue where the "before property" includes improvements and the easement impacts those improvements in the "after condition."

The ASB recognizes that many assignments for Federal Agencies involve supplemental standards, which alter the development process and the appraiser's scope of work. Last year the ASB made it clear that when assignments involve supplemental standards appraisers must competently satisfy those supplemental standards in addition to what USPAP requires.

*Upon agreeing to perform an assignment that includes acceptable supplemental standards, an appraiser is obligated to competently satisfy those supplemental standards, as well as applicable USPAP requirements.* 2001 USPAP lines 561-63

However, it is important to understand that answers to questions in the Q&A format are provided within the context of USPAP, unless otherwise stated. As is normal, the requirements of Federal or State Agencies were not considered in this Q&A. It should be understood that answers to questions of this nature change when additional requirements, such as Federal Agency guidelines, are read into the question.

## Question #1:

I am working on an assignment with another appraiser. When finished, we will both sign

the report and the certification. Does this mean that we must create two workfiles so that we can both comply with the record keeping rules?

## Response:

No. The Record Keeping section of the ETHICS RULE requires that a workfile be prepared for each assignment. One workfile is sufficient, even if two appraisers are involved in an assignment.

The Record Keeping section also requires that:

*An appraiser must retain the workfile for a period of at least five (5) years after preparation or at least two (2) years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last, and have custody of his or her workfile, or make appropriate workfile retention, access, and retrieval arrangements with the party having custody of the workfile.*

Therefore, arrangements should be made for one appraiser to retain the file, with access provided to the other appraiser.

## Question #2:

I've been asked by a bank to provide a replacement cost estimate for an improved property to assist them in establishing an appropriate level of fire insurance for their loan. This assignment does not involve appraising this property, so I don't consider it to be an appraisal assignment. Is it a consulting assignment under USPAP?

## Response:

No. The assignment you describe does not constitute an appraisal under Standards 1 & 2 of USPAP, since it does not involve developing an opinion of value. Likewise, it is not an appraisal consulting assignment under Standards 4 & 5. An appraisal consulting assignment, as defined in USPAP, requires that an appraisal be a component of the analysis leading to the assignment results. As such, this type of assignment has no specific name and no specific performance standards that apply to it.

## Question #3:

Why is it unethical for an appraiser to accept compensation for an assignment that is contingent on pre-determined results?

## Response:

The objective of the appraisal development process is a credible opinion. This objective requires that the development process be independent, objective, and impartial so that the resulting opinions are credible in the context of their intended use.

Since the primary objective of these

Standards is to promote and maintain a high level of public trust in professional appraisal practice, it is appropriate that those practices, which are inherently contradictory to this objective, be prohibited. Such practices include accepting compensation for assignments that are based on a predetermined or subsequent outcome that affect the appraiser's independence, objectivity, or impartiality.

For these reasons, the Management Section of the ETHICS RULE states:

*It is unethical for an appraiser to accept compensation for performing an assignment when the assignment results are contingent upon:*

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

## Question 4:

I have been asked by a client to appraise only the underlying land of a farm for the purpose of estimating the value of a conservation easement. Since the improvements are not being considered in the appraisal, does this assignment involve a hypothetical condition?

## Response:

No. This assignment does not involve a hypothetical condition for the subject of the assignment is land only.

The key here is defining the relevant characteristics of the subject of the appraisal. Standards Rule 1-2(e) requires the appraiser to, "*identify the characteristics of the property that are relevant to the purpose and intended use of the appraisal*". Standards Rule 1-2(e)(v) goes on to add, "*whether the subject property is a fractional interest, physical segment or partial holding*".

In addition, the Comment to Standards Rule 1-2(e)(v) states, "*An appraiser is not required to value the whole when the subject of the appraisal is a fractional interest, a physical segment, or a partial holding*".

It is clear that USPAP allows the appraiser to value a physical segment of a property, including the underlying land. Standards Rules 2-2(a), (b) or (c) (iii) require the appraiser, in the appraisal report, to "*describe information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment*".

For further guidance, please reference

*Continued on page 8*

# USPAP Q & A

Continued from page 7

Advisory Opinion 23 (AO-23), which is entitled “Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment”. It states, in part, that “real estate can take many forms, such as land, land and improvements, improvements without the underlying land, or an infinite variety that involve one or more of the physical aspects of real estate”.

## Question 5:

Why does USPAP require an appraiser to include a signed certification in the workfile and in all written reports?

## Response:

The certification is the same for all written reports covered by the Standard Rules. A signed certification is also required to be included in the work file for any oral report given in compliance with USPAP. A signed certification evidences an appraiser’s recognition of his or her ethical obligations. The elements of the certification that apply to development are listed as follows:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or the specified) personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal. The element of the certification that applies to development and reporting is:
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice. The last two items have to do with disclosures relative to inspections and significant assistance.
- I have (or have not) made a personal inspection of the property that is the subject of this

report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)

- no one provided significant real property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal assistance must be stated.)

## Question 6:

I recently went to work for an appraisal company where the owner of the company requires that the workfile be kept solely at the office. He will not allow the appraisers who work for his company to make their own copies and keep them outside of the office. Can I comply with this company’s requirement and still conform to the Record Keeping section of the ETHICS RULE in USPAP?

## Response:

Yes. You can, provided the owner permits access to the file within the defined timeframe. The Record Keeping section of the ETHICS RULE states, in part;

*...An appraiser must retain the workfile for a period of at least five (5) years after preparation or at least two (2) years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last, and have custody of his or her workfile, or make appropriate workfile retention, access, and retrieval arrangements with the party having custody of the workfile.*

Given this qualification, it is not necessary that the appraiser have custody of the workfile but it is necessary that the custodian of the workfile make the workfile accessible and retrievable within the stated timeframe.

## Question 7:

I understand that the ASB retired Statement No. 8, “Electronic Transmission of Reports” effective January 1, 2002. Does this mean I can no longer send appraisal reports electronically to my clients after that date?

## Response:

No. You can continue to send your reports electronically. The ASB recently voted to retire Statement No. 8 because some of its requirements were out of date. There have been many changes since this Statement was originally adopted in 1995.

Appraisers should still exercise the same level of care in transmitting their appraisal reports whether they are communicated orally, in a written report, or electronically. In particular, for all written reports the certification must be signed. A “signature” is defined in USPAP as:

**SIGNATURE:** *personalized evidence indi-*

*cating authentication of the work performed by the appraiser and the acceptance of the responsibility for content, analyses, and the conclusions in the report.*

**Comment:** *A signature can be represented by a handwritten mark, a digitized image controlled by a personalized identification number, or other media, where the appraiser has sole personalized control of affixing the signature.*

## Question 8:

What does it mean when the ASB retires a portion of USPAP?

## Response:

To “retire” a portion of USPAP means to withdraw it so it is no longer of force. The ASB is responsible for promulgating, developing, publishing, interpreting, and amending the Uniform Standards of Professional Appraisal Practice. As such, it can decide to retire any portion of the USPAP if it is incorrect, no longer necessary or applicable, or otherwise deficient.

However, in the public’s eye, the acronym “USPAP” has come to refer to an annual publication of the Appraisal Foundation, which includes more than the Uniform Standards of Professional Appraisal Practice. For example, the Advisory Opinions and Glossary are not actually parts of the Uniform Standards of Professional Appraisal Practice, even though they are bound within the same publication. Since not all of the portions of USPAP constitute appraisal standards or have the weight of an appraisal standard, not all parts of the document are subject to the same process of retirement. Retirement of those portions of USPAP that constitute appraisal standards must be exposed for a minimum of 30 days prior to any action by the ASB. This includes the DEFINITIONS, PREAMBLE, RULES, STANDARDS RULES, and STATEMENTS ON APPRAISAL STANDARDS. The Advisory Opinions and the Glossary can be adopted, removed, or modified by the ASB without prior notice.

## Question 9:

I understand the ASB recently made changes to USPAP that are effective as of July 1, 2001. Is that true? And, what were those changes?

## Response:

Yes. That is true. Due to recent federal regulatory activity, most notably the Federal Trade Commission’s Final Rule on Privacy of Consumer Financial Information, 16 CFR Part 313, that takes effect on July 1, 2001, the ASB voted to make certain sections of the newly adopted material effective simultaneously on July 1, 2001.

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# USPAP Q & A

*Continued from page 8*

The following changes to USPAP adopted by the ASB were effective July 1, 2001:

1. The Confidentiality section of the ETHICS RULE was edited to illustrate that, “*an appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment.*” Additionally, text was added to indicate that disclosure of confidential information is permissible to professional peer review committees, “except when such disclosure to a committee would violate applicable law or regulation.”

A notice regarding the adoption of federal privacy regulations was also added to this section.

2. The DEFINITION of “Confidential Information” was changed to read: *CONFIDENTIAL INFORMATION*: information that is either:

- *identified by the client as confidential when providing it to an appraiser and that is not available from any other source; or*
- *classified as confidential or private by applicable law or regulation.*

A notice regarding the adoption of federal privacy regulations was also added to this definition.

3. STATEMENT NO. 5 (SMT-5), *The Confidentiality Section of the Ethics Rule*, was retired. □

## From The Boardroom Complaint against staff member resolved

In the fall of 2000, the Board received a formal complaint against John K. Weaver, the Board’s Deputy Director. The complaint alleged that, in an administrative hearing before the Board in April 1999, Mr. Weaver provided false and misleading oral testimony.

The Board hired a private attorney to investigate this charge. The attorney was not and continues not to be connected professionally or personally with any member of the Board or with the Board staff. He conducted a complete investigation independent from any influence, direction, or oversight from members of the Board or from Board staff.

At the August 2001 Board meeting, the attorney made an oral presentation of a written report that concluded that he found no evidence to support the allegations against Mr. Weaver. □

# Rule-Making Proceedings

The Board has initiated rule-making proceedings to address several areas. The proposed rules would make major changes in trainee supervision, requiring more intensive supervision and placing a limit on the number of trainees an appraiser may supervise. In addition, proposed changes would be made in the area of continuing education, such as changing the continuing education cycle to 2 years, allowing any preclicensing courses to be used for continuing education credit, and requiring that a 7 hour USPAP

course be taken once very two years. Changes to other rules are also proposed.

A public hearing will be held on the proposed rules. The date, time and location have not yet been established. If you wish to receive a copy of the proposed rule changes and/or information on the date and location of the public hearing, please contact the Board’s office. Written comments are welcome and should be addressed to Mel Black, Executive Director. □

## Factory Built Housing

There are at least three types of ‘factory built’ homes with which appraisers should be familiar.

**Manufactured homes:** Originally referred to as mobile homes, ‘manufactured’ is now the prevalent term in today’s industry. Initially, manufactured homes are treated as personal property and are registered/titled with the Department of Motor Vehicles (DMV). Manufactured homes can be distinguished from other homes since they are built on a permanent, non-removable chassis, and are subject only to HUD code requirements as opposed to the potentially stricter State and local building code requirements. A manufactured home may become real property only after the wheels, moving hitch and axles are removed, and the house is placed on a permanent, enclosed foundation. The homeowner then can apply to the DMV to cancel the Certificate of Title provided that any lienholder consents. After that occurs the home is then treated as real estate and may be transferred by deed and financed by a deed of trust.

Since manufactured homes must comply with HUD requirements they can be identified by a numbered certification label “HUD seal” affixed to the rear exterior of each section of the home, and a data plate inside (usually in the vicinity of the fuse box) attesting that the home has “passed inspection.”

**Modular homes:** Modular homes must comply with the State and Local Building Code. They can be identified by a state inspection stamp/seal, generally located in the vicinity of the fuse box, which provides a serial number for each home. Modular homes have developed to the point where it can be difficult to distinguish between a two-story Victorian modular and a stick

built home of similar design. Unlike manufactured homes, modular homes are built and designed in units or sections, and then are transported to and assembled on a home site.

**On-frame modular homes:** These homes can also be difficult to distinguish from manufactured homes. Unlike a manufactured home, an on-frame modular does not have wheels and axles directly attached to its frame. Since they are considered real property, on-frame modular homes are not registered with the DMV.

When examining a home, an appraiser should always look for the modular stamp. An appraiser should also keep an eye out for ‘marriage walls,’ where modular sections may have been attached together. Finally, an appraiser should always find a way to check underneath the house, since variations in the floor framing may also be indications that the subject property is a modular home.

After determining what type of home they are dealing with, appraisers should be wary not to base their selection of comparable sales purely on the distinction between modular and stick built homes. If there is an obvious lack of modular home sales in the market area, then an appraiser may consider stick built homes of equal quality and material specifications located in the same area.

Appraisers who have any doubts about the nature of the subject property should inform their client and highlight those concerns in their appraisal report. Appraisers who repeatedly have difficulty recognizing the sometimes-subtle differences between ‘factory built’ and ‘stick built’ homes should consider taking a continuing education course on the subject, so that they might better serve the public. □

# DISCIPLINARY ACTIONS

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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 seemingly similar cases may be handled.

**Charles V. Brooks, Jr. (Mooreville)** - By consent, the Board suspended Mr. Brooks' residential license for a period of two years, effective July 1, 2001. The first year of the suspension will be active. Mr. Brooks also agreed to successfully complete a standards (USPAP) course, consisting of at least 14 hours, and the prelicensing course known as R-3 by June 30, 2002. If the courses are not completed by that date, the remaining term of the suspension will become active. The Board found that a trainee working under the supervision of Mr. Brooks appraised a home located in Lilesville, NC in January 2000. On the effective date of the appraisal, the subject property was listed for sale for \$49,900. The fact that the subject property was listed was not mentioned or analyzed in the appraisal report. Mr. Brooks stated on the appraisal report that the owner of the property was Unique Homes, Inc., when on the effective date of the appraisal the owners of the property were Lee Roy Lookabill, Jr. and Richard Allen. In addition, the trainee chose comparable sales that were superior to the subject property in location and condition when there were sales available that were more comparable to the subject property that would have indicated a lower value for the subject property. Mr. Brooks did not inspect the subject property.

**Ivey K. Connell II (Lincolnton)** - Following a hearing, the Board suspended Mr. Connell's trainee registration for a period of six months, effective August 1, 2001. The suspension is stayed until February 1, 2002. If Mr. Connell successfully completes both a

15 hour USPAP course and a report writing course before that date, the suspension will be inactive. If he does not complete the courses by that date, the suspension will go into effect on February 1, 2002. The Board found that Mr. Connell, working under the supervision of a state-certified residential appraiser, appraised a property located in Charlotte, North Carolina in September 2000, finding an appraised value of \$223,000. The subject property was listed for sale in February 1999 for \$142,000. The listing price was lowered to \$139,900 in April 1999, and in July 1999 the property was taken off the market. Mr. Connell did not analyze, mention or discuss the listing history of the subject property in the appraisal report. The subject property was purchased in August 1999 for \$115,000, but Mr. Connell did not analyze, mention or discuss the August 1999 sale of the subject property in the appraisal report.

**Karen J. Connell (Lincolnton)** - Following a hearing, the Board authorized legal counsel to enter into a consent agreement with Ms. Connell that suspends her residential certification for a period of three years, effective August 1, 2001. The first 30 days of the suspension will be active, and the remainder will be stayed until July 1, 2002. Ms. Connell also agreed to successfully complete the prelicensing courses known as R-3 and G-1, as well as a standards (USPAP) course, consisting of at least 15 hours, by June 30, 2002. If the courses are not completed by that date, the remainder of the suspension will become active. If she does complete the courses by that date, the remainder of the suspension will be inactive. There were four cases against Ms. Connell. In the first case, the Board found that a trainee working under the supervision of Ms. Connell appraised a property located in Charlotte, North Carolina in September 2000, finding value of \$223,000. The subject property was listed for sale in February 1999 for \$142,000. The listing price was lowered to \$139,900 in April 1999, and

in July 1999 the property was taken off the market. Ms. Connell did not analyze, mention or discuss the listing history of the subject property in the appraisal report. The subject property was purchased in August 1999 for \$115,000, but Ms. Connell did not analyze, mention or discuss the August 1999 sale of the subject property in the appraisal report. In the second case, Ms. Connell appraised a property located in Charlotte, North Carolina in June 1999, finding an appraised value of \$120,000. The appraisal report stated the actual age of the subject to be 73 and the effective age to be 15, and overall condition as average, but the appraisal report did not explain Ms. Connell's reasoning for the reduction in effective age of the property. The appraisal report stated that the subject property was located in the Dilworth area of Charlotte when it was located in the Cherry area of Charlotte. In the third case, Ms. Connell appraised a property located in Gastonia, North Carolina in September 2000, finding an appraised value of \$75,000. Ms. Connell incorrectly identified the owner of the subject property in the appraisal report. On the effective date of the appraisal, the property had been listed for sale for over 150 days, but Ms. Connell did not analyze, mention or discuss the listing history of the subject property in the appraisal report. The appraisal report stated that the subject was in average condition and did not mention any needed repairs. In fact, the property had several items of deferred maintenance, such as broken interior doors, stained and worn carpeting, and torn vinyl flooring. In the fourth case, Ms. Connell appraised a property located in Charlotte, North Carolina in December 1998, finding an appraised value of \$177,000. In the report, Ms. Connell stated that the subject is located in the Stonehaven subdivision when in fact it is actually located in the Waverly Hall subdivision. Ms. Connell chose her comparable sales from Stonehaven, and there were sales available in the Waverly Hall subdivi-

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## Disciplinary Actions

*Continued from page 10*

sion that had an average sales price of \$140,000. Ms. Connell stated in the appraisal report that the subject last sold on December 1992, yet the subject was last purchased in November 1998. She did not mention that sale in the appraisal report. In all the above cases, Ms. Connell did not state the type of reporting format utilized in the report.

**Alton R. Green (Raleigh)** - By consent, the Board suspended Mr. Green's residential certification for a period of 2 months. The suspension is stayed until July 1, 2002. If Mr. Green successfully completes a course in complex properties and a course in depreciation by June 30, 2002, the suspension will be inactive. The Board found that Mr. Green appraised a property located in Willow Springs, NC in October 2000. The subject property consists of a large storage shelter, with approximately 1/3 of the area being living quarters. Although the remainder of the shelter is open in the front and has a dirt floor, the appraisal report shows no consideration of functional depreciation and there is no adjustment for design and appeal. There are four singlewide mobile homes on the property, which appear to be occupied and have electric service to them. The appraisal report does mention that the mobile homes are located on the property, but does not discuss the water or septic for the mobile homes on the subject site. The appraisal report should have contained a better description of the subject property.

**Frank Gupton (Rocky Mount)** - By consent, the Board issued a reprimand to Mr. Gupton and ordered him to take a course in standards (USPAP), and a subdivision analysis class by September 1, 2001. Those courses were taken as agreed. The Board found that Mr. Gupton appraised a subdivision located in Nash County, NC in March 1999, finding an appraised value of \$875,000. He included in the report that the value was based on completion of the subdivision and the approval of septic systems and zoning, but he did not pro-

vide an appropriate cost analysis of the proposed subdivision. Both Mr. Gupton and the lender agree that this information was not provided to him at the time of the appraisal request. Mr. Gupton used an improper present worth factor that resulted in a conservative valuation. Finally, Mr. Gupton stated the report was a self-contained summary report, when he should have stated it was a complete summary report.

**Robert Jones (Monroe)** - By consent, the Board suspended Mr. Jones' trainee certification for a period of two years, effective July 1, 2001. The first year of the suspension will be active. Mr. Jones also agreed to successfully complete a standards (USPAP) course, consisting of at least 14 hours, and the precicensing course known as R-3 by June 30, 2002. If the courses are not completed by that date, the remaining term of the suspension will become active. The Board found that Mr. Jones, while working under the supervision of a state-licensed residential appraiser, appraised a home located in Lilesville, NC in January 2000. On the effective date of the appraisal, the subject property was listed for sale for \$49,900. Although the subject had been on the market for 143 days when it was finally sold, this fact was not mentioned in the appraisal report. Mr. Jones stated on the appraisal report that the owner of the property was Unique Homes, Inc., when on the effective date of the appraisal, the owners of the property were Lee Roy Lookabill, Jr. and Richard Allen. In addition, the trainee chose comparable sales that were superior to the subject property in location and condition when there were sales available that were more comparable to the subject property that would have indicated a lower value for the subject property.

**Royal M. Jones (Franklin)** - By consent, the Board suspended Mr. Jones' certification for a period of one month. The suspension is stayed until October 1, 2001. Mr. Jones also agrees to successfully complete a course in USPAP, and a course in the role of a supervisor by October 1, 2001. If the courses are not completed by that date, the suspension will become active. In addition, Mr. Jones cannot teach any

precicensing or continuing education classes in North Carolina for a period of one year, beginning July 1, 2001. The Board found that a trainee working under the supervision of Mr. Jones appraised a home located in Bryson City, NC in November 2000. The appraisal report stated that the subject has 11 rooms, including 2 bedrooms and 2 baths, when the house actually contains 5 or 6 rooms. The trainee stated that the first and second floors of the subject each contained 720 square feet of gross living area; he included a 240 square foot garage in the 720 square feet of the lower level. He gave full value to the garage as gross living area in both the cost approach and the sales comparison approach of the appraisal, then gave additional value in the cost approach as well as the sales comparison approach for the garage. The subject property had been listed for sale for well over a year. Although it was originally listed for \$139,000; the sales price was eventually dropped to \$129,000, the listing history was not discussed in the report. There were two sales of the subject within one year of the appraisal date that although not arms length transactions, should have been considered and analyzed in the appraisal report. Mr. Jones did inspect the subject property.

**David E. Miller (Fairview)** - By consent, the Board suspended Mr. Miller's residential certification for a period of one month. The suspension is stayed until January 1, 2002. Mr. Miller also agrees to take a course in standards (USPAP) and a course in measuring real estate by January 1, 2002. If he fails to take the courses as agreed, the suspension will be activated on that date. The Board found that a trainee working under the supervision of Mr. Miller appraised a single family residence located in Pisgah Forest, NC in February 1999, finding an appraised value of \$90,000. The appraisal report stated that the subject property contained 1857 square feet, when it contains approximately 1,700 SF. The subject property had been on the market for 360 days prior to the sales date at a price of \$69,900, but the appraisal report did not mention or discuss the listing history.

*Continued on page 12*

## Disciplinary Actions

*Continued from page 11*

**George Owl (Cherokee)** - By consent, the Board suspended Mr. Owl's trainee registration for a period of one month. The suspension is stayed until October 1, 2001. Mr. Owl also agrees to successfully complete a course in USPAP, and a course in measuring residential properties by October 1, 2001. If the courses are not completed by that date, the suspension will become active. The Board found that Mr. Owl, working under the supervision of a state-certified general real estate appraiser, appraised a home located in Bryson City, NC in November 2000. The appraisal report stated that the subject has 11 rooms, including 2 bedrooms and 2 baths, when the house actually contains 5 or 6 rooms. Mr. Owl stated that the first and second floors of the subject each contained 720 square feet of gross living area; he included a 240 square foot garage in the 720 square feet of the lower level. He gave full value to the garage as gross living area in both the cost approach and the sales comparison approach of the appraisal, then gave additional value in the cost approach as well as the sales comparison approach for the garage. The subject property had been listed for sale for well over a year. Although it was originally listed for \$139,000; the sales price was eventually dropped to \$129,000, the

listing history was not discussed in the report. There were two sales of the subject within one year of the appraisal date that although not arms length transactions, should have been considered and analyzed in the appraisal report.

**Leon Whichard, Jr. (Weldon)** - By consent, the Board suspended Mr. Whichard's certification for a period of three months. The suspension is stayed until September 1, 2001. Mr. Whichard must also take a course in standards (USPAP), and a subdivision analysis class by September 1, 2001. If he fails to take the courses as agreed, the suspension will be imposed on that date. The Board found that Mr. Whichard appraised a subdivision located in Nash County, NC in April 2000, finding an appraised value of \$957,500. The first phase of the subdivision was mostly developed at the time of the appraisal. Mr. Whichard valued the property effective March 31, 1999, but the effective date stated on the appraisal was April 26, 2000, the date he signed the report. In April 2000, some of the lots in the subdivision had already sold, and those lots were included in the valuation of the subdivision. Stating an inaccurate effective date on the report was confusing and misleading to the reader. Although a cost approach was both applicable and necessary to the appraisal assignment, Mr. Whichard did not perform a

cost approach. Although he mentioned in the appraisal report that he omitted the cost approach, he did not properly invoke the Departure Rule of USPAP. He stated that he performed a complete appraisal reported in a summary format, when he should have stated it was a limited appraisal. Finally, Mr. Whichard did not attach a signed certification to the report.

**Jane Williams (Fairview)** - By consent, the Board suspended Ms. Williams' trainee registration for a period of one month. The suspension is stayed until January 1, 2002. Ms. Williams also agrees to take a course in standards (USPAP) and a course in measuring real estate by January 1, 2002. If she fails to take the courses as agreed, the suspension will be activated on that date. The Board found that Ms. Williams, while working under the supervision of a state-certified residential appraiser, appraised a single-family residence located in Pisgah Forest, NC in February 1999, finding an appraised value of \$90,000. The appraisal report stated that the subject property contained 1857 square feet, when it contains approximately 1,700 SF. The subject property had been on the market for 360 days prior to the sales date at a price of \$69,900, but the appraisal report did not mention or discuss the listing history. □

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P.O. Box 20500  
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