

# TEXAS APPRAISER LICENSING & CERTIFICATION BOARD



## BOARD MEETING

AUGUST 19, 2016



*Stephen F. Austin Building*

*Room 170*

*1700 N. Congress Ave*

*Austin, Texas*





### **MEETING AGENDA**

Texas Appraiser Licensing & Certification Board  
Stephen F. Austin Building  
1700 North Congress, Room 170  
Austin, Texas 78701

***Friday, August 19, 2016, 10:00 a.m.***

### **CALL TO ORDER**

1. Call to order and pledges of allegiance
2. Roll call and discussion and possible action to excuse Board member absence(s), if any

### **PUBLIC COMMENTS**

3. Comments from members of the public regarding non-agenda items

### **EXECUTIVE SESSION**

4. Executive session to discuss pending litigation or receive advice of counsel pursuant to Texas Government Code §551.071

### **CONSENT AGENDA**

5. Ratification of the official record of the May 13, 2016 Board meeting as approved for posting on the website by the Secretary of the Board
6. Approval of agreed final orders and surrenders in the matter of:
  - a. Complaint #16-079 (Joe Jeffrey Roberts, Unlicensed)
  - b. Complaint #15-262 (Judy Ward, TX-1324131-R)
  - c. Complaint #15-303 (Jody Wayne Pickett, TX-1334212-L)
  - d. Complaint #15-321 (James M. Davis, TX-1322767-R)
  - e. Complaint #16-021 (James A. Dixon, TX-1332555-L)
  - f. Complaint #16-036 & 16-139 (Benjamin Edward Harris, TX-1331585-R)
  - g. Complaint #16-092 & 16-099 (Larry Earl Amyx, TX-1336583-R)
  - h. Complaint #15-326, 15-327 & 16-190 (John C. Vinton, TX-1327349-R)

- i. Complaint #15-287 (James A. Magill, TX-1329715-R)
- j. Complaint #15-353 (Mark Bernard McKellar, TX-1338098-R)
- k. Complaint #15-310 & 16-057 (Adrian Charles Dean, TX-1321389-G)

#### **MODIFICATIONS**

- 7. Discussion and possible action regarding request for modification of agreed order in the matter of:
  - a. Complaint #14-111 (Russell Earl Milan, TX-1323544-R)
  - b. Complaint #05-089 & 07-030 (Joshua Stone Baugher, TX-1331720-L)
  - c. Complaint #15-124 & 15-173 (Rodger Thornton Williams, TX-1334530-R)

#### **COMMITTEE REPORTS**

- 8. Report by AMC Advisory Committee
- 9. Report by Budget Committee
- 10. Report by Executive Committee

#### **STAFF REPORTS**

- 11. Staff reports by Commissioner, Deputy Commissioner, and Division Directors, which may include reports on processes, monthly activities and statistical data for communications, licensing, education, information technology, staff services, and enforcement; current topics related to regulation of real estate appraisers; discussion of topics raised by monthly reports; introduction of new employees; and questions by Board members to staff regarding issues raised by the staff reports

#### **RULES FOR POSSIBLE ADOPTION**

- 12. Discussion and possible action to adopt a new rule and amendments to 22 TAC, Chapter 153, Rules Relating to provisions of the Texas Appraiser Licensing and Certification Act:
  - a. 22 TAC §153.15, Experience Required for Licensing
  - b. 22 TAC §153.12, Criminal History Checks
  - c. 22 TAC §153.5, Fees
  - d. 22 TAC §153.9, Applications
  - e. 22 TAC §153.16, License Reinstatement
  - f. 22 TAC §153.17, Renewal or Extension of License
  - g. 22 TAC §153.23, Inactive Status
  - h. 22 TAC §153.25, Temporary Out-of-State Appraiser License
  - i. 22 TAC §153.27, License by Reciprocity

#### **RULES FOR POSSIBLE PROPOSAL**

- 13. Discussion and possible action to propose amendments to 22 TAC, Chapter 159, Rules Relating to provisions of the Texas Appraisal Management Company Registration and Regulation Act:
  - a. 22 TAC §159.52, Fees

- b. 22 TAC §159.161, Appraiser Panel
- c. 22 TAC §159.201, Guidelines for Revocation, Suspension, or Denial of a License

#### **PENDING BUSINESS**

- 14. Update regarding comments submitted to the Appraisal Subcommittee on proposed rule for AMC registry fees
- 15. Update regarding comments submitted to the Appraisal Qualifications Board (AQB) on First Exposure Draft of Proposed Changes to the Real Property Appraiser Qualification Criteria
- 16. Update on request submitted to AQB to reduce the required course length for continuing education courses from 2 hours to 1 hour
- 17. Discussion and possible action regarding approval of FY2017 TALCB Budget and budget related policies
- 18. Update on long-term facilities plan

#### **NEW BUSINESS**

- 19. Discussion and possible action regarding planning workshop in November

#### **OTHER BUSINESS**

- 20. Request for potential future meeting agenda items
- 21. Discussion and possible action to schedule future meeting dates
- 22. Adjourn

**The Texas Appraiser Licensing and Certification Board may meet with its attorney in executive session on any item listed above as authorized by the Texas Open Meetings Act, Tex. Gov't Code §551.071.**

**Pursuant to section 46.035(c) of the Texas Penal Code handgun license holders are prohibited from carrying a handgun at this open meeting. This prohibition applies to both concealed and open carry handguns.**





## **AGENDA ITEM 1**

Call to order and pledges of allegiance.

Texas Pledge

“Honor the Texas flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.”

## **AGENDA ITEM 2**

Roll call and discussion and possible action to excuse Board member absences, if any.

### **RECOMMENDED MOTION**

MOVED, that the absence(s) of \_\_\_\_\_ for the August 19, 2016 Board meeting is/are hereby excused.

## **AGENDA ITEM 3**

Comments from members of the public regarding non-agenda items.





#### **AGENDA ITEM 4**

Executive session to discuss pending litigation or receive advice of counsel pursuant to Texas Government Code §551.071.

**Announcement by Chair to enter Executive Session:**

The time is \_\_\_\_\_. The Board will now go into executive session to obtain the advice of legal counsel or discuss pending or contemplated litigation, including settlement offers and enforcement actions, pursuant to Texas Government Code §551.071. We anticipate returning to open session in approximately \_\_\_\_\_ minutes.

**Announcement by Chair upon return from Executive Session:**

It is now \_\_\_\_\_ (time), and the Board is back from executive session and reconvening in open session.





## **CONSENT AGENDA**

### **AGENDA ITEM 5**

Ratification of the official record of the May 13, 2016 Board meeting as approved for posting on the website by the Secretary of the Board.

#### **FOR REFERENCE:**

22 TAC §153.24. Complaint Processing.

### **AGENDA ITEMS 6(a)-(k)**

Approval of agreed final orders and surrenders in the matter of:

- a. Complaint #16-079 (Joe Jeffrey Roberts, Unlicensed)
- b. Complaint #15-262 (Judy Ward, TX-1324131-R)
- c. Complaint #15-303 (Jody Wayne Pickett, TX-1334212-L)
- d. Complaint #15-321 (James M. Davis, TX-1322767-R)
- e. Complaint #16-021 (James A. Dixon, TX-1332555-L)
- f. Complaint #16-036 & 16-139 (Benjamin Edward Harris, TX-1331585-R)
- g. Complaint #16-092 & 16-099 (Larry Earl Amyx, TX-1336583-R)
- h. Complaint #15-326, 15-327 & 16-190 (John C. Vinton, TX-1327349-R)
- i. Complaint #15-287 (James A. Magill, TX-1329715-R)
- j. Complaint #15-353 (Mark Bernard McKellar, TX-1338098-R)
- k. Complaint #15-310 & 16-057 (Adrian Charles Dean, TX-1321389-G)

#### **STAFF RECOMMENDATION**

Ratify and approve all items on the Consent Agenda as presented.

#### **RECOMMENDED MOTION**

MOVED, that the Board ratify and approve all items on the Consent Agenda as presented.



## Minutes accompanying meeting video from May 13, 2016

These minutes set out the agenda item, the subject matter discussed, and any action taken on each item. To hear the full discussion on any agenda item, click on the link, and you will be taken directly to that section of the meeting video on the right side of the screen.

Note: While the written portion of the minutes below are published in agenda order, the commission may have taken items out of order.

[AGENDA ITEM 1](#) - Call to order and pledges of allegiance

[AGENDA ITEM 2](#) - Roll call and discussion and possible action to excuse Board member absence(s), if any

A roll call was conducted by the recording secretary and the following members of the Board, constituting a quorum, answered present: Chair, Ms. Jamie Wickliffe, Ms. Laurie Fontana, Mr. Jim Jeffries, Mr. Clayton Black, Mr. Jesse Barba, and Mr. Brian Padden.

ACTION TAKEN: Mr. Jeffries moved to excuse the absences of Mr. Walker Beard, Mr. Buster Renfrow, and Mr. Patrick Carlson. Mr. Black seconded the motion and the Board approved the motion unanimously.

[AGENDA ITEM 3](#) - Welcome new Board members and recognize outgoing Board members

No new members were appointed to the Board.

[AGENDA ITEM 4](#) - Discussion and possible action regarding committee appointments

Relative to agenda item three, no action was taken.

[AGENDA ITEM 5](#) - Discussion and possible action regarding appointments to Peer Investigative Committees

ACTION TAKEN: Mr. Padden moved to appoint Gregory Reynolds to a Peer Investigative Committee for a period of two years. Mr. Jeffries seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 6](#) - Comments from members of the public regarding non-agenda items

Comments were made by Greg Stephens, representing Foundation Appraisers Coalition of Texas, regarding the importance of appraisal and valuation inclusion in possible changes to home finance legislation.

Written comments were submitted by Jack Vandever, Jr., representing himself, suggesting that there be exceptions to the requirement that certified appraisers

must be certified in Texas for a minimum of three years as one of the conditions to become eligible to supervise an appraiser trainee.

AGENDA ITEM 7 - Executive session to discuss pending litigation or receive advice of counsel pursuant to Texas Government Code §551.071 and personnel matters pursuant to Texas Government Code §551.074

ACTION TAKEN: The Chair called the Board into executive session at 10:11am.

The Chair reconvened the meeting at 11:00am.

AGENDA ITEMS 8 & 9 - Consent Agenda

Ratification of the official record of the February 19, 2016 Board meeting agenda as approved for posting on the website by the Secretary of the Board

Approval of agreed final orders and surrenders in the matter of:

1. Complaint #15-272 (Renee Kay Brandt, TX-1338686-R)
2. Complaint #15-285 (Paul R. Porras, TX-1336425-R)

ACTION TAKEN: Mr. Jeffries moved that the Board ratify and approve all items on the consent agenda as presented. Ms. Fontana seconded the motion, and the Board approved the motion unanimously.

AGENDA ITEM 10 - Discussion and possible action to approve request for modification of agreed order in the matter of Complaint #14-272 (Lena G. Walker, TX-1334107-R)

ACTION TAKEN: Ms. Fontana moved that the Board grant the request for modification and extend the time for compliance with the agreed order until July 15, 2016. Mr. Black seconded the motion, and the Board approved the motion unanimously.

AGENDA ITEM 11 - Report by AQB Working Group

AGENDA ITEM 12 - Report by Executive Committee

AGENDA ITEM 13 - Report by Budget Committee

AGENDA ITEM 14 - Staff reports on processes, monthly activities, and statistical data

- Mr. Douglas Oldmixon, Commissioner
- Ms. Lorie Deanda, Director of Reception & Communication Services
- Ms. Gwen Jackson, Director of Education & Licensing Services
- Mr. Steve Spyropoulos, Director of Information & Technology Services
- Ms. Melissa Huerta, Director of Staff & Support Services
- Mr. Troy Beaulieu, Director of Standards & Enforcement Services

- **Mr. Tony Slagle, Government Relations Specialist**

**AGENDA ITEM 15A** - Discussion and possible action to propose amendments to 22 TAC Chapter §153.5, Fees

ACTION TAKEN: Mr. Barba moved that the amendments be proposed for publication in the *Texas Register* for public comment as presented. Ms. Fontana seconded the motion, and the Board approved the motion unanimously.

**AGENDA ITEM 15B** - Discussion and possible action to propose amendments to 22 TAC Chapter §153.9, Applications

ACTION TAKEN: Mr. Barba moved that the amendments be proposed for publication in the *Texas Register* for public comment as presented. Mr. Padden seconded the motion, and the Board approved the motion unanimously.

**AGENDA ITEM 15C** - Discussion and possible action to propose new rule 22 TAC Chapter §153.12, Criminal History Checks

ACTION TAKEN: Mr. Barba moved that the new rule be proposed for publication in the *Texas Register* for public comment as presented. Mr. Jeffries seconded the motion, and the Board approved the motion unanimously.

**AGENDA ITEM 15D** - Discussion and possible action to propose amendments to 22 TAC Chapter §153.15, Experience Required for Licensing

ACTION TAKEN: Mr. Jeffries moved that the amendments be proposed for publication in the *Texas Register* for public comment as presented. Mr. Black seconded the motion, and the Board approved the motion unanimously.

**AGENDA ITEM 15E** - Discussion and possible action to propose amendments to 22 TAC Chapter §153.16, License Reinstatement

ACTION TAKEN: Mr. Barba moved that the amendments be proposed for publication in the *Texas Register* for public comment as presented. Ms. Fontana seconded the motion, and the Board approved the motion unanimously.

**AGENDA ITEM 15F** - Discussion and possible action to propose amendments to 22 TAC Chapter §153.17, Renewal or Extension of License

ACTION TAKEN: Mr. Barba moved that the amendments be proposed for publication in the *Texas Register* for public comment as presented. Mr. Padden seconded the motion, and the Board approved the motion unanimously.

**AGENDA ITEM 15G** - Discussion and possible action to propose amendments to 22 TAC Chapter §153.23, Inactive Status

ACTION TAKEN: Mr. Barba moved that the amendments be proposed for publication in the *Texas Register* for public comment as presented. Ms. Fontana seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 15H](#) - Discussion and possible action to propose amendments to 22 TAC Chapter §153.25, Temporary Out-of-State Appraiser License

ACTION TAKEN: Mr. Barba moved that the amendments be proposed for publication in the *Texas Register* for public comment as presented. Mr. Jeffries seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 15i](#) - Discussion and possible action to propose amendments to 22 TAC Chapter §153.27, License by Reciprocity

ACTION TAKEN: Mr. Barba moved that the amendments be proposed for publication in the *Texas Register* for public comment as presented. Ms. Fontana seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 16A](#) - Discussion and possible action on recommendations from the Executive Committee regarding continued attendance of OAG Counsel at Board and committee meetings

ACTION TAKEN: Mr. Jeffries moved that the Board no longer require OAG Counsel to attend Board and committee meetings. Ms. Fontana seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 16B](#) - Discussion and possible action on recommendations from the Executive Committee regarding amendments to the FY2016-17 TREC/TALCB Memorandum of Understanding

ACTION TAKEN: Ms. Fontana moved that the Board approve the amendments to the FY2016-17 Memorandum of Understanding as presented. Mr. Padden seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 17](#) - Discussion and possible action on recommendations from the Working Group for AQB Criminal History Check Criteria regarding additional criminal history checks by Appraisal Management Companies

ACTION TAKEN: Mr. Barba moved that this item be referred to the AMC Advisory Committee to suggest a rule consistent with the working group's recommendation for consideration at the Board's August meeting. Mr. Black seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 18](#) - Update regarding 2016 Appraisal Subcommittee Review

AGENDA ITEM 19 - Update regarding comments submitted to the Appraiser Qualifications Board (AQB) on Alternative Experience Criteria

AGENDA ITEM 20 - Discussion regarding performance review and salary of Commissioner

AGENDA ITEM 21 - Discussion and possible action regarding draft of FY2017 TALCB Budget

No action was taken.

AGENDA ITEM 22 - Discussion and possible action regarding the Agency's Strategic Plan for FY2017-21

ACTION TAKEN: Mr. Black moved that the Board authorize the Executive Committee to provide final approval of the Agency's Strategic Plan before submission to the Legislative Budget Board on June 24, 2016. Ms. Fontana seconded the motion, and the Board approved the motion unanimously.

AGENDA ITEM 23 - Request for potential future meeting agenda items

Mr. Padden requested an update on the plans for a new facility.

AGENDA ITEM 24 - Discussion and possible action to schedule future meeting dates

Future meeting dates were confirmed for August 19, 2016 and November 18, 2016.

AGENDA ITEM 25 - The Chair adjourned the meeting at 1:15pm.



## FOR REFERENCE

### §153.24. Complaint Processing

(a) Receipt of a Complaint Intake Form by the Board does not constitute the filing of a formal complaint by the Board against the individual named on the Complaint Intake Form. Upon receipt of a signed Complaint Intake Form, staff shall:

(1) assign the complaint a case number in the complaint tracking system; and

(2) send written acknowledgement of receipt to the Complainant.

(b) If the staff determines at any time that the complaint is not within the Board's jurisdiction or that no violation exists, the complaint shall be dismissed with no further processing. The Board or the commissioner may delegate to staff the duty to dismiss complaints.

(c) A complaint alleging mortgage fraud or in which mortgage fraud is suspected:

(1) may be investigated covertly; and

(2) shall be referred to the appropriate prosecutorial authorities.

(d) Staff may request additional information from any person, if necessary, to determine how to proceed with the complaint.

(e) As part of a preliminary investigative review, a copy of the Complaint Intake Form and all supporting documentation shall be sent to the Respondent unless the complaint qualifies for covert investigation and the Standards and Enforcement Services Division deems covert investigation appropriate.

(f) The Respondent shall submit a response within 20 days of receiving a copy of the Complaint Intake Form. The 20-day period may be extended for good cause upon request in writing or by e-mail. The response shall include the following:

(1) a copy of the appraisal report that is the subject of the complaint;

(2) a copy of the Respondent's work file associated with the appraisal(s) listed in the complaint, with the following signed statement attached to the work file(s): I

SWEAR AND AFFIRM THAT EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE COPY OF EACH AND EVERY APPRAISAL WORK FILE ACCOMPANYING THIS RESPONSE IS A TRUE AND CORRECT COPY OF THE ACTUAL WORK FILE, AND NOTHING HAS BEEN ADDED TO OR REMOVED FROM THIS WORK FILE OR ALTERED AFTER PLACEMENT IN THE WORK FILE. (SIGNATURE OF RESPONDENT);

(3) a narrative response to the complaint, addressing each and every item in the complaint;

(4) a list of any and all persons known to the Respondent to have actual knowledge of any of the matters made the subject of the complaint and, if in the Respondent's possession, contact information;

(5) any documentation that supports Respondent's position that was not in the work file, as long as it is conspicuously labeled as non-work file documentation and kept separate from the work file. The Respondent may also address other matters not raised in the complaint that the Respondent believes need explanation; and

(6) a signed, dated and completed copy of any questionnaire sent by Board staff.

(g) Staff will evaluate the complaint within three months after receipt of the response from Respondent to determine whether sufficient evidence of a potential violation of the Act, Board rules, or the USPAP exists to pursue investigation and possible formal disciplinary action. If the staff determines that there is no jurisdiction, no violation exists, there is insufficient evidence to prove a violation, or the complaint warrants dismissal, including contingent dismissal, under subsection (k) of this section, the complaint shall be dismissed with no further processing.

(h) A formal complaint will be opened and investigated by a staff investigator or peer investigative committee, as appropriate, if:

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(1) the informal complaint is not dismissed under subsection (g) of this section; or

(2) staff opens a formal complaint on its own motion.

(i) Written notice that a formal complaint has been opened will be sent to the Complainant and Respondent.

(j) The staff investigator or peer investigative committee assigned to investigate a formal complaint shall prepare a report detailing its findings on a form approved by the Board. Reports prepared by a peer investigative committee shall be reviewed by the Standards and Enforcement Services Division.

(k) In determining the proper disposition of a formal complaint pending as of or filed after the effective date of this subsection, and subject to the maximum penalties authorized under Texas Occupations Code §1103.552, staff, the administrative law judge in a contested case hearing, and the Board shall consider the following sanctions guidelines and list of non-exclusive factors as demonstrated by the evidence in the record of a contested case proceeding.

(1) For the purposes of these sanctions guidelines:

(A) A person will not be considered to have had a prior warning letter, contingent dismissal or discipline if that prior warning letter, contingent dismissal or discipline occurred more than seven years ago;

(B) A prior warning letter, contingent dismissal or discipline given less than seven years ago will not be considered unless the Board had taken final action against the person before the date of the appraisal that led to the subsequent disciplinary action;

(C) Prior discipline is defined as any sanction (including administrative penalty) received under a Board final or agreed order;

(D) A violation refers to a violation of any provision of the Act, Board rules or USPAP;

(E) "Minor deficiencies" is defined as violations of the Act, Board rules or USPAP which do not impact the credibility of the appraisal assignment results, the assignment results themselves and do not impact the license holder's honesty, integrity, or trustworthiness to the Board, the license holder's clients, or intended users of the appraisal service provided;

(F) "Serious deficiencies" is defined as violations of the Act, Board rules or USPAP which do impact the credibility of the appraisal assignment results, the assignment results themselves or do impact the license holder's honesty, trustworthiness or integrity to the Board, the license holder's clients, or intended users of the appraisal service provided;

(G) "Remedial measures" include, but are not limited to, training, mentorship, education, reexamination, or any combination thereof; and

(H) The terms of a contingent dismissal agreement will be in writing and agreed to by all parties. If the Respondent completes all remedial measures required in the agreement within the prescribed period of time, the complaint will be dismissed with a non-disciplinary warning letter.

(2) List of factors to consider in determining proper disposition of a formal complaint:

(A) Whether the Respondent has previously received a warning letter or contingent dismissal and, if so, the similarity of facts or violations in that previous complaint to the facts or violations in the instant complaint matter;

(B) Whether the Respondent has previously been disciplined;

(C) If previously disciplined, the nature of the prior discipline, including:

(i) Whether prior discipline concerned the same or similar violations or facts;

(ii) The nature of the disciplinary sanctions previously imposed; and

## FOR REFERENCE

(iii)The length of time since the prior discipline;

(D)The difficulty or complexity of the appraisal assignment(s) at issue;

(E)Whether the violations found were of a negligent, grossly negligent or a knowing or intentional nature;

(F)Whether the violations found involved a single appraisal/instance of conduct or multiple appraisals/instances of conduct;

(G)To whom were the appraisal report(s) or the conduct directed, with greater weight placed upon appraisal report(s) or conduct directed at:

(i)A financial institution or their agent, contemplating a lending decision based, in part, on the appraisal report(s) or conduct at issue;

(ii)The Board;

(iii)A matter which is actively being litigated in a state or federal court or before a regulatory body of a state or the federal government;

(iv)Another government agency or government sponsored entity, including, but not limited to, the United States Department of Veteran's Administration, the United States Department of Housing and Urban Development, the State of Texas, Fannie Mae, and Freddie Mac; or

(v)A consumer contemplating a real property transaction involving the consumer's principal residence;

(H)Whether Respondent's violations caused any harm, including financial harm, and the extent or amount of such harm;

(I)Whether Respondent acknowledged or admitted to violations and cooperated with the Board's investigation prior to any contested case hearing;

(J)The level of experience Respondent had in the appraisal profession at the time of the violations, including:

(i)The level of appraisal credential Respondent held;

(ii)The length of time Respondent had been an appraiser;

(iii)The nature and extent of any education Respondent had received related to the areas in which violations were found; and

(iv)Any other real estate or appraisal related background or experience Respondent had;

(K)Whether Respondent can improve appraisal skills and reports through the use of remedial measures;

(3)The following sanctions guidelines shall be employed in conjunction with the factors listed in paragraph (2) of this subsection to assist in reaching the proper disposition of a formal complaint:

(A)1st Time Discipline Level 1-- violations of the Act, Board rules, or USPAP which evidence minor deficiencies will result in one of the following outcomes:

(i)Dismissal;

(ii)Dismissal with non-disciplinary warning letter; or

(iii)Contingent dismissal with remedial measures.

(B)1st Time Discipline Level 2-- violations of the Act, Board rules, or USPAP which evidence serious deficiencies will result in one of the following outcomes:

(i)Contingent dismissal with remedial measures; or

(ii)A final order which imposes one or more of the following:

(I)Remedial measures;

(II)Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(III)A probationary period with provisions for monitoring the Respondent's practice;

(IV)Restrictions on the Respondent's ability to sponsor any appraiser trainees;

(V)Restrictions on the scope of practice the Respondent is allowed to engage in for a

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specified time period or until specified conditions are satisfied; or

(VI) Up to \$250 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, not to exceed \$3,000 in the aggregate.

(C) 1st Time Discipline Level 3-- violations of the Act, Board rules, or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the Respondent's practice;

(vi) Restrictions on the Respondent's ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the Respondent is allowed to engage in for a specified time period or until specified conditions are satisfied; or

(viii) Up to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, up to the maximum \$5,000 statutory limit per complaint matter.

(D) 2nd Time Discipline Level 1-- violations of the Act, Board rules, or USPAP which evidence minor deficiencies will result in one of the following outcomes:

(i) Dismissal;

(ii) Dismissal with non-disciplinary warning letter;

(iii) Contingent dismissal with remedial measures; or

(iv) A final order which imposes one or more of the following:

(I) Remedial measures;

(II) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(III) A probationary period with provisions for monitoring the Respondent's practice;

(IV) Restrictions on the Respondent's ability to sponsor any appraiser trainees;

(V) Restrictions on the scope of practice the Respondent is allowed to engage in for a specified time period or until specified conditions are satisfied; or

(VI) Up to \$250 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, up to the maximum \$5,000 statutory limit per complaint matter.

(E) 2nd Time Discipline Level 2-- violations of the Act, Board rules, or USPAP which evidence serious deficiencies will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;

(v) A probationary period with provisions for monitoring the Respondent's practice;

(vi) Restrictions on the Respondent's ability to sponsor any appraiser trainees;

(vii) Restrictions on the scope of practice the Respondent is allowed to engage in for a specified time period or until specified conditions are satisfied; or

(viii) Up to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, up to the maximum \$5,000 statutory limit per complaint matter.

(F) 2nd Time Discipline Level 3-- violations of the Act, Board rules, or USPAP which evidence serious deficiencies

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and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

- (i) A period of suspension;
  - (ii) A revocation;
  - (iii) Remedial measures;
  - (iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;
  - (v) A probationary period with provisions for monitoring the Respondent's practice;
  - (vi) Restrictions on the Respondent's ability to sponsor any appraiser trainees;
  - (vii) Restrictions on the scope of practice the Respondent is allowed to engage in for a specified time period or until specified conditions are satisfied; or
  - (viii) Up to \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, up to the maximum \$5,000 statutory limit per complaint matter.
- (G) 3rd Time Discipline Level 1--violations of the Act, Board rules, or USPAP which evidence minor deficiencies will result in a final order which imposes one or more of the following:
- (i) A period of suspension;
  - (ii) A revocation;
  - (iii) Remedial measures;
  - (iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;
  - (v) A probationary period with provisions for monitoring the Respondent's practice;
  - (vi) Restrictions on the Respondent's ability to sponsor any appraiser trainees;
  - (vii) Restrictions on the scope of practice the Respondent's is allowed to engage in for a specified time period or until specified conditions are satisfied; or
  - (viii) \$1,000 to \$1,500 in administrative penalties per act or omission which

constitutes a violation(s) of the Act, Board rules, or USPAP, up to the maximum \$5,000 statutory limit per complaint matter.

(H) 3rd Time Discipline Level 2--violations of the Act, Board rules, or USPAP which evidence serious deficiencies will result in a final order which imposes one or more of the following:

- (i) A period of suspension;
- (ii) A revocation;
- (iii) Remedial measures;
- (iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of professional practice;
- (v) A probationary period with provisions for monitoring the Respondent's practice;
- (vi) Restrictions on the Respondent's ability to sponsor any appraiser trainees;
- (vii) Restrictions on the scope of practice the Respondent is allowed to engage in for a specified time period or until specified conditions are satisfied; or
- (viii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, up to the maximum \$5,000 statutory limit per complaint matter.

(I) 3rd Time Discipline Level 3--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

- (i) A revocation; or
- (ii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, up to the maximum \$5,000 statutory limit per complaint matter.

(J) 4th Time Discipline--violations of the Act, Board rules, or USPAP will result in a final order which imposes the following:

- (i) A revocation; and

**FOR REFERENCE**

(ii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board rules, or the Act, up to the maximum \$5,000 statutory limit per complaint matter.

(K) Unlicensed appraisal activity will result in a final order which imposes a \$1,500 in administrative penalties per unlicensed appraisal activity, up to the maximum \$5,000 statutory limit per complaint matter.

(4) In addition, staff may recommend any or all of the following:

(A) reducing or increasing the recommended sanction or administrative penalty for a complaint based on documented factors that support the deviation, including but not limited to those factors articulated under paragraph (2) of this subsection;

(B) probating all or a portion of any sanction or administrative penalty for a period not to exceed five years;

(C) requiring additional reporting requirements; and

(D) such other recommendations, with documented support, as will achieve the purposes of the Act, Board rules, or USPAP.

(l) Agreed resolutions of complaint matters pursuant to Texas Occupations Code §1103.458 or §1103.459 must be signed by the Respondent, a representative of the Standards and Enforcement Services Division, and the Commissioner.

Please note that Joe Jeffrey Roberts was previously revoked due to non-compliance with a prior agreed final order. As such, only an administrative penalty is being sought.

**TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD,**

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**DOCKETED COMPLAINT NO.  
16-079**

**vs.**

**JOE JEFFREY ROBERTS,  
UNLICENSED**

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the unlicensed appraisal activity of Joe Jeffrey Roberts (the "Respondent").

In order to conclude this matter, Respondent admits the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE §§ 1103.458 and 1103.201.

**FINDINGS OF FACT**

1. Respondent was a Texas state certified general real estate appraiser who held certification number TX-1320506-G. His certification was suspended on January 9, 2015 due to non-compliance with a prior agreed final order (complaint #13-187), which was approved by the Board on November 21, 2014.
2. Even though he knew his license was suspended and that he was prohibited from performing appraisals, in November, 2015 Respondent communicated with an appraisal management company on multiple occasions in an effort to be placed on their panel of appraisers. During his interactions with the AMC he misrepresented that he held an active license and was eligible to perform appraisals. As part of these written misrepresentations Respondent also altered insurance coverage documentation to make it appear he had active "errors and omissions" insurance coverage even though he did not. The AMC had specifically requested he provide true and correct copies of his license and insurance coverage documentation and instead of telling the truth, Respondent misrepresented his status to the AMC. He made these misrepresentations and submitted false documents in an effort to obtain work as an appraiser in violation of the Board's order of suspension. He also completed two real estate appraisals of Texas properties<sup>1</sup> and submitted them to the AMC in early November, 2015.

<sup>1</sup> 403 Mocking Bird Lane, Bonham, Texas and 4703 Virginia Woods Drive, McKinney, Texas

3. Thereafter, complaint number 16-079 was filed with the Board on or about November 9, 2015 by the AMC. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), Tex. Occ. Code Ch. 1103 (the "Act") and 22 Tex. Admin. Code Ch. 153 and 155 (the "Rules").

4. The Board, in accordance with the mandate of Tex. Gov't Code Ann. Ch. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved in this complaint, on or about November 13, 2015. Respondent was afforded multiple opportunities to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. No response was ever received.

5. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

### **CONCLUSIONS OF LAW**

6. The Board has jurisdiction over these matters pursuant to the Act.

7. Respondent violated TEX. OCC. CODE § 1103.401, 22 TEX. ADMIN. CODE §§ 153.20(a)(12), (a)(18), (a)(20), (a)(22) by making material misrepresentations.

8. Respondent violated TEX. OCC. CODE § 1103.201 by engaging in unlicensed appraisal activity.

9. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

### **ORDER**

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that:

1. **ADMINISTRATIVE PENALTY.** Respondent shall pay to the Board an administrative penalty of Three Thousand Dollars (\$3,000.00) via (2) two, monthly installment payments of \$1,500.00, by cashier's check or money order.

Payments shall timely be delivered to the Board based on the following payment schedule:

a) \$1,500.00 on or before September 8, 2016;

b) \$1,500.00 on or before October 7, 2016;

3. Fully and timely comply with all of the provisions of this Agreed Final Order; and,

4. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

**RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, AND ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER.** Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

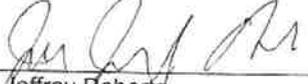
I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I ADMIT THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE. I AM AWARE OF MY RIGHT TO A HEARING AND TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING, AND HEREBY WAIVE BOTH AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE LOGS.

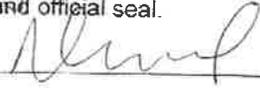
This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 13 day of May, 2016

  
\_\_\_\_\_  
Joe Jeffrey Roberts

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 13<sup>th</sup> day of May, 2016, by, to certify which JOE JEFFREY ROBERTS, witness my hand and official seal.

  
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Agreed Final Order  
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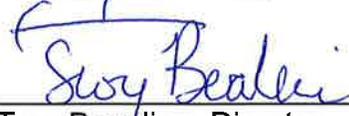


Notary Public Signature

\_\_\_\_\_  
Notary Public's Printed Name

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 16<sup>TH</sup> day of May, 2016.

  
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Troy Beaulieu, Director  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this 17 day of May, 2016.

  
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Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Jamie Wickliffe, Chairperson

Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
15-262

JUDY WARD  
TX-1324131-R

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the license of Judy Ward (Respondent).

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**FINDINGS OF FACT**

1. Respondent is a Texas state certified residential real estate appraiser who holds license number TX-1324131-R and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 9212 Montana Street, Johnson County, Joshua, Texas (Property), on or about July 30, 2009.
3. Thereafter, the complaint, numbered 15-262, was filed with the Board by staff based upon information submitted by a federal government agency. The complaint alleged that the Respondent produced an appraisal report for the Property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).
4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about June 22, 2015. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about July 16, 2015.
5. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the

following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Property:

- a. USPAP Scope of Work Rule; USPAP Standards 1-2(h) & 2-2(b)(vii) – Respondent failed to perform the required scope of work necessary to develop credible assignment results;
  - b. USPAP Standards 1-2(c) & 2-2(b)(v) – Respondent failed to provide analysis of seller contributions in the transaction;
  - c. USPAP Standards 1-2(f) or 1-2(g), 2-1(c) & 2-2(b)(x) – Respondent failed to disclose clearly and accurately any extraordinary assumption, hypothetical condition or limiting condition that directly affects the analysis, opinions and conclusions;
  - d. USPAP Standards 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix) – Respondent failed to adequately identify and report improvement(s) description. Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply & demand, physical adaptability of the real estate and market area trends. Respondent also failed to provide support for her opinion of the highest and best use;
  - e. USPAP Standards 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to use an appropriate method or technique to develop an opinion of the site value. Respondent failed to collect, verify, analyze and reconcile accrued depreciations. Respondent also failed to employ recognized methods and techniques in the cost approach;
  - f. USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent failed to collect, verify and analyze comparable sales data adequately and did not employ recognized methods and techniques in the sales comparison approach;
  - g. USPAP Standards 1-5(a) & 2-2(b)(viii); 1-5(b) & 2-2(b)(viii); 1-6(a), (b) & 2-2(b)(viii) – Respondent failed to analyze all agreements of sale, options or listings of the subject current as of the effective date of the appraisal and report the rationale supporting her conclusions. Respondent failed to analyze all sales of the subject within 3 years prior to the effective date of the appraisal and report the rationale supporting her conclusions. Respondent also failed to reconcile the quality and quantity of the data within the approaches used and the applicability or suitability of the approaches.
  - h. USPAP Standards 1-1(a), 1-1(b), 2-1(a) – For the reasons detailed above, Respondent committed several substantial errors resulting in an appraisal report that was not credible.
6. Respondent made material misrepresentations and material omissions of material fact with respect to the appraisal of the Property as detailed above.

7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

### **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to the Act.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and omissions of material fact.
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

### **ORDER**

Based on the above findings of fact and conclusions of law, the Board **ORDERS**:

1. **EDUCATION.** On or before February 15, 2017, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.
  - a. A minimum fifteen (15) hour classroom course in USPAP; and
  - b. A minimum seven (7) hour classroom course in Residential Report Writing.
2. **MENTORSHIP.** On or before November 17, 2016, Respondent shall complete twelve (12) hours of in-person or video conferenced mentorship conducted by a mentor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved mentor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final

Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.

- a. Four (4) hours of mentorship concerning the sales comparison approach;
  - b. Four (4) hours of mentorship concerning market analysis;
  - c. Four (4) hours of mentorship concerning the sales and listing history analysis, reporting and reconciliation obligations under USPAP Standards 1-5 and 1-6.
3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
  4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

#### **ACKNOWLEDGMENT AND WAIVER**

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.**

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as res judicata, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution

Agreed Final Order  
Page 4 of 7

of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the "Texas Appraiser Licensing and Certification Board" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto:compliance.talcb@talcb.texas.gov); (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

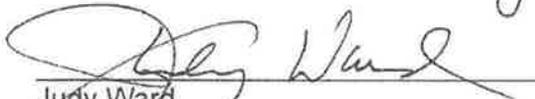
### **EXECUTION**

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

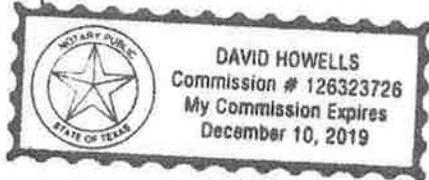
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

**RESPONDENT**

Signed this 24 day of May, 2016.

  
\_\_\_\_\_  
Judy Ward

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 24<sup>th</sup> day of May, 2016, by JUDY WARD, to certify which witness my hand and official seal.



  
\_\_\_\_\_  
Notary Public's Signature

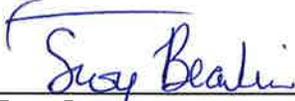
**RESPONDENT'S ATTORNEY**

Signed this 31 day of May, 2016.

  
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Ted Whitmer, Respondent's Attorney

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 15<sup>th</sup> day of JUNE, 2016.

  
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Troy Beaulieu, Director  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this 6 day of JUNE, 2016.

  
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Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Jamie Wickliffe, Chairperson

Texas Appraiser Licensing and Certification Board



TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

JODY WAYNE PICKETT  
TX-1334212-L

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DOCKETED COMPLAINT NO.  
15-303

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the license of Jody Wayne Pickett.

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**FINDINGS OF FACT**

1. Respondent is a Texas licensed residential real estate appraiser who holds license number TX-1334212-L and was licensed by the Board during all times material to the above-noted complaint.
2. During May and June of 2015, Respondent failed to respond in a timely manner to multiple requests from the Board staff for documentation related to a criminal conviction disclosed on his license renewal application. Despite written requests for the documentation, the information was not provided.
3. Thereafter, the complaint, numbered 15-303, was filed by the staff on or about July 20, 2015, alleging the Respondent had failed to provide the requested documents timely. The Board initiated the complaint to ensure the Respondent's compliance with TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules). Upon receipt of the complaint, Respondent provided additional documents, but still did not supply all the requested documentation.
4. In addition, Respondent thereafter failed to respond in a timely manner to the complaint itself. Despite granting an extension of time to respond, Respondent did not provide a response within the extended deadline. Staff sent additional correspondence requesting a complete response, which included addressing the incomplete information from the application process. The investigator had to obtain the information on her own

initiative to complete the investigation. The completed investigation did not reveal any basis to deny the license renewal, which was processed accordingly.

5. As a result of the Board's investigation, the Board finds that Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(24) on two separate occasions. First, Respondent failed to respond timely and provide complete documentation for his criminal conviction despite repeated requests. Second, Respondent failed to respond to Complaint #15-303 in a timely and complete manner despite repeated requests.

6. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

### **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to the Act.
2. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(24) on two distinct occasions by failing to timely respond to inquiries of the Board and failing to timely respond to a complaint.
3. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

### **ORDER**

Based on the above findings of fact and conclusions of law, the Board **ORDERS**:

1. **ADMINISTRATIVE PENALTY.** On or before September 8, 2016, Respondent shall pay to the Board an administrative penalty of four hundred dollars (\$400.00), by cashier's check or money order.
2. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
3. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

### **ACKNOWLEDGMENT AND WAIVER**

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS**

**OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.**

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as res judicata, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

#### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the "Texas Appraiser Licensing and Certification Board" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto:compliance.talcb@talcb.texas.gov); (2) fax to: (512) 936-3966, ATTN: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement

Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building,  
1700 N. Congress Ave., Suite 400, Austin, TX 78701.

## **EXECUTION**

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

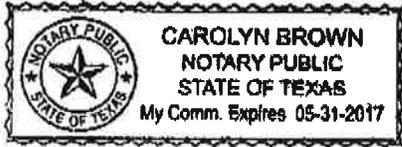
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

**RESPONDENT**

Signed this 11 day of MAY, 2016.

Jody Wayne Pickett  
Jody Wayne Pickett

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 11 day of May, 2016, by Jody Wayne Pickett, to certify which witness my hand and official seal.



Carolyn Brown  
Notary Public's Signature

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 12<sup>th</sup> day of May, 2016.

Mark Lee  
Mark Lee, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this 28 day of JUNE, 2016.

Douglas Oldmixon  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board

Agreed Final Order  
Page 5 of 5



TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
15-321

JAMES M. DAVIS  
TX-1322767-R

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the license of James M. Davis (Respondent).

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**FINDINGS OF FACT**

1. Respondent is a Texas state certified residential real estate appraiser who holds license number TX-1322767-R and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 1109 Farm 259 Road, El Paso County, Texas 79835 (Property), on or about June 16, 2015.
3. Thereafter, the complaint, numbered 15-321, was filed with the Board by a homeowner, on or about July 24, 2015. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).
4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about August 24, 2015. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about September 15, 2015.
5. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the

following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Property:

- a. USPAP Ethics Rule – Respondent failed to disclose if he performed any services regarding the subject property within the three-year period immediately preceding acceptance of the assignment;
  - b. USPAP Record Keeping Rule – Respondent failed to maintain work file containing all data, information and documentation necessary to support his opinions and conclusions;
  - c. USPAP Standards 1-2(e)(i) & 2-2(a)(iii); 1-2(e) & 2-2(a)(iii); 1-2(e)(iv) & 2-2(a)(viii); 1-3(a) & 2-2(a)(viii); 1-3(b) & 2-2(ix) – Respondent failed to identify and describe the site adequately. Respondent failed to identify and describe the improvements adequately. Respondent failed to identify, consider and describe any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature. Respondent failed to provide any land use or market analysis. Respondent failed to provide support for his opinion of the highest and best use;
  - d. USPAP Standards 1-4(a) & 2-2(a)(viii); 1-1(a); 1-6(a), 1-6(b) & 2-2(a)(viii) – Respondent failed to collect, verify and analyze comparable sales data adequately and did not employ recognized methods and techniques in the sales comparison approach. Respondent failed to reconcile the quality and quantity of the data within the sales comparison approach used;
  - e. USPAP Standards 1-1(a); 1-1(b); 1-1(c); and, 2-1(a) – For the reasons detailed above, Respondent committed several substantial errors resulting in an appraisal report that was not credible.
6. Respondent made omissions of material fact with respect to the appraisal of the Property as detailed above.
7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

## **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to the Act.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material omissions of material fact.

4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

## **ORDER**

Based on the above findings of fact and conclusions of law, the Board **ORDERS**:

1. **EDUCATION.** On or before February 15, 2017, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.
  - a. A minimum fifteen (15) classroom hour course in USPAP.
2. **MENTORSHIP.** On or before November 17, 2016, Respondent shall complete eight (8) hours of in-person or video conferenced mentorship conducted by a mentor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved mentor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
  - a. Two (2) hours of mentorship related to work file obligations under USPAP;
  - b. Two (2) hours of mentorship related to selection of comparable sales and verification of comparable sales data;
  - c. Two (2) hours of mentorship related to support of adjustments in the sales comparison approach; and
  - d. Two (2) hours of mentorship related to the report writing obligations and explication of analysis required under USPAP.
3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and

4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

#### **ACKNOWLEDGMENT AND WAIVER**

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.**

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as *res judicata*, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

#### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance with this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the "Texas Appraiser Licensing and Certification Board" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto:compliance.talcb@talcb.texas.gov); (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

## **EXECUTION**

This agreement may be executed in one or more counterparts, in the form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

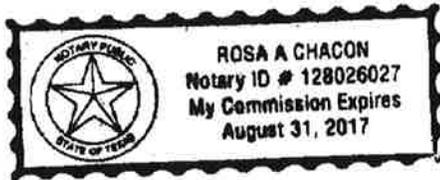
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

**RESPONDENT**

Signed this 4<sup>th</sup> day of August, 2016.

James M. Davis  
James M. Davis

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 4<sup>th</sup> day of August, 2016, by James M. Davis to certify which witness my hand and official seal.



Rosa A. Chacon  
Notary Public's Signature

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

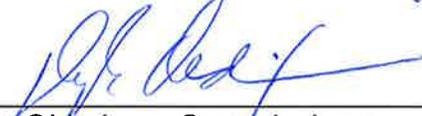
Signed by the Standards and Enforcement Services Division this 5<sup>TH</sup> day of August, 2016.

  
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Troy Beaulieu, Director  
Standards and Enforcement Services Division  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this 8 day of Aug, 2016.

  
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Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board



TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
16-021

JAMES A. DIXON  
TX -1332555-L

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the license of James A. Dixon (Respondent).

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**FINDINGS OF FACT**

1. Respondent is a Texas state licensed real estate appraiser who holds license number TX -1332555-L and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 11806 Cheswick Street, Dallas, Texas 75218 (Property), on or about September 19, 2013.
3. Thereafter, the complaint, numbered 16-021, was filed with the Board by an appraisal management company, on or about September 4, 2015. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).
4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about September 24, 2015. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about October 28, 2015.
5. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the

following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Property:

- a. USPAP Record Keeping Rule – Respondent failed to include all documentation in his work file necessary to support his opinions and conclusions;
  - b. USPAP Standards 1-2(e)(i) & 2-2(b)(iii); 1-3(b) & 2-2(b)(ix) – Respondent failed to identify and describe the site and the improvement(s) adequately. Respondent failed to support his opinion of highest and best use with documented analysis;
  - c. USPAP Standards 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) - Respondent failed to use an appropriate method or technique to develop an opinion of the site value. Respondent failed to collect, verify and analyze comparable cost data to estimate cost new of improvements. Respondent failed to collect, verify and analyze comparable data to estimate depreciation. Respondent failed to employ recognized methods and techniques in the cost approach;
  - d. USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent failed to collect, verify and analyze comparable sales data adequately. Respondent failed to employ recognized methods and techniques correctly; and,
  - e. USPAP Standards 1-1(a); 1-1(b); 1-1(c); and, 2-1(a) – For the reasons detailed above, Respondent committed several substantial errors resulting in an appraisal report that was not credible and was misleading.
6. Respondent made material misrepresentations and material omissions of material fact with respect to the appraisal of the Property as detailed above.
7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

#### **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to the Act.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and omissions of material fact.
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

Agreed Final Order  
Page 2 of 7

## **ORDER**

Based on the above findings of fact and conclusions of law, the Board **ORDERS**:

1. **MENTORSHIP.** On or before November 17, 2016, Respondent shall complete ten (10) hours of in-person or video conferenced mentorship conducted by a mentor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved mentor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
  - a. Four (4) hours of mentorship related to the sales comparison approach;
  - b. Four (4) hours of mentorship related to the cost approach; and,
  - c. Two (2) hours of mentorship related to report writing.
2. **ADMINISTRATIVE PENALTY.** On or before September 8, 2016, Respondent shall pay to the Board an administrative penalty of one thousand dollars (\$1,000.00), by cashier's check or money order.
3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

## **ACKNOWLEDGMENT AND WAIVER**

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.**

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

Agreed Final Order  
Page 3 of 7

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as res judicata, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or the failure to provide logs).

### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the "Texas Appraiser Licensing and Certification Board" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance with this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto:compliance.talcb@talcb.texas.gov); (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

### **EXECUTION**

Agreed Final Order  
Page 4 of 7

This agreement may be executed in one or more counterparts, in the form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

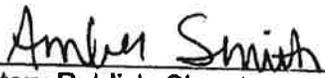
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

**RESPONDENT**

Signed this 5 day of August, 2016.

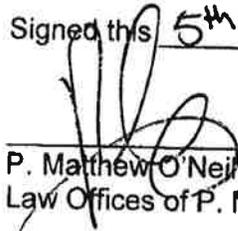
  
James A. Dixon

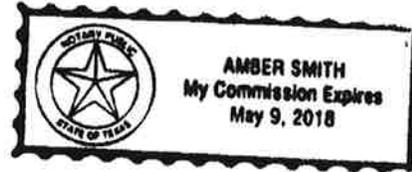
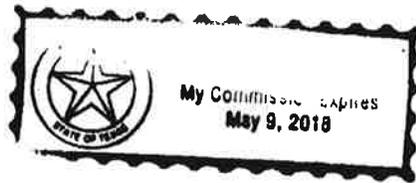
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 5<sup>th</sup> day of August, 2016, by James A. Dixon, to certify which witness my hand and official seal.

  
Notary Public's Signature

**RESPONDENT'S ATTORNEY**

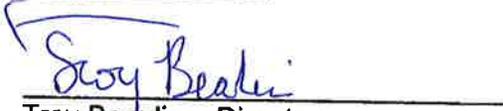
Signed this 5<sup>th</sup> day of August, 2016.

  
P. Matthew O'Neil, Respondent's Attorney  
Law Offices of P. Matthew O'Neil



**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 8<sup>th</sup> day of AUGUST, 2016.



Troy Beaulieu, Director  
Standards and Enforcement Services Division  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this 8 day of Aug, 2016.



Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board



TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD,  
Petitioner,

vs.

BENJAMIN EDWARD HARRIS,  
TX-1331585-R,  
Respondent.

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DOCKETED COMPLAINT NOS.  
16-036 & 16-139

### **AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the certification of Benjamin Edward Harris (Respondent).

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

#### **FINDINGS OF FACT**

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-1331585-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 22119 Cristobal Drive, Garden Ridge, Texas, 78266 (Cristobal Property), on or about August 28, 2015 and another property located at 335 Upper Cibolo Creek Road, Boerne, Texas, 78006 (Cibolo Property) on or about December 30, 2015.
3. Thereafter, complaints (#16-036 & #16-139) were filed with the Board by consumers on or about September 21, 2015 and January 29, 2016, respectively. The Board investigated both complaints to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).
4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about October 5, 2015 and February 4, 2016, respectively. Respondent was afforded an opportunity to respond to the accusations in both complaints and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about October 28, 2015 and February 29, 2016, respectively.

Agreed Final Order  
Page 1 of 6

5. As a result of the Board's investigations, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisals of the Cristobal and Cibolo Properties:

- a. USPAP Record Keeping Rule – Respondent failed to maintain a work file containing all documentation necessary to support his opinions and conclusions;
- b. USPAP Standards 1-2(e) & 2-2(a)(iii) – Respondent failed to evaluate the site adequately and failed to identify and describe the improvements adequately;
- c. USPAP Standards 1-2(e)(iv) & 2-2(a)(viii) – Regarding the Cibolo Property, Respondent failed to identify, consider, and/or describe any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, and/or other items of a similar nature;
- d. USPAP Standards 1-4(b)(i)—(iii) & 2-2(a)(viii); 1-1(a) – Respondent failed to employ recognized methods and techniques in his cost approach and did not provide his supporting rationale for his opinions and conclusions made in the cost approach, and/or determine depreciation;
- e. USPAP Standards 1-4(a) & 2-2(viii); 1-1(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data and did not employ recognized methods and techniques in the sales comparison approach; and
- f. USPAP Standards 1-1(a), 1-1(b), and 2-1(a) – For the reasons detailed above, Respondent committed several substantial errors resulting in appraisal reports that were misleading and not credible.

6. Respondent made omissions of material fact with respect to the appraisals of the Cristobal and Cibolo Properties as detailed above.

7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

## **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to the Act.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1, 153.20(a)(1), and 153.20(a)(6).

Agreed Final Order  
Page 2 of 6

3. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

## **ORDER**

Based on the above findings of fact and conclusions of law, the Board **ORDERS**:

1. **MENTORSHIP.** On or before **November 30, 2016**, Respondent shall complete twelve (12) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
  - a. Four (4) hours concerning the cost approach, including developing site value, replacement cost new, and calculating depreciation;
  - b. One (1) hour concerning the identification and support of site improvements;
  - c. Four (4) hours concerning the sales comparison approach and supporting adjustments in the sales comparison approach;
  - d. One (1) hour concerning report writing; and
  - e. Two (2) hours focusing on workfile requirements.
2. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
3. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

## **ACKNOWLEDGMENT AND WAIVER**

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.**

Agreed Final Order  
Page 3 of 6

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as res judicata, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

#### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the "Texas Appraiser Licensing and Certification Board" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto:compliance.talcb@talcb.texas.gov); (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

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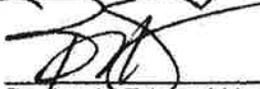
**EXECUTION**

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

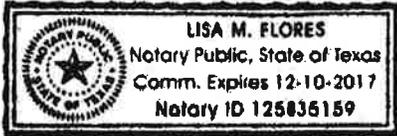
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

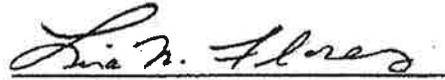
**RESPONDENT**

Signed this 3<sup>rd</sup> day of August, 2016.

  
\_\_\_\_\_  
Benjamin Edward Harris

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 3 day of August, 2016, by Benjamin Edward Harris, to certify which witness my hand and official seal.



  
\_\_\_\_\_  
Notary Public's Signature

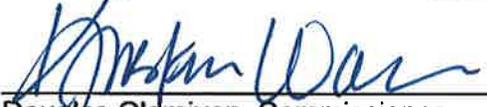
**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 4<sup>th</sup> day of August, 2016.

  
\_\_\_\_\_  
Mark R. Lee, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this 4<sup>th</sup> day of August, 2016.

*for*   
\_\_\_\_\_  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD,

vs.

LARRY EARL AMYX,  
TX-1336583-R.

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DOCKETED COMPLAINT NOS.  
16-092 & 16-099

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the license of Larry Earl Amyx (Respondent).

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**FINDINGS OF FACT**

1. Respondent is a Texas state certified residential real estate appraiser who holds license number TX-1336583-R and was licensed by the Board during all times material to the above-noted complaint.

2. Respondent appraised residential real property located at 8605 Elk Mountain Trail, McKinney, Texas, 75070 (Elk Mountain Property), on or about May 18, 2015, and 3 Maxwell Lane, Murphy, Texas, 75094 (Maxwell Property) on or about October 1, 2014.

3. Thereafter, a complaint, numbered 16-092, was filed with the Board by a consumer on or about November 20, 2015, for the Elk Mountain Property, and a complaint, numbered 16-099, was filed with the Board by a mortgage lender on December 7, 2015, for the Maxwell Property. The Board investigated the complaints to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).

4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about December 7, 2015, and December 17, 2015, respectively. Respondent was afforded an opportunity to respond to the accusations in the complaints and was also requested to provide certain documentation to the Board. Thereafter, Respondent provided the requested documentation, on or about December 28, 2015, and January 13, 2016, respectively.

Agreed Final Order  
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5. As a result of the Board's investigations, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6), 153.20(a)(12), and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisals of the Elk Mountain Property:

- a. USPAP Standards 1-2(e) & 2-2(a)(iii) – Respondent failed to identify and describe the improvements adequately;
- b. USPAP Standards 1-4(b)(i) & 2-2(a)(viii); 1-4(b)(iii) & 2-2(a)(viii) - Respondent failed to utilize appropriate methods and techniques when developing an opinion of site value. failed to collect, verify, or analyze comparable data to determine depreciation;
- c. USPAP Standards 1-4(a) & 2-2(a)(viii) – Respondent failed to adequately collect, verify, and/or analyze comparable sales data and did not employ recognized methods and techniques in the sales comparison approach;
- d. USPAP Standards 1-4(c) & 2-2(a)(viii); 1-6(a); 1-6(b) and Scope of Work Rule – Respondent failed to explain and support his exclusion of this approach when market data indicates 95 houses were leased in the subject subdivision within the year prior to the date of Respondent's appraisal. Given these figures, an income approach was necessary for credible assignment results;
- e. USPAP Standards 1-5(a) & 2-2(a)(viii); 1-6(a), 1-6(b), & 2-2(a)(viii) – Respondent failed to analyze the agreement of sale as of the effective date of the report and reconcile this data with his approaches to value by addressing the disparity between the contract price and the list price.
- f. USPAP Standards 1-1(a), 1-1(b), 1-1(c), and 2-1(a) – For the reasons detailed above, Respondent committed several substantial errors resulting in an appraisal report that was misleading and not credible for the Elk Mountain Property.

6. As a result of the Board's investigations, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6), 153.20(a)(12), and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisals of the Maxwell Property:

- a. USPAP Record Keeping Rule – Respondent failed to maintain a work file containing the documentation necessary to support his opinions and conclusions;
- b. USPAP Standards 1-2(f), 1-2(g), 2-1(c) & 2-2(a)(xi) – Respondent failed to disclose an extraordinary assumption he made about the property's improvements and instead erroneously reported the property was being appraised "as is";
- c. USPAP Standards 1-2(e)(i) & 2-2(a)(iii); 1-2(e) & 2-2(a)(iii); 1-3(a) & 2-2(a)(viii); 1-3(b) & 2-2(a)(ix) - Respondent failed to describe and identify the site and

improvements adequately, did not identify and analyze the effect on use and value of existing land-use regulations and physical adaptability, and did not analyze and explain his highest and best use conclusions adequately. Due to the property's presence in the flood plain, large lot size (8.9 acres) and zoning, analysis of these factors was significant and material to producing credible assignment results. However, Respondent failed to note these items and provide any such analysis.

- d. USPAP Standards 1-4(b)(i) & 2-2(a)(viii); 1-4(b)(iii) & 2-2(a)(viii) – Respondent failed to utilize appropriate methods and techniques in the cost approach, failed to provide supporting explanation for his site value determinations and erroneously calculated accrued depreciation, which was much more significant than the appraiser noted;
- e. USPAP Standards 1-4(a) & 2-2(a)(viii) - Respondent failed to collect, verify, and/or analyze comparable sales data adequately and did not employ recognized methods and techniques in the sales comparison approach
- f. USPAP Standards 1-1(a), 1-1(b), and 2-1(a)– For the reasons detailed above, Respondent committed several substantial errors resulting in an appraisal report that was misleading and not credible for the Maxwell Property.

7. Respondent made material misrepresentations and omissions of material fact with respect to the appraisals of the Elk Mountain Property and the Maxwell Property, as detailed above.

8. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

#### **CONCLUSIONS OF LAW**

- 1. The Board has jurisdiction over this matter pursuant to the Act.
- 2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1, 153.20(a)(1) and 153.20(a)(6).
- 3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and omissions of material fact
- 4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

## ORDER

Based on the above findings of fact and conclusions of law, the Board **ORDERS**:

1. **EDUCATION.** On or before **February 15, 2017**, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.
  - a. A minimum fifteen (15) classroom hour course in USPAP.
2. **MENTORSHIP.** On or before **November 17, 2016**, Respondent shall complete twelve (12) hours of in-person or video conferenced mentorship conducted by a mentor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved mentor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
  - a. Three (3) hours concerning the Cost Approach;
  - b. Three (3) hours concerning the Sales Comparison Approach;
  - c. Three (3) hours concerning Highest and Best Use;
  - d. One (1) hour addressing Reconciliation;
  - e. Two (2) hours addressing the USPAP Scope of Work Rule and when an Income Approach is necessary for credible assignment results.
3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

## **ACKNOWLEDGMENT AND WAIVER**

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION, OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.**

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as *res judicata*, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

## **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order

Agreed Final Order  
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AFO.v4.06.24.2015

made payable to the "Texas Appraiser Licensing and Certification Board" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance with this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto:compliance.talcb@talcb.texas.gov); (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

### EXECUTION

This agreement may be executed in one or more counterparts, in the form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

### RESPONDENT

Signed this 3<sup>rd</sup> day of August, 2016.

  
Larry Earl Amyx

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 3<sup>rd</sup> day of August, 2016, by Larry Earl Amyx, to certify which witness my hand and official seal.



  
Notary Public's Signature

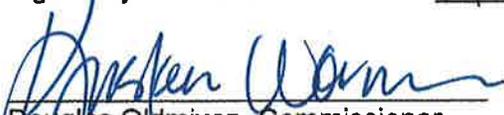
**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 3<sup>rd</sup> day of August, 2016.

  
\_\_\_\_\_  
Mark R. Lee, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this 4<sup>th</sup> day of August, 2016.

  
\_\_\_\_\_  
for Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board



TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NOS.  
15-326, 15-327 & 16-190

JOHN C. VINTON  
TX-1327349-R

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the license of John C. Vinton (Respondent).

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**FINDINGS OF FACT**

1. Respondent is a Texas state certified residential real estate appraiser who holds license number TX-1327349-R and was certified by the Board during all times material to the above-noted complaint.

2. Respondent appraised residential real properties located at 25980 County Road 2450, Kemp, Henderson County, Texas 75143 (County Road Property), on or about January 9, 2015 (for complaint no. 15-326); 708 E. Royall Blvd, Malakoff, Henderson County, Texas 75148 (Royal Boulevard Property), on or about July 18, 2014 (for complaint no. 15-327); and 609 Bayview Drive, Kerens, Navarro County, Texas 75144 (Bayview Property), on or about March 22, 2016 (for complaint no.16-190).

3. Thereafter, the complaints, numbered 15-326 and 15-327, were filed with the Board by an appraisal management company, on or about July 27, 2015. Complaint 16-190 was also subsequently filed by the homeowner. The Board investigated the complaints to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).

4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about August 27, 2015 and March 30, 2016. Respondent was afforded an opportunity to respond to the accusations in the complaints and was also requested to provide certain

documentation to the Board. Thereafter, the Respondent responded with documentation, on or about October 8, 2015 and April 25, 2016.

5. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Royal Boulevard, Bayview and County Road properties as detailed below:

**Complaint No. 15-326:**

- a. USPAP Record Keeping Rule – Respondent failed to maintain work file containing all data, information and documentation necessary to support her opinions, analyses and conclusions;
- b. USPAP Standards 1-2(e)(i) & 2-2(a)(iii); 1-3(b) & 2-2(a)(ix) – Respondent failed to identify and describe the site adequately. Respondent failed to identify the zoning classification properly and failed to disclose two tracts of land included in the subject property. Respondent also failed to summarize his supporting rationale for his determination of the highest and best use;
- c. USPAP Standards 1-4(b)(i) & 2-2(a)(viii); 1-4(b)(ii) & 2-2(a)(viii); 1-4(b)(iii) & 2-2(a)(viii); and 1-1(a) – Respondent failed to use an appropriate method or technique in the cost approach. Respondent failed to collect, verify and analyze comparable cost data to estimate cost new of improvements. Respondent failed to collect, verify and analyze comparable data to estimate the difference between cost new and the present worth of the improvements; Respondent did not provide his supporting rationale for his opinions and conclusions in the cost approach; and,
- d. USPAP Standards 1-4(a) & 2-2(a)(viii); 1-1(a) – Respondent failed to collect, verify and analyze comparable sales data adequately and did not employ recognized methods and techniques.

**Complaint No. 15-327:**

- a. USPAP Record Keeping Rule – Respondent failed to maintain work file containing all data, information and documentation necessary to support her opinions, analyses and conclusions;
- b. USPAP Standards 1-2(e) & 2-2(a)(iii); 1-3(b) & 2-2(a)(ix) – Respondent failed to identify and describe the site adequately. Respondent failed to identify the zoning classification properly. Respondent failed to identify and describe the improvement(s) adequately. Respondent failed to identify, consider and describe any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature. Respondent failed to summarize the support and rationale for his determination of the highest and best use, which was a potentially significant issue in the appraisal of the Royal Boulevard Property;

- c. USPAP Standards 1-4(b)(i) & 2-2(a)(viii); 1-4(b)(ii) & 2-2(a)(viii); 1-4(b)(iii) & 2-2(a)(viii); and 1-1(a) – Respondent failed to use an appropriate method or technique in the cost approach. Respondent failed to collect, verify and analyze comparable cost data to estimate cost new of improvements. Respondent failed to collect, verify and analyze comparable data to estimate the difference between cost new and the present worth of the improvements; Respondent did not provide his supporting rationale for his opinions and conclusions in the cost approach;
- d. USPAP Standards 1-4(a) & 2-2(a)(viii); 1-1(a) – Respondent failed to collect, verify and analyze comparable sales data adequately and did not employ recognized methods and techniques in the sales comparison approach; and,
- e. USPAP Standards 1-1(a), 1-1(b), 1-1(c) and 2-1(a) – For the reasons detailed above, Respondent committed several substantial errors resulting in an appraisal report for the Royal Boulevard Property that was not credible.

**Complaint No. 16-190:**

- a. USPAP Record Keeping Rule – Respondent failed to maintain work file containing all data, information and documentation necessary to support his opinions, and conclusions;
  - b. USPAP Standards 1-2(e)(i) & 2-2(a)(iii) – Respondent failed to identify and describe the site and improvement(s) adequately;
  - c. USPAP Standards 1-4(b)(i) & 2-2(a)(viii); 1-4(b)(ii) & 2-2(a)(viii); 1-4(b)(iii) & 2-2(a)(viii); 1-1(a) - Respondent failed to use an appropriate method or technique in the cost approach. Respondent failed to collect, verify and analyze comparable cost data to estimate cost new of improvements. Respondent failed to collect, verify and analyze comparable data to estimate the difference between cost new and the present worth of the improvements. Respondent did not provide his supporting rationale for his opinions and conclusions in the cost approach;
  - d. USPAP Standards 1-4(a) & 2-2(a)(viii); 1-1(a) – Respondent failed to collect, verify and analyze comparable sales data adequately and did not employ recognized methods and techniques in the sales comparison approach; and,
  - e. USPAP Standard 1-1(b) – Respondent committed substantial errors of omission or commission that significantly affects the appraisal as detailed approve.
6. Respondent made material misrepresentations and material omissions of material fact with respect to the appraisals of the Bayview, County Road and Royal Boulevard properties as detailed above.
7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

## CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Act.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and omissions of material fact.
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

## ORDER

Based on the above findings of fact and conclusions of law, the Board **ORDERS**:

1. **EDUCATION.** On or before February 15, 2017, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.
  - a. A minimum 15 classroom hour course in USPAP;
2. **MENTORSHIP.** On or before November 17, 2016, Respondent shall complete eight (8) hours of in-person or video conferenced mentorship conducted by a mentor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved mentor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
  - a. 3 hours of mentorship concerning site description and analysis;
  - b. 3 hours of mentorship concerning selection of sales and analyzing and supporting adjustments in the sales comparison approach; and,

- c. 2 hours of mentorship concerning the cost approach.
3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

## **ACKNOWLEDGMENT AND WAIVER**

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.**

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as res judicata, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my

failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

## **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the "Texas Appraiser Licensing and Certification Board" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance with this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto:compliance.talcb@talcb.texas.gov); (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

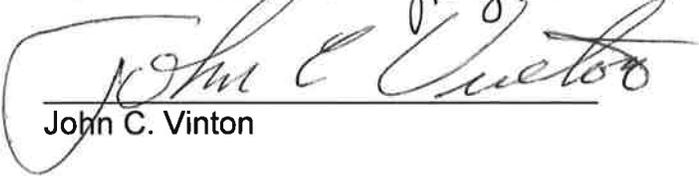
## **EXECUTION**

This agreement may be executed in one or more counterparts, in the form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

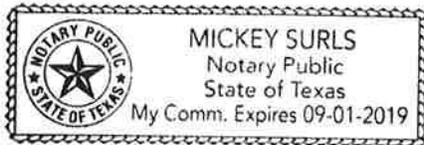
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

**RESPONDENT**

Signed this 12<sup>th</sup> day of July, 2016.

  
\_\_\_\_\_  
John C. Vinton

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 12<sup>th</sup> day of July, 2016, by John C. Vinton, to certify which witness my hand and official seal.



  
\_\_\_\_\_  
Notary Public's Signature

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 25<sup>th</sup> day of July, 2016.

Troy Beaulieu  
Troy Beaulieu, Director  
Standards and Enforcement Services Division  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this 25 day of JUL, 2016.

Douglas Oldmixon  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_ day of \_\_\_\_\_, 2016.

Jamie Wickliffe  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
15-287

JAMES A. MAGILL  
TX-1329715-R

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the license of James A. Magill (Respondent).

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**FINDINGS OF FACT**

1. Respondent is a Texas state certified residential real estate appraiser who holds license number TX-1329715-R and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 5904 Pine Valley Drive, Flower Mound, Texas 75022 (Property), on or about June 22, 2015.
3. Thereafter, the complaint, numbered 15-287, was filed with the Board by the borrower in connection with the mortgage finance transaction for which the appraisal was completed on or about June 22, 2015. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).
4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about July 1, 2015. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about August 17, 2015.
5. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the

following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Property:

- a. USPAP Record Keeping Rule – Respondent failed to include the required documentation in his work file to support his opinions and conclusions;
  - b. USPAP Standards 1-2(e) & 2-2(a)(iii); 1-3(a) & 2-2(a)(viii); 1-3(b) & 2-2(a)(ix) – Respondent failed to identify and describe the improvement(s) adequately. Respondent failed to provide analysis into the land use regulations or market area trends. Respondent failed to perform a highest and best use analysis, failed to summarize the support and rationale for that opinion;
  - c. USPAP Standards 1-4(b)(i) & 2-2(a)(viii); 1-4(b)(ii) & 2-2(a)(viii); 1-4(b)(iii) & 2-2(a)(viii); 1-1(a) – Respondent failed to employ an appropriate method or technique to develop an opinion of the site value. Respondent failed to collect, verify and analyze comparable cost data to estimate cost new of improvements. Respondent failed to collect, verify and analyze comparable data to estimate depreciation and analyze the property's super adequacy as a luxury property. Respondent also failed to employ recognized methods and techniques in the cost approach; and,
  - d. USPAP Standards 1-4(a) & 2-2(a)(viii); 1-1(a) – Respondent failed to analyze comparable sales data adequately, particularly with regards to obsolescence related to the subject being super adequate, failed to provide his supporting reasoning for his adjustments or lack of adjustments to the sales used, and failed to provide an explanation for the selection of comparable sales using relevant evidence and logic.
6. Respondent omitted material facts with respect to the appraisal of the Property as detailed above.
7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

## **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to the Act.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by omitting material facts.
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

## ORDER

Based on the above findings of fact and conclusions of law, the Board **ORDERS**:

1. **EDUCATION.** On or before February 15, 2017, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.
  - a. A minimum fifteen (15) hour classroom course in USPAP.
2. **MENTORSHIP.** On or before November 15, 2016, Respondent shall complete eight (8) hours of in-person or video conferenced mentorship conducted by a mentor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved mentor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
  - a. Three (3) hours of mentorship concerning sales analysis and support of adjustments;
  - b. One (1) hour of mentorship concerning report writing;
  - c. Two (2) hours of mentorship concerning analysis of super adequate improvements;
  - d. Two (2) hours of mentorship concerning highest and best use analysis.
3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

## ACKNOWLEDGMENT AND WAIVER

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.**

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as res judicata, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or the failure to provide logs).

#### **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance with this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the "Texas Appraiser Licensing and Certification Board" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply

email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto:compliance.talcb@talcb.texas.gov); (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

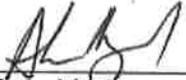
## **EXECUTION**

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

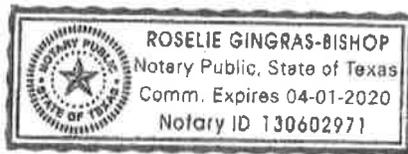
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

**RESPONDENT**

Signed this 8<sup>th</sup> day of August, 2016.

  
JAMES A. MAGILL

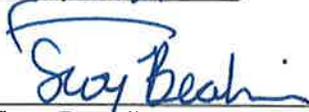
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 8 day of August, 2016, by James A. Magill, to certify which witness my hand and official seal.



  
Notary Public's Signature

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 9<sup>TH</sup> day of AUGUST, 2016.



Troy Beaulieu, Director  
Standards and Enforcement Services Division  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this 9 day of Aug, 2016.



Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board



TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

MARK BERNARD MCKELLAR  
TX-1338098-R

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DOCKETED COMPLAINT NO.  
15-353

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the license of Mark Bernard McKellar (Respondent).

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**FINDINGS OF FACT**

1. Respondent is a Texas state certified residential real estate appraiser who holds license number TX-1338098-R and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised a residential real property located at 2 Hickory Shadows Drive, Houston, Texas, 77055 (Hickory Shadows Property), on or about April 21, 2015.
3. Thereafter, complaint number 15-354 was filed by the Board in conjunction with a referral by a financial institution, on or about August 31, 2015. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).
4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about September 15, 2015. Respondent was afforded an opportunity to address the accusations in the complaint and was also requested to provide certain documentation to the Board. The Respondent provided the requested documentation on or about December 1, 2015.
5. As a result of the investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts

or omissions which did not conform to USPAP in effect at the time of the appraisal of the Hickory Shadows Property:

- a. USPAP Record Keeping Rule – Respondent failed to maintain a work file containing all data, information and/or documentation necessary to support the opinions and conclusions in the appraisal;
  - b. USPAP Standards 1-2(e)(i) & 2-2(a)(iii); 1-2(e)(iv) & 2-2(a)(viii); 1-3(a) & 2-2(a)(viii); 1-3(b) & 2-2(a)(ix) – Respondent failed to evaluate the site adequately. Respondent failed to state the zoning restrictions correctly as well as failed to describe and analyze market trend data adequately regarding stable home prices similar to the subject, and failed to describe the subject property's subdivision appropriately. Respondent also failed to provide analysis and supporting reasoning for his determination of the subject site's highest and best use;
  - c. USPAP Standards 1-4(b)(i) & 2-2(a)(viii); 1-4(b)(ii) & 2-2(a)(viii); 1-4(b)(iii) & 2-2(a)(viii) – Respondent failed to use appropriate methods and techniques to develop an opinion of the site value. Respondent failed to estimate the difference between cost new and the present worth of improvements.;
  - d. USPAP Standards 1-4(a) & 2-2(a)(viii) – Respondent failed to collect, verify, and/or analyze comparable sales data adequately and did not employ recognized methods and techniques in the sales comparison approach;
  - e. USPAP Standards 1-6(a), 1-6(b) & 2-2(a)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used, including the applicability and/or suitability of the approaches;
  - f. USPAP Standards 1-1(a), 1-1(b), 1-1(c), and 2-1(a)– For the reasons detailed above, Respondent committed several substantial errors resulting in an appraisal report that was misleading and not credible.
6. Respondent made material misrepresentations and omissions of material fact with respect to the appraisal of the Hickory Shadows Property as detailed above.
7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

## **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to the Act.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).

Agreed Final Order  
Page 2 of 8

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3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and omissions of material fact.

4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

## **ORDER**

Based on the above findings of fact and conclusions of law, the Board **ORDERS**:

1. **MENTORSHIP.** On or before **November 17, 2016**, Respondent shall complete ten (10) hours of in-person or video conferenced mentorship conducted by a mentor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved mentor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
  - a. One (1) hour addressing work file obligations under USPAP;
  - b. One (1) hour addressing market analysis and reporting market characteristics accurately;
  - c. One (1) hour addressing site analysis and reporting site characteristics accurately;
  - d. One (1) hour addressing the development and support of the opinion of site value;
  - e. One (1) hour addressing the development and support of the cost approach;
  - f. Two (2) hours addressing comparable sales selection, analysis and verification;
  - g. Two (2) hours addressing the development and support for adjustments in the sales comparison approach; and
  - h. One (1) hour addressing report writing.
2. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and

3. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

### **ACKNOWLEDGMENT AND WAIVER**

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION, OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.**

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as res judicata, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

## **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the "Texas Appraiser Licensing and Certification Board" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance with this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto:compliance.talcb@talcb.texas.gov); (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

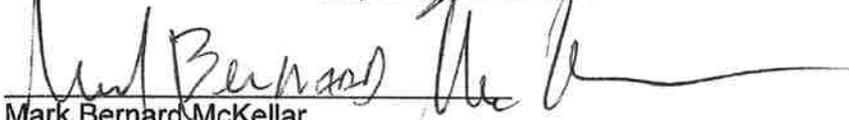
## **EXECUTION**

This agreement may be executed in one or more counterparts, in the form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

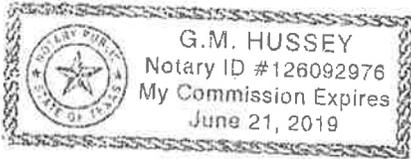
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

**RESPONDENT**

Signed this 24<sup>th</sup> day of August, 2016.

  
Mark Bernard McKellar

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 8<sup>th</sup> day of August, 2016, by Mark Bernard McKellar, to certify which witness my hand and official seal.



  
Notary Public's Signature

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 9<sup>th</sup> day of August, 2016.



\_\_\_\_\_  
Mark R. Lee, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this 9 day of Aug, 2016.



\_\_\_\_\_  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NOS.  
15-310 & 16-057

ADRIAN CHARLES DEAN  
TX-1321389-G

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the license of Adrian Charles Dean (Respondent).

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**FINDINGS OF FACT**

1. Respondent is a Texas state certified general real estate appraiser who holds license number TX-1321389-G and was licensed by the Board during all times material to the above-noted complaints.
2. Respondent appraised residential real property located at 21914 Matagorda Drive, Galveston, Texas 77554 (Matagorda Property), on or about November 15, 2015. Respondent accepted payment for the appraisal of properties located at 1037 West Canal and 1039 West Canal, Crystal Beach, Texas 77650 (Canal Properties) on or about July 20, 2015, but as of October 1, 2015 he had not provided the agreed-upon services. On March 9, 2016, during an interview with the Complainant for complaint 16-057 the Board discovered that Respondent eventually provided a refund to his client, but only after his client filed complaints with the Better Business Bureau and the Board.
3. Complaint 15-310 was filed by a consumer on or about July 22, 2015, while Complaint 16-057 was filed by a consumer on or about October 9, 2015. The Board investigated the complaints to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).
4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), originally notified Respondent of the nature of the accusations involved, for Complaint 15-310 on or about August 11, 2015, and for Complaint 16-057 on or about

October 15, 2015. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board.

5. Respondent failed to timely answer either complaint. Therefore, on or about October 28, 2015, the Board mailed and emailed the Respondent (to his subject addresses of record), a Final Notice of Complaint, with a new response due date of November 5, 2015, for Complaint 15-310. A Final Notice of Complaint for Complaint 16-057 was mailed and emailed to Respondent on or about November 12, 2015 with a new response due date of November 20, 2015.

6. Respondent failed to answer either Final Notice by the deadline. Thereafter, on or about February 8, 2016, the Board mailed and emailed Respondent Notice of Violation and Penalty for not responding, with a response due date of February 29, 2016. The Respondent finally addressed the accusations and supplied documentation for both complaints (15-310 and 16-057), on or about February 29, 2016.

7. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE § 153.20(a)(6) and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Matagorda Property:

- a. USPAP Record Keeping Rule – Respondent violated the Record Keeping Rule because he failed to maintain a work file containing all data, information and documentation necessary to support the opinions, and conclusions in the appraisal;
- b. USPAP Standards 1-4(b)(i) & 2-2(a)(viii); 1-4(b)(ii) & 2-2(a)(viii); 1-4(b)(iii) & 2-2(a)(viii); 1-1(a) – Respondent failed to show comparable cost data to estimate cost new of improvements, and/or failed to document comparable data to estimate the difference between cost new and the present worth of the improvements (although the Respondent did request such information from the property owner); and
- c. USPAP Standards 1-4(a) & 2-2(a)(viii); 1-1(a) -- Respondent failed to provide his supporting, adequate reasoning for his adjustments and failed to provide an adequate explanation for the selection of comparable sales using relevant evidence and logic.

8. In order to reach an expeditious resolution of these matters and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

## **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to the Act.

Agreed Final Order  
Page 2 of 6

2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making omissions of material fact regarding his appraisal of the Matagorda Property.
4. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(24) by failing to respond timely to both complaints despite repeated requests.
5. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

## ORDER

Based on the above findings of fact and conclusions of law, the Board **ORDERS**:

1. **MENTORSHIP.** On or before November 17, 2016, Respondent shall complete eight (8) hours of in-person or video conferenced mentorship conducted by a mentor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved mentor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
  - a. Four (4) hours concerning the sales comparison approach to include selection of sales and support for adjustments; and
  - b. Four (4) hours concerning all aspects of the cost approach.
2. **ADMINISTRATIVE PENALTY.** Respondent shall pay to the Board an administrative penalty of one-thousand dollars (\$1,000.00) in (4) four monthly payments of \$250 each, by cashier's check or money order, as follows:
  - a. \$250.00 on or before September 8, 2016;
  - b. \$250.00 on or before October 8, 2016;
  - c. \$250.00 on or before November 8, 2016;
  - d. \$250.00 on or before December 8, 2016

Respondent must make all payments set forth above timely and without any grace period or notice from the Board. Failure to submit payments timely

Agreed Final Order  
Page 3 of 6

automatically suspends Respondent's Texas certified general appraiser license until ALL of the remaining balance of the administrative penalty is paid in full.

3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

#### **ACKNOWLEDGMENT AND WAIVER**

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION, OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD. ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as res judicata, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

**DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the "Texas Appraiser Licensing and Certification Board" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance with this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto:compliance.talcb@talcb.texas.gov); (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

**EXECUTION**

This agreement may be executed in one or more counterparts, in the form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

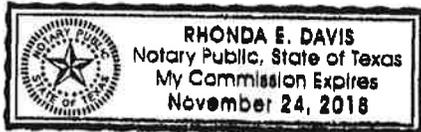
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

**RESPONDENT**

Signed this 10<sup>th</sup> day of AUGUST, 2016.

Adrian Charles Dean  
Adrian Charles Dean

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 10<sup>th</sup> day of August, 2016, by Adrian Charles Dean, to certify which witness my hand and official seal.



Rhonda E. Davis  
Notary Public's Signature

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 9<sup>th</sup> day of August, 2016.

  
\_\_\_\_\_  
Mark R. Lee, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this 9 day of Aug, 2016.

  
\_\_\_\_\_  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board



### **AGENDA ITEM 7(a)**

Discussion and possible action regarding request for modification of agreed order in the matter of Complaint #14-111 (Russell Earl Milan, TX-1323544-R).



**From:** [Troy Beaulieu](#)  
**To:** [Dione Frederick](#)  
**Subject:** FW: Complaint Case # 14-111  
**Date:** Thursday, August 04, 2016 8:50:06 AM  
**Attachments:** [15 Hour USPAP Course.pdf](#)

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FYI.

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**From:** Russell Milan [mailto:[russell\\_milan@sbcglobal.net](mailto:russell_milan@sbcglobal.net)]  
**Sent:** Thursday, August 04, 2016 6:36 AM  
**To:** Kristen Worman <[Kristen.Worman@trec.texas.gov](mailto:Kristen.Worman@trec.texas.gov)>  
**Cc:** Troy Beaulieu <[Troy.Beaulieu@trec.texas.gov](mailto:Troy.Beaulieu@trec.texas.gov)>  
**Subject:** Re: Complaint Case # 14-111

I am signing up for this USPAP course to be held in Houston in January. As soon as I have the others I will send to you ASAP.

**Russell Milan**

**Milan Appraisals**

[www.milanappraisals.com](http://www.milanappraisals.com)

[mianappraisals-russ@yahoo.com](mailto:mianappraisals-russ@yahoo.com)

**MOB #(713)-854-7939**

**FAX #(713)-456-2414**

On Wednesday, August 3, 2016 4:21 PM, Kristen Worman <[Kristen.Worman@trec.texas.gov](mailto:Kristen.Worman@trec.texas.gov)> wrote:

Dear Mr. Milan –

Thank you for your email. I will present your request for a 6 month extension until February 28, 2017, to complete the required classes and mentorship hours to the Board at their upcoming meeting. It would be helpful to your request if you can provide me with proof that you have registered for at least one of the courses or have completed a portion of the mentorship hours, so that I may also present that information to the Board. This will demonstrate that you are making progress on the requirements.

As for paying a fine in lieu of taking the classes or mentorship hours, please take that up with Troy Beaulieu.

Best regards,

**Kristen Worman**

General Counsel/Deputy Commissioner

Texas Appraiser Licensing & Certification Board  
1700 N. Congress Ave., Suite 400  
Austin, TX 78701  
(512) 936-3093 Telephone  
(512) 936-3788 Facsimile

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**From:** Russell Milan [[mailto:russell\\_milan@sbcglobal.net](mailto:russell_milan@sbcglobal.net)]  
**Sent:** Wednesday, August 03, 2016 4:09 PM  
**To:** Kristen Worman <[Kristen.Worman@trec.texas.gov](mailto:Kristen.Worman@trec.texas.gov)>  
**Cc:** Troy Beaulieu <[Troy.Beaulieu@trec.texas.gov](mailto:Troy.Beaulieu@trec.texas.gov)>  
**Subject:** Re: Complaint Case # 14-111

Thank you for the quick response. I have been unable to schedule ( register ) or complete any of the hours ( Including mentorship ). It has been a rough eight months, but that is all behind me now. I need six months to complete all ( February 28, 2017 ). I will begin to search and get that started starting September 1. If however, you are saying that I can pay a fine in lieu of classes, etc. ( Is that an option? ) I will address that with troy. I really appreciate the assistance .

Russell Milan

**Milan Appraisals**

<http://www.milanappraisals.com/>  
[mianappraisals-russ@yahoo.com](mailto:milanappraisals-russ@yahoo.com)

MOB #(713)-854-7939

FAX #(713)-456-2414

On Wednesday, August 3, 2016 4:02 PM, Kristen Worman <[Kristen.Worman@trec.texas.gov](mailto:Kristen.Worman@trec.texas.gov)> wrote:

Dear Mr. Milan –

Thank you for your email. I will add your request for modification of the Board's order to the agenda for the upcoming Board meeting on August 19, 2016. You do not need to appear in person at the meeting to present your request unless you choose to do so; however, I will need some additional information from you to convey to the Board members as they consider your request for a modification of the existing order.

Please answer the following questions (You may reply to this email):

- 1) Have you completed any of the 3 classes required under the terms of the order?
- 2) Have you registered for any of the required classes? If not, do you know when the next classes of each required course might be offered?
- 3) Have you completed any of the required mentorship hours?
- 4) As I understand your email below, you are requesting additional time to complete the required classes and mentorship hours. How much additional time are you requesting? 3 months? 6 months? Longer? Please give me a date such as December 31, 2016, or February 28, 2017.

The more specific information you can provide to me, the more information I can convey to

the Board about your request.

I have copied Troy Beaulieu, Director of Standards and Enforcement Services, on this email. If you are requesting to modify the terms of the order by paying an administrative penalty in lieu of taking the required classes or mentorship hours, you will need to address that request to Troy. He will also be able to answer your questions about the possibility of a payment plan.

Best regards,

**Kristen Worman**

General Counsel/Deputy Commissioner

Texas Appraiser Licensing & Certification Board  
1700 N. Congress Ave., Suite 400  
Austin, TX 78701  
(512) 936-3093 Telephone  
(512) 936-3788 Facsimile  
[kristen.worman@talcb.texas.gov](mailto:kristen.worman@talcb.texas.gov)

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**From:** Russell Milan [[mailto:russell\\_milan@sbcglobal.net](mailto:russell_milan@sbcglobal.net)]  
**Sent:** Wednesday, August 03, 2016 3:10 PM  
**To:** Kristen Worman <[Kristen.Worman@trec.texas.gov](mailto:Kristen.Worman@trec.texas.gov)>  
**Subject:** Complaint Case # 14-111

Dear Ms. Worman:

My Certification number is 1323544-R

I was asked to communicate with you on the above referenced case. I have been unable to complete the in class hours and mentoring for the above referenced case due to severe financial hardship, brought about due to a troublesome separation from my wife and pending divorce. I have also had some financial set backs and significant time issues over the past eight-nine months because of this. This has not allowed me to take care of this matter in the time allowed. I also have had other financial set backs which have not allowed me to proceed. I need to keep working and I am want to complete the agreed to order and mentoring as requested; however, I need an additional six months to do so. I respectfully request for this to occur.

My original plan was to begin this process roughly eight to nine months ago. It was at the beginning of that time that things began to happen which precluded me from being able to secure the time and the needed finances to complete me required hours, in order to satisfy the order. I has been and is my utmost intention to do so. You should know that these things have nothing to do with my being an appraiser. I have been an appraiser in good standing ( This issue not withstanding ) for over thirty years and want to continue to do so. Please know that the things which

have kept me from completing the hours have been addressed and I am now able to do so. I am currently taking my regular hours to satisfy my certification renewal which is on 08/31/2016. I will begin to schedule the required classes and mentoring hours ASAP. I have some financial issues which would preclude me to pay a penalty at this time; however, if a penalty is assessed would the board be able to allow me to make payments to satisfy this? I appreciate you time and consideration in this matter. My original contact in this matter was Kyle Wolf. I had left a voice message several weeks ago in the general voice mail requesting he return the call to discuss the matter. I called again recently, not having received a return call, to find out that he no longer works there.

I take my profession seriously and desperately need to continue to work to support myself and my children during this time. Please allow me to do so. I will get the hours done.

Respectfully,

Russell Milan  
Russell Milan

**Milan Appraisals**

<http://www.milanappraisals.com/>  
[mianappraisals-russ@yahoo.com](mailto:milanappraisals-russ@yahoo.com)

MOB #(713)-854-7939

FAX #(713)-456-2414

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
14-111

RUSSELL EARL MILAN  
TX-1323544-R

**AGREED FINAL ORDER**

On the 14<sup>th</sup> day of August, 2015, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Russell Earl Milan (the "Respondent").

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**FINDINGS OF FACT**

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-1323544-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent performed an appraisal review of an appraisal of residential real property located at 127 Woodhaven Lane, Seabrook, Texas, on or about June 18, 2013.
3. Thereafter, the complaint, numbered 14-111, was filed by Board staff, on or about February 3, 2014. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
4. The Board, in accordance with the mandate of TEX.GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved, on or about February 4, 2014. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about February 25, 2014.
5. As a result of the Board's investigation, the Board contends that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal review:

Agreed Final Order  
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- a. USPAP Ethics Rule – Respondent communicated the assignment results in a grossly negligent manner;
  - b. USPAP Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal review;
  - c. USPAP Scope of Work Rule, USPAP Standards Rules 3-2(h) and 3-5(g) – Respondent failed to perform the scope of work necessary for credible assignment results;
  - d. USPAP Standards Rules 3-1(a) and 3-3 – Respondent failed to employ those methods and techniques necessary to produce a credible appraisal review;
  - e. USPAP Standards Rule 3-1(b) – Respondent committed substantial errors of omission and/or commission, which include: stating the cost approach was accurate, failing to address deficiencies “Market Analysis Section,” and failing to comply with Standard 1 and 2;
  - f. USPAP Standards Rules 3-2(e) and 3-5(e) – Respondent failed to identify the effective date in the appraisal review;
  - g. USPAP Standards Rules 3-3(a)(i), (a)(ii), and (a)(iii) – Respondent failed to develop an opinion as to whether the analyses are appropriate, failed to develop as to an opinion whether the opinions and conclusions are credible; and failed to develop any reasons for disagreement;
  - h. USPAP Standards Rules 3-3(b)(i), 3-3(b)(ii), and 3-5(h) – Respondent failed to develop an opinion as to whether the report is appropriate and not misleading and failed to develop any reasons for any disagreement;
  - i. USPAP Standards Rules 3-4(a) and 3-4(b) – Respondent failed to set forth an appraisal review in a manner that was not misleading and failed to provide sufficient information to enable intended users to understand the report properly; and
  - j. USPAP Standards Rules 3-5(i) and 3-3(c) – Respondent failed to state the information used in developing an opinion of value, failed to summarize any additional information relied on and the reasoning for the opinion of value, failed to state all extraordinary assumptions and hypothetical conditions connected with the opinion of value, and failed to comply with the USPAP Standards applicable to the opinion of value.
6. Respondent made material misrepresentations and material omissions of material fact with respect to the appraisal review as detailed above.

7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

### **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to the Act.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and material omissions of material fact.
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

### **ORDER**

Based on the above findings of fact and conclusions of law, the Board **ORDERS**:

1. **EDUCATION.** On or before August 21, 2016, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.
  - a. An in-classroom 15-hour National USPAP Course, on or before August 21, 2016.
  - b. A classroom course on the cost approach, a minimum of fifteen (15) class hours, on or before August 21, 2016.
  - c. A classroom course on report writing, a minimum of fifteen (15) class hours, on or before August 21, 2016.
2. **MENTORSHIP.** On or before August 21, 2016, Respondent shall complete four (4) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas

Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.

- a. Four (4) hours of mentorship concerning appraisal review and the above-noted violations in the findings of fact, on or before August 21, 2016.
3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order.
4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

### **ACKNOWLEDGMENT AND WAIVER**

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.**

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as res judicata, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

Agreed Final Order  
Page 4 of 6

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

## **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the "Texas Appraiser Licensing and Certification Board" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto:compliance.talcb@talcb.texas.gov); (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

## **EXECUTION**

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

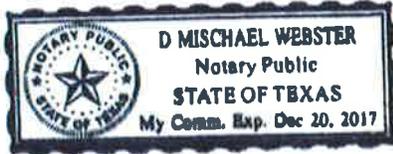
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

**RESPONDENT**

Signed this 6 day of May, 2015.

Russell Earl Milan  
Russell Earl Milan

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 6<sup>th</sup> day of May, 2015, by Russell Earl Milan, to certify which witness my hand and official seal.



D. Michael Webster  
Notary Public's Signature

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 6<sup>th</sup> day of May, 2015.

Kyle Wolfe  
Kyle Wolfe, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this 8 day of May, 2015.

Douglas Oldmixon  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this 14 day of August, 2015.

J. Wickliffe  
Jannie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board

Agreed Final Order  
Page 6 of 6



### **AGENDA ITEM 7(b)**

Discussion and possible action regarding request for modification of agreed order in the matter of Complaint #05-089 & 07-030 (Joshua Stone Baugher, TX-1331720-L).



Joshua Baugher  
8211 Pilgrims Place  
Austin, TX 78759  
214 707 7892  
josh.baugher@gmail.com  
August 1, 2016

RECEIVED  
TEXAS REAL ESTATE COMMISSION  
AUG 04 2016  
CASHIER'S SECTION  
OPERATOR 13

Mr. Earl "Buster" Renfrow  
Texas Appraiser Licensing & Certification Board  
1700 N. Congress Ave., Suite 400  
Austin, TX 78701

Dear Mr. Renfrow:

I was a Licensed residential appraiser TX-1331720-L from about 2002-2006 during which time two complaint cases were filed. I attempted to resolve the complaints through responses to letters from TALCB enforcement. I was informed that enforcement would be seeking a revocation of my license through a SOAH hearing and no informal hearing was offered. During this time, I allowed my license to expire and did not reapply for continued licensure because I thought that I would be denied. I signed an Agreed Final Order as it was presented to me as the only alternative to SOAH hearing, because I was humiliated, felt powerless, could not afford an attorney and did not know of one.

I am sorry for the quality of the two reports, the deficiencies of which the Order points out in detail. I was a relatively young and inexperienced appraiser and I did not give the reports the appropriate attention and care. I acknowledge these deficiencies and my failings. I sincerely assert that the errors and omissions contained in my reports were the result of incompetence and carelessness and not because of any intent to mislead.

My mistakes were and continue to be an embarrassment to me. I have since returned to school to become better educated and to complete undergraduate studies. I will be graduating in the coming year and hope to set an example of perseverance and determination for my young children.

I am writing to you today to humbly ask that you consider a reasonable request to Modify the Agreed Final Order at a future Board Meeting. I have no advocate on the Board and I have no attorney. I previously came unprepared before the board in May of 2013 without a specific request to modify and no action was taken at that time. It was then suggested that I could reapply for licensure, be denied and then request a SOAH hearing to plead my case. I would be in violation of the Order if I were to reapply, however the Board may modify the Order while I am currently in compliance with the existing order.

I have reviewed the Act, Rules, and Sanctions Guidelines, as well as cases involving other appraisers, since the order was imposed. A more thorough Acknowledgment and Waiver has been applied to recent Orders as well as an Affidavit attesting that an appraiser no longer desires licensure. Perhaps, if my license had been Revoked, I would have been able to reapply for licensure after two years as outlined in Sec 1103.522 of the Texas Appraiser Licensing and Certification Act. Many appraisers who have had hearings have been required to gain additional education, pay penalties, receive mentorship, have been suspended or revoked often with probated terms, and continue to be licensed. Had an opportunity to take responsibility and to improve

professionally been presented to me, I might have been able to comply with such an order, to correct my mistakes, and to become a more competent appraiser. Instead, I have no prospect of ever making amends having consented to a permanent injunction.

The Agreed Final Order has no expiration and as such is a lifetime ban from the appraisal profession. I was not offered an informal hearing and was unable to consult an attorney before entering the agreement. I truly did not truly know what I was giving up by signing it. An attorney might have explained that while a Revoked appraiser may reapply, an order such as mine is a permanent injunction and that further, it is an impediment to any future professional practice or license across many other fields. A disciplinary action against a professional license is a tremendous obstacle and impairment in itself, but a permanent injunction is impossible to overcome. It has been a cause of humiliation and perpetuates continued hopelessness as I attempt to find a new career path.

I respectfully ask that you consider a modification of the Order that will limit its scope to a defined duration consistent with Section 1103.522 of the Texas Appraiser Licensing and Certification Act. It has been more than eight years since the Order became effective and I hope you will consider that the injunction has already served its punitive purpose. I request to modify the Order as follows:

Under Findings of Fact 3. Strike out "and Respondent no longer desires to hold a license, certification, authorization or registration from the Board." And Strike out "in the future" and replace with "until the second anniversary of the date of the original Order (the 10<sup>th</sup> day of December, 2007)."

Following "the Board ORDERS that the Respondent": Strike out "in the future" and replace with "until the second anniversary of the date of the original Order (the 10<sup>th</sup> day of December, 2007)."

Throughout my life I have acted with integrity personally and professionally and accept responsibility for all my actions. I have returned to school in order to improve myself, to grow, and to demonstrate my responsibility. Nothing in my background but this order would call into question the public trust. If allowed to reapply, I would be starting from the very beginning of the application process, of sponsorship, of the experience requirement, of the appraisal education requirements and USPAP, the college degree requirement, and examination. I assure you that if I were ever allowed a path to return to practice, I would exercise the greatest care and responsibility and practice with humility and respect for the public and the profession. I ask simply that you support a motion for modification of my Order when presented as an agenda item at a future Board meeting. I invite you to contact me at the above if you wish to discuss any aspect of my request.

Sincerely,

A handwritten signature in black ink, appearing to read "Joshua Baugher", written in a cursive style.

Joshua Baugher

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

JOSHUA STONE BAUGHER  
TX-1331720-L

§  
§  
§  
§  
§  
§  
§  
§

DOCKETED COMPLAINT NO.  
05-089 & 07-030

**AGREED FINAL ORDER**

On this the <sup>15th</sup> ~~10th~~ day of <sup>JANUARY</sup> ~~DECEMBER~~, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the license of Joshua Stone Baugher, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

**FINDINGS OF FACT**

1. Respondent Joshua Stone Baugher was a Texas state licensed real estate appraiser, previously held license number TX-1331720-L, and was licensed by the Board during all times material to the above-noted complaint cases.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq. (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. Since the time of these complaints, Respondent's state license as a real estate appraiser has expired and Respondent no longer desires to hold a license, certification, authorization or registration from the Board. Respondent acknowledges that his state license has lapsed and he is hereby agreeing not to seek renewal of the license, nor to apply for any authorization, license, certification or registration with the Board in the future.
4. On or about February 28<sup>th</sup>, 2005 Respondent appraised real property located at 2553 Harvest Lane, Fort Worth, Tarrant County, Texas ("the Harvest Lane property) for the client, First Capital Investments.
5. On or about March 18<sup>th</sup>, 2005 Respondent appraised real property located at 122 Fossil Creek Circle, Sherman, Texas ("the Fossil property) for the client, Alethes, LLC d/b/a Amerinet Mortgage.
6. On or about March 30<sup>th</sup>, 2005, the Complainant, Kim Poppe, filed a complaint with the Board. The Complainant asserted that the Respondent had produced a purposefully inflated appraisal for the Harvest Lane property. On or about November 15<sup>th</sup>, 2006, the Complainant, Jack McComb, filed a staff-initiated complaint with the Board. This complaint was based upon information submitted by Dan R. Gomez, Jr.,

the Director of the Processing and Underwriting Division of the United States Department of Housing and Urban Development ("HUD"). HUD asserted that Respondent had violated provisions of USPAP in his appraisal of the Fossil property.

7. On or about April 13<sup>th</sup>, 2005 and June 6<sup>th</sup>, 2005 and November 28<sup>th</sup>, 2006 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. § 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in both complaints. Respondent's response to both complaints was received.

8. The Enforcement Division has concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Harvest Lane property:

- a. USPAP Ethics Rule – Respondent failed to comply with the record keeping provisions of USPAP's Ethics Rule;
- b. USPAP Standards 2-2(b) – Respondent failed to prominently state the report option he used;
- c. USPAP Standards 1-2(b) & 2-2(b)(ii) – Respondent has failed to identify the intended use of his opinions and conclusions;
- d. USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent has failed to identify and report the Harvest Lane property's site description adequately;
- e. USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent has failed to identify and report the Harvest Lane property's improvement(s) description adequately;
- f. USPAP Standards 1-2(e)(iv) & 2-2(b)(ix) and 1-3(a) & 2-2(b)(ix) – Respondent did not consider and report the specific zoning for the Harvest Lane property;
- g. USPAP Standards 1-3(b) & 2-2(b)(x) – Respondent has failed to provide a brief summary of his rationale for his determination of the Harvest Lane property's highest and best use;
- h. USPAP Standards 1-4(b)(i) & 2-2(b)(ix) – Respondent has failed to use an appropriate method or technique to develop an opinion of the Harvest Lane property's site value;

- i. USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) – Respondent has failed to collect, verify, analyze and reconcile the cost new of improvements;
- j. USPAP Standards 1-4(b)(iii) & 2-2(b)(ix) – Respondent has failed to collect, verify, analyze and reconcile accrued depreciations;
- k. USPAP Standards 1-1(a) & 1-4(b) – Respondent has not employed recognized methods and techniques in his cost approach analysis of the Harvest Lane property correctly;
- l. USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent has not collected, verified, analyzed and reconciled comparable sales data adequately;
- m. USPAP Standards 1-1(a) & 1-4(a) – Respondent has not employed recognized methods and techniques correctly;
- n. USPAP Standards 1-5(a) & 2-2(b)(ix) – Respondent has failed to analyze all agreements of sale, options or listings of the Harvest Lane property current as of the effective date of the appraisal;
- o. USPAP Standards 1-6(a) & (b) & 2-2(b)(ix) – Respondent has failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches;
- p. USPAP Standard 1-1(a) – Respondent has not correctly employed recognized methods and techniques to produce a credible appraisal for the Harvest Lane property;
- q. USPAP Standard 1-1(b) – Respondent has committed substantial errors of omission or commission that significantly affects his appraisal of the Harvest Lane property;
- r. USPAP Standard 1-1(c) – Respondent has rendered careless or negligent appraisal services;
- s. USPAP Standard 2-1(a) – Respondent has failed to clearly and accurately set forth the appraisal of the Harvest Lane property in a manner that will not be misleading to users of the report; and,
- t. USPAP Standard 2-1(b) – Respondent has failed to provide sufficient information in his Harvest Lane appraisal report for intended users to understand the report properly.

9. The Enforcement Division has concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Fossil property:

- a. USPAP Supplemental Standards Rule – Respondent has failed to adhere to supplemental standards that were imposed by HUD;
- b. USPAP Standards 1-3(a) & 2-2(b)(ix) – Respondent failed to properly report the Fossil property’s specific zoning;
- c. USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the site description adequately;
- d. USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent has failed to identify and report the improvement(s) description adequately;
- e. USPAP Standards 1-4(b)(iii) & 2-2(b)(ix) – Respondent has failed to collect, verify, analyze and reconcile accrued depreciations;
- f. USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent has failed to adequately collect, verify, analyze and reconcile comparable sales data;
- g. USPAP Standards 1-1(a) & 1-4(a) – Respondent has failed to employ recognized methods and techniques in his sales comparison approach correctly;
- h. USPAP Standards 1-5(a) & 2-2(b)(ix) – Respondent has failed to analyze the agreement of sales and listings of the Fossil property;

10. The Enforcement Division concluded that the Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(9) by making material misrepresentations and omissions of material facts in the appraisal report for the properties. These material misrepresentations and omissions of material fact include: (1) failing to analyze and disclose the contract of sale and listing history of the Harvest Lane and Fossil properties, and (2) omitting more appropriate, more comparable properties from the sales comparison analysis of the Harvest Lane property even though these more similar sales were in the immediate neighborhood, readily available and should have been used to produce a credible appraisal report.

## **CONCLUSIONS OF LAW**

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.
2. Respondent violated the following USPAP provisions as prohibited by 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Ethics Rule; USPAP Supplemental Standards Rule; USPAP Standards Rules: 2-2(b); 1-2(b) & 2-2(b)(ii); 1-2(e)(i) & 2-2(b)(iii); 1-2(e)(iv) & 2-2(b)(ix); 1-3(a) & 2-2(b)(ix); 1-3(b) & 2-

2(b)(x); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(ix); 1-4(b)(iii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-5(a) & 2-2(b)(ix); 1-6(a) & (b) & 2-2(b)(ix); 1-1(a); 1-1(b); 1-1(c); 2-1(a); and, 2-1(b).

3. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making material misrepresentations and omissions of material facts.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent:

1. Respondent shall not seek renewal of his license, nor apply to the Board for any authorization, license, certification or registration in the future.

Respondent, by signing this Agreed Final Order, neither admits nor denies that the findings of fact and conclusions of law herein set forth are correct; however, Respondent consents to the entry of this Agreed Order to avoid the expense of litigation and to reach an expeditious resolution of this matter. Respondent also agrees to satisfactorily comply with the mandates of this Agreed Final Order in a timely manner.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published in the Board's newsletter and/or on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Consent Order by the Texas Appraiser Licensing and Certification Board vote.

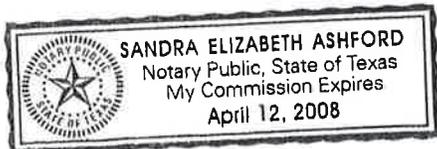
Signed this 26<sup>th</sup> day of November, 2007.

  
\_\_\_\_\_  
JOSHUA STONE BAUGHER

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 26<sup>th</sup> day of November, 2007, by JOSHUA STONE BAUGHER, to certify which, witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public Signature

Sandra Elizabeth Ashford  
\_\_\_\_\_  
Notary Public's Printed Name



Signed by the Commissioner this 11th day of January, ~~2007~~ <sup>2008</sup>

[Signature]  
Timothy K. Irvine, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 15 day of JANUARY, ~~2007~~ <sup>8</sup>

[Signature]  
Larry Kokel, Chairperson  
Texas Appraiser Licensing and Certification Board



### **AGENDA ITEM 7(c)**

Discussion and possible action regarding request for modification of agreed order in the matter of Complaint #15-124 & 15-173 (Rodger Thornton Williams, TX-1334530-R)



RODGER THORNTON WILLIAMS  
119 Suburban Drive, Ovilla, Texas 75154  
(972) 217-1005 Home ❖❖❖ (972) 217-4220 Fax ❖❖❖ (972) 898-7069 Cell  
[centerprises1@sbcglobal.net](mailto:centerprises1@sbcglobal.net)

August 10, 2016

e-mail/Regular Mail

To: Kristen Worman  
General Counsel/Deputy Commissioner

Thru: Troy Beaulieu  
Texas Appraiser Licensing and Certification Board

Thru: Kyle Wolfe, Staff Attorney  
Texas Appraiser Licensing and Certification Board

Thru: Commissioner  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Thru: Chairperson  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board

Thank you for your promise to present my request asking the Board to consider the classes listed in my email below as satisfaction for classes and mentorship required under the terms of my agreed Order.

However, I am asking you to present to the Board that I had poor representation and the punishment does not fit the crime. The fact that my Attorney never met with me prior to presenting to the Board an Agreed Order that he felt was for his best interest is fact!

Once I was presented the Agreed order I was aghast that he would in fact request such grievous punishment for one (1) complaint from an AMC.

Madam, I was so taken that I made changes to the agreed order without counsel. My Attorney called and threaten me verbally that I had no right to change anything and that he would contacted the Board's Representative and tell him so!

My Attorney, the person representing me request and agreed that I should not have a trainee, not be able to pursue USPAP Instructor status for 5 years knowingly request I be required to re-test, requested I take USPAP 7 hour course and USPAP 15 hours course, take additional classes Cost, Sale & Income Approach classes etc.

All this was done after I would not agree to take my case to court before the Board and request my Attorney to arbitrate the two briefs that I had presented him for the (2) files the complaints were on.

Madam, I humbly asked that you also present to the Board that I have served the State of Texas for years of service without any complaint. I have no adverse suitability and no felony arrest that would warrant such a grievous punishment.

After years of service I did have a complaint that was presented to the Board but because of My Attorney's greed rather than pursuing a win-win solution through arbitration. My Attorney had a conflict of interest and that was for monetary gain and that is my opinion.

I selected my Attorney because of his resume and the fact that he once worked with the Board and he is a USPAP Instructor. But, when I asked him what type of affect could this have on my business; my Attorney responded that "it

would be posted for public view on the web-site but no be adverse action should occur to my business". I lost two \$70,000.00 contracts.

The fact that I selected and allowed my Attorney to represent me before our Board is the most Grievous error I have made in my career I failed to read our Law. I failed in preparing my case by USPAP guide lines and have re-taken the courses to ensure my work files are in USPAP compliance aswell as my reports.

Madam, please present to our Board that I notified all parties concern that I had distant myself from the assignment because the AMC wanted me to reach a certain value. I told this to the Owner, the Bank and the AMC in writing and to my Attorney prior to the Agreed Order and prior to the complaint being filed.

Humbly, I cry for relieve I acknowledge in writing that I did not finished the report and distant myself from the assignment. I also acknowledge that the complaint on the other report was without merit put this in writing and sent it to my Attorney and requested he present the briefs to our Board.

I paid my Attorney up front and I have never met him face to face! I am guilty of not reading case law prior to changing my Attorney's agreed order. If I had read case law I could and would have argued and requested the ability to become a USPAP instructor not be allowed a part of my punishment. I could and would have argued the need to have trainees and not have this as a part of the punishment.

I could and would have argued and requested the rationale for both USPAP 7 and 15 courses and mentoring inasmuch as classes are small and questions are answer and both the Mentor and USPAP instructors' have the same qualification and material USPAP 2017. I could and would have argued that per the complaint Cost Approach and Income Approach were not a part of the complaint.

Please, present to the Board the classes listed in my email also the fact the only reason I am not going to appear before them is for medical reason!

Thanking you in advance; have a great day! Your expedience in this matter is greatly appreciated.

P.S. Per your alternative question I Humbly asked not to be fined \$1,000.00 administratively; and if this request is not granted an additional 9 months to comply.

However, when my request is granted I assure you that I will never be before you again and I will continue to serve in a outstand manner. Taking and applying this experience to enhance my knowledge as a win - win situation to help others.

Best Regards,

Rodger Thornton Williams  
State Certified Appraiser

Cc: Ted Whitmire

## Dione Frederick

---

**From:** Kristen Worman  
**Sent:** Tuesday, August 09, 2016 3:11 PM  
**To:** Dione Frederick  
**Subject:** FW: Humbly I request grace for the errors and asked the classes presented to our Board stand as serving for the Complaints.  
**Attachments:** 1422222222class.pdf

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**From:** Rodger Williams [mailto:crcenterprises1@sbcglobal.net]  
**Sent:** Tuesday, August 09, 2016 11:47 AM  
**To:** Kristen Worman <Kristen.Worman@trec.texas.gov>  
**Cc:** Troy Beaulieu <Troy.Beaulieu@trec.texas.gov>  
**Subject:** Re: Humbly I request grace for the errors and asked the classes presented to our Board stand as serving for the Complaints.

Thank you for responding. No I can not make it I am having trouble with my prostate and in treatment during that session. Humbly, I asked our Board to consider the following classes:

2016 USPAP 15 hours  
2016 USPAP 7 hours  
2016 Income

2016 Sales Comparison

2016 Residential Report Writing  
2015 Helping buyers Narrow in on their dream home  
2015 Trec Legal Update

2015 Trec Ethics  
2015 Fracking Barnett Eagle Ford Shale How to represent a client

2015 Real Estate Safety  
2014 Broker Responsibility

2014 What Real Estate Professionals Need to Know about FHA

2014 Commercial Real Estate

2014 Mortgage Loans and Law  
2012 Under Standing Respa and HUD-1

On Tuesday, August 9, 2016 9:28 AM, Kristen Worman <[Kristen.Worman@trec.texas.gov](mailto:Kristen.Worman@trec.texas.gov)> wrote:

Dear Mr. Williams –

We are in receipt of your request for a modification and will add that as an item on the agenda for the Board meeting on August 19, 2016. You may come in person to present your request to the Board, but you do not have to do so. Please let me know if you plan to be here in person to address the Board.

As I understand your request, you are asking the Board to accept your completion of the 15-hour USPAP course as satisfaction for all of the courses and the 18 hours of mentorship required under the terms of your order. While I can appreciate your circumstances, the Board may not be willing to grant this particular request. In that event, do you have another alternative, such as allowing you additional time to complete the required courses and mentorship hours? If so, would you please let me know what that alternative might be?

Best regards,

**Kristen Worman**  
General Counsel/Deputy Commissioner

Texas Appraiser Licensing & Certification Board  
1700 N. Congress Ave., Suite 400  
Austin, TX 78701  
(512) 936-3093 Telephone  
(512) 936-3788 Facsimile  
[kristen.worman@talcb.texas.gov](mailto:kristen.worman@talcb.texas.gov)

---

**From:** Rodger Williams [<mailto:crenterprises1@sbcglobal.net>]  
**Sent:** Friday, August 05, 2016 7:46 PM  
**To:** Kristen Worman <[Kristen.Worman@trec.texas.gov](mailto:Kristen.Worman@trec.texas.gov)>  
**Subject:** Humbly I request grace for the errors and asked the classes presented to our Board stand as serving for the Complaints.

Madam,

Per, the Director, Standards and Enforcement Services Division I write you!

Humbly I asked the Board again to consider my e-mail to Mr. Wolf asking the Board permission to grant the class room training taken as service for the errors on complaints of 15-124 and 15-173.

I asked this for the following reasons!

1. Prior to the complaint to our Board I had contacted the owner, the lending institution, and the AMC that I was with drawing from the assignments and the reasons why. Then the AMC complained to the Board.
2. Service of duty to the state of Texas as a representative in good standing for years of outstanding service and no complaints.

Madam, I wrote two briefs to explain my position to the Board and presented both of these briefs to my then Attorney Ted Whitmire. Attorney Whitmire advised me that if we went to court it would cost more money for him to represent me. I then asked what would be the ramification if the board rule against me and how would affect my clients.

Attorney Whitmire assured me that this would only be posted publicly and it should not affect my relationship with my clients. I asked Attorney Whitmire to present my position to the board and arbitrate as best he could in my behalf.

I received an e-mail from Attorney Whitmire requesting I sign an agreed final order that he presented to our Board. I read it and was aghast I changed it and signed it and sent it to Attorney Wolfe, then was contacted by Attorney Whitmire demanding I sign the copy he presented to our Board. I was aghast and stop speaking to him.

I did not know the ramification of and assumed that with Mr. Whitmire knowledge and resume he would best represent me even though I choose not to got to court.

Madam, I asked the Board to accept the classes that I presented to our Board as training for the infractions and no others are needed, also I humbly, asked that I have the rights to study to become a USPAP instructor. Which Attorney Whitmire never mention that I would loose those rights aswell and I beg of the court to forgive me the errors and expunge my records.

Rodger Thornton Williams  
972-217-1005

**CHAMPIONS SCHOOL OF REAL ESTATE**  
**CERTIFICATE OF ACHIEVEMENT**

THIS IS TO CERTIFY THAT

**Rodger Thornton Williams**

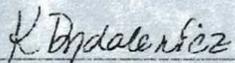
has successfully completed 14 hours of study in

Residential Report Writing & Case Studies - # 15-00-066-26969

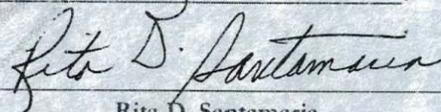
and is therefore entitled to this Certificate of Achievement.

Started: Saturday, January 16, 2016 Ended/Issued: Sunday, January 17, 2016

This program of study is accredited by the Texas Appraiser Licensing and Certification Board.



Kim Dydalewicz  
President



Rita D. Santamaria  
CEO

Instructor: Robinson Wilson

Provider # 0005

Certificate # 1677886

Instructor TREC ID # 881080295

Instructor TREC License # 1835

**CHAMPIONS SCHOOL OF REAL ESTATE**  
**CERTIFICATE OF ACHIEVEMENT**

THIS IS TO CERTIFY THAT

**Rodger Thornton Williams**

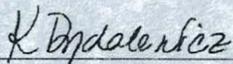
has successfully completed 15 hours of study in

National 15-Hour USPAP (2016-2017) - Classroom

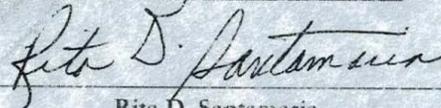
and is therefore entitled to this Certificate of Achievement.

Started: Saturday, April 23, 2016 Ended/Issued: Sunday, April 24, 2016

This program of study is accredited by the Texas Appraiser Licensing and Certification Board



Kim Dydalewicz  
President



Rita D. Santamaria  
CEO

Instructor: Terry Clark  
Provider # 0005  
Certificate # 1768341

Instructor TREC ID # 880319770  
Instructor TREC License # 2503

**CHAMPIONS SCHOOL OF REAL ESTATE**  
**CERTIFICATE OF ACHIEVEMENT**

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**Rodger Thornton Williams**

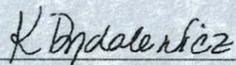
has successfully completed 15 hours of study in

National 15-Hour USPAP (2016-2017) - Classroom

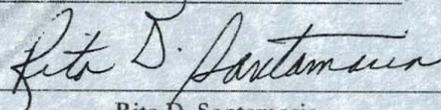
and is therefore entitled to this Certificate of Achievement.

Started: Saturday, April 23, 2016 Ended/Issued: Sunday, April 24, 2016

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Instructor TREC License # 2503

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**Rodger Thornton Williams**

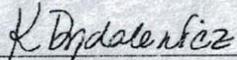
has successfully completed 30 hours of study in

AQE Residential Sales Comparison & Income Approaches - # 0215

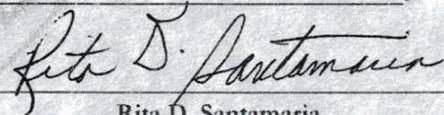
and is therefore entitled to this Certificate of Achievement.

Started: Monday, March 7, 2016 Ended/Issued: Thursday, March 10, 2016

This program of study is accredited by the Texas Appraiser Licensing and Certification Board.



Kim Dydalewicz  
President



Rita D. Santamaria  
CEO

Instructor: Will Harris  
Provider # 530  
Certificate # 1780939

Instructor TREC ID # 880332261  
Instructor TREC License # 2329

**CHAMPIONS SCHOOL OF REAL ESTATE**  
**CERTIFICATE OF ACHIEVEMENT**

THIS IS TO CERTIFY THAT

**Rodger Thornton Williams**

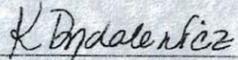
has successfully completed 7 hours of study in

National USPAP Update (2014-2015) - Classroom - # 26465

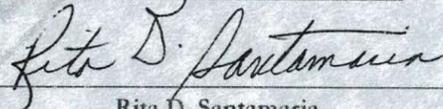
and is therefore entitled to this Certificate of Achievement.

Started: Tuesday, December 1, 2015 Ended/Issued: Tuesday, December 1, 2015

This program of study is accredited by the Texas Appraiser Licensing and Certification Board.



Kim Dydalewicz  
President



Rita D. Santamaria  
CEO

Instructor: Terry Clark

Provider # 0005

Certificate # 1677887

Instructor TREC ID # 880319770

Instructor TREC License # 2503

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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§  
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vs.

DOCKETED COMPLAINT NO.  
15-124 and 15-173

RODGER THORNTON WILLIAMS  
TX-1334530-R

**AGREED FINAL ORDER**

On the 20 day of November, 2015, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the certification of Rodger Thornton Williams (Respondent).

In order to conclude both complaints, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE §1103.458.

**FINDINGS OF FACT**

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-1334530-R and was certified by the Board during all times material to the above-noted complaints.
2. Respondent appraised residential real property located at 1904 Alsdorf Road, Ennis, Texas 75119 (Alsdorf Property), on or about October 21, 2014, and appraised residential real property located at 1034 Lake Sawyer Road, Ennis, Texas 75119 (Lake Sawyer Property), on or about September 22, 2014.
3. Thereafter, a complaint (15-124) regarding the Alsdorf Property was filed with the Board by an appraisal management company, on or about December 19, 2014, and a complaint (15-173) regarding the Lake Sawyer Property was filed with the Board by an appraisal management company, on or about February 18, 2015. The Board investigated the complaints to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).
4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved in complaint 15-124, on or about January 8, 2015, and complaint 15-173, on or about March 20, 2015. Respondent was afforded an opportunity to respond to the accusations in the complaints and was also requested to provide certain documentation to the Board. Thereafter, the

Respondent responded with documentation to complaint 15-124, on or about January 20, 2015, and to complaint 15-173, on or about May 7, 2015.

5. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Alsdorf Property:

- a. USPAP Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal;
- b. USPAP Scope of Work Rule, USPAP Standards Rules 1-2(h) and 2-2(a)(viii) – Respondent failed to perform the scope of work necessary for credible assignment results;
- c. USPAP Standards Rules 1-2(f), 2-1(c) and 2-2(a)(x) – Respondent failed to identify and report extraordinary assumptions;
- d. USPAP Standards Rules 1-2(e)(i) and 2-2(a)(iii) – Respondent failed to adequately identify and report the improvements; Respondent failed to adequately identify and report the site description;
- e. USPAP Standards Rules 1-2(e)(iv) and 2-2(a)(viii); 1-2(e)(iv) and 2-2(a)(viii); 1-3(b) and 2-2(a)(ix) – Respondent failed to consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature; Respondent failed to identify and report the Property's zoning; Respondent failed to properly develop the opinion of highest and best use;
- f. USPAP Standards Rules 1-4(b)(i), 1-4(b)(ii) and 2-2(a)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to develop a site value determination; Respondent failed to use an appropriate method or technique to determine the cost new of improvements and failed to collect, verify, analyze and reconcile the cost new of improvements;
- g. USPAP Standards Rules 1-4(a) and 2-2(a)(viii); 1-1(a) and 1-4(a); 1-6(a), 1-6(b), and 2-2(a)(viii) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in the sales comparison approach; Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison approach; Respondent also failed to make appropriate adjustments to the sales used, and did not disclose the analysis and reasoning behind the adjustments made or not made; Respondent failed to reconcile the quality and quantity of the data within the sales comparison approach;

- h. USPAP Standards Rules 1-4(c) and 2-2(a)(viii) – Respondent failed to properly support the exclusion of the income approach;
- i. USPAP Standards Rules 1-5(a) and 2-2(a)(viii) – Respondent failed to disclose and analyze information regarding the property's current listing; and
- j. USPAP Standards Rules 1-1(a), 1-1(b), 1-1(c), and 2-1(a) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible.

6. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Lake Sawyer Property:

- a. USPAP Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal;
- b. USPAP Scope of Work Rule, USPAP Standards Rules 1-2(h) and 2-2(a)(viii) – Respondent failed to perform the scope of work necessary for credible assignment results;
- c. USPAP Standards Rules 1-2(f), 2-1(c) and 2-2(a)(x) – Respondent failed to identify and report extraordinary assumptions;
- d. USPAP Standards Rules 1-2(e)(iv) and 2-2(a)(viii); 1-3(b) and 2-2(a)(ix) – Respondent failed to identify and report the Property's zoning; Respondent failed to properly develop the opinion of highest and best use;
- e. USPAP Standards Rules 1-4(b)(i), 1-4(b)(ii), 1-4(b)(iii) and 2-2(a)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to develop a site value determination; Respondent failed to use an appropriate method or technique to determine the cost new of improvements and failed to collect, verify, analyze and reconcile the cost new of improvements; Respondent failed to use an appropriate method or technique to determine accrued depreciations and failed to collect, verify, analyze and reconcile the accrued depreciations;
- f. USPAP Standards Rules 1-4(a) and 2-2(a)(viii); 1-1(a) and 1-4(a); 1-6(a), 1-6(b), and 2-2(a)(viii) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in the sales comparison approach; Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison approach; Respondent also failed to make appropriate adjustments to the sales used, and did not disclose the analysis and reasoning

behind the adjustments made or not made; Respondent failed to reconcile the quality and quantity of the data within the sales comparison approach;

- g. USPAP Standards Rules 1-4(c) and 2-2(a)(viii) – Respondent failed to explain and support the exclusion of the income approach; and
- h. USPAP Standards Rules 1-1(a), 1-1(b), 1-1(c), and 2-1(a) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible.

7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE §1103.458.

### **CONCLUSIONS OF LAW**

- 1. The Board has jurisdiction over this matter pursuant to the Act.
- 2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).
- 3. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

### **ORDER**

Based on the above findings of fact and conclusions of law, the Board **ORDERS**:

- 1. **EDUCATION.** On or before November 20, 2016, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.
  - a. A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before November 20, 2016.
  - b. A classroom course on the sales comparison approach, a minimum of thirty (30) class hours, on or before November 20, 2016.

- c. A classroom course on the cost approach, a minimum of fifteen (15) class hours, on or before November 20, 2016.
  - d. A classroom course on report writing, a minimum of fifteen (15) class hours, on or before November 20, 2016.
2. **MENTORSHIP.** On or before November 20, 2016, Respondent shall complete eighteen (18) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
- a. Six (6) hours of mentorship concerning the sales comparison approach, on or before November 20, 2016.
  - b. Six (6) hours of mentorship concerning the cost approach, on or before November 20, 2016.
  - c. Three (3) hours of mentorship concerning report writing, on or before November 20, 2016.
  - d. Three (3) hours of mentorship concerning USPAP Standards 1 and 2, on or before November 20, 2016.
3. **TRAINEES.** Respondent shall not sponsor any trainees for twelve (12) months, from November 20, 2015 to November 20, 2016.
4. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
5. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

## **ACKNOWLEDGMENT AND WAIVER**

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.**

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as res judicata, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

## **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the "Texas Appraiser Licensing and Certification Board" and delivered

via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto:compliance.talcb@talcb.texas.gov); (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

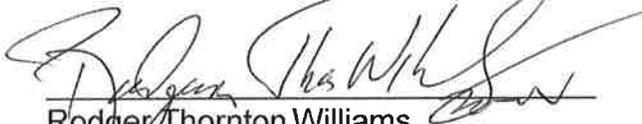
## **EXECUTION**

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

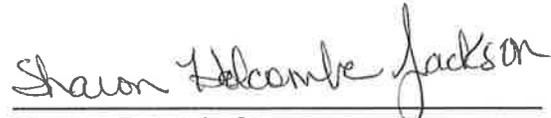
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

**RESPONDENT**

Signed this 21 day of September, 2015.

  
Rodger Thornton Williams

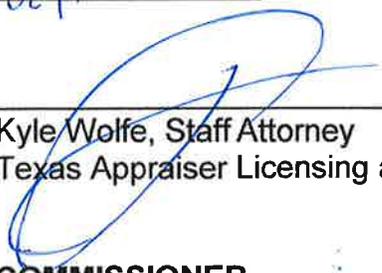
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 21 day of September, 2015, by Rodger Thornton Williams, to certify which witness my hand and official seal.

  
Notary Public's Signature



**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 23 day of September, 2015.

  
\_\_\_\_\_  
Kyle Wolfe, Staff Attorney  
Texas Appraiser Licensing and Certification Board

**COMMISSIONER**

Signed by the Commissioner this 28 day of Sep, 2015.

  
\_\_\_\_\_  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this 20 day of November, 2015.

  
\_\_\_\_\_  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board





## **AGENDA ITEM 8**

Report by AMC Advisory Committee.



## **AMC Advisory Committee Report August 19, 2016**

### **Members: Jim Jeffries, Chair, Sara Oates and Lawrence McNamara**

Since the May 2016 Board meeting, the AMC Advisory Committee met via teleconference on June 14, 2016.

### **Meeting on June 14, 2016**

**Committee Members in attendance:** Jim Jeffries, Sara Oates, and Lawrence McNamara

**Other Board Members in attendance:** None

**Staff in attendance:** Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Dione Frederick, Recording Secretary; Troy Beaulieu, Director-SES; Mark Lee, Staff Attorney; Denise Sample, Licensing Manager; and Becky Jarmon, Licensing Specialist.

**Public in attendance:** Tim Zak, RELS; Mark Schiffman, REVAA.

The Committee received staff reports on AMC complaint cases and AMC registrations, and a report from General Counsel on open panel member invitations. The Committee considered proposed changes to Rules 159.161 and 159.201 and recommends the Board publish the proposed changes in the Texas Register for public comment.

The Committee discussed the federal AMC rules and possible changes needed to Chapter 1104, Texas Occupations Code, in light of the federal rules. The Committee asked staff to identify potential changes to Chapter 1104 for consideration at a future meeting. The Committee also discussed the rule proposed by the Appraisal Subcommittee (ASC) for AMC registry fees. The Committee noted its concern that the \$25 fee proposed was too high and requested this concern to be included in any comments submitted to the ASC by TALCB.

The Committee also considered information presented by the Commissioner regarding possible AMC fee reductions for FY2017. The Committee supports the efforts to reduce AMC fees, and REVAA noted its support of such efforts as well.

The Committee did not set a future meeting date.





## **AGENDA ITEM 9**

Report by Budget Committee.

## **AGENDA ITEM 10**

Report by Executive Committee.



## **Executive Committee Report August 19, 2016**

**Members: Jamie Wickliffe, Chair, Jim Jeffries, Vice Chair, and Buster Renfrow, Secretary**

Since the May 2016 Board meeting, the Executive Committee met via teleconference on June 20, 2016.

### **Meeting on June 20, 2016**

**Committee Members in attendance:** Jamie Wickliffe, Jim Jeffries, and Buster Renfrow

**Other Board Members in attendance:** None

**Staff in attendance:** Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel.

The Committee reviewed the agency's strategic plan and approved submission of the strategic plan as presented with recommended changes to state leadership on behalf of the TALCB. The Committee also reviewed proposed comments to be submitted to the Appraisal Subcommittee (ASC) regarding the ASC's proposed rule for AMC registry fees. The Committee requested staff to circulate the proposed comments to the AMC Advisory Committee for any additional comments before submission to the ASC.

The Committee reviewed proposed comments to be submitted to the Appraiser Qualifications Board (AQB) regarding the First Exposure Draft on changes to the Real Property Appraiser Qualification Criteria. The Committee authorized staff to submit the comments as presented with recommended changes to the AQB on behalf of the TALCB.

The Committee discussed creating a list of supervisory appraisers that could be posted on the TALCB website to assist appraiser trainees in finding a supervisory appraiser. The Committee directed staff to reach out to eligible appraisers and determine if an appraiser wants to be included on such a list before creating and posting a list online.

The Committee did not set a future meeting date.





## **AGENDA ITEM 11**

Staff reports by Commissioner, Deputy Commissioner, and Division Directors, which may include reports on processes, monthly activities and statistical data for communications, licensing, education, information technology, staff services, and enforcement; current topics related to regulation of real estate appraisers; discussion of topics raised by monthly reports; introduction of new employees; and questions by Board members to staff regarding issues raised by the staff reports.



## Reception and Communication Services Division

### Incoming Calls

	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	FYTD Total 2016
Local Lines	16,624	15,445	15,557	16,835	21,161	21,160	22,077	19,167	18,440	17,234			183,700
<b>TALCB LL</b>	<b>947</b>	<b>916</b>	<b>1,033</b>	<b>1,079</b>	<b>1,337</b>	<b>1,256</b>	<b>1,320</b>	<b>1,199</b>	<b>1,216</b>	<b>1,092</b>			<b>11,395</b>
<b>Total Calls</b>	<b>17,571</b>	<b>16,361</b>	<b>16,590</b>	<b>17,914</b>	<b>22,498</b>	<b>22,416</b>	<b>23,397</b>	<b>20,366</b>	<b>19,656</b>	<b>18,326</b>			<b>195,095</b>

### Walk Ins

	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	FYTD Total 2016
Licensing	131	108	145	154	176	205	140	108	131	127			1,425
Education	26	22	24	25	41	34	29	26	48	32			307
Inspector	3	17	10	10	11	9	11	11	18	17			117
Enforcement	6	3	4	10	10	14	12	9	15	29			112
<b>TALCB Lic</b>	<b>3</b>	<b>6</b>	<b>1</b>	<b>1</b>	<b>6</b>	<b>4</b>	<b>4</b>	<b>3</b>	<b>7</b>	<b>9</b>			<b>44</b>
<b>TALCB Enf</b>	<b>3</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>3</b>			<b>16</b>
<b>Total</b>	<b>172</b>	<b>159</b>	<b>186</b>	<b>201</b>	<b>245</b>	<b>267</b>	<b>197</b>	<b>158</b>	<b>219</b>	<b>217</b>			<b>2,021</b>

### Emails

	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	FYTD Total 2016
Licensing	5,023	4,113	4,058	5,227	6,091	5,193	5,650	5,440	5,021	5,027			50,843
Education	1,066	938	785	1,065	1,272	1,327	1,652	1,344	1,468	1,836			12,753
Inspector	84	50	39	38	17	24	43	36	21	49			401
Enforcement	117	108	125	128	135	155	177	132	146	158			1,381
<b>TALCB Lic</b>	<b>289</b>	<b>286</b>	<b>280</b>	<b>341</b>	<b>400</b>	<b>327</b>	<b>343</b>	<b>299</b>	<b>356</b>	<b>385</b>			<b>3,306</b>
<b>TALCB Enf</b>	<b>16</b>	<b>15</b>	<b>49</b>	<b>17</b>	<b>7</b>	<b>10</b>	<b>22</b>	<b>22</b>	<b>20</b>	<b>16</b>			<b>194</b>
<b>Total</b>	<b>6,595</b>	<b>5,510</b>	<b>5,336</b>	<b>6,816</b>	<b>7,922</b>	<b>7,036</b>	<b>7,887</b>	<b>7,273</b>	<b>7,032</b>	<b>7,471</b>			<b>68,878</b>

C1 Report  
FY2016

### Customer Service Surveys

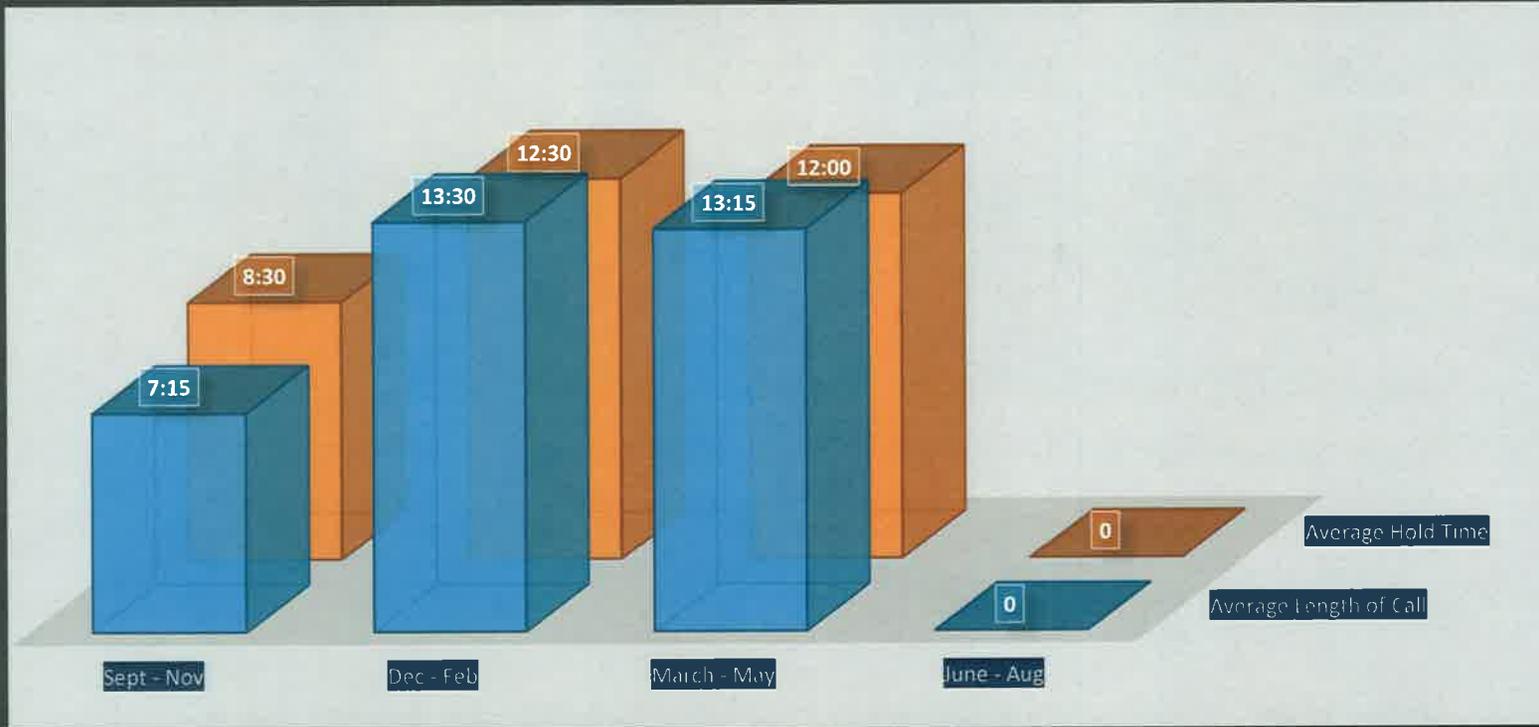
<b>FY2016</b>	<b>Surveys Received</b>	<b>Responded by Email</b>	<b>Responded by Phone</b>	<b>Anonymous (No Contact Info)</b>
<b>September</b>	14	10	1	3
<b>October</b>	17	9	1	7
<b>November</b>	15	7	3	5
<b>December</b>	21	9	3	9
<b>January</b>	46	14	11	21
<b>February</b>	35	17	2	16
<b>March</b>	41	18	1	18
<b>April</b>	33	10	4	19
<b>May</b>	23	8	7	8
<b>June</b>	26	10	0	16
<b>July</b>				
<b>August</b>				
<b>Grand Total</b>	<b>271</b>	<b>112</b>	<b>33</b>	<b>122</b>

C2 Report

# FY2016 CALL AVERAGES

MIN:SEC

■ Average Length of Call ■ Average Hold Time



C3 Report

**TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD**  
**ACTIVE CERTIFICATIONS AND LICENSES**

FISCAL YEAR	END OF MONTH				TOTAL	G.R.L. & P	TRAINEE		TOTAL	TOTAL
		GENERAL	RESIDENTIAL	LICENSE	G.R.L. & P	CHANGE	TRAINEE	CHANGE	TOTAL	CHANGE
<b>2013</b>	Aug13	2,367	2,371	470	5,208		724		5,932	
<b>2014</b>	Sep13	2,368	2,375	467	5,210	2	741	17	5,951	19
	Oct13	2,367	2,381	467	5,215	5	767	26	5,982	31
	Nov13	2,371	2,381	467	5,219	4	781	14	6,000	18
	Dec13	2,374	2,380	466	5,220	1	792	11	6,012	12
	Jan14	2,363	2,382	461	5,206	-14	786	-6	5,992	-20
	Feb14	2,365	2,379	457	5,201	-5	780	-6	5,981	-11
	Mar14	2,368	2,385	453	5,206	5	788	8	5,994	13
	Apr14	2,373	2,393	454	5,220	14	783	-5	6,003	9
	May14	2,375	2,399	457	5,231	11	779	-4	6,010	7
	Jun14	2,378	2,401	451	5,230	-1	777	-2	6,007	-3
	Jul14	2,377	2,403	454	5,234	4	766	-11	6,000	-7
	Aug14	2,386	2,405	453	5,244	10	760	-6	6,004	4
<b>2015</b>	Sep14	2,393	2,407	451	5,251	7	767	7	6,018	14
	Oct14	2,402	2,418	448	5,268	17	766	-1	6,034	16
	Nov14	2,407	2,415	440	5,262	-6	749	-17	6,011	-23
	Dec14	2,409	2,431	442	5,282	20	756	7	6,038	27
	Jan15	2,405	2,437	446	5,288	6	767	11	6,055	17
	Feb15	2,417	2,437	442	5,296	8	760	-7	6,056	1
	Mar15	2,423	2,445	444	5,312	16	761	1	6,073	17
	Apr15	2,408	2,451	442	5,301	-11	763	2	6,064	-9
	May15	2,404	2,444	436	5,284	-17	761	-2	6,045	-19
	Jun15	2,413	2,436	432	5,281	-3	773	12	6,054	9
	Jul15	2,409	2,424	432	5,265	-16	774	1	6,039	-15
	Aug15	2,408	2,415	434	5,257	-8	779	5	6,036	-3
<b>2016</b>	Sep15	2,406	2,417	428	5,251	-6	786	7	6,037	1
	Oct15	2,414	2,418	431	5,263	12	791	5	6,054	17
	Nov15	2,417	2,420	430	5,267	4	793	2	6,060	6
	Dec15	2,419	2,425	430	5,274	7	795	2	6,069	9
	Jan16	2,420	2,422	428	5,270	-4	794	-1	6,064	-5
	Feb16	2,418	2,418	427	5,263	-7	783	-11	6,046	-18
	Mar16	2,423	2,417	427	5,267	4	784	1	6,051	5
	Apr16	2,431	2,415	429	5,275	8	774	-10	6,049	-2
	May16	2,425	2,415	417	5,257	-18	773	-1	6,030	-19
	Jun16	<b>2,425</b>	<b>2,422</b>	<b>416</b>	<b>5,263</b>	<b>6</b>	<b>784</b>	<b>11</b>	<b>6,047</b>	<b>17</b>

**(June 2016: Out-of-State Temporary Registrations = 1,148; Inactive Appraisers = 147)**

**Appraisal Management Company Registrations  
June 2016**

	Month	Paper Apps. Received	Online Apps. Received	Total Apps. Received	Total AMC Registrations Issued	Total AMC Renewals Issued
<b>FY-2012</b>	<b>Total</b>	130	46	176	169	0
<b>FY-2013</b>	<b>Total</b>	6	11	17	23	0
<b>FY-2014</b>	Sep-13	0	3	3	2	
	Oct-13	0	1	1	2	
	Nov-13	0	0	0	0	
	Dec-13	0	1	1	0	0
	Jan-14	0	0	0	1	1
	Feb-14	0	0	0	0	5
	Mar-14	0	2	2	2	9
	Apr-14	1	0	1	2	18
	May-14	1	1	2	0	28
	Jun-14	1	1	2	4	38
	Jul-14	0	0	0	0	24
	Aug-14	0	0	0	0	15
<b>FY-2015</b>	Sep-14	1	1	2	1	4
	Oct-14	0	0	0	1	2
	Nov-14	1	1	2	2	2
	Dec-14	3	1	4	1	0
	Jan-15	3	0	3	1	1
	Feb-15	0	0	0	5	1
	Mar-15	1	0	1	0	0
	Apr-15	0	1	1	0	1
	May-15	0	0	0	1	0
	Jun-15	0	0	0	1	0
	Jul-15	1	0	1	1	6
	Aug-15	1	1	2	1	0
<b>FY-2016</b>	Sep-15	1	0	1	0	1
	Oct-15	0	0	0	2	2
	Nov-15	2	0	2	1	0
	Dec-15	1	0	1	0	0
	Jan-16	2	0	2	2	1
	Feb-16	0	0	0	1	2
	Mar-16	0	0	0	1	7
	Apr-16	1	1	2	1	10
	May-16	0	1	1	1	21
	Jun-16	1	0	1	2	36
<b>TOTALS</b>		<b>158</b>	<b>73</b>	<b>231</b>	<b>231</b>	<b>235</b>
	Registrations Surrendered as of June 2016					-14
	Registrations Revoked as of June 2016					-3
	Registrations Expired > 6 months as of June 2016					-26
<b>TOTAL AMC REGISTRATIONS</b>						<b>188</b>

# Education & Licensing Services Division - TALCB

Fiscal Year Comparison

## Fiscal Year - 2016

### JUNE

	This YTD 09/15 - 06/16	Last YTD 09/14 - 06/15	Change Count	Percent
<b><i>Original Applications Received</i></b>				
Certified General Applications	103	104	-1	-0.96%
Certified Residential Applications	90	127	-37	-29.13%
Licensed Residential Applications	54	50	4	8.00%
Appraiser Trainee Applications	250	169	81	47.93%
Non-Residential Temporary Applications	207	181	26	14.36%
<b><i>Total Original Applications</i></b>	<b>704</b>	<b>631</b>	<b>73</b>	<b>11.57%</b>
<b><i>Licenses Issued from Original Applications</i></b>				
Certified General Licenses	120	104	16	15.38%
Certified Residential Licenses	128	135	-7	-5.19%
Licensed Residential Licenses	49	53	-4	-7.55%
Appraiser Trainee Licenses	216	148	68	45.95%
Non-Residential Temporary Licenses	209	176	33	18.75%
<b><i>Total Licenses from Original Applications</i></b>	<b>722</b>	<b>616</b>	<b>106</b>	<b>17.21%</b>
<b><i>Licenses Issued from Renewal Applications</i></b>				
Certified General Renewals	939	1,012	-73	-7.21%
Certified Residential Renewals	1,081	856	225	26.29%
Licensed Residential Renewals	184	183	1	0.55%
Appraiser Trainee Renewals	300	331	-31	-9.37%
<b><i>Total Renewal Licenses Issued</i></b>	<b>2,504</b>	<b>2,382</b>	<b>122</b>	<b>5.12%</b>
<b><i>Licenses Issued from Late Renewal Applications</i></b>				
Certified General Late Renewals	5	14	-9	-64.29%
Certified Residential Late Renewals	6	7	-1	-14.29%
Licensed Residential Late Renewals	2	4	-2	-50.00%
Appraiser Trainee Late Renewals	11	10	1	10.00%
<b><i>Total Late Renewal Licenses Issued</i></b>	<b>24</b>	<b>35</b>	<b>-11</b>	<b>-31.43%</b>

## Examination Activity - Fiscal Year 2015-2016

<b>YEAR-TO-DATE RESULTS: September 2015 thru June 2016</b>				Overall Pass Rate	Overall Failure Rate
	<u>Licensed Residential</u>	<u>Certified Residential</u>	<u>Certified General</u>		
Examinations Passed	29	37	32	98	
Examinations Failed	32	35	23		90
<b>Examinations Taken</b>	61	72	55	188	188
Examination Pass Rate (%)	47.54%	51.39%	58.18%	52.13%	47.87%

All examination types	
Total first time candidates:	102
Total repeat candidates:	86
Total pass:	98
Total fail:	90
Total examinations taken:	188

## Examination Activity - Fiscal Year 2015-2016

<b>MONTHLY RESULTS: June 2016</b>				Overall Pass Rate	Overall Failure Rate
	<u>Licensed Residential</u>	<u>Certified Residential</u>	<u>Certified General</u>		
Examinations Passed	3	3	3	9	
Examinations Failed	4	2	2		8
<b>Examinations Taken</b>	7	5	5	17	17
Examination Pass Rate (%)	42.86%	60.00%	60.00%	52.94%	47.06%

All examination types	
Total first time candidates:	10
Total repeat candidates:	7
Total pass:	9
Total fail:	8
Total examinations taken:	17

## EXAMINATION ACTIVITY

### FISCAL YEAR-TO-DATE COMPARISON JUNE

	<u>2016</u> <u>Pass Rate</u>	<u>2015</u> <u>Pass Rate</u>
Certified General Appraiser	58.1%	63.4%
Certified Residential Appraiser	51.3%	58.2%
Licensed Residential Appraiser	47.5%	42.1%
<b>Overall Appraiser Pass Rate</b>	<b>52.1%</b>	<b>55.3%</b>

## Information Technology Services Division

### Electronic Information Outlet Statistics

June 2016

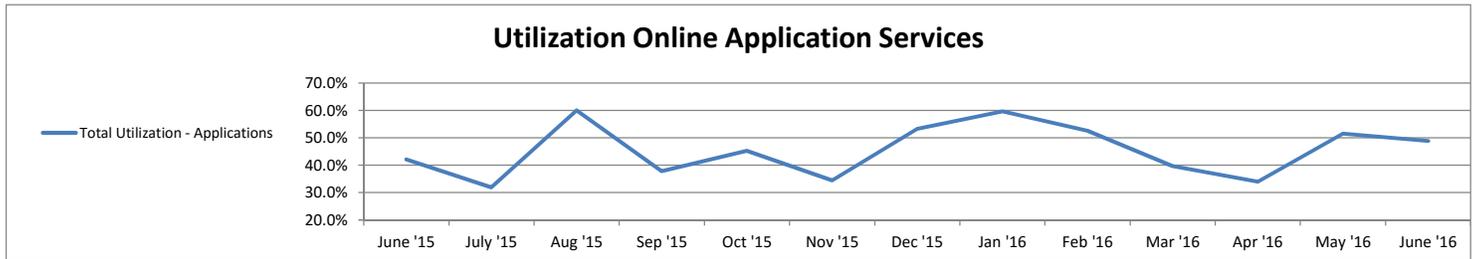
Website	Current Month	FYTD Total	Prior FYTD Total
Total Pages Viewed	628,729	9,417,884	3,080,554
Total Monthly Unique Visitors	15,421	283,438	125,164

Online Transactions	Total	Online	Online Percent	FYTD Online Percent	Prior FYTD Percent
<b>Applications</b>	<b>43</b>	<b>21</b>	<b>48.8%</b>	<b>45.8%</b>	<b>39.9%</b>
AMC	2	1	50.0%	27.3%	53.8%
Certified General Appraiser	7	0	0.0%	12.9%	15.3%
Certified Residential Appraiser	10	3	30.0%	21.2%	22.4%
State Licensed Appraiser	3	2	66.7%	48.5%	44.4%
Appraiser Trainee	21	15	71.4%	73.3%	67.3%
<b>Renewals</b>	<b>260</b>	<b>239</b>	<b>91.9%</b>	<b>91.3%</b>	<b>88.9%</b>
AMC	36	26	72.2%	78.8%	81.8%
Certified General Appraiser	95	92	96.8%	91.0%	88.0%
Certified Residential Appraiser	92	91	98.9%	94.3%	94.3%
State Licensed Appraiser	15	11	73.3%	86.4%	72.8%
Appraiser Trainee	22	19	86.4%	88.5%	78.9%
<b>AMC Panel Transactions</b>	<b>1040</b>	<b>1040</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>
Additions	916	916	100.0%	100.0%	100.0%
Removals	124	124	100.0%	100.0%	100.0%

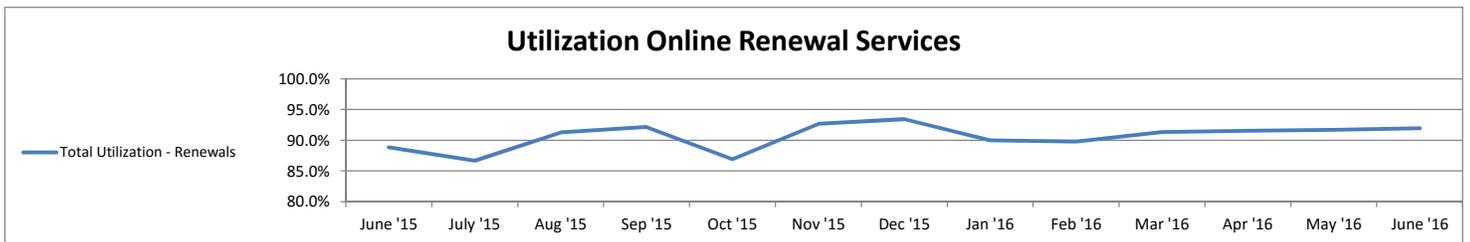
## Information Technology Services Division Electronic Information Outlet Statistics

June 2016

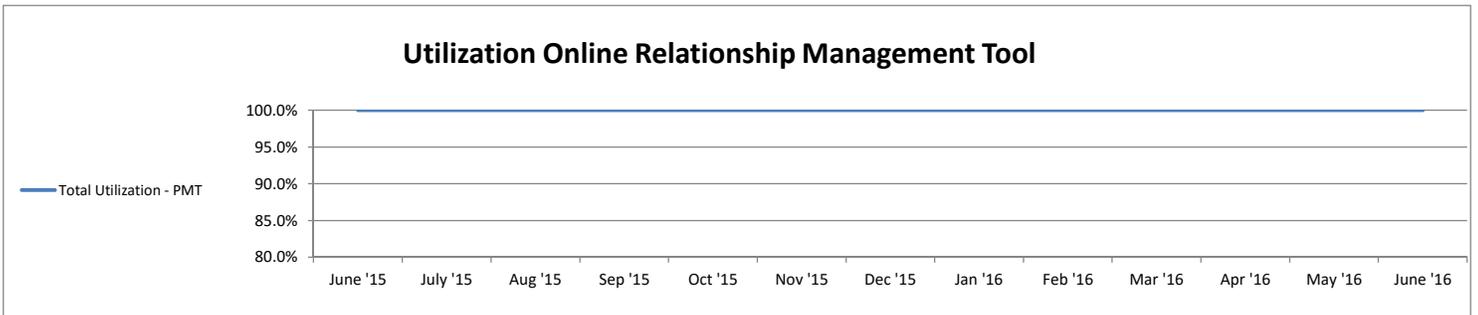
Applications	June '15	July '15	Aug '15	Sep '15	Oct '15	Nov '15	Dec '15	Jan '16	Feb '16	Mar '16	Apr '16	May '16	June '16
AMC	100.0%	100.0%	0.0%	0.0%	50.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	50.0%
Certified General Appraiser	33.3%	6.3%	66.7%	0.0%	8.3%	14.3%	10.0%	46.2%	25.0%	8.3%	0.0%	0.0%	0.0%
Certified Residential Appraiser	0.0%	0.0%	0.0%	11.1%	40.0%	14.3%	25.0%	28.6%	20.0%	22.2%	0.0%	12.5%	30.0%
State Licensed Appraiser	50.0%	50.0%	71.4%		20.0%	0.0%	75.0%	40.0%	66.7%	20.0%	100.0%		66.7%
Appraiser Trainee	64.7%	64.7%	64.7%	65.0%	70.8%	66.7%	85.7%	90.0%	81.3%	65.4%	60.9%	78.9%	71.4%
<b>Total Utilization - Applications</b>	<b>42.1%</b>	<b>31.9%</b>	<b>60.0%</b>	<b>37.8%</b>	<b>45.3%</b>	<b>34.5%</b>	<b>53.2%</b>	<b>59.6%</b>	<b>52.5%</b>	<b>39.6%</b>	<b>34.0%</b>	<b>51.5%</b>	<b>48.8%</b>



Renewals	June '15	July '15	Aug '15	Sep '15	Oct '15	Nov '15	Dec '15	Jan '16	Feb '16	Mar '16	Apr '16	May '16	June '16
AMC		83.3%	0.0%	100.0%	100.0%		0.0%	100.0%	100.0%	57.1%	100.0%	0.0%	72.2%
Certified General Appraiser	86.7%	87.2%	90.1%	87.9%	87.7%	93.0%	92.4%	84.3%	85.2%	92.8%	95.9%	91.2%	96.8%
Certified Residential Appraiser	91.7%	93.0%	93.2%	95.2%	86.6%	94.3%	94.7%	94.6%	97.0%	93.9%	91.9%	95.3%	98.9%
State Licensed Appraiser	92.3%	83.3%	90.0%	93.8%	75.0%	83.3%	92.0%	90.0%	50.0%	82.6%	71.4%	92.9%	73.3%
Appraiser Trainee	83.3%	84.6%	85.7%	85.7%	93.3%	83.3%	94.1%	90.9%	92.3%	91.3%	82.1%	87.5%	86.4%
<b>Total Utilization - Renewals</b>	<b>88.9%</b>	<b>86.7%</b>	<b>91.3%</b>	<b>92.2%</b>	<b>86.9%</b>	<b>92.7%</b>	<b>93.4%</b>	<b>90.0%</b>	<b>89.8%</b>	<b>91.3%</b>	<b>91.5%</b>	<b>91.7%</b>	<b>91.9%</b>



PMT	June '15	July '15	Aug '15	Sep '15	Oct '15	Nov '15	Dec '15	Jan '16	Feb '16	Mar '16	Apr '16	May '16	June '16
AMC Panel Invitations	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
AMC Panel Removals	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<b>Total Utilization - PMT</b>	<b>100.0%</b>												



**Staff & Support Services Division**

**TALCB Budget Status Report**

**June 2016**

2/12 = 16.67%

Expenditure Category	Budget FY2016	Expenditures	Balance	Budget % Remaining	Comments
Salaries & Wages	\$875,842	\$663,253	\$212,589	24.3%	
Employee Benefits	277,440	212,661	64,779	23.3%	
Retiree Insurance	39,600	26,700	12,900	32.6%	
Other Personnel Costs	25,220	19,841	5,379	21.3%	budget for Peer Assistance Committee not expended as of report date
Professional Fees & Services	77,550	49,538	28,012	36.1%	Versa customization budget not expended as of report date; moved to FY 2017
Consumables	7,500	3,811	3,689	49.2%	may have overbudgeted for FY16; FY17 proposed budget reduced by \$1K
Utilities	1,740	1,567	173	10.0%	
Travel	30,000	22,990	7,010	23.4%	board member budget of \$18K not fully expended as of report date
Office Rent	37,625	26,748	10,877	28.9%	refunded \$8K from Texas Facilities Commission in Dec FY16
Equipment Rental	14,138	5,561	8,577	60.7%	PC lease budget of \$5K expended by 50% as of report date; copier rental budget expended by 33% as of report date; Purchasing expecting a revised invoice for PC refresh---total invoice \$14K, not certain how much of this amount is applicable to TALCB
Registration & Membership	16,125	7,680	8,445	52.4%	Attorney CLE budget not expended as of report date
Maintenance & Repairs	12,267	12,861	(594)	-4.8%	Versa annual maintenance paid
Reproduction & Printing	1,600	172	1,428	89.3%	budget for envelopes not expended as of report date
Contract Services	29,540	4,726	24,814	84.0%	budget for court report, ERS and transcripts not expended as of report date
Postage	6,350	3,544	2,806	44.2%	agency consistently expends \$500 a month
Supplies & Equipment	6,500	1,578	4,922	75.7%	budget for computer software and computer hardware not expended as of report date
Communication Services	8,246	6,116	2,130	25.8%	
Other Operating Expenses	4,342	1,800	2,542	58.6%	budget for certified copies, witness fees, and appraiser registry not expended as of report date
<b>Subtotal -Operations Expenditures</b>	<b>1,471,625</b>	<b>1,071,146</b>	<b>400,479</b>	<b>27.2%</b>	
DPS Criminal History Background Checks	3,000	2,320	680	22.7%	agency consistently expends to perform secured site name searches; FY17 budget has a slight increase to accommodate this task
Statewide Cost Allocation Plan (SWCAP)	45,000	30,775	14,225	31.6%	1 quarterly payment remaining
Contribution to General Revenue	30,000	25,000	5,000	16.7%	% allocated monthly but pmt not due until 8/31/16
<b>Subtotal - Nonoperational Expenditures</b>	<b>78,000</b>	<b>58,095</b>	<b>19,905</b>	<b>25.5%</b>	
<b>Total Expenditures</b>	<b>\$1,549,625</b>	<b>\$1,129,241</b>	<b>\$420,384</b>	<b>27.1%</b>	

Revenue	FY2016 Projected	Revenue Collected	Revenue Remaining to be Collected	Revenue % Remaining to be Collected	Comments
License Fees	\$1,084,345	\$935,785	\$148,560	13.7%	
AMCs	749,580	643,089	\$106,491	14.2%	Majority of renewals occur in last fiscal quarter (June-August)
Administrative Penalties	45,000	44,800	\$200	0.4%	
Other Miscellaneous Revenue	26,280	19,975	\$6,305	24.0%	Exam Admin Fees/NSF fees/Misc/Public Info fees less Administrative Penalties
<b>Total Revenue</b>	<b>\$1,905,205</b>	<b>\$1,643,649</b>	<b>\$261,556</b>	<b>13.7%</b>	

	FY16 Carry Forward	Allocated Amount	Remaining to be Allocated	Carry Forward % Remaining	This is estimated AMC revenues collected in FY16 that will be set aside for FY17 budget.
<b>AMC Revenue Carry Forward from FY16</b>	<b>(\$290,054)</b>	<b>(\$241,711.67)</b>	<b>(\$48,342)</b>	<b>16.7%</b>	<b>Pro-rated thru June</b>
<b>Revenue Over/(Under) Expenditures &amp; Transfers</b>	<b>\$65,526</b>	<b>\$272,697</b>			<b>Includes AMC Carry Forward</b>

**Staff Services Division**

**Tx Appraiser Licensing & Certification Board Operating Account No. 3056 Investments  
Current Securities**

**June 2016**

Purchase Date	Par Value	Purchase Price	Beginning Market Value	Additions Changes	Ending Market Value	Accrued Interest	Description	Maturity Date
12/04/2014	100,000.00	100,484.97	100,012.00	(100,012.00)	0.00	0.00	U.S. T-Notes, 0.50%	06/15/2016
07/16/2015	100,000.00	100,839.34	100,136.00	(22.00)	100,114.00	256.79	U.S. T-Notes, 0.88%	09/15/2016
12/24/2015	150,000.00	149,911.72	150,058.50	94.50	150,153.00	40.98	U.S. T-Notes, 0.63%	12/15/2016
06/14/2016	99,300.00	99,980.31	0.00	99,641.59	99,641.59	37.98	U.S. T-Notes, 0.88%	06/15/2017
<b>Totals</b>	<b>\$ 449,300.00</b>	<b>\$ 451,216.34</b>	<b>\$ 350,206.50</b>	<b>\$ (297.91)</b>	<b>\$ 349,908.59</b>	<b>\$ 335.75</b>		

**Receipts:**

Treasury Note Earnings

**Current Month**

1,153.19

**FY2016**

**Cumulative Total**

2,403.19

Investment Compliance: These investments have been made in compliance with the Board's Investment Policy.

*Barbara C Kolb*

Barbara Kolb, Acting Investment Officer

## TALCB Standards & Enforcement Services

### CASE STATUS REPORT as of JUNE 30, 2016

#### # of Cases Received

Case Classification	FY2014	FY2015	15-Sep	15-Oct	15-Nov	15-Dec	16-Jan	16-Feb	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	FYTD
<b>Complaint Category:</b>															
AMCs	12	1	0	0	0	0	2	4	1	1	2	1			11
Dodd Frank	16	22	0	0	0	4	0	1	3	3	1	1			13
Ethics	5	4	0	0	0	0	0	0	0	1	0	2			3
USPAP	114	149	22	12	10	6	10	11	8	7	16	15			117
Other	4	11	1	1	0	0	0	1	5	2	6	1			17
No Jurisdiction	0	4	2	2	0	0	0	0	0	1	0	3			8
	<b>151</b>	<b>191</b>	<b>25</b>	<b>15</b>	<b>10</b>	<b>10</b>	<b>12</b>	<b>17</b>	<b>17</b>	<b>15</b>	<b>25</b>	<b>23</b>	<b>SUB:</b>		<b>169</b>
<b>Experience Audits</b>	155	161	19	14	11	6	12	9	10	12	9	17			119
<b>RFAs &amp; Covert Complaints</b>	3	13	0	0	2	0	3	0	0	0	0	0			5
<b>MCD Inquiries</b>	4	3	0	0	0	1	0	0	2	2	0	0			5
	<b>162</b>	<b>177</b>	<b>19</b>	<b>14</b>	<b>13</b>	<b>7</b>	<b>15</b>	<b>9</b>	<b>12</b>	<b>14</b>	<b>9</b>	<b>17</b>	<b>SUB:</b>		<b>129</b>
<b>Opened During FY Year   Month</b>	<b>313</b>	<b>368</b>	<b>44</b>	<b>29</b>	<b>23</b>	<b>17</b>	<b>27</b>	<b>26</b>	<b>29</b>	<b>29</b>	<b>34</b>	<b>40</b>			<b>298</b>

#### # of Cases Closed

Case Disposition	FY2014	FY2015	15-Sep	15-Oct	15-Nov	15-Dec	16-Jan	16-Feb	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	FYTD
Surrendered	4	5	0	0	4	0	0	3	0	0	0	0			7
Agreed Final Order / Final Order	44	42	0	0	20	0	1	15	0	0	2	0			38
Other Disciplinary Action	3	5	0	0	0	0	0	0	0	0	0	0			0
Insufficient Evidence	0	2	0	0	0	0	0	0	1	0	0	2			3
Dismissed	110	98	12	10	12	9	9	12	8	3	17	19			111
No Jurisdiction	0	5	1	3	2	0	0	0	0	1	0	1			8
	<b>161</b>	<b>157</b>	<b>13</b>	<b>13</b>	<b>38</b>	<b>9</b>	<b>10</b>	<b>30</b>	<b>9</b>	<b>4</b>	<b>19</b>	<b>22</b>	<b>SUB:</b>		<b>167</b>
<b>Experience Audits</b>	131	171	8	12	10	19	15	10	12	8	8	13			115
<b>RFAs</b>	14	10	0	0	0	1	0	3	0	0	0	0			4
<b>MCD Inquiries</b>	3	5	0	0	0	0	0	1	1	0	2	1			5
	<b>148</b>	<b>186</b>	<b>8</b>	<b>12</b>	<b>10</b>	<b>20</b>	<b>15</b>	<b>14</b>	<b>13</b>	<b>8</b>	<b>10</b>	<b>14</b>	<b>SUB:</b>		<b>124</b>
<b>Closed During FY Year   Month</b>	<b>309</b>	<b>343</b>	<b>21</b>	<b>25</b>	<b>48</b>	<b>29</b>	<b>25</b>	<b>44</b>	<b>22</b>	<b>12</b>	<b>29</b>	<b>36</b>			<b>291</b>

Total Cases Open as of 6/30/16: **209**

## TALCB Standards & Enforcement Services

### AMC CASE STATUS REPORT as of JUNE 30, 2016

#### # of Cases Received

Case Classification	FY2014	FY2015	15-Sep	15-Oct	15-Nov	15-Dec	16-Jan	16-Feb	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	FYTD
<b>Complaint Category:</b>															
AMC Compliance	0	0	0	0	0	0	0	0	0	0	0	1			1
Dodd Frank	0	0	0	0	0	0	0	0	0	0	0	0			0
Ethics	1	0	0	0	0	0	0	0	0	0	0	0			0
USPAP	9	7	0	0	0	0	0	1	0	1	1	0			3
Other	1	0	0	0	0	0	2	3	1	0	2	0			8
No Jurisdiction	0	1	0	1	0	0	0	0	0	0	0	2			3
	<b>11</b>	<b>8</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>3</b>		<b>SUB:</b>	<b>15</b>
<b>RFAs &amp; Covert Complaints</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>			<b>0</b>
<b>Opened During FY Year   Month</b>	<b>11</b>	<b>8</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>3</b>			<b>15</b>

#### # of Cases Closed

Case Disposition	FY2014	FY2015	15-Sep	15-Oct	15-Nov	15-Dec	16-Jan	16-Feb	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	FYTD
Surrendered	0	0	0	0	0	0	0	0	0	0	0	0			0
Agreed Final Order	0	0	0	0	0	0	0	0	0	0	0	0			0
Other Disciplinary Action	2	0	0	0	0	0	0	0	0	0	0	0			0
Insufficient Evidence	0	0	0	0	0	0	0	0	0	0	0	0			0
Dismissed	7	6	1	1	1	0	1	0	2	0	0	1			7
No Jurisdiction	0	1	0	1	0	0	0	0	0	0	0	1			2
	<b>9</b>	<b>7</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>		<b>SUB:</b>	<b>9</b>
<b>RFAs &amp; Covert Complaints</b>	<b>0</b>			<b>0</b>											
<b>Closed During FY Year   Month</b>	<b>9</b>	<b>7</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>			<b>9</b>

**Total Cases Open as of 6/30/16: 10**

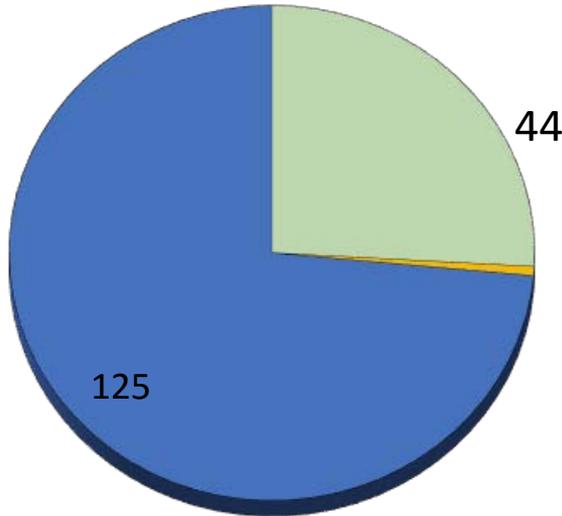
# TOTAL OPEN COMPLAINTS

<b>Fiscal Year</b>	<b>No. Pending (as of 04/15/2016)</b>	<b>No. Pending (as of 07/13/2016)</b>	<b>IN REVIEW</b>	<b>INVEST COMPLETE</b>	<b>SOAH</b>	<b>AWAITING FINAL DISPOSITION</b>	<b>RFAs &amp; COVERT CASES</b>	<b>Percentage Change from Previous Reporting Period</b>
<b>2009</b>	1	1	—	—	—	—	1	0%
<b>2014</b>	2	2	—	—	—	—	2	0%
<b>2015</b>	42	34	8	10	2	4	10	(19.04%)
<b>2016</b>	100	136	124	9	0	1	2	36%
<b>Total</b>	145	173	132	19	2	5	15	19.31%
<b>Total 1 YR OLD</b>	8	19	1	1	2	2	13	137.5%

# CASE RESOLUTIONS - FY 2016

SEPTEMBER 1, 2015 – JULY 13, 2016

## 170 Total Complaints Resolved



- 44 (25.88%) Agreed Final Orders & Voluntary Surrenders
- 0 (0%) Litigated
- 1 (0.59%) NOAV / Default Final Order
- 125 (73.53) Dismissals
  - 41 (32.8%) Dismissals
  - 42 (33.6%) Dismissals with Warning Letter
  - 28 (22.4%) Contingent Dismissals
  - 9 (7.2%) Non-Jurisdictional Dismissals
  - 5 (4%) Other

### % of License Holders w/Disciplinary Actions

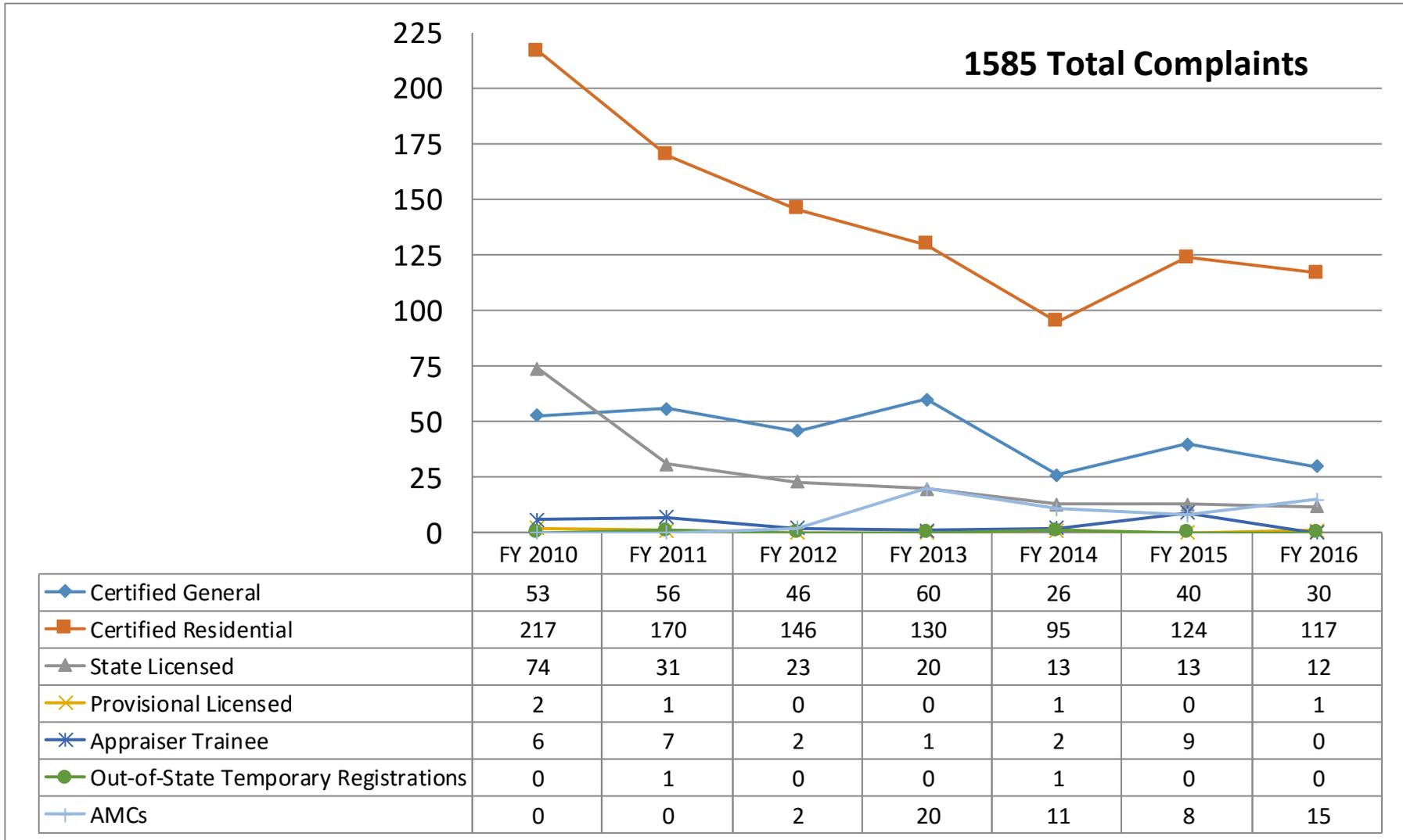
<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
.8%	.6%	.7%	.6%

### FY 2016 Recidivism Rate

<u>Oct 30</u> <u>2015</u>	<u>Jan 26</u> <u>2016</u>	<u>April 15</u> <u>2016</u>	<u>July 13</u> <u>2016</u>
0%	24%	23.25%	22.22%

Total Number of Licensees (as of June 30, 2016): 7,342

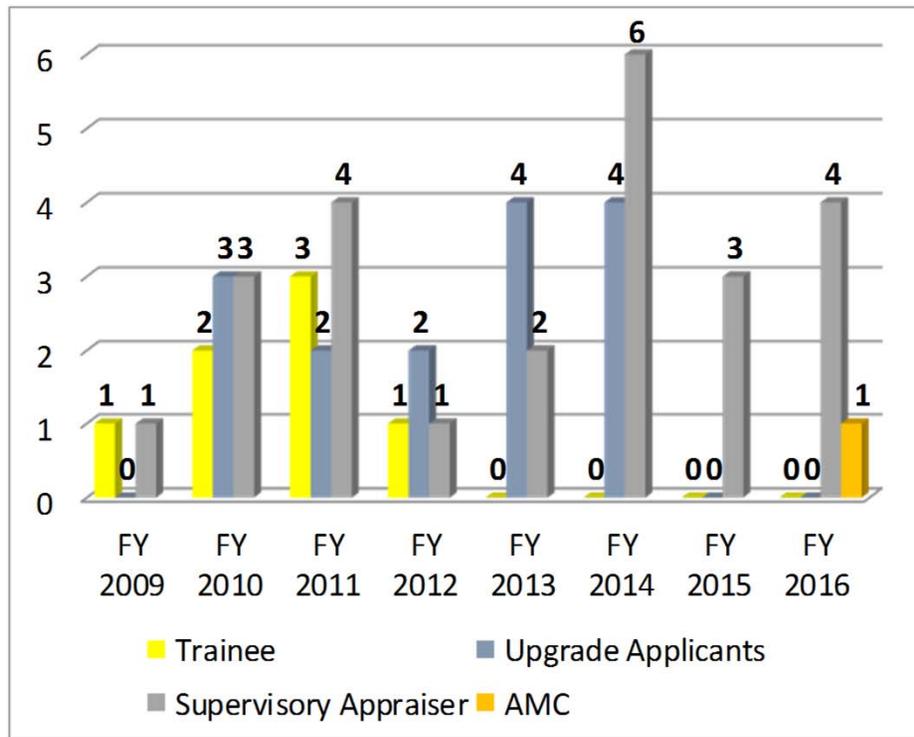
# TOTAL # OF COMPLAINTS RECEIVED (PER LICENSE TYPE)



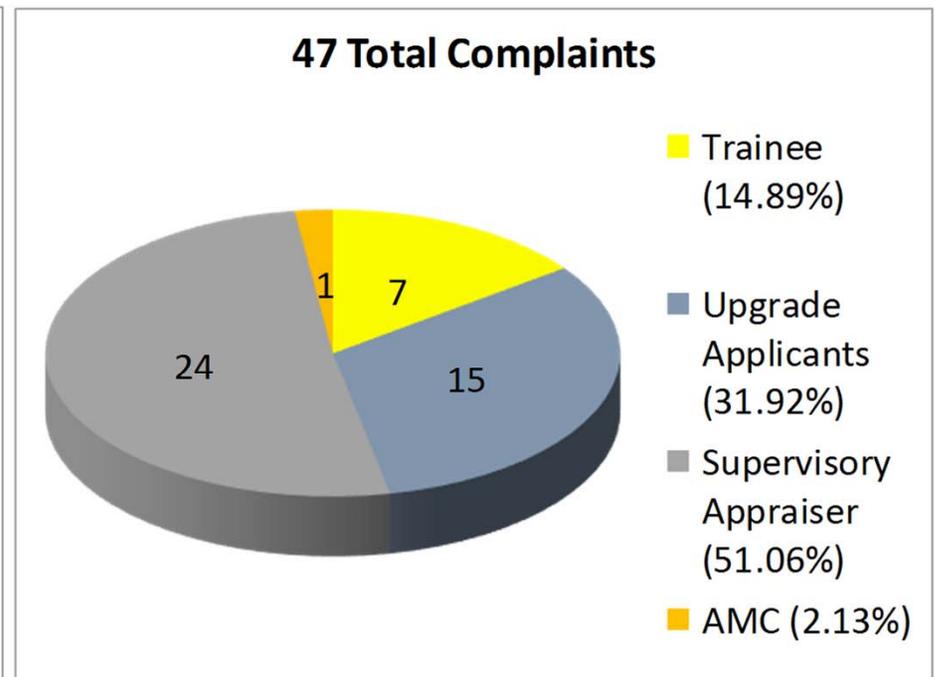
(as of 07/13/16)

# STAFF-INITIATED COMPLAINTS BASED ON EXPERIENCE AUDITS

# of Staff-Initiated Complaints from Audits per Fiscal Year



% of Staff-Initiated Complaints from Audits per Respondent Type



(as of 07/13/16)



## **AGENDA ITEM 12(a)**

Discussion and possible action to adopt amendments to 22 TAC §153.15, Experience Required for Licensing.

### **SUMMARY**

Amendments to 22 TAC §153.15 to clarify the criteria for awarding experience credit to applicants and license holders and to remove redundant language and reorganize the rule for improved readability were previously published in the May 27, 2016 issue of the *Texas Register* (41 TexReg 3813). No comments were received on the amendments; however, the Appraisal Subcommittee revised its interpretation of the documentation required for the Board to grant experience credit for current license holders who apply to upgrade their license. Therefore, staff is recommending reproposal of the rule so that all amendments will be effective at the same time.

### **COMMENTS**

No comments were received on the amendments as proposed.

### **STAFF RECOMMENDATION**

Withdraw and repropose the rule with additional changes as shown in materials.

### **RECOMMENDED MOTION**

MOVED, that staff is authorized, on behalf of this Board, to withdraw and submit repropose amendments to 22 TAC §153.15, Experience Required for Licensing, as presented, for publication and public comment to the *Texas Register*, along with any technical or non-substantive changes required for proposal.





## Proposed Rule Action from August 19, 2016 Meeting of the Texas Appraiser Licensing and Certification Board

### RE-PROPOSED

#### Chapter 153. Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act

##### Rule 153.15. Experience Required for Licensing

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to §153.15, Experience Required for Licensing. The proposed amendments clarify the criteria required for awarding experience credit for applicants and license holders based on a revised interpretation of the Appraiser Qualifications Board (AQB). The proposed amendments also remove redundant language and reorganize this section to improve readability.

Kristen Worman, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the proposed amendments. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the proposed amendments. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Worman also has determined that for each year of the first five years the sections as proposed are in effect the public benefits anticipated as a result of enforcing the section as proposed will be clarity for applicants and license holders and a requirement that is

easier to understand and consistent with state and federal law.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, TX 78711-2188 or emailed to [general.counsel@talcb.texas.gov](mailto:general.counsel@talcb.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code §§1103.151-.152, which authorize TALCB to: adopt rules relating to certificates and licenses and prescribe qualifications for appraisers that are consistent with the qualifications established by the AQB.

The statute affected by these amendments is Texas Occupations Code, Chapter 1103. No other statute, code or article is affected by the proposed amendments.

##### ***153.15. Experience Required for Licensing***

(a) An applicant for a certified general real estate appraiser license must provide evidence satisfactory to the Board that the applicant possesses the equivalent of 3,000 hours of real estate appraisal experience over a minimum of 30 months. At least 1,500 hours of experience must be in non-residential real estate appraisal work. ~~Hours may be treated as cumulative in order to achieve the necessary hours of appraisal experience.~~

(b) An applicant for a certified residential real estate appraiser license must provide evidence satisfactory to the Board that the applicant possesses the equivalent of 2,500 hours of real estate appraisal experience over a minimum of 24 months. ~~Hours may be treated as cumulative in order to achieve the necessary hours of appraisal experience.~~

(c) An applicant for a state real estate appraiser license must provide evidence satisfactory to the Board that the applicant possesses at least 2,000 hours of real estate appraisal experience over a minimum of twelve months.

(d) Experience by endorsement: An applicant who is currently licensed and in good standing in a state that has not been disapproved by the ASC is deemed to satisfy the experience requirements for the same level of license in Texas. The applicant must provide appropriate documentation as required by the Board.

(e) The Board awards experience credit in accordance with current criteria established by the AQB and in accordance with the provisions of the Act specifically relating to experience requirements. An hour of experience means 60 minutes expended in one or more of the acceptable appraisal experience areas. Calculation of the hours of experience is based solely on actual hours of experience. Hours may be treated as cumulative in order to achieve the necessary hours of appraisal experience.

Any one or any combination of the following categories may be acceptable for satisfying the applicable experience requirement. Experience credit may be awarded for:

(1) ~~Fee or staff~~ An appraisal or appraisal analysis when ~~[it is]~~ performed in accordance with Standards 1 and 2 and other provisions of the USPAP edition in effect at the time of the appraisal or appraisal analysis.

(2) Mass appraisal, including ad ~~[Ad]~~ valorem tax appraisal that:

(A) conforms to USPAP Standard 6; and

(B) demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under USPAP Standard 1.

~~(3) [Condemnation appraisal.]~~

~~(4) Appraisal [Technical] review [appraisal to the extent] that [it]:~~

(A) conforms to USPAP Standard 3; and

(B) demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under USPAP Standard 1.

~~[(5) Appraisal analysis. A market analysis typically performed by a real estate broker or salesperson may be awarded experience credit when the analysis is prepared in conformity with USPAP Standards 1 and 2.]~~

(4) [(6) Real property appraisal] Appraisal consulting services, including market analysis, cash flow and/or investment analysis, highest and best use analysis, and feasibility analysis when it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under USPAP Standard 1 and performed in accordance with USPAP Standards 4 and 5.

(f) Experience credit may not be awarded for teaching appraisal courses.

(g) Recency of Experience.

(1) The Appraisal Experience Log submitted by an applicant must include a minimum of 10 appraisal reports representing at least 10 percent of the hours and property type of experience required for each license category and for which an applicant seeks experience credit that have been performed within 5 years before the date an application is accepted for filing by the Board.

(2) This requirement does not eliminate an applicant's responsibility to comply with the 5-year records retention requirement in USPAP.

(h) Experience credit for first-time applicants. Each applicant must submit a Board-approved Appraisal Experience Log and Appraisal Experience Affidavit

listing each appraisal assignment or other work for which the applicant is seeking experience credit. The Board may grant experience credit for work listed on an applicant's Appraisal Experience Log that:

- (1) complies with the USPAP edition in effect at the time of the appraisal;
- (2) is verifiable and supported by:
  - (A) work files in which the applicant is identified as participating in the appraisal process; or
  - (B) appraisal reports that:
    - (i) name the applicant in the certification as providing significant real property appraisal assistance; or
    - (ii) the applicant has signed;
- (3) was performed when the applicant had legal authority to do so; and
- (4) complies with the acceptable categories of experience established by the AQB and stated in subsection (e) of this section.

~~[Experience claimed by an applicant must be submitted on an Appraisal Experience Log with an accompanying Appraisal Experience Affidavit.~~

- ~~—(1) In exceptional situations, the Board, at its discretion, may accept other evidence of experience claimed by the applicant.~~
- ~~—(2) If the Board determines just cause exists for requiring further information, the Board may obtain additional information by:~~
  - ~~—(A) requiring the applicant to complete a form, approved by the Board, that includes detailed listings of appraisal experience showing, for each appraisal claimed by the applicant, the city or county where the appraisal was performed, the type and description of the building or property appraised, the approaches to value utilized in the appraisal, the actual number of hours expended on the appraisal, name of client, and other information determined to be appropriate by the Board; or~~
  - ~~—(B) engaging in other investigative research determined to be appropriate by the Board.~~

~~(3)~~

(i) Experience credit for current licensed residential or certified residential license holders who seek to upgrade their license.

(1) Applicants who currently hold a licensed residential or certified residential appraiser license issued by the Board and want to upgrade this license must:

(A) submit an application on a Board-approved form;

(B) submit a Board-approved Appraisal Experience Log and Appraisal Experience Affidavit listing each appraisal assignment or other work for which the applicant is seeking experience credit for the full amount of experience hours required for the license sought;

(C) pay the appropriate application fee; and

(D) satisfy any other requirement for the license sought, including but not limited to:

(i) the incremental number of experience hours required;

(ii) the hours of experience required for each property type;

(iii) the minimum length of time over which the experience is claimed; and

(iv) the recency requirement in this section.

(2) Review of experience logs.

(A) An applicant who seeks to upgrade a current license issued by the Board must produce experience logs to document 100 percent of the experience hours required for the license sought.

(B) Upon review of an applicant's experience logs, the Board may, at its sole discretion, grant experience credit for the hours shown on the applicant's logs even if some work files have been destroyed because the 5-year records retention period in USPAP has passed.

(j) The Board may, at its sole discretion, accept evidence other than an applicant's Appraisal Experience Log and Appraisal Experience Affidavit to demonstrate experience claimed by an applicant.

**(k)** The Board **must verify the experience claimed by each applicant generally complies with USPAP.** ~~[will require verification of acceptable experience of all applicants. Applicants have 60 days to provide all documentation requested by the Board. The]~~

(1) **Verification** ~~[verification]~~ may be obtained by:

(A) **requesting copies of appraisals and all supporting documentation, including the work files** ~~[requiring the applicant to complete a form, approved by the Board, that includes detailed listings of appraisal experience showing, for each appraisal claimed by the applicant, the city or county where the appraisal was performed, the type and description of the building or property appraised, the approaches to value utilized in the appraisal, the actual number of hours expended on the appraisal, name of client, and other information determined to be appropriate by the Board;~~

~~—(B) requesting copies of appraisals and all supporting documentation, including the workfiles]; and~~

~~(B)~~ ~~(C)~~ engaging in other investigative research determined to be appropriate by the Board.

**(2) If the Board requests documentation from an applicant to verify experience claimed by an applicant, the applicant has 60 days to provide the requested documentation to the Board.**

**(3)** ~~(4)~~ Failure to comply with a request for **documentation to verify experience** ~~[verification of experience]~~, or submission of experience that is found not to comply with the requirements for experience credit, is a violation of these rules and may result in denial of a license application, and any disciplinary action up to and including revocation.

~~(h) An applicant may be granted experience credit only for real property appraisals that:~~

~~—(1) comply with the USPAP edition in effect at the time of the appraisal;~~

~~—(2) are verifiable and supported by workfiles in which the applicant is identified as participating in the appraisal process;~~  
~~—(3) were performed when the applicant had legal authority; and~~  
~~—(4) comply with the acceptable categories of experience as per the AQB experience criteria and stated in subsection (e) of this section.]~~



## **AGENDA ITEM 12(b)-(i)**

Discussion and possible action to adopt new rule and amendments to 22 TAC, Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act:

- b. §153.12, Criminal History Checks
- c. §153.5, Fees
- d. §153.9, Applications
- e. §153.16, License Reinstatement
- f. §153.17 Renewal or Extension of License
- g. §153.23, Inactive Status
- h. §153.25, Temporary Out-of-State Appraiser License
- i. §153.27, License by Reciprocity

### **SUMMARY**

New rule §153.12, Criminal History Checks, implements fingerprint-based criminal history checks for applicants and license holders to comply with criteria adopted by the Appraiser Qualifications Board (AQB).

The amendments to §153.5, Fees; §153.9, Applications; §153.16, License Reinstatement; §153.17 Renewal or Extension of License; §153.23, Inactive Status; §153.25, Temporary Out-of-State Appraiser License; and §153.27, License by Reciprocity, conform these sections with new rule §153.12.

### **COMMENTS**

TALCB received one comment on the proposed rules noting that persons licensed by the Texas Department of Public Safety to carry a concealed handgun are required to undergo a fingerprint-based criminal history check. As such, the commenter suggested that appraisers who hold a concealed handgun license have already satisfied the TALCB requirement.

### **STAFF RECOMMENDATION**

Adopt rules as published.



**RECOMMENDED MOTION**

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption new rule 22 TAC §153.12, Criminal History Checks; and amendments to §153.5, Fees; §153.9, Applications; §153.16, License Reinstatement; §153.17 Renewal or Extension of License; §153.23, Inactive Status; §153.25, Temporary Out-of-State Appraiser License; and §153.27, License by Reciprocity, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes as required for adoption.

## Dione Frederick

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**Subject:** Regarding the recent TALCB Advisor: finger prints and criminal history background checks

**From:** Starett Associates [<mailto:realvalues@starettassociates.com>]

**Sent:** Monday, August 08, 2016 7:12 PM

**To:** Information <[information@trec.texas.gov](mailto:information@trec.texas.gov)>

**Subject:** Regarding the recent TALCB Advisor: finger prints and criminal history background checks

Dear TALCB,

In regards to your recent newsletter and mention of finger prints and criminal history background checks;

I think if a Texas real estate appraiser is licensed by the Texas Department of Public Safety for a concealed handgun license that should suffice for this requirement.

Those already holding such a license, and I do, have already had their finger prints and criminal history undergo extensive scrutiny, and passed muster as far as being in the public trust by the lead law enforcement agency in the State of Texas. I'm sure there are a good many brokers and agents that the same rationale would apply. And like our work permit, certification, we are required to maintain a level of character to keep that handgun license, as well.

Why complicate it, and cause double effort for those that have already gone through such a process.

My two cents,

James Steven Starett, SRA  
State-Certified Residential Real Estate Appraiser  
TX-1331492-R  
&  
Concealed Handgun License  
#06299750



**Adopted Rule Action from August 19, 2016 Meeting of  
the Texas Appraiser Licensing and Certification Board**

**Chapter 153. Rules Relating to Provisions of the Texas  
Appraiser Licensing and Certification Act**

**Rule 153.12. Criminal History Checks**

***153.12. Criminal History Checks***

(a) An applicant or license holder applying for or renewing a license issued by the Board must submit a complete and legible set of fingerprints, in a manner approved by the Board, to the Board, the Texas Real Estate Commission, the Texas Department of Public Safety, or other authorized entity for the purpose of obtaining criminal history record information from the Texas Department of Public Safety and the Federal Bureau of Investigation.

(b) The Board will conduct a criminal history check of each applicant for a license or renewal of a license.

(c) If an applicant or license holder has previously submitted fingerprints on behalf of the Board or Commission as provided in (a), no additional fingerprints are required.



**Adopted Rule Action from August 19, 2016 Meeting of  
the Texas Appraiser Licensing and Certification Board**

**Chapter 153. Rules Relating to Provisions of the Texas  
Appraiser Licensing and Certification Act**

**Rule 153.5. Fees**

**153.5. Fees**

(a) The Board shall charge and the Commissioner shall collect the following fees:

- (1) a fee of \$400 for an application for a certified general appraiser license;
- (2) a fee of \$350 for an application for a certified residential appraiser license;
- (3) a fee of \$325 for an application for a licensed residential appraiser license;
- (4) a fee of \$300 for an application for an appraiser trainee license;
- (5) a fee of \$360 for a timely renewal of a certified general appraiser license;
- (6) a fee of \$310 for a timely renewal of a certified residential appraiser license;
- (7) a fee of \$290 for a timely renewal of a licensed residential appraiser license;
- (8) a fee of \$250 for a timely renewal of an appraiser trainee license;
- (9) a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a license within 90 days of expiration;
- (10) a fee equal to two times the timely renewal fee for the late renewal of a license more than 90 days but less than six months after expiration;
- (11) a fee of \$250 for nonresident license;
- (12) the national registry fee in the amount charged by the Appraisal Subcommittee;
- (13) an application fee for licensure by reciprocity in the same amount as the fee charged for a similar license issued to a Texas resident;
- (14) a fee of \$40 for preparing a certificate of licensure history, active licensure, or supervision;

(15) a fee of \$20 for an addition or termination of sponsorship of an appraiser trainee;

(16) a fee of \$20 for replacing a lost or destroyed license;

(17) a fee for a returned check equal to that charged for a returned check by the Texas Real Estate Commission;

(18) a fee of \$200 for an extension of time to complete required continuing education;

(19) a fee of \$25 to request a license be placed on inactive status;

(20) a fee of \$50 to request a return to active status;

(21) a fee of \$50 for evaluation of an applicant's criminal history;

(22) an examination fee as provided in the Board's current examination administration agreement;

(23) a fee of \$20 per certification when providing certified copies of documents;

(24) a fee of \$75 to request a voluntary appraiser trainee experience review;

(25) the fee charged by the Federal Bureau of Investigation, the Texas Department of Public Safety or other authorized entity for fingerprinting or other service for a national or state criminal history check in connection with a license application or renewal;

(26) [(24)] a fee of \$20 for filing any application, renewal, change request, or other record on paper when the person may otherwise file electronically by accessing the Board's website and entering the required information online; and

(27) [(25)] any fee required by the Department of Information Resources for establishing and maintaining online applications.

(b) Fees must be submitted in U.S. funds payable to the order of the Texas Appraiser Licensing and Certification Board. Fees are not refundable once an application has been accepted for filing. Persons who have submitted a check which has been returned, and who have not made good on that check within thirty days, for whatever reason, shall submit all future fees in the form of a cashier's check or money order.

(c) Licensing fees are waived for members of the Board staff who must maintain a license for employment with the Board only and are not also using the license for outside employment.



**Adopted Rule Action from August 19, 2016 Meeting of  
the Texas Appraiser Licensing and Certification Board**

**Chapter 153. Rules Relating to Provisions of the Texas  
Appraiser Licensing and Certification Act**

**Rule 153.9. Applications**

***153.9. Applications***

(a) A person desiring to be licensed as an appraiser ~~or~~ appraiser trainee ~~or~~ ~~temporary out-of-state appraiser~~ shall file an application using forms prescribed by the Board or the Board's online application system, if available. The Board may decline to accept for filing an application that is materially incomplete or that is not accompanied by the appropriate fee. Except as provided by the Act, the Board may not grant a license to an applicant who has not:

(1) paid the required fees;  
(2) submitted a complete and legible set of fingerprints as required in §153.12 of this title;

~~(3)~~ ~~(2)~~ satisfied any experience and education requirements established by the Act, Board rules, or the AQB;

~~(4)~~ ~~(3)~~ successfully completed any qualifying examination prescribed by the Board;

~~(5)~~ ~~(4)~~ provided all supporting documentation or information requested by the Board in connection with the application;

~~(6)~~ ~~(5)~~ satisfied all unresolved enforcement matters and requirements with the Board; and

~~(7)~~ ~~(6)~~ met any additional or superseding requirements established by the Appraisal Qualifications Board.

(b) Termination of application. An application is is ~~may be considered~~ void and subject to no further evaluation or processing if:

(1) an applicant fails to provide information or documentation within 60 days after the

Board makes a written request for the information or documentation; ~~or~~

(2) within one year from the date an application is filed, an applicant fails to satisfy:

(A) a current education, experience or exam requirement; or

(B) the fingerprint and criminal history check requirements in §153.12 of this title.

(c) A license is valid for the term for which it is issued by the Board unless suspended or revoked for cause and unless revoked, may be renewed in accordance with the requirements of §153.17 of this title (relating to Renewal or Extension of Certification and License or Renewal of Trainee Approval).

(d) The Board may deny a license to an applicant who fails to satisfy the Board as to the applicant's honesty, trustworthiness, and integrity.

(e) The Board may deny a license to an applicant who submits incomplete, false, or misleading information on the application or supporting documentation.

(f) When an application is denied by the Board, no subsequent application will be accepted within two years after the date of the Board's notice of denial as required in §157.7 of this title.

(g) This subsection applies to an applicant who is a military service member, a military veteran, or the spouse of a person serving on active duty as a member of the armed forces of the United States.

(1) The Board shall waive the license application and examination fees for an applicant who is:

(A) a military service member or military veteran whose military service, training, or education substantially meets all of the requirements for the license; or

(B) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.

(2) The Board shall issue on an expedited basis a license to an applicant who holds a current license issued by another state or jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license issued in this state.

(3) The Board may issue a license to an applicant who within the five years preceding the application date, held the license in this state.

(4) The Board may allow an applicant to demonstrate competency by alternative methods in order to meet the requirements for obtaining a particular license issued by the Board. For purposes of this subsection, the standard method of demonstrating competency is the specific examination, education, and/or experience required to obtain a particular license.

(5) In lieu of the standard method(s) of demonstrating competency for a particular license and based on the applicant's circumstances, the alternative methods for demonstrating competency may include any combination of the following as determined by the Board:

(A) education;

(B) continuing education;

(C) examinations (written and/or practical);

(D) letters of good standing;

(E) letters of recommendation;

(F) work experience; or

(G) other methods required by the commissioner.

(h) This subsection applies to an applicant who is serving on active duty or is a veteran of the armed forces of the United States.

(1) The Board will credit any verifiable military service, training or education obtained by an applicant that is relevant to a license toward the requirements of a license.

(2) This subsection does not apply to an applicant who holds a restricted license issued by another jurisdiction.

(3) The applicant must pass the qualifying examination, if any, for the type of license sought.

(4) The Board will evaluate applications filed by an applicant who is serving on active duty or is a veteran of the armed forces of the United States consistent with the criteria adopted by the AQB and any exceptions to those criteria as authorized by the AQB.

(i) A person applying for license under subsection (g) or (h) of this section must also:

(1) submit the Board's approved application form for the type of license sought;

(2) submit the appropriate fee for that application; and

(3) submit the supplemental form approved by the Board applicable to subsection (g) or (h) of this section.

(j) The commissioner may waive any prerequisite to obtaining a license for an applicant as allowed by the AQB.



## Adopted Rule Action from August 19, 2016 Meeting of the Texas Appraiser Licensing and Certification Board

### Chapter 153. Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act

#### Rule 153.16. License Reinstatement

##### ***153.16. License Reinstatement***

(a) This section applies only to a person who:

(1) previously held an appraiser license issued by the Board that has expired; and

(2) seeks to obtain the same level of appraiser license previously held by the person before its expiration.

(b) A person described in subsection (a) may apply to reinstate the person's former license by:

(1) submitting an application for reinstatement on a form approved by the Board;

(2) paying the applicable fee;

(3) satisfying the Board as to the person's honesty, trustworthiness and integrity; ~~and~~

(4) satisfying the experience requirements in this section; ~~and~~[-]

(5) satisfying the fingerprint and criminal history check requirements in §153.12 of this title.

(c) Applicants for reinstatement under this section must demonstrate completion of 14 hours of appraiser continuing education for each year since the last renewal of the person's previous license.

(d) Applicants for reinstatement must demonstrate that their appraisal experience complies with USPAP as follows:

(1) Persons who have work files/license expired less than 5 years. A person described in subsection (a) who has appraisal work files and whose previous license has been expired less than five years may apply to reinstate the person's previous license by submitting an experience log as follows:

(A) For reinstatement as a licensed residential appraiser, a minimum of 10 residential appraisal reports representing at least 200 hours of residential real estate appraisal experience.

(B) For reinstatement as a certified residential real estate appraiser, a minimum of 10 residential appraisal reports representing at least 250 hours of residential real estate appraisal experience.

(C) For reinstatement as a certified general appraiser, a minimum of 10 non-residential appraisal reports representing at least 300 hours of non-residential real estate appraisal experience.

(2) Persons who do not have work files/license expired more than 5 years.

(A) A person described in subsection (a) who does not have appraisal work files or whose previous license has been expired for more than five years may apply for a license as an appraiser trainee for the purpose of acquiring the appraisal experience required under this subsection.

(B) An appraiser trainee licensed under this section may apply for reinstatement at the same level of appraiser license that the applicant previously held, after the applicant completes the required number of appraisal reports or hours of real estate appraisal experience as follows:

(i) For reinstatement as a licensed residential appraiser, the applicant must complete a minimum of 10 residential appraisal reports or 200 hours of residential real estate appraisal experience, whichever is more.

(ii) For reinstatement as a certified residential appraiser, the applicant must

complete a minimum of 10 residential appraisal reports or 250 hours of residential real estate appraisal experience, whichever is more.

(iii) For reinstatement as a certified general appraiser, the applicant must complete a minimum of 10 non-residential appraisal reports or 300 hours of non-residential real estate appraisal experience, whichever is more.

(C) Upon completion of the required number of appraisal reports or hours of real estate appraisal experience, the applicant must submit an experience log.

(e) Consistent with §153.15, the Board will evaluate each applicant's real estate appraisal experience for compliance with USPAP based on the submitted experience log.

(f) For those persons described in subsection (a) the Board may waive the following requirements:

- (1) Proof of qualifying education;
- (2) College education or degree requirement; and
- (3) Examination.

(g) Consistent with this chapter, upon review of the applicant's real estate appraisal experience, the Board may:

- (1) Reinstatement of the applicant's previous appraiser license;
- (2) Reinstatement of the applicant's previous appraiser license, contingent upon completion of additional education, experience or mentorship; or
- (3) Denial of the application.



**Adopted Rule Action from August 19, 2016 Meeting of  
the Texas Appraiser Licensing and Certification Board**

**Chapter 153. Rules Relating to Provisions of the Texas  
Appraiser Licensing and Certification Act**

**Rule 153.17. Renewal or Extension of License**

***153.17. Renewal or Extension of License***

(a) General Provisions.

(1) The Board will send a renewal notice to the license holder at least 90 days prior to the expiration of the license. It is the responsibility of the license holder to apply for renewal in accordance with this chapter, and failure to receive a renewal notice from the Board does not relieve the license holder of the responsibility to timely apply for renewal.

(2) A license holder renews the license by timely filing an application for renewal, paying the appropriate fees to the Board, and satisfying all applicable education, experience, fingerprint and criminal history check [~~and experience~~] requirements.

(3) An application for renewal or extension received by the Board is timely and acceptable for processing if it is:

(A) complete;

(B) accompanied with payment of proper fees; and

(C) postmarked by the U.S. Postal Service, accepted by an overnight delivery service, or accepted by the Board's online processing system on or before the date of expiration.

(b) Certified General, Certified Residential and Licensed Residential Appraisers.

~~[(1) A license holder may renew the license by timely filing an application for renewal, paying the appropriate fees to the Board and, unless renewing on inactive status, satisfying ACE requirements.]~~

(1) [(2)] In order to renew on active status, the license holder must complete the ACE report form approved by the Board and, within 20 days of filing the renewal, submit

course completion certificates for each course that was not already submitted by the provider and reflected in the license holder's electronic license record.

(A) The Board may request additional verification of ACE submitted in connection with a renewal. If requested, such documentation must be provided within 20 days after the date of request.

(B) Knowingly or intentionally furnishing false or misleading ACE information in connection with a renewal is grounds for disciplinary action up to and including license revocation.

(2) [(3)] The Board may grant, at the time it issues a license renewal, an extension of time of up to 60 days after the expiration date of the previous license to complete ACE required to renew a license, subject to the following:

(A) The license holder must:

(i) timely submit the completed renewal form with the appropriate renewal fees;

(ii) complete an extension request form; and

(iii) pay an extension fee of \$200.

(B) ACE courses completed during the 60-day extension period apply only to the current renewal and may not be applied to any subsequent renewal of the license.

(C) A person whose license was renewed with a 60-day ACE extension:

(i) will not perform appraisals in a federally related transaction until verification is received by the Board that the ACE requirements have been met;

(ii) may continue to perform appraisals in non-federally related transactions under the renewed license;

(iii) must, within 60 days after the date of expiration of the previous license, complete the approved ACE report form and submit course completion certificates for each course that was not already submitted by the provider and reflected in the applicant's electronic license record; and

(iv) will have the renewed license placed in inactive status if, within 60 days of the previous expiration date, ACE is not completed and reported in the manner indicated in paragraph (2) of this subsection. The renewed license will remain on inactive status until satisfactory evidence of meeting the ACE requirements has been received by the Board and the fee to return to active status required by §153.5 of this title (relating to Fees) has been paid.

(c) Appraiser Trainees.

(1) Appraiser trainees must maintain an appraisal log and appraisal experience affidavits on forms approved by the Board, for the license period being renewed. It is the responsibility of both the appraiser trainee and the supervisory appraiser to ensure the appraisal log is accurate, complete and signed by both parties at least quarterly or upon change in supervisory appraiser. The appraiser trainee will promptly provide copies of the experience logs and affidavits to the Board upon request.

(2) Appraiser trainees may not obtain an extension of time to complete required continuing education.

(d) Renewal of Licenses for Persons on Active Duty. A person who is on active duty in the United States armed forces may renew an expired license without being subject to any increase in fee imposed in his or her absence, or any additional education or experience requirements if the person:

(1) did not provide appraisal services while on active duty;

(2) provides a copy of official orders or other documentation acceptable to the Board showing the person was on active duty during the last renewal period;

(3) applies for the renewal within two years after the person's active duty ends;

(4) pays the renewal application fees in effect when the previous license expired; and

(5) completes ACE requirements that would have been imposed for a timely renewal.

(e) Late Renewal. If an application is filed within six months of the expiration of a previous license, the applicant shall also provide satisfactory evidence of completion of any continuing education that would have been required for a timely renewal of the previous license.



**Adopted Rule Action from August 19, 2016 Meeting of  
the Texas Appraiser Licensing and Certification Board**

**Chapter 153. Rules Relating to Provisions of the Texas  
Appraiser Licensing and Certification Act**

**Rule 153.23. Inactive Status**

***153.23. Inactive Status***

(a) A license holder may request to be placed on inactive status by filing a request for inactive status on a form approved by the Board and paying the required fee.

(b) A license holder whose license has expired may renew on inactive status within six months after the license expiration date by:

(1) filing an application for renewal on a form approved by the Board;

(2) indicating on the application that the license holder wishes to renew on inactive status; ~~and~~

(3) paying the required late renewal fees; and[-]

(4) satisfying the fingerprint and criminal history check requirements in §153.12 of this title.

(c) A license holder on inactive status:

(1) shall not appraise real property, engage in appraisal practice, or perform any activity for which a license is required; and

(2) must file the proper renewal application and pay all required fees, except for the national registry fee, in order to renew the license.

(d) To return to active status, a license holder who has been placed on inactive status must:

(1) request to return to active status on a form approved by the Board;

(2) pay the required fee;

(3) satisfy all ACE requirements that were not completed while on inactive status, except that the license holder is not required to complete the most current USPAP update course more than once in order to return to active status and shall substitute other

approved courses to meet the required number of ACE hours; and[-]

(4) satisfy the fingerprint and criminal history check requirements in §153.12 of this title.

(e) A license holder who has been on inactive status may not resume practice until the Board issues an active license.



**Adopted Rule Action from August 19, 2016 Meeting of  
the Texas Appraiser Licensing and Certification Board**

**Chapter 153. Rules Relating to Provisions of the Texas  
Appraiser Licensing and Certification Act**

**Rule 153.25. Temporary Out-of-State Appraiser  
License**

***153.25. Temporary Out-of-State Appraiser  
License***

(a) A person licensed as an appraiser by another state, commonwealth, or territory may register with the Board so as to qualify to appraise real property in this state without holding a license issued under the Act if:

(1) the state, commonwealth or territory licensing program under which the person holds a license has not been disapproved by the ASC; and

(2) the appraiser's business in this state is of a temporary nature not to exceed six months.

(b) A person wishing to be registered under this section must:

(1) submit an [a-completed] application for registration on a form approved by the Board;[-]

(2) pay the required fees; and

(3) provide all supporting documentation or information requested by the Board in connection with the application for registration.

(c) A person registered under this section must submit an irrevocable consent to service of process in this state on a form approved by the Board.

(d) A person registered under this section may apply for a 90 day extension to the original expiration date of the temporary registration, provided the person:

(1) is continuing the same appraisal assignment listed on the original application for temporary out-of-state appraiser registration; and

(2) requests an extension on a form approved by the Board, received by the

Board or postmarked prior to the expiration of the current temporary registration.

(e) A person who registers under this section is not required to comply with the fingerprint requirements in §153.12 of this title.



**Adopted Rule Action from August 19, 2016 Meeting of  
the Texas Appraiser Licensing and Certification Board**

**Chapter 153. Rules Relating to Provisions of the Texas  
Appraiser Licensing and Certification Act**

**Rule 153.27. License by Reciprocity**

***153.27. License by Reciprocity***

(a) A person who is licensed as an appraiser under the laws of a state whose appraiser program has not been disapproved by the ASC may apply for a Texas license at that same level by completing and submitting to the Board the application for [Ø] license by reciprocity and paying the appropriate fee to the Board.

(b) The Board shall verify that the applicant's license is valid and in good standing by checking the National Appraiser Registry. A reciprocal license may not be issued without the verification required by this subsection.

(c) Renewal of a license granted through reciprocity shall be in the same manner, and with the same requirements, term, and fees, as for the same classification of license as provided in §153.17 of this title [~~relating to Renewal or Extension of License~~].





## **AGENDA ITEM 13(a)**

Discussion and possible action to propose amendments to 22 TAC §159.52, Fees.

### **SUMMARY**

The proposed amendments reduce the renewal fee for appraisal management companies by \$300 per two-year license renewal period and reduce the fee to add or remove an appraiser from an AMC panel from \$10 to \$5. The Board proposes these AMC fee reductions as part of its budget for fiscal year 2017.

### **STAFF RECOMMENDATION**

Propose the amendments as presented.

### **RECOMMENDED MOTION**

MOVED, that staff is authorized, on behalf of this Board, to submit amendments to 22 TAC §159.52, Fees, as presented for publication and public comment to the *Texas Register*, along with any technical or non-substantive changes required for proposal.





## Proposed Rule Action from August 19, 2016 Meeting of the Texas Appraiser Licensing and Certification Board

### Chapter 159. Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act

#### Rule 159.52. Fees

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to §159.52, Fees. The proposed amendments reduce the renewal fee for appraisal management companies by \$300 per two-year license renewal period and reduce the fee to add or remove an appraiser from an AMC panel from \$10 to \$5. The Board proposes these AMC fee reductions as part of its budget for fiscal year 2017.

Kristen Worman, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the proposed amendments. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the proposed amendments. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Worman also has determined that for each year of the first five years the sections as proposed are in effect the public benefits anticipated as a result of enforcing the section as proposed will be lower fees for license holders.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, TX 78711-2188 or

emailed to [general.counsel@talcb.texas.gov](mailto:general.counsel@talcb.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1104.051, which authorizes the TALCB to adopt rules necessary to administer the provisions of Chapter 1104, Texas Occupations Code.

The statute affected by these amendments is Texas Occupations Code, Chapter 1104. No other statute, code or article is affected by the proposed amendments.

#### §159.52. Fees

(a) The Board will charge and the Commissioner will collect the following fees:

(1) a fee of \$3,300 for an application for a two-year registration;

(2) a fee of ~~\$3,300~~ **\$3,000** for a timely renewal of a two-year registration;

(3) a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a registration within 90 days of expiration; a fee equal to two times the timely renewal fee for the late renewal of a registration more than 90 days but less than six months after expiration;

(4) the national registry fee in the amount charged by the Appraisal Subcommittee for the AMC registry;

(5) a fee of \$10 for each appraiser on a panel at the time of renewal of a registration;

(6) a fee of ~~\$10~~ **\$5** to add an appraiser to a panel in the Board's records;

- (7) a fee of ~~\$5~~[\$10] for the termination of an appraiser from a panel;
- (8) a fee of \$25 to request a registration be placed on inactive status;
- (9) a fee of \$50 to return to active status;
- (10) a fee of \$40 for preparing a certificate of licensure history or active licensure;
- (11) a fee for a returned check equal to that charged for a returned check by the Texas Real Estate Commission;
- (12) a fee of \$20 for filing any request to change an owner, primary contact, appraiser contact, registered business name or place of business;
- (13) a fee of \$50 for evaluation of an owner or primary contact's background history not submitted with an original application or renewal;
- (14) a fee of \$20 for filing any application, renewal, change request, or other record on paper when the person may otherwise file electronically by accessing the Board's website and entering the required information online; and
- (15) any fee required by the Department of Information Resources for establishing and maintaining online applications.

(b) Fees must be submitted in U.S. funds payable to the order of the Texas Appraiser Licensing and Certification Board. Fees are not refundable once an application has been accepted for filing. Persons who have submitted a check which has been returned, and who have not made good on that check within 30 days, for whatever reason, must submit all future fees in the form of a cashier's check or money order.

(c) AMCs registered with the Board must pay any annual registry fee as required under federal law. All registry fees collected by the Board will be deposited in the Texas Treasury Safekeeping Trust Company to the credit of the appraiser registry fund. The Board will send the fees to the Appraisal Subcommittee as required by federal law.



## **AGENDA ITEM 13(b)**

Discussion and possible action to propose amendments to 22 TAC §159.161, Appraiser Panel.

### **SUMMARY**

As recommended by the Appraisal Management Company (AMC) Advisory Committee, the proposed amendments allow the Board to remove an appraiser from an AMC's panel without any charge to the AMC if the Board suspends or revokes the appraiser's license. The proposed amendments also clarify when an appraiser will be removed from an AMC's panel after the appraiser's license expires.

### **STAFF RECOMMENDATION**

Propose the amendments as presented.

### **RECOMMENDED MOTION**

MOVED, that staff is authorized, on behalf of this Board, to submit amendments to 22 TAC §159.161, Appraiser Panel, as presented for publication and public comment to the *Texas Register*, along with any technical or non-substantive changes required for proposal.





## Proposed Rule Action from August 19, 2016 Meeting of the Texas Appraiser Licensing and Certification Board

### Chapter 159. Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act

#### Rule 159.161. Appraiser Panel

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to §159.161, Appraiser Panel. As recommended by the Appraisal Management Company (AMC) Advisory Committee, the proposed amendments allow the Board to remove an appraiser from an AMC's panel without any charge to the AMC if the Board suspends or revokes the appraiser's license. The proposed amendments also clarify when an appraiser will be removed from an AMC's panel after the appraiser's license expires.

Kristen Worman, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the proposed amendments. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the proposed amendments. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Worman also has determined that for each year of the first five years the sections as proposed are in effect the public benefits anticipated as a result of enforcing the section as proposed will be clarity for license holders.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, TX 78711-2188 or emailed to [general.counsel@talcb.texas.gov](mailto:general.counsel@talcb.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1104.051, which authorizes the TALCB to adopt rules necessary to administer the provisions of Chapter 1104, Texas Occupations Code.

The statute affected by these amendments is Texas Occupations Code, Chapter 1104. No other statute, code or article is affected by the proposed amendments.

#### ***159.161. Appraiser Panel***

(a) If an appraiser is not employed by the AMC or already a member of the AMC's panel, an AMC must add the appraiser to the AMC's panel no later than the date on which the AMC makes an assignment to the appraiser.

(b) To add an appraiser to a panel, the AMC must:

(1) initiate the appropriate two-party transaction through the Board's online panel management system, including payment of any required fee(s); or

(2) submit a notice on a form approved by the Board for this purpose, including the signatures of the appraiser and the AMC's primary contact, and the appropriate fee(s).

(c) An appraiser or an AMC may terminate the appraiser's membership on a panel by:

(1) submitting a termination notice electronically through the Board's online panel management system, including payment of any required fee; or

(2) submitting a notice on a form approved by the Board for this purpose and the appropriate fee(s).

(d) If an appraiser terminates his or her membership on a panel, the appraiser must immediately notify the AMC of the termination. If an AMC terminates an appraiser's membership on a panel, the AMC must immediately notify the appraiser of the termination.

(e) If an appraiser's license [~~expires or~~] is **suspended or** revoked, the Board will remove the appraiser from any panels on which the appraiser is listed with no fee charged to the AMC or [~~to~~] the appraiser.

**(f) If an appraiser's license expires, the Board will:**

**(1) change the appraiser's license status the month following expiration of the license; and**

**(2) remove the appraiser from any panels on which the appraiser is listed with no fee charged to the AMC or the appraiser once the license can no longer be renewed.**



## **AGENDA ITEM 13(c)**

Discussion and possible action to propose amendments to 22 TAC §159.201, Guidelines for Revocation, Suspension, or Denial of a License.

### **SUMMARY**

As recommended by the Working Group for AQB Criminal History Check Criteria and the Appraisal Management Company (AMC) Advisory Committee, the proposed amendments allow an AMC to conduct additional criminal history checks beyond those required by the Board, so long as an AMC does not require an appraiser to pay for or reimburse an AMC for the additional criminal history checks.

### **STAFF RECOMMENDATION**

Propose the amendments as presented.

### **RECOMMENDED MOTION**

MOVED, that staff is authorized, on behalf of this Board, to submit amendments to 22 TAC §159.201, Guidelines for Revocation, Suspension, or Denial of a License, as presented for publication and public comment to the *Texas Register*, along with any technical or non-substantive changes required for proposal.





## **Proposed Rule Action from August 19, 2016 Meeting of the Texas Appraiser Licensing and Certification Board**

### **Chapter 159. Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act**

#### **Rule 159.201. Guidelines for Revocation, Suspension, or Denial of a License**

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to §159.201, Guidelines for Revocation, Suspension, or Denial of a License. As recommended by the Working Group for AQB Criminal History Check Criteria and the Appraisal Management Company (AMC) Advisory Committee, the proposed amendments allow an AMC to conduct additional criminal history checks beyond those required by the Board, so long as an AMC does not require an appraiser to pay for or reimburse an AMC for the additional criminal history checks.

The Legislature delegated authority to the Board to adopt rules requiring fingerprint-based criminal history checks. The Board appointed the Working Group in November 2015 to consider whether to implement fingerprint-based criminal history checks for appraisers to comply with criteria adopted by the Appraiser Qualifications Board (AQB). The Working Group recommends implementing fingerprint-based criminal history checks for applicants and current license holders. The Working Group and the AMC Advisory Committee recognize that AMCs may have a business need to conduct additional criminal history checks beyond those recommended by the Working Group and, if adopted, required by the Board. The proposed amendments would allow AMCs to conduct additional criminal history checks, so long as an AMC does not require an

appraiser to pay for or reimburse an AMC for the additional criminal history checks.

Kristen Worman, General Counsel, has determined that for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the proposed amendments. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the proposed amendments. There is no significant anticipated economic cost to persons who are required to comply with the proposed amendments.

Ms. Worman also has determined that for each year of the first five years the sections as proposed are in effect the public benefits anticipated as a result of enforcing the section as proposed will be clarity for license holders.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, TX 78711-2188 or emailed to [general.counsel@talcb.texas.gov](mailto:general.counsel@talcb.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1104.051, which authorizes the TALCB to adopt rules

necessary to administer the provisions of Chapter 1104, Texas Occupations Code.

The statute affected by these amendments is Texas Occupations Code, Chapter 1104. No other statute, code or article is affected by the proposed amendments.

***§159.201. Guidelines for Revocation, Suspension, or Denial of a License***

(a) The Board may suspend or revoke a license issued under provisions of the AMC Act, or deny issuing a license to an applicant, any time it is determined that the person applying for or holding the license or the AMC's primary contact:

(1) disregards or violates a provision of the AMC Act or Board rules;

(2) is convicted of a felony;

(3) fails to notify the Board not later than the 30th day after the date of the final conviction if the person, in a court of this or another state or in a federal court, has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud or moral turpitude;

(4) fails to notify the Board not later than the 30th day after the date of incarceration if the person, in this or another state, has been incarcerated for a criminal offense involving fraud or moral turpitude;

(5) fails to notify the Board not later than the 30th day after the date disciplinary action becomes final against the person with regard to any occupational license the person holds in Texas or any other jurisdiction;

(6) fails to comply with the USPAP edition in effect at the time of the appraisal or appraisal practice;

(7) acts or holds any person out as a registered AMC under the AMC Act or another state's act when not so licensed or certified;

(8) accepts payment for appraisal management services but fails to deliver the agreed service in the agreed upon manner;

(9) refuses to refund payment received for appraisal management services when he or

she has failed to deliver the appraiser service in the agreed upon manner;

(10) accepts payment for services contingent upon a minimum, maximum, or pre-agreed value estimate;

(11) offers to perform appraisal management services or agrees to perform such services when employment to perform such services is contingent upon a minimum, maximum, or pre-agreed value estimate;

(12) makes a material misrepresentation or omission of material fact;

(13) has had a registration as an AMC revoked, suspended, or otherwise acted against by any other jurisdiction for an act which is an offense under Texas law;

(14) procures a registration pursuant to the AMC Act by making false, misleading, or fraudulent representation;

(15) has had a final civil judgment entered against him or her on any one of the following grounds:

(A) fraud;

(B) intentional or knowing misrepresentation; or

(C) grossly negligent misrepresentation in the making of real estate appraiser services;

(16) fails to make good on a payment issued to the Board within 30 days after the Board has mailed a request for payment by certified mail to the license holder's primary contact as reflected in the Board's records;

(17) knowingly or willfully engages in false or misleading conduct or advertising with respect to client solicitation;

(18) uses any title, designation, initial or other insignia or identification that would mislead the public as to that person's credentials, qualifications, competency, or ability to provide appraisal management services;

(19) [requires an appraiser to pay for or reimburse the AMC for a criminal history check;](#)

[\(20\)](#) fails to comply with a final order of the Board; or

[\(21\)](#)~~[\(20\)](#)~~ fails to answer all inquiries concerning matters under the jurisdiction of the Board within 20 days of notice to said

person's or primary contact's address of record, or within the time period allowed if granted a written extension by the Board.

(b) The Board has discretion in determining the appropriate penalty for any violation under subsection (a) of this section.

(c) The Board may probate a penalty or sanction, and may impose conditions of the probation, including, but not limited to:

(1) the type and scope of appraisal management practice;

(2) requirements for additional education by the AMC's controlling persons;

(3) monetary administrative penalties; and

(4) requirements for reporting appraisal management activity to the Board.

(d) A person applying for reinstatement after revocation or surrender of a registration must comply with all requirements that would apply if the registration had instead expired.

(e) The provisions of this section do not relieve a person from civil liability or from criminal prosecution under the AMC Act or under the laws of this State.

(f) The Board may not investigate under this section a complaint submitted either more than two years after the date of discovery or more than two years after the completion of any litigation involving the incident, whichever event occurs later, involving the AMC that is the subject of the complaint.

(g) Except as provided by Texas Government Code §402.031(b) and Texas Penal Code §32.32(d), there will be no undercover or covert investigations conducted by authority of the AMC Act.





## **AGENDA ITEM 14**

Update regarding comments submitted to the Appraisal Subcommittee on proposed rule for AMC registry fees.



July 18, 2016

James Park, Executive Director  
Appraisal Subcommittee  
1401 H St NW, Suite 760  
Washington DC 20005

RE: Docket AS16-06, *Appraisal Subcommittee; Notice of Proposed Rulemaking to implement Collection and Transmission of Annual AMC Registry Fees*

Mr. Park –

The Texas Appraiser Licensing & Certification Board (TALCB) submits these comments in response to the *Appraisal Subcommittee; Notice of Proposed Rulemaking to implement Collection and Transmission of Annual AMC Registry fees*.

The Appraisal Subcommittee (ASC) requested comments on the following questions. TALCB's comments will follow each question:

- **Question 1:** The ASC requests comments on all aspects of the proposed annual AMC registry fee.

***TALCB Comments in response to Question 1:***

*Section 1102.401(d) of the ASC's proposed rule would define the phrase "performance of an appraisal" to mean "the appraisal service requested of an appraiser by the AMC was provided to the AMC." This proposed definition creates unnecessary confusion because the proposed rule does not define the term "appraisal service." The Truth in Lending Act (TILA) defines "appraisal services" as "the services required to perform an appraisal, including defining scope of work, inspecting the property, reviewing necessary and appropriate public and private data sources (MLS, tax assessment records, public land records) developing and rendering an opinion of value and preparing and submitting the appraisal report." If the ASC intended the TILA definition of appraisal services to apply here, the ASC should clearly state so. If not, the ASC should include a proposed definition of the term "appraisal services" in the proposed rule.*

*Notwithstanding this omission, the term "appraisal service" even as defined in TILA does not address the issue of whether the service being provided to the AMC is related to a "covered transaction" as defined in Title XI, as amended by the Dodd-Frank Act.*

*The ASC should not create confusion by proposing a definition without clearly defining terms within the definition.*

- **Question 2:** The ASC requests comment on the ASC's interpretation of the phrase "working for or contracting with."

**TALCB Comments in response to Question 2:**

*Under the proposed rule, the ASC considered three possible interpretations of the phrase "working for or contracting with":*

*OPTION 1: The phrase "working for or contracting with" would be interpreted to include every appraiser on an AMC appraiser panel during the reporting period in a particular State. The multiplier in this option would include all appraisers on an AMC panel, including those appraisers accepted by the AMC for consideration for future appraisal assignments.*

*OPTION 2: The phrase "working for or contracting with" would be interpreted to include those appraisers engaged by the AMC to perform an appraisal on a covered transaction during the reporting period in a particular State. The appraiser would be considered in the calculation for the purpose of AMC Registry fees at the time an AMC engaged the appraiser to perform a particular appraisal assignment, regardless of whether the appraisal was fully performed during the reporting period.*

*OPTION 3 (Proposed by the ASC Rule): The phrase "working for or contracting with" would be interpreted to include appraisers that performed an appraisal for the AMC on a covered transaction during the reporting period in a particular State. This option would exclude appraisers accepted by the AMC for consideration for future appraisal assignments, as well as appraisers who performed appraisals in the past, but did not perform any appraisals in the reporting period.*

*The ASC chose the interpretation described under OPTION 3 because the ASC believes this option would result in the collection of the lowest aggregate fee allowed under the statute and, therefore, would impose the lowest financial burden on an AMC.*

*TALCB opposes the ASC's proposed interpretation of the phrase "working for or contracted with" because this interpretation would create an entirely new regulatory criteria for State appraiser regulatory agencies to implement and validate. Title XI, as amended by the Dodd-Frank Act, already requires State appraiser regulatory agencies who elect to register AMCs in their State to determine the number of appraisers on each AMC's panel. In fact, the number of appraisers on an AMC's panel is the criteria that determines whether an AMC must register in a particular State. Thus, the interpretation under OPTION 1 would be the easiest interpretation for State appraiser regulatory agencies to implement because the number of appraisers "working for or contracting with" an AMC in a particular State during the reporting period would already be known and reported to a State because that is the same criteria used to determine whether the AMC must register with the State in the first instance.*

*Under the ASC's proposed interpretation, States would be forced to rely on an AMC to identify and accurately self-report the number of appraisers falling within the proposed interpretation because nothing in Title XI, as amended by the Dodd-Frank Act, or the AMC Rules adopted by the Federal Financial Institutions Examination Council in 2015 utilizes the interpretation proposed by the ASC to*

define the phrase “working for or contracting with.” Nor does Title XI or the AMC Rules currently require State appraiser regulatory agencies to collect or track the information necessary to identify which appraisers on an AMC panel would fall within this proposed interpretation.

Accordingly, State appraiser regulatory agencies would be required to audit an AMC on a periodic basis to validate this data as self-reported by an AMC. To validate the data self-reported by an AMC, such an audit would need to look at more extensive information than simply the number of appraisers on an AMC panel during the reporting period. When one considers the potential costs of such additional audits to both State appraiser regulatory agencies and AMCs, there is no evidence that this interpretation would actually impose the lowest financial burden on an AMC.

Because Title XI, as amended by the Dodd-Frank Act, already requires both AMCs and State appraiser regulatory authorities to collect and track the number of appraisers on an AMC panel to determine whether an AMC must register with a State in the first instance, OPTION 1 would be a better interpretation for the ASC to use for the phrase “working for or contracting with.” This information is already known and tracked by AMCs and many State appraiser regulatory authorities who have already elected to register AMCs. Moreover, to the extent this information would require validation, an AMC could provide a simple report to State appraiser regulatory agencies identifying those appraisers on the AMC’s panel during the reporting period, thereby significantly reducing potential audit costs to an AMC and the State appraiser regulatory agency that would be required to validate this single data point.

Additionally, an AMC would be able to control and manage the financial burden of AMC Registry fees in the same manner that it controls and manages the number of appraisers on its panel.

For these reasons, TALCB urges the ASC to adopt the interpretation of “working for or contracting with” considered under OPTION 1.

- **Question 3:** The ASC requests comment on the second option’s interpretation of the phrase “working for or contracting with.” While the proposal defines “working for or contracting with” to include only those appraisers that performed an appraisal for the AMC during the reporting period, the second option would define “working for or contracting with” to mean the AMC engaged an appraiser to perform an appraisal, regardless of whether the appraiser completed the appraisal during the reporting period. The ASC is requesting comment on whether this would be an easier interpretation for the States to administer.

### **TALCB Comments in response to Question 3:**

The interpretation of the phrase “working for or contracting with” considered by the ASC under OPTION 2 as described above and in the commentary to the proposed rule would not be easier for TALCB or other State appraiser regulatory agencies to implement and administer. Like the interpretation chosen by the ASC under OPTION 3, the interpretation under OPTION 2 creates a new regulatory criteria for State appraiser regulatory areas to implement and validate. State appraiser regulatory agencies would again have to rely on AMC self-reporting to determine the appropriate of AMC registry fees to collect. And State appraiser regulatory agencies would be required to audit an AMC on a periodic basis to validate this data as self-reported by an AMC. Additionally, this interpretation would potentially require an AMC include an appraiser in the fee calculation even if the appraiser never delivered the appraisal to the AMC because this interpretation does not require the appraisal to be delivered during the reporting period. For this reason, this interpretation could potentially impose greater fees, and thus a greater financial burden on AMCs.

Thus, for similar reasons TALCB objects to the interpretation of the phrase “working for or contracting with” chosen by the ASC under OPTION 3, TALCB opposes the interpretation under OPTION 2.

- **Question 4:** The ASC requests comment on all aspects of propose collection and transmission of annual registry fees.

#### **TALCB Comments in response to Question 4:**

##### ASC Must Provide Flexibility

The proposed ASC rule would allow State appraiser regulatory agencies to align the one-year reporting period with any 12-month period, which may or may not be based on the calendar year, but the proposed rule would require State appraiser regulatory agencies to collect and transmit AMC registry fees to the ASC on an annual basis. While the proposed rule also allows State appraiser regulatory agencies to determine the registration cycle for AMCs, the ASC notes “that the statutory requirement in section 1109(a)(4) [12 U.S.C. §3338(a)(4)] requires States ... to submit AMC registry fees annually to the ASC.”

But the ASC’s proposed rule fails to consider and give voice to the statutory language in section 1109(a)(4) [12 U.S.C. §3338(a)(4)] requiring the ASC to “provide flexibility to the States for multi-year certifications, and licenses already in place.” The Texas Legislature adopted Chapter 1104, Texas Occupations Code, in 2011, which requires AMCs to register in Texas. See Tex. Occ. Code §1104.101 (requiring AMC registration). The Texas Legislature also authorized TALCB to adopt rules to administer Chapter 1104. See id. §1104.051. Rules adopted by TALCB require AMCs to renew their registration with TALCB every two years. See 22 Tex. Admin. Code §§159.52(a)(2) (required fees); 152.108 (registration renewal). Thus, TALCB has a multi-year registration program for AMCs already in place. Yet, there is no flexibility in the proposed rule to allow TALCB to collect and remit AMC Registry fees every two years or every other year.

TALCB therefore requests the ASC to amend the proposed rule to give TALCB, and other states with a multi-year registration program already in place, the regulatory flexibility required in §1109(a)(4)[12 U.S.C. §3338(a)(4)].

##### Reduce the Fee Amount

The plain language of Title XI, as amended by the Dodd-Frank Act, gives the ASC discretion to impose an AMC registry fee lower than \$25 per appraiser working for or contracting with the AMC. Specifically, section §1109(a)(4)(B)(i) [12 U.S.C. §3338(a)(4)(B)(i)] states:

*Each State with an appraiser certifying and licensing agency whose certifications and licenses comply with this title, shall [...] collect [...] from an appraisal management company [...] an annual registry fee of [...] \$25 multiplied by the number of appraisers working for or contracting with such company in such State during the previous year, but where such \$25 amount may be adjusted, up to a maximum of \$50, at the discretion of*

*the Appraisal Subcommittee, if necessary to carry out the Subcommittee's functions under this title.<sup>1</sup>*

*The statutory language provides that the "\$25 amount may be adjusted, up to a maximum of \$50, at the discretion of the [ASC], if necessary to carry out the [ASC]'s functions." The United States Supreme Court has explained, "Statutory Construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose." Engine Mfrs. Assn. v. South Coast Air Quality Management Dist., 541 U.S. 246, 252 (2004). Congress chose the word "adjust" not "increase." The word "adjust" means "to make correspondent or conformable" or "to bring the parts of to a true or more effective relative position." See Merriam Webster's Collegiate Dictionary, 10<sup>th</sup> ed. (1993). The statute further directs that any adjustment be made "at the discretion of the Appraisal Subcommittee." See §1109(a)(4)(B)(i) [12 U.S.C. §3338(a)(4)(B)(i)]. Thus, the plain language of §1109(a)(4)(B)(i) [12 U.S.C. §3338(a)(4)(B)(i)] gives ASC discretion to raise or lower the \$25 amount, as needed to support the ASC's functions under Title XI, as amended by the Dodd-Frank Act.*

*The ASC's discretion to impose an AMC registry fee of less than \$25 is further supported by the language in §1109(a)(4)(B)(ii) [12 U.S.C. §3338(a)(4)(B)(ii)], which directs the ASC impose an AMC registry fee of "\$25 multiplied by an appropriate number to be determined by the Appraisal Subcommittee" for those AMCs in existence for less than one year. See *id.* (emphasis added). This language clearly contemplates that the ASC could impose a fee of less than \$25 per appraiser working for or contracting with an AMC if the AMC has not been in existence for at least one year. Under this statutory language, the ASC may determine that the "appropriate number" to be multiplied with \$25 is the fractional portion of one year that an AMC has been in existence, e.g. one-twelfth for one month, one-half for six months, three-fourths for nine months, etc.*

*That the ASC has discretion to impose an AMC registry fee of less than \$25 is also supported by the potential outcome should the ASC choose not to reduce the \$25 fee. Consider the following hypothetical:*

*In Texas, there are approximately 5,000 certified appraisers and 200 AMCs. In addition, there are approximately 40,000 AMC panel members in Texas.*

*Dividing the number of certified appraisers in Texas into the number of AMC panel members, yields the result that, on average, each certified appraiser serves on 8 AMC panels. Thus, in Texas alone, the AMC registry fees would generate \$1,000,000, or an average of \$200 per certified appraiser, to be collected and paid to the ASC. This amount is in addition to the \$40 per year that the ASC already collects from each appraiser who is licensed or certified in a particular State. See §1109(a)(4)(A) [12 U.S.C. §3338(a)(4)(A)]. Under this hypothetical, the amount collected by the ASC for certified appraisers in Texas would more than quadruple – and this represents the potential outcome in just one state. There is no evidence that this extraordinary outcome was intended by Congress when the Dodd-Frank Act was passed. The plain language of the statutory provisions allowing the ASC to collect AMC registry fee makes clear that the purpose of this fee is to allow the ASC to carry out its functions under Title XI, as amended by the Dodd-Frank Act. Yet, the ASC has provided no rationale or justification that it will require quadrupling of its entire annual budget to support and carry out the ASC's functions under Title XI, as amended by the Dodd-Frank Act.*

<sup>1</sup> The same language applying this \$25 amount to appraisal management companies in existence for less than a full year and giving the ASC discretion to adjust the \$25 amount appears in §1109(a)(4)(B)(ii) [12 U.S.C. §3338 (a)(4)(B)(ii)].

*Title XI, as amended by the Dodd-Frank Act, lists the ASC's functions in §1109(b) [12 U.S.C. §3338(b)]. These functions include maintaining a registry of individuals who are qualified and eligible to perform appraisals in connection with federally related transactions, supporting its activities under Title XI, reimbursing the general fund of the Treasury for amounts appropriated and expended during the 24-month ASC start-up period, making grants to the Appraisal Foundation to help defray costs of the Appraisal Standards Board and Appraiser Qualifications Board, making grants to State appraiser regulatory agencies to support the efforts of those agencies to comply with Title XI, and to report to all State appraiser regulatory agencies when a license or certification is surrendered, revoked or suspended. The stated purpose of the AMC registry fee is to allow the ASC to carry out these functions. But setting an AMC registry fee of \$25 per appraiser working for or contracting with an AMC, which would more than quadruple the \$40 amount already collected by the ASC each year from appraisers in Texas as noted in the above hypothetical, would be inconsistent with the statutory purpose of allowing the ASC to carry out its functions under Title XI, unless the ASC could justify the need for these additional funds. There has been no rationale or justification set forth by the ASC in the proposed rule or otherwise that would support such an enormous increase to the ASC's annual budget.*

*Moreover, to the extent the rule is adopted as proposed and this \$25 fee is imposed for each appraiser working for or contracting with an AMC during the reporting period, there is nothing in Title XI, as amended by the Dodd-Frank Act, or the proposed rule that would prevent an AMC from passing along the AMC registry fee to individual appraisers. Under the above hypothetical, if AMCs adopt such a pass through, each certified appraiser in Texas would, on average, pay \$240 per year to the ASC to support the ASC's functions under Title XI. Such a drastic fee increase would create a significant barrier to entry into the appraisal profession.*

*For these reasons, TALCB believes that ASC should exercise its statutory discretion to reduce the AMC registry fee significantly below the proposed \$25 per appraiser working for or contracting with an AMC during the reporting period until such time there is a demonstrated need for the ASC to collect additional funds to carry out its functions under Title XI.*

- **Question 5:** The ASC requests comment on Federally regulated AMCs operating in a State that does not elect to register and supervise AMCs. Should the ASC collect information and fees directly from Federally regulated AMCs that wish to appear on the AMC Registry but operate in States that do not elect to register and supervise AMCs?

**TALCB Comments in response to Question 5:**

*TALCB agrees that Federally regulated AMCs operating in a State that does not elect to register AMCs should report the required information and submit fees directly to the ASC if the Federally regulated AMC wants to appear on the AMC Registry for that State.*

- **Question 6:** What barriers, if any, exist that would make it difficult for a State to implement the collection and transmission of AMC registry fees?

**TALCB Comments in response to Question 6:**

*TALCB believes the following barriers exist, which make it difficult for State appraiser regulatory agencies to implement the collection and transmission of AMC registry fees:*

- 1) *Creating new definitions that are inconsistent with existing definitions in Title XI, as amended by the Dodd-Frank Act, or USPAP. See TALCB Comments in response to Question 1, supra;*
  - 2) *Creating an entirely new regulatory criteria and calculation for determining the fees a State appraiser regulatory agency must collect from an AMC who registers in a particular State and wants to be included on the AMC Registry and the inherent complexity of implementing and validating an entirely new regulatory standard. See TALCB Comments in response to Question 2, supra;*
  - 3) *Failing to provide the statutorily required regulatory flexibility to States with a multi-year AMC licensing and registration program in place when implementing a change to the registry fees. See TALCB Comments in response to Question 4, supra;*
  - 4) *Setting the minimum AMC registry fee at \$25 when the statutory language gives the ASC discretion to set a lower amount. See TALCB Comments in response to Question 4, supra;*
  - 5) *Creating a new barrier to entry into the appraisal profession by imposing a \$25 minimum AMC registry fee that could more than quadruple the amount of fees paid to the ASC by appraisers. See TALCB Comments in response to Question 4, supra;*
  - 6) *Increasing unnecessarily the costs to collect and remit AMC registry fees. See TALCB Comments in response to Question 7, infra.*
- **Question 7:** What costs (both direct in terms of fees and indirect in terms of administrative costs) would be associated with collection and transmission of AMC registry fees?

**TALCB Comments in response to Question 7:**

*TALCB will incur significant administrative costs to implement programming changes to its computer systems that would allow TALCB to collect and remit AMC registry fees to the ASC on an annual basis because TALCB has a two-year registration and renewal cycle for AMCs. Thus, TALCB only collects AMC registration fees every other year. If adopted as proposed, the ASC rule will require TALCB to change its registration and renewal cycle for AMCs or, in the alternative, require TALCB to adopt an entirely separate process for collecting and remitting AMC registry fees.*

*TALCB will also incur significant administrative costs if the ASC adopts the rule with the ASC's proposed interpretation of "working for or contracting with." The ASC's proposed interpretation of this phrase will require TALCB to incur significant administrative costs to audit and validate the number of appraisers reported by an AMC as falling within the proposed interpretation. AMCs too will incur significant administrative costs when responding to such audits to validate the information reported by the AMC to TALCB.*

*Requiring TALCB to collect and remit AMC registry fees for Federally regulated AMCs will further increase the administrative costs to implement the ASC rule as proposed. Title XI, as amended by the Dodd-Frank Act, exempts Federally regulated AMCs from the requirement to register with a particular State. Texas law is consistent with federal law on this point. Notwithstanding this exemption, TALCB (and other State appraiser regulatory agencies) will incur increased administrative costs to collect and remit AMC registry fees to the ASC for Federally regulated AMCs, as well as to change Texas law to allow for the collection and remission of AMC registry fees from Federally regulated AMCs even though neither federal nor Texas law requires these AMCs to register with TALCB.*

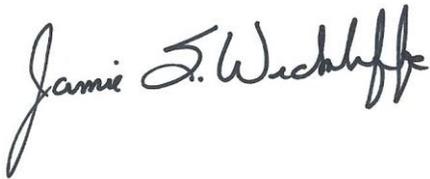
- **Question 8:** What aspects of the proposed rule, if any, would be challenging for States to implement? To the extent such challenges would exist, what alternative approaches do commenters suggest that would make implementation easier, while maintaining consistency with the statute?

**TALCB Comments in response to Question 8:**

See *TALCB Comments in response to Questions 1-7, supra*.

The TALCB appreciates the ASC's consideration of these comments and suggested changes to the proposed rule for AMC registry fees.

Sincerely,

A handwritten signature in black ink that reads "Jamie S. Wickliffe". The signature is written in a cursive style with a large initial "J" and "W".

Jamie Wickliffe, Chair  
Texas Appraiser Licensing & Certification Board

May 20, 2016

Dear State Appraiser Regulatory Official:

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC) today issued a proposed rule pursuant to authority granted in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that would implement collection and transmission of appraisal management company (AMC) annual registry fees by State appraiser certifying and licensing agencies that elect to register and supervise AMCs. The ASC requests comment on all aspects of this proposed rule. The Notice of Proposed Rulemaking has been published in the *Federal Register* and is available at <https://www.gpo.gov/fdsys/pkg/FR-2016-05-20/pdf/2016-11914.pdf>. A copy is attached for your convenience.

Section 1109 of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI), *Roster of State certified or licensed appraisers; authority to collect and transmit fees*, was amended by the Dodd-Frank Act to require States that elect to register and supervise AMCs to collect:

- (1) from AMCs that have been in existence for more than a year an annual registry fee of \$25 multiplied by the number of appraisers working for or contracting with such AMC in such State during the previous year; and
- (2) from AMCs that have not been in existence for more than a year, \$25 multiplied by an appropriate number to be determined by the ASC.

The \$25 may be adjusted, up to a maximum of \$50, at the discretion of the ASC, if necessary to carry out the ASC's Title XI functions.

The proposed rule would set the annual AMC registry fee that States would collect and transmit to the ASC if they elect to register and supervise AMCs. The proposed rule sets forth the ASC's interpretation of the phrase "working for or contracting with" as used in the calculation of annual AMC registry fees.

Section 1103 of Title XI, *Functions of Appraisal Subcommittee*, was amended by the Dodd-Frank Act to require the ASC to maintain the AMC Registry of AMCs that are either:

- (1) registered with and subject to supervision by a State that has elected to register and supervise AMCs; or
- (2) supervised by a Federal financial institutions regulator (Federally regulated AMCs).

It is anticipated that on or before the effective date of this rule, the ASC will issue an ASC Bulletin to States that will address the following:

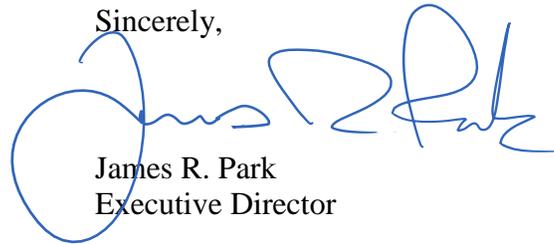
- (1) When the AMC Registry will be open for States; and
- (2) Reporting requirements (information required to be submitted by States in order to register AMCs on the AMC Registry).

Only those entities that meet the Federal definition of AMC will be eligible to be on the AMC Registry.

The Notice of Proposed Rulemaking is being published for a 60-day comment period with comments due on July 19<sup>th</sup>. Commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. Instructions for commenters, as well as alternate methods for submitting comments, are set forth in the Notice of Proposed Rulemaking.

Please contact your ASC Policy Manager with any questions or concerns.

Sincerely,



James R. Park  
Executive Director

Attachment

# Proposed Rules

Federal Register

Vol. 81, No. 98

Friday, May 20, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

### 12 CFR Part 1102

[Docket No. AS16–06]

#### Appraisal Subcommittee; Notice of Proposed Rulemaking To Implement Collection and Transmission of Annual AMC Registry Fees

**AGENCY:** Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC) is proposing a rule pursuant to authority granted in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to implement collection and transmission of appraisal management company (AMC) annual registry fees by State appraiser certifying and licensing agencies that elect to register and supervise AMCs. The ASC requests comment on all aspects of this Notice.

**DATES:** Comments must be received on or before July 19, 2016.

**ADDRESSES:** Commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. You may submit comments, identified by Docket Number AS16–06, by any of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Click on the “Help” tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.

- **Email:** [webmaster@asc.gov](mailto:webmaster@asc.gov). Include the docket number in the subject line of the message.

- **Fax:** (202) 289–4101. Include docket number on fax cover sheet.

- **Mail:** Address to Appraisal Subcommittee, Attn: Lori Schuster, Management and Program Analyst, 1401

H Street NW., Suite 760, Washington, DC 20005.

- **Hand Delivery/Courier:** 1401 H Street NW., Suite 760, Washington, DC 20005.

In general, the ASC will enter all comments received into the docket and publish those comments on the *Regulations.gov* Web site without change, including any business or personal information that you provide, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. At the close of the comment period, all public comments will also be made available on the ASC’s Web site at <https://www.asc.gov> (follow link in “What’s New”) as submitted, unless modified for technical reasons.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- **Viewing Comments Electronically:** Go to <https://www.regulations.gov>. Enter “Docket ID AS16–06” in the Search box and click “Search.” Click on the “Help” tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.

- **Viewing Comments Personally:** You may personally inspect comments at the ASC office, 1401 H Street NW., Suite 760, Washington, DC 20005. To make an appointment, please call Lori Schuster at (202) 595–7578.

**FOR FURTHER INFORMATION CONTACT:** James R. Park, Executive Director, at (202) 595–7575, or Alice M. Ritter, General Counsel, at (202) 595–7577, Appraisal Subcommittee, 1401 H Street NW., Suite 760, Washington, DC 20005.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI),<sup>1</sup>

<sup>1</sup> Public Law 101–73, 103 Stat. 183; 12 U.S.C. 3331–3355.

established the ASC.<sup>2</sup> Title XI’s purpose is to “provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.”<sup>3</sup>

On July 21, 2010, the Dodd-Frank Act<sup>4</sup> was signed into law. Section 1473 of the Dodd-Frank Act included amendments to Title XI. Section 1117 of Title XI, *Establishment of State appraiser certifying and licensing agencies*, was amended by the Dodd-Frank Act to: (1) Authorize States,<sup>5</sup> if they so choose, to register and supervise AMCs; and (2) allow States to add information about AMCs in their State to the National Registry of AMCs (AMC Registry). States electing to register and supervise AMCs under Section 1117 must implement minimum requirements in accordance with the AMC Rule.<sup>6</sup>

Title XI as amended by the Dodd-Frank Act imposes a statutory restriction that applies 36 months from the effective date of the AMC Rule (Implementation Period).<sup>7</sup> In summary, beginning 36 months from the effective

<sup>2</sup> The ASC Board is comprised of seven members. Five members are designated by the heads of the FFIEC agencies (Board of Governors of the Federal Reserve System (Board), Consumer Financial Protection Bureau (CFPB), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), and National Credit Union Administration (NCUA)). The other two members are designated by the heads of the Department of Housing and Urban Development (HUD) and the Federal Housing Finance Agency (FHFA).

<sup>3</sup> Title XI § 1101, 12 U.S.C. 3331.

<sup>4</sup> Public Law 111–203, 124 Stat. 1376.

<sup>5</sup> As of January, 2016, the 50 States, the District of Columbia, and four Territories, which are the Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Guam, and United States Virgin Islands, had State appraiser certifying and licensing agencies.

<sup>6</sup> The Dodd-Frank Act added section 1124 to Title XI, *Appraisal Management Company Minimum Requirements*, which required the OCC, Board, FDIC, NCUA, CFPB, and FHFA to establish, by rule, minimum requirements for the registration and supervision of AMCs by States that elect to register and supervise AMCs pursuant to Title XI and the rules promulgated thereunder. The Agencies issued a final rule (AMC Rule) with an effective date of August 10, 2015. (80 *Federal Register* 32658, June 9, 2015).

<sup>7</sup> 12 U.S.C. 3353(f)(1).

date of the AMC Rule, an AMC, as defined by Title XI, may not provide services for a Federally related transaction in a State unless the AMC is registered with a State that has established a registration and supervision program under Section 1117, or is subject to oversight by a Federal financial institutions regulatory agency.

Section 1103 of Title XI, *Functions of Appraisal Subcommittee*, was amended by the Dodd-Frank Act to require the ASC to maintain the AMC Registry of AMCs that are either: (1) Registered with and subject to supervision by a State that has elected to register and supervise AMCs; or (2) supervised by a Federal financial institutions regulator (Federally regulated AMCs). It is anticipated that on or before the effective date of this rule, the ASC will issue an ASC Bulletin to States that will address:

1. When the AMC Registry will be open for States; and
2. Reporting requirements (information required to be submitted by States in order to register AMCs on the AMC Registry).

Only those companies that meet the Federal definition of AMC will be eligible to be on the AMC Registry.<sup>8</sup>

Section 1109 of Title XI, *Roster of State certified or licensed appraisers; authority to collect and transmit fees*, was amended by the Dodd-Frank Act to require States that elect to register and supervise AMCs to collect: (1) From AMCs that have been in existence for more than a year an annual registry fee of \$25 multiplied by the number of appraisers working for or contracting with such AMC in such State during the previous year; and (2) from AMCs that have not been in existence for more than a year, \$25 multiplied by an appropriate number to be determined by the ASC.<sup>9</sup> The \$25 may be adjusted, up to a maximum of \$50, at the discretion of the

<sup>8</sup> Title XI as amended by the Dodd-Frank Act defines "appraisal management company" to mean, in part, an external third party that oversees a network or panel of more than 15 appraisers (State certified or licensed) in a State, or 25 or more appraisers nationally (two or more States) within a given year. (12 U.S.C. 3350(11)). Title XI as amended by the Dodd-Frank Act also allows States to adopt requirements in addition to those in the AMC Rule. (12 U.S.C. 3353(b)). For example, States may decide to supervise entities that provide appraisal management services, but do not meet the size thresholds of the Title XI definition of AMC. If a State has a more expansive regulatory framework that covers entities that provide appraisal management services but do not meet the Title XI definition of AMC, the State should only submit information regarding AMCs meeting the Title XI definition to the AMC Registry.

<sup>9</sup> 12 U.S.C. 3338(a)(4)(B).

ASC, if necessary to carry out the ASC's Title XI functions.<sup>10</sup>

This proposed rule would set the annual AMC registry fee that States would collect and transmit to the ASC if they elect to register and supervise AMCs. This proposed rule sets forth the ASC's interpretation of the phrase "working for or contracting with" as used in the calculation of annual AMC registry fees.

The ASC recognizes that the time required for notice and comment rulemaking for AMC registry fees could impede States' ability to implement the fees within the Implementation Period. However, the restriction on performance of services for Federally related transactions applies to AMCs that are not registered with the State or subject to oversight by a Federal financial institutions regulatory agency. Therefore, it is the ASC's understanding that the failure of a State to collect the fees under this rule within the Implementation Period would not subject otherwise properly registered and supervised AMCs in that State to the ban on providing services for Federally related transactions in that State.

## II. The Proposed Rule

The ASC is issuing this proposal to implement Section 1109 of Title XI for collection and transmission of AMC registry fees by those States electing to register and supervise AMCs.<sup>11</sup> The proposed rule would establish the annual AMC registry fee and interpret the phrase "working for or contracting with" in accordance with section 1109 as amended by the Dodd-Frank Act. As with appraisers, an AMC operating in more than one State that elects to register and supervise AMCs would be required to pay a registry fee in each State in order to be on the AMC Registry for each of those States.

### Definitions

**AMC Registry.** Proposed § 1102.401(a) proposes to define *AMC Registry* as the national registry maintained by the ASC of those AMCs that meet the Federal definition of AMC, as defined in 12 U.S.C. 3350(11), are registered by a State or are Federally regulated, and have paid the annual AMC registry fee.

**AMC Rule.** Proposed § 1102.401(b) proposes to define *AMC Rule* as the interagency final rule on minimum requirements for AMCs, 12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; CFR 1222.20–1222.26 (2015).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

**ASC.** Proposed § 1102.401(c) proposes to define *ASC* as the Appraisal Subcommittee of the Federal Financial Institutions Examination Council established under section 1102 (12 U.S.C. 3310) as it amended the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 *et seq.*) by adding section 1011.

**Performance of an appraisal.** Proposed § 1102.401(d) proposes to define *performance of an appraisal* to mean the appraisal service requested of an appraiser by the AMC was provided to the AMC.

**State.** Proposed § 1102.401(e) proposes to define *State* as any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the United States Virgin Islands, and American Samoa.

**Terms incorporated by reference.** Proposed § 1102.401(f) states that the definitions of: *Appraisal management company (AMC)*; *appraisal management services*; *appraiser panel*; *consumer credit*; *covered transaction*; *dwelling*; *Federally regulated AMC* are incorporated from the AMC Rule by reference because the proposed rule is closely related to the AMC Rule.

### Establishing the Annual AMC Registry Fee

Proposed § 1102.402 would establish the annual AMC registry fee for States that elect to register and supervise AMCs as follows: (1) In the case of an AMC that has been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction in such State during the previous year; and (2) in the case of an AMC that has not been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction in such State since the AMC commenced doing business. Performance of an appraisal means the appraisal service requested of an appraiser by the AMC was provided to the AMC.

For AMCs that have been in existence for more than a year, Section 1109 of Title XI provides that the annual AMC registry fee is based on the number of appraisers "working for or contracting with" an AMC in a State during a 12-month period multiplied by \$25, up to a maximum of \$50.<sup>12</sup> The proposed rule adopts the minimum fee of \$25 as set by statute and interprets the phrase "working for or contracting with" to mean those appraisers on an AMC

<sup>12</sup> Title XI § 1109(a)(4)(B), 12 U.S.C. 3338(a)(4)(B).

appraiser panel that performed an appraisal for the AMC on a covered transaction<sup>13</sup> during the previous year in a particular State. The annual AMC registry fee for AMCs that have not been in existence for more than a year requires a determination by the ASC of an appropriate multiplier. The ASC proposes to use the same factors of \$25 multiplied by the number of appraisers that performed an appraisal for the AMC on a covered transaction, but the fee would be based on the actual period of time since the AMC commenced doing business rather than 12 months.

The ASC considered three options with respect to interpreting the phrase “working for or contracting with.” Under the first option, the phrase “working for or contracting with” would have been interpreted to include every appraiser on an AMC appraiser panel during the reporting period<sup>14</sup> in a particular State. The multiplier in this option would have included all appraisers on an AMC’s appraiser panel in a particular State, including appraisers accepted by the AMC for consideration for future appraisal assignments.

Under the second option, the phrase “working for or contracting with” would have been interpreted to include those appraisers engaged by the AMC to perform an appraisal on a covered transaction during the reporting period in a particular State. The time the appraiser would be considered in the calculation is at the point of engagement to perform a particular appraisal, regardless of whether the appraisal was fully performed during the reporting period. The ASC seeks comment in Question 3 below on whether this interpretation would be preferable for States to administer over the third option, which is set forth in the proposed rule.

Under the third option, which is set forth in the proposed rule, the phrase “working for or contracting with” would include appraisers that performed an appraisal for the AMC on a covered transaction during the reporting period in a particular State. This option would exclude appraisers accepted by the AMC for consideration for future appraisal assignments as well as appraisers who performed appraisals

<sup>13</sup> Consistent with the AMC Rule, the proposed determination of performing an appraisal is proposed to be based on “covered transactions” rather than “Federally related transactions.”

<sup>14</sup> In the case of AMCs that have been in existence for more than a year, the reporting period would be 12 months. In the case of an AMC that has not been in existence for more than a year, the reporting period would be since the AMC commenced doing business.

in the past, but did not perform any appraisals in the reporting period. The AMC registry fee is not intended to result in duplicate fees for the same appraisal, even if there are multiple drafts of an appraisal. Therefore, the AMC registry fee is to be calculated based on an appraisal one time only.

The ASC believes the third option imposes the minimum fee allowed under the statutory provisions of section 1109 and therefore imposes the least burden on AMCs. Based on the ASC’s anticipated costs of overseeing States that elect to register and supervise AMCs, as well as the ASC’s anticipated costs of maintaining the AMC Registry, the ASC believes the proposed annual AMC registry fee would adequately cover those costs while supporting other Title XI functions of the ASC as mandated by Congress, including further development of its grant programs, particularly for States.

#### *Collection and Transmission of Annual AMC Registry Fees*

Proposed § 1102.403 would implement collection and transmission of annual AMC registry fees for States that elect to register and supervise AMCs following the statutory scheme set forth in section 1117 and section 1109 as amended by the Dodd-Frank Act. The proposed rule would require AMC registry fees to be collected and transmitted to the ASC on an annual basis by States that elect to register and supervise AMCs. Only those AMCs whose registry fees have been transmitted to the ASC would be eligible to be on the AMC Registry for the 12-month period following the payment of the fee.

Under the proposed rule, States would have the flexibility to align a one-year period with any 12-month period, which may or may not be based on the calendar year. Just as many States do not use a calendar year for their existing appraiser credentialing process, the ASC believes that allowing States to set the 12-month period provides appropriate flexibility and will help States comply with the collection and transmission of AMC fees and reduce regulatory burden for State governments. States may choose to do this as they currently do for their appraisers, meaning some States have a date certain every year. Other States use, for example, the appraiser’s date of birth (States could use AMC registration date similarly). The registration cycle would be left to the individual States to determine, but note that the statutory requirement in section 1109(a)(4) requires States that elect to register and supervise AMCs to

submit AMC registry fees to the ASC annually.

According to the AMC Rule, Federally regulated AMCs must report to the State or States in which they operate that have elected to register and supervise AMCs the information required to be submitted by the State pursuant to the ASC’s policies, including: (i) Information regarding the determination of the AMC registry fee; and (ii) information required by the AMC Rule.<sup>15</sup>

### **III. Request for Comment**

The ASC requests comment on all aspects of this proposed rule, including specific requests for comment that appear throughout the Supplementary Information above. In addition, the ASC requests comments on the following questions:

*Question 1.* The ASC requests comment on all aspects of the proposed annual AMC registry fee.

*Question 2.* The ASC requests comment on the ASC’s interpretation of the phrase “working for or contracting with.”

*Question 3.* The ASC requests comment on the second option’s interpretation of the phrase “working for or contracting with.” While the proposal defines “working for or contracting with” to include only those appraisers that performed an appraisal for the AMC during the reporting period, the second option would define “working for or contracting with” to mean “the AMC engaged an appraiser to perform an appraisal, regardless of whether the appraiser completed the appraisal during the reporting period.” The ASC is requesting comment on whether this would be an easier interpretation for the States to administer.

*Question 4.* The ASC requests comment on all aspects of proposed collection and transmission of annual AMC registry fees.

*Question 5.* The ASC requests comment on Federally regulated AMCs operating in a State that does not elect

<sup>15</sup> According to the AMC Rule, States are not required to identify Federally regulated AMCs operating in their States; nor are they responsible for supervising or enforcing a Federally regulated AMC’s compliance with information submission requirements. A State is also not required to assess whether any licensing issues exist in that State concerning an owner of a Federally regulated AMC that may disqualify the AMC from being on the National Registry of AMCs. Rather, Federally regulated AMCs are subject to oversight by the Federal financial institutions regulators that supervise the financial institutions that own and control AMCs. The AMC Rule does not bar a State from collecting a fee from Federally regulated AMCs to offset the cost of collecting the AMC registry fee and the information related to the fee.

to register and supervise AMCs. Should the ASC collect information and fees directly from Federally regulated AMCs that wish to appear on the AMC Registry but operate in States that do not elect to register and supervise AMCs?

*Question 6.* What barriers, if any, exist that would make it difficult for a State to implement the collection and transmission of AMC registry fees?

*Question 7.* What costs (both direct in terms of fees and indirect in terms of administrative costs) would be associated with collection and transmission of AMC registry fees?

*Question 8.* What aspects of the proposed rule, if any, would be challenging for States to implement? To the extent such challenges would exist, what alternative approaches do commenters suggest that would make implementation easier, while maintaining consistency with the statute?

#### IV. Regulatory Analysis

##### *Paperwork Reduction Act*

Certain provisions of the proposed rule contain “information collection” requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Under the PRA, the ASC may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to, an information collection unless the information collection displays a valid Office of Management and Budget (OMB) control number. The information collection requirements contained in this proposed rule are being submitted to OMB for review and approval at the proposed rule stage by the ASC pursuant to section 3506 of the PRA and section 1320.11 of the OMB’s implementing regulations (5 CFR part 1320). The collection of information requirements in the proposed rule are found in §§ 1102.400–1102.403. This information is required to implement section 1473 of the Dodd-Frank Act.

*Title of Information Collection:* Collection and Transmission of Annual AMC Registry Fees.

*OMB Control Nos.:* The ASC will be seeking new control numbers for these collections.

*Frequency of Response:* Event generated.

*Affected Public:* States; businesses or other for-profit and not-for-profit organizations.

Abstract

State Recordkeeping Requirements

States that elect to register and supervise AMCs would be required to

collect and transmit annual AMC registry fees to the ASC. Section 1102.402 would establish the annual AMC registry fee for States that elect to register and supervise AMCs as follows:

(1) In the case of an AMC that has been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction in such State during the previous year; and (2) in the case of an AMC that has not been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction in such State since the AMC commenced doing business. Performance of an appraisal means the appraisal service requested of an appraiser by the AMC was provided to the AMC.

Section 1102.403 would require AMC registry fees to be collected and transmitted to the ASC on an annual basis by States that elect to register and supervise AMCs. Only those AMCs whose registry fees have been transmitted to the ASC would be eligible to be on the AMC Registry for the 12-month period following the payment of the fee. Section 1102.403 clarifies that States may align a one-year period with any 12-month period, which may, or may not, be based on the calendar year. The registration cycle is left to the individual States to determine.

##### State Reporting Burden

Section 1103 of Title XI, *Functions of Appraisal Subcommittee*, was amended by the Dodd-Frank Act to require the ASC to maintain a registry of AMCs that are either: (1) Registered with and subject to supervision by a State; or (2) Federally regulated AMCs. It is anticipated that on or before the effective date of this rule, the ASC will issue an ASC Bulletin to States that will address:

1. When the AMC Registry will be open for States; and

2. Reporting requirements (information required to be submitted by States in order to register AMCs on the AMC Registry).

*Burden Estimates:*

*Total Number of Respondents:* 500 AMCs, 55 States.

*Burden Total:* 500 hours.

The ASC has a continuing interest in public opinion regarding the ASC’s collection of information. Comments regarding the questions set forth below may be sent to the OMB desk officer for the ASC by mail to U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, Washington DC 20503, or by the

Internet to [aira\\_submission@omb.eop.gov](mailto:aira_submission@omb.eop.gov), with copies to the ASC at the address listed in the **ADDRESSES** section of this **SUPPLEMENTARY INFORMATION**.

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) The accuracy of the agency’s estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology.

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the proposed rule on small entities. However, the regulatory flexibility analysis otherwise required under the RFA is not required if an agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a brief explanatory statement in the **Federal Register** together with the proposed rule. Based on its analysis, and for the reasons stated below, the ASC believes that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Section 1109 of Title XI provides that State appraiser certifying and licensing agencies that elect to register and supervise AMCs shall collect (1) from AMCs that have been in existence for more than a year, annual AMC registry fees in the amount of \$25 (up to a maximum of \$50) multiplied by the number of appraisers “working for or contracting with” an AMC in a State during the previous year; and (2) from AMCs that have not been in existence for more than a year, annual AMC registry fees in the amount of \$25 (up to a maximum of \$50) multiplied by an appropriate number to be determined by the ASC.<sup>16</sup> The purpose of the statutory fee is to support the ASC’s functions under Title XI. Because the ASC believes the minimum fee required by the statute would be adequate to support its functions, the proposed rule

<sup>16</sup> 12 U.S.C. 3338(a)(4)(B).

would adopt the minimum fee of \$25 as set by statute. The proposed rule would also interpret the phrase “working for or contracting with” to mean those appraisers that performed an appraisal for the AMC on a covered transaction during the reporting period. For AMCs that have existed for more than a year, the formula would be \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction during the previous year. For AMCs that have not existed for more than a year, the \$25 fee would be multiplied by the number of appraisers that performed an appraisal for the AMC on a covered transaction, since the AMC commenced doing business.

Regarding the proposed fee for AMCs that have been in existence for more than a year, the ASC believes the proposed rule would impose the minimum fee allowed under the statutory provisions of section 1109. The ASC proposal would not exercise statutory discretion granted to the ASC to increase the fee above \$25. Further, the ASC would interpret “working for or contracting with” to mean only those appraisers who actually performed an appraisal for the AMC, as opposed to all appraisers on the AMC’s panel or all appraisers engaged, regardless of whether the assignment was performed. The ASC believes this formula would result in the lowest fee allowed by the statute and the ASC would be choosing not to exercise its authority to increase this minimum fee. Therefore, any burden produced is the result of statutory and not regulatory requirements.

The ASC has also decided to propose the statutory minimum fee of \$25 for AMCs that have not existed for a year. As required by statute, the ASC is proposing an appropriate number against which to multiply the \$25 fee. The ASC is proposing to use the same multiple as used for AMCs that have existed for more than a year (*i.e.*, the number of appraisers that have performed appraisal assignments for the AMC). It is possible that the ASC may have been able to propose a multiple that would result in a lower fee and would still be deemed appropriate. In this regard, the rule may create burden for AMCs that have not existed for more than a year, beyond the burden created by the statutory requirements alone.

While some burden beyond the statutory requirements may result from the rule for AMCs that have not existed for more than a year, the ASC does not believe the rule will have a significant economic impact on a substantial number of small entities. There are only

approximately 500 AMCs operating in the United States. The annual regulatory burden will only apply to new AMCs that have not existed for more than a year. Given the small number of AMCs currently in operation, it is unlikely that there will be a substantial number of AMCs that commence doing business in any given year. Further, the ASC is proposing the lowest possible fee of \$25. Therefore, the ASC does not believe that the exercise of its discretion in setting the fee formula for such AMCs will have a significant economic impact on a substantial number of small entities.

The collection and transmission to the ASC of AMC registry fees by the States would create some recordkeeping, reporting and compliance requirements. However, these collection and transmission requirements are imposed by the statute, not the proposed rule. Further, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts when the agency’s rule directly regulates the small entities.<sup>17</sup>

Based on its analysis, and for the reasons stated above, the ASC believes that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, the ASC certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis is not required. The ASC requests comment on all aspects of this analysis.

#### *Unfunded Mandates Reform Act of 1995 Determination*

The ASC has analyzed the proposed rule under the factors in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the ASC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of

<sup>17</sup> For purposes of assessing the impacts of the proposed rule on small entities, “small entities” is defined in the RFA to include small businesses, small not-for-profit organizations, and small government jurisdictions. 5 U.S.C. 601(6). A “small business” is determined by application of SBA regulations and reference to the North American Industry Classification System (NAICS) classifications and size standards. 5 U.S.C. 601(3). A “small organization” is any “not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” 5 U.S.C. 601(4). A “small governmental jurisdiction” is the government of a city, county, town, township, village, school district, or special district with a population of less than 50,000. 5 U.S.C. 601(5). Given these definitions, States that elect to establish licensing and certification authorities are not small entities and the burden on them is not relevant to this analysis.

\$100 million or more in any one year (adjusted annually for inflation). For the following reasons, the ASC finds that the proposed rule does not trigger the \$100 million UMRA threshold. First, the mandates in the proposed rule apply only to those States that choose to establish an AMC registration and supervision system. Second, the costs specifically related to requirements set forth in statute are excluded from expenditures under the UMRA. Given that the proposed rule reflects requirements that arise from section 1473 of the Dodd-Frank Act, the UMRA cost estimate for the proposed rule is zero. For this reason, and for the other reasons cited above, the ASC has determined that this proposed rule will not result in expenditures by State, local, and tribal governments, or the private sector, of \$100 million or more in any one year. Accordingly, this proposed rule is not subject to section 202 of the UMRA.

#### **List of Subjects in 12 CFR Part 1102**

Administrative practice and procedure, Appraisers, Banks, Banking, Freedom of information, Mortgages, Reporting and recordkeeping requirements.

#### **Authority and Issuance**

For the reasons set forth in the preamble, the ASC proposes to amend 12 CFR part 1102 as follows:

#### **PART 1102—APPRAISER REGULATION**

- 1. The authority citation for part 1102 is revised to read as follows:

**Authority:** 12 U.S.C. 3348(a), 3332, 3335, 3338 (a)(4)(B), 3348(c), 5 U.S.C. 552a, 553(e); Executive Order 12600, 52 FR 23781 (3 CFR, 1987 Comp., p. 235).

- 2. Subpart E to part 1102 is added to read as follows:

#### **Subpart E—Collection and Transmission of Appraisal Management Company (AMC) Registry Fees**

##### **Registry Fees**

Sec.

1102.400 Authority, purpose, and scope.

1102.401 Definitions.

1102.402 Establishing the Annual AMC Registry Fee.

1102.403 Collection and Transmission of Annual AMC Registry Fees.

#### **§ 1102.400 Authority, purpose, and scope.**

(a) *Authority.* This subpart is issued by the Appraisal Subcommittee (ASC) under sections 1106 and 1109 (a)(4)(B) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI), as amended by the

Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Pub. L. 111–203, 124 Stat. 1376 (2010)), 12 U.S.C. 3335, 3338 (a)(4)(B)).

(b) *Purpose.* The purpose of this subpart is to implement section 1109 (a)(4)(B) of Title XI, 12 U.S.C. 3338.

(c) *Scope.* This subpart applies to States that elect to register and supervise appraisal management companies pursuant to 12 U.S.C. 3353 and the regulations promulgated thereunder.

#### § 1102.401 Definitions.

For purposes of this subpart:

(a) *AMC Registry* means the national registry maintained by the ASC of those AMCs that meet the Federal definition of AMC, as defined in 12 U.S.C. 3350(11), are registered by a State or are Federally regulated, and have paid the annual AMC registry fee.

(b) *AMC Rule* means the interagency final rule on minimum requirements for AMCs, 12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26 (2015).

(c) *ASC* means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council established under section 1102 (12 U.S.C. 3310) as it amended the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 *et seq.*) by adding section 1011.

(d) *Performance of an appraisal* means the appraisal service requested of an appraiser by the AMC was provided to the AMC.

(e) *State* means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the United States Virgin Islands, and American Samoa.

(f) *Terms incorporated by reference.* Definitions of: Appraisal management company (AMC); appraisal management services; appraisal panel; consumer credit; covered transaction; dwelling; Federally regulated AMC are incorporated from the AMC Rule by reference.

#### § 1102.402 Annual AMC registry fee.

The annual AMC registry fee to be applied by States that elect to register and supervise AMCs is established as follows:

(a) In the case of an AMC that has been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction in such State during the previous year; and

(b) In the case of an AMC that has not been in existence for more than a year,

\$25 multiplied by the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction in such State since the AMC commenced doing business.

#### § 1102.403 Collection and transmission of annual AMC registry fees.

(a) *Collection of annual AMC registry fees.* States that elect to register and supervise AMCs pursuant to the AMC Rule shall collect an annual registry fee as established in § 1102.402 (a) from AMCs eligible to be on the AMC Registry.

(b) *Transmission of annual AMC registry fee.* States that elect to register and supervise AMCs pursuant to the AMC Rule shall transmit AMC registry fees as established in § 1102.402 (a) to the ASC on an annual basis. Only those AMCs whose registry fees have been transmitted to the ASC will be eligible to be on the AMC Registry for the 12-month period subsequent to payment of the fee.

By the Appraisal Subcommittee.

Dated: May 16, 2016.

**James R. Park,**

*Executive Director.*

[FR Doc. 2016–11914 Filed 5–19–16; 8:45 am]

**BILLING CODE P**

## TENNESSEE VALLEY AUTHORITY

### 18 CFR Part 1312

#### Protection of Archaeological Resources

**AGENCY:** Tennessee Valley Authority.

**ACTION:** Proposed rule.

**SUMMARY:** The Tennessee Valley Authority (TVA) proposes to amend its regulations for the protection of archaeological resources by providing for the issuance of petty offense citations for violations of the Archaeological Resources Protection Act (ARPA) and the Antiquities Act of 1906 (AA). Amending the regulations such that TVA law enforcement agents are authorized to issue citations will help prevent loss and destruction of these resources resulting from unlawful excavations and pillage.

**DATES:** Written comments must be received on or before June 20, 2016.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Mail/Hand Delivery:* Ralph E.

Majors, Supervisor, Investigation Unit, TVA Police & Emergency Management, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 2D–K, Knoxville, Tennessee 37902–1401.

- *Email:* [remajors@tva.gov](mailto:remajors@tva.gov).

#### FOR FURTHER INFORMATION CONTACT:

Ralph E. Majors, 865–632–4176.

#### SUPPLEMENTARY INFORMATION:

##### I. Legal Authority

These proposed amendments are promulgated under the authority of the TVA Act, as amended, 16 U.S.C. 831–831ee, the Archaeological Resources Protection Act, 16 U.S.C. 470aa–470mm, and the Antiquities Act of 1906, 16 U.S.C. 431, 432 & 433.

##### II. Background and Proposed Amendments

This proposed rule amends TVA's regulations implementing the Archaeological Resources Protection Act of 1979 (Pub. L. 96–95, as amended by Pub. L. 100–555, Pub. L. 100–588; 93 Stat. 721; 102 Stat. 2983; 16 U.S.C. 470aa–mm) to provide for the issuance of petty offense citations by TVA's law enforcement agents for violations of ARPA or AA.

Section 10(a) of ARPA requires the Departments of Interior, Agriculture and Defense and the Tennessee Valley Authority to promulgate such uniform rules and regulations as may be necessary to carry out the purposes of ARPA. The first purpose of ARPA is “to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands.” 16 U.S.C. 470aa(b). The uniform regulations for ARPA originally were published on January 6, 1984 to implement the Act of 1979. The uniform regulations were then revised on January 26, 1995 to incorporate the amendments to ARPA promulgated by Congress in 1988.

Section 10(b) of ARPA requires each Federal land manager (FLM) to promulgate such regulations, consistent with the uniform regulations under Section 10(a), as may be appropriate for the carrying out of the FLM's functions and authorities under the Act. Thus, Section 10(b) allows individual Federal agencies to tailor the uniform regulations to suit their own particular needs with a view to effectively implementing the authorities under the Act. TVA has adopted the uniform regulations as its own. *See* 18 CFR part 1312 (1984 and 1995). This proposed rule amends TVA's ARPA regulations by enabling TVA's law enforcement agents to issue petty offense citations for



## **AGENDA ITEM 15**

Update regarding comments submitted to the Appraisal Qualifications Board (AQB) on First Exposure Draft of Proposed Changes to the Real Property Appraiser Qualification Criteria.



June 20, 2016

Mr. Joseph C. Traynor, Chair  
Appraiser Qualifications Board  
1155 15<sup>th</sup> St NW, Suite 1111  
Washington DC 20005

**via email: [aqbcomments@appraisal foundation.org](mailto:aqbcomments@appraisal foundation.org)**

RE: First Exposure Draft of ***Proposed Changes to the Real Property Appraiser Qualifications Criteria***

Mr. Traynor

The Texas Appraiser Licensing & Certification Board (TALCB) submits these comments in response to the First Exposure Draft of ***Proposed Changes to the Real Property Qualifications Criteria*** and the five major areas under consideration. Thank you for taking the time to consider these important matters.

#### **1) Alternative Track for Licensed Residential to Certified Residential**

##### Summary of Proposed Changes

The First Exposure Draft proposes new education criteria for Licensed Residential appraisers of 150 core curriculum hours, including successful completion of the 15 hour National USPAP Course, and successfully passing the examination. The First Exposure Draft would eliminate college course requirements for becoming a Licensed Residential appraiser.

##### TALCB Comments

TALCB believes this is a positive step towards reducing the barriers to entry into the appraisal profession without sacrificing the integrity of the educational requirements for licensure. TALCB supports this proposed change to the criteria.

##### Summary of Proposed Changes

The First Exposure Draft also proposes new criteria for upgrading from Licensed to Certified Residential appraiser. As proposed in the First Exposure Draft, there would be four educational options for licensure:

- 1) Option 1: Holding a bachelor's degree or higher from an accredited college or university;
- 2) Option 2: Successful completion of five specified CLEP examinations;
- 3) Option 3: Successful completion of courses in specified topics from an accredited college, junior college, community college, or university; and
- 4) Option 4: Any combination of Option 2 and 3 that includes all of the topics identified.

### TALCB Comments

Like the new criteria for obtaining licensure as a Licensed Residential appraiser, TALCB believes that the proposed educational criteria for becoming a Certified Residential appraiser are a positive step towards reducing the barriers to entry into the appraisal profession without sacrificing the educational requirements for licensure. However, because there is not a one-for-one match between the CLEP examinations permitted under Option 2 and the specified college course topics required under Option 3, TALCB suggests the AQB provide additional guidance on what permissible combinations between Options 2 and 3 are permissible under Option 4.

TALCB supports this proposed change to the criteria, so long as the AQB provides additional guidance on the combinations permissible under Option 4.

## **2) Enhanced Practicum Curriculum**

### Summary of proposed changes

The First Exposure Draft proposes changing the criteria to allow for all experience to come from an enhanced practicum curriculum entitled Practical Applications for Real Estate Appraisal. As explained in the First Exposure Draft, the AQB would develop the course outline and matrix in conjunction with other participants. Upon completion of each course segment, students would be eligible for certification examinations. This proposal would provide an entirely educational route to licensing. For those applicants who take this path and to licensure, the AQB would require State appraiser regulatory authorities to monitor these appraisers for two years after they obtain licensure. Appraisers would keep experience logs, and State appraiser regulatory authorities would review five appraisal assignments in each of the first two years.

### TALCB Comments

TALCB believes the success of any practical training option will come down to the quality of the curriculum to be developed and provided to students. However, TALCB is concerned that the proposed monitoring requirements will impose a significant burden on the limited resources available to most, if not all, State appraiser regulatory agencies. While allowing individuals to obtain all of the required experience for licensing through practical training applications would eliminate the burden and difficulty of finding and working under a supervisory appraiser, the two-year, post-licensing monitoring requirements would drastically change the role of State appraiser regulatory agencies. These two-year, post-licensing monitoring requirements would essentially transform State appraiser regulatory agencies into a substitute for supervisory appraisers and make those agencies responsible for determining whether the new appraiser is effectively applying learned skills to real-world assignments with the failure risks to be borne by consumers during extended periods of no effective supervision.

Transferring the role of supervisory appraisers to State appraiser regulatory agencies may lead to increased fees to recover the costs attributable to the increased workload of State appraiser regulatory agencies. Such fee increases could discourage applicants from pursuing this option for obtaining the experience required for licensure and thereby limit the successfulness of a practical application training option.

TALCB is cautiously optimistic that a high-quality enhanced practical curriculum could be developed. However, to minimize the additional burden placed on State appraiser regulatory agencies, TALCB suggests reducing the required monitoring of appraisers who obtain their experience for licensure under this option from five appraisal assignments in each of the first two years after licensure to two assignments in each of the first two years. Cost recovery options should also be addressed in the guidance.

TALCB also suggests the AQB provide additional guidance on the purpose and expectations for State appraiser regulatory agencies when reviewing the appraisal assignments as required under the proposed monitoring requirements. For instance, what is the purpose of these reviews? To ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP)? What about disciplinary action? Will formal disciplinary action be required if a State finds non-compliance with USPAP when conducting the required assignment reviews?

### **3) Alternative Experience**

#### Summary of Proposed Changes

The First Exposure Draft proposes changes to the experience requirements for licensure. The AQB proposes three options for changing the appraiser experience criteria:

- Option 1: Eliminating the time requirement for obtaining the necessary experience for each credential.
- Option 2: Reducing the hours of experience required as follows.
  - Licensed Residential appraiser – from 2,000 to 1,500 hours
  - Certified Residential appraiser – from 2,500 to 1,750 hours
  - Certified General appraiser – from 3,000 to 2,000 hours, with 1,000 hours of non-residential work
- Option 3: Allowing experience from other professions to be counted toward \*licensure as an appraiser. Such experience could account for up to 50% of hourly requirement for each credential. Experience would be based on certain skill sets, including Property Inspection, Area Description, Real Estate Agent/Broker Financial Analysis, and Participation in the Appraisal Process. Applicants would be required to prepare an experience log demonstrating the alternative experience and the time required for each task.

#### TALCB Comments

TALCB believes that the proposed changes under Options 1 and 2 are a positive step toward reducing the barriers to entry into the appraisal profession without sacrificing the experience requirements for licensure. While TALCB generally supports the concept of allowing experience from other professions to satisfy the experience requirements for appraiser licensure, the AQB must provide much more specific guidance and detail on how State appraiser regulatory agencies should apply the proposed changes under Option 3, including specific guidance on which professions or tasks will be eligible for experience credit, and how much experience credit should be granted for each task. TALCB is also concerned that allowing applicants to earn experience credit for appraisal related tasks (e.g., participation in the appraisal process, property inspection, and area description) that were performed without a license as an appraiser trainee creates more confusion than it adds value. Some of the questions raised by this conceptual proposal include: What is the time frame before license application in which applicants could earn experience credit without becoming licensed as a trainee or appraiser? And how far back would State appraiser regulatory

agencies be required to validate such experience credit? Without significantly more detail about the precise parameters to be included, TALCB is hesitant to give its full support to this conceptual proposal.

#### 4) “Trainee” Nomenclature

##### Summary of Proposed Changes

AQB proposes no changes to the criteria regarding “Trainee” nomenclature noting that the existing language in the criteria allow for Trainees to be referred to under different titles, such as registered appraiser, apprentice appraiser, provisional appraiser or other designations created by state regulatory agencies.

##### TALCB Comments

TALCB agrees the existing criteria give State appraiser regulatory agencies authority to refer to Appraiser Trainees under different titles, such as registered appraiser, associate appraiser, provisional appraiser, or other designation adopted by a particular State. However, to the extent States exercise this authority, State appraiser regulatory agencies may be required to conduct additional due diligence to validate the license status of applicants seeking license by reciprocity or temporary practice permits in a State that uses different nomenclature to designate Appraiser Trainees than the State in which the applicant is already licensed. The flexibility to refer to Appraiser Trainees under different titles may also cause confusion in the marketplace.

#### 5) Three-Year Supervisory Residency Requirement

##### Summary of Proposed Changes

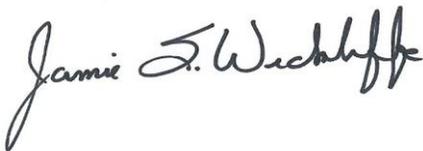
The First Exposure Draft proposes eliminating the requirement that a supervisory appraiser be licensed in jurisdiction of the trainee for 3 years. Supervisory appraisers would still be required to be licensed for 3 years before accepting trainees. In addition, supervisory appraisers would still be required to comply with USPAP, including the COMPETENCY RULE.

##### TALCB Comments

TALCB supports this proposed change to the criteria. As the AQB noted as part of its rationale for this change in the First Exposure Draft, many appraisers practice in multiple jurisdictions, and they all do so in compliance with the geographic competency rule in USPAP.

TALCB appreciates the opportunity to provide the AQB with comments on these matters.

Sincerely,



Jamie Wickliffe, Chair  
Texas Appraiser Licensing & Certification Board



TO: All Interested Parties

FROM: Joseph C. Traynor, Chair  
Appraiser Qualifications Board

RE: First Exposure Draft of **Proposed Changes to the Real Property  
Appraiser Qualification Criteria**

DATE: May 18, 2016

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After an 18-month period during which five exposure drafts were released for public comment, the Appraiser Qualifications Board (AQB) adopted changes to the *Real Property Appraiser Qualification Criteria (Criteria)* in December 2011. The effective date of the *Criteria* changes was January 1, 2015.

In response to concerns voiced by stakeholders over changes in the real property appraiser marketplace, the AQB has been examining potential areas of change to the *Criteria*. This examination commenced in earnest with a concept paper that was issued in July 2015, followed by a Public Hearing in Washington, DC in October 2015. Following the Public Hearing, on February 11, 2016, the AQB issued a Discussion Draft – Potential Areas of Change to the *Real Property Appraiser Qualification Criteria*.

In response to the Discussion Draft, the AQB received over 270 written comments, as well as a number of verbal comments at a public meeting held in Phoenix, Arizona on April 8, 2016. This exposure draft takes into consideration all comments received to date, and will focus on five major areas in the *Criteria*:

- Alternative Track for Licensed Residential to Certified Residential
- Enhanced Practicum Curriculum
- Documenting Alternative Experience
- “Trainee” Nomenclature
- Three-Year Supervisory Residency Requirement

**All interested parties are encouraged to comment in writing to the AQB before June 17, 2016. The AQB will also accept verbal comments at its public meeting in Las Vegas, Nevada on Friday, June 24, 2016.** Respondents should be assured that each member of the AQB will thoroughly read and consider all comments.

Written comments on this exposure draft can be submitted by mail, email and facsimile.

Mail: Appraiser Qualifications Board  
The Appraisal Foundation  
1155 15<sup>th</sup> Street, NW, Suite 1111  
Washington, DC 20005

Email: [aqbcomments@appraisalfoundation.org](mailto:aqbcomments@appraisalfoundation.org)

Facsimile: (202) 347-7727

**IMPORTANT NOTE: All written comments will be posted for public viewing, exactly as submitted, on the website of The Appraisal Foundation. Names may be redacted upon request.**

**The Appraisal Foundation reserves the right not to post written comments that contain offensive or inappropriate statements.**

If you have any questions regarding the attached exposure draft, please contact Magdalene Vasquez, Qualifications Administrator at The Appraisal Foundation, via e-mail at [magdalene@appraisalfoundation.org](mailto:magdalene@appraisalfoundation.org) or by calling (202) 624-3074.

## **First Exposure Draft of Proposed Changes to the *Real Property Appraiser Qualification Criteria (Criteria)***

**Issued: May 18, 2016  
Comment Deadline: June 17, 2016**

Each section of this exposure draft begins with a rationale for the proposed changes. The rationale is identified as such and does not have line numbering. Where proposed changes to the *Criteria* are noted, the exposure draft contains line numbers. This difference is intended to distinguish for the reader those parts that explain the changes from the proposed changes themselves.

When commenting on the exposure draft, it is very helpful to reference the line numbers, fully explain the reasons for concern or support, provide examples or illustrations, and suggest any alternatives or additional issues the AQB should consider.

Where text is to be deleted from what currently appears in the *Real Property Appraiser Qualification Criteria*, that text is shown as ~~strikeout~~. For example: ~~This is strikeout text proposed for deletion.~~ Text added to what currently appears in the *Real Property Appraiser Qualification Criteria* is underlined. For example: This is text proposed for insertion.

The primary mission of the AQB is to protect public trust in the appraisal profession. As such, the Board anticipates multiple exposure drafts to adequately vet the significant issues contained in this document. Depending on the feedback received and timing of any subsequent exposure drafts, the AQB anticipates any changes, if adopted, to go into effect on January 1, 2018.

**First Exposure Draft:  
Potential Changes to the  
*Real Property Appraiser Qualification Criteria***

**Issued: May 18, 2016  
Comment Deadline: June 17, 2016**

Each section of this document identifies the area(s) of the *Criteria* being considered for potential changes.

When commenting on various aspects of the discussion paper, it is very helpful to fully explain the reasons for concern or support, provide examples or illustrations, and suggest any alternatives or additional issues that the AQB should consider.

For ease in identifying the various issues being addressed, this exposure draft is presented in sections.

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## Section 1: Alternative Track for Licensed Residential to Certified Residential

### Rationale

The AQB has heard concerns that the Bachelor's degree requirement for the Certified Residential credential creates an unnecessary hurdle for many otherwise highly qualified and experienced Licensed Residential appraisers. Additionally, the AQB has heard from motivated and skilled individuals who would like to enter the appraisal profession, but find they are not well-suited to the traditional collegiate experience. The AQB recognizes there are other avenues for individuals to demonstrate specific college-level academic equivalency required of a Certified Residential appraiser.

In the February 2016 Discussion Draft, the AQB discussed the viability of an alternative track to Certified Residential for Licensed Residential appraisers who meet a certain threshold of experience and have a history of being in "good standing" in their practice. Comments received from Licensed Residential appraisers were understandably in favor; however, comments received from others were more mixed. The issue of public trust and the need to maintain the credibility of the Certified Residential credential remains the primary concern for the AQB.

After considering the comments received, the AQB is proposing to move away from an alternative track for those who have held a Licensed Residential credential in good standing for a certain period of time as a means of demonstrating equivalency to a consistent, measurable method that will require an individual to acquire the base knowledge and skills that are necessary to obtain a Certified Residential credential.

A detailed job analysis survey conducted by the AQB in 2014 (see pages 15-16) for additional information) identified many specific skills and knowledge required to perform given tasks related to residential appraisal. Many of the tasks required specific academic skills such as analytical and mathematical skills. Additionally, as written communication is a major skill set required of a residential appraiser, basic grammar and sentence structure skills are required. An individual with a Bachelor's degree has demonstrated sufficient proficiency in these basic academic areas by virtue of the degree; however, if an individual can demonstrate sufficient equivalency in specific subject areas, then the individual is presumed to possess the requisite basic academic skills necessary to protect the public trust.

The AQB is proposing two options for an individual to demonstrate specific college-level equivalency. The first option is to pass<sup>1</sup> a series of College-Level Examination Program (CLEP) exams. CLEP is a well-recognized testing program accepted by 2,900 colleges and universities.<sup>2</sup> The specific subject areas presumed necessary to protect the public trust include:

1. College Algebra

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<sup>1</sup> CLEP exams involve "scaled scoring" without a pass/fail result. Applicants would be required to achieve exam scores that meet the minimums required to grant college credit at duly accredited colleges and universities.

<sup>2</sup> [www.collegeboard.org](http://www.collegeboard.org)

2. College Composition
3. Principles of Macroeconomics
4. Principles of Microeconomics
5. Introductory Business Law

These specific CLEP exams are available at many testing centers across the country and may serve to demonstrate an individual possesses the academic skills required to preserve and maintain public trust.

A second option in lieu of the Bachelor's degree may allow an applicant seeking the Certified Residential credential to document successful completion of specific collegiate courses from an accredited college, junior college, community college, or university. The specific courses proposed are:

1. English Composition (3 semester hours)
2. Economics or Finance (6 semester hours)
3. Algebra, Geometry, or higher mathematics (3 semester hours)
4. Business or Real Estate Law (3 semester hours)

The intent of the proposed revisions would also permit a mixture of traditional college courses, as outlined above, or the equivalent CLEP exam(s) for the specific subject matter. For example, an individual would receive the same credit for the 3 semester hours of Algebra, Geometry, or higher mathematics by either taking a traditional college course or successfully completing the College Algebra CLEP exam.

If adopted, the effect of this proposal would be elimination of the current 30 semester hours of college-level education required in the Licensed Residential classification, and revising the college-level education required for the Certified Residential credential to the targeted minimum education outlined above.

Note that the AQB received no feedback supporting alternatives to the Bachelor's degree requirement for Certified General appraisers; therefore, no changes are being proposed for the Certified General credential.

## LICENSED RESIDENTIAL REAL PROPERTY APPRAISER

### 1 III. Qualifying Education

2 ~~A. Applicants for the Licensed Residential credential shall successfully complete 30~~  
3 ~~semester hours of college-level education from an accredited college, junior~~  
4 ~~college, community college, or university. The college or university must be a~~  
5 ~~degree-granting institution accredited by the Commission on Colleges, a regional~~  
6 ~~or national accreditation association, or by an accrediting agency that is~~  
7 ~~recognized by the U.S. Secretary of Education. If an accredited college or~~  
8 ~~university accepts the College-Level Examination Program® (CLEP) and~~  
9 ~~examination(s) and issues a transcript for the exam, showing its approval, it will be~~  
10 ~~considered as credit for the college course.~~

11 ~~Applicants holding an Associate degree, or higher, from an accredited college,~~  
12 ~~junior college, community college, or university satisfy the 30-hour college-level~~  
13 ~~education requirement.~~

14 ~~Applicants with a college degree from a foreign country may have their education~~  
15 ~~evaluated for “equivalency” by one of the following:~~

- 16 ~~• An accredited, degree-granting domestic college or university;~~
- 17 ~~• The American Association of Collegiate Registrars and Admissions Officers~~  
18 ~~(AACRAO);~~
- 19 ~~• A foreign degree credential evaluation service company that is a member of~~  
20 ~~the National Association of Credential Evaluation Services (NACES); or~~
- 21 ~~• A foreign degree credential evaluation service company that provides~~  
22 ~~equivalency evaluation reports accepted by an accredited degree-granting~~  
23 ~~domestic college or university or by a state licensing board that issues~~  
24 ~~credentials in another discipline.~~

25 ~~BA. The Licensed Residential Real Property Appraiser classification requires~~  
26 ~~completion of one hundred fifty (150) creditable class hours as specified in the~~  
27 ~~*Required Core Curriculum*. As part of the 150 required hours, the applicant shall~~  
28 ~~successfully complete the *15-Hour National USPAP Course*, or its AQB-approved~~  
29 ~~equivalent, and successfully pass the examination. There is no alternative to~~  
30 ~~successful completion of the USPAP Course and examination.~~

31 ~~C. For college-level courses taken in a quarterly system versus a semester system,~~  
32 ~~one quarter hour credit is equivalent to .67 semester credit hours. Conversely, one~~  
33 ~~semester credit hour is equivalent to 1.5 quarter credit hours. For example, to~~  
34 ~~satisfy the 30-semester credit hour requirement for the Licensed Residential Real~~  
35 ~~Property Appraiser classification, an applicant needs to successfully pass those~~  
36 ~~applicable courses that generate 45 quarter credit hours, (i.e. 30 semester credit~~  
37 ~~hours x 1.5 conversion factor).~~

38 ~~D~~B.Appraisers holding a valid **Trainee Appraiser** credential may satisfy the  
39 educational requirements for the Licensed Residential Real Property Appraiser  
40 credential by completing the following additional educational hours:

41	1. Residential Market Analysis and Highest and Best Use	15 Hours
42	2. Residential Appraiser Site Valuation and Cost Approach	15 Hours
43	3. Residential Sales Comparison and Income Approaches	30 Hours
44	4. Residential Report Writing and Case Studies	<u>15 Hours</u>
45		<b>TOTAL 75 Hours</b>

46 ~~E. **Trainee Appraisers** wishing to change to the Licensed Residential Real Property~~  
47 ~~Appraiser classification must also satisfy the college level education requirements~~  
48 ~~as specified in III.A.~~

49 ~~F~~C.Appraisers holding a valid **Certified Residential Real Property Appraiser**  
50 credential satisfy the educational requirements for the Licensed Residential Real  
51 Property Appraiser credential.

52 ~~G~~D.Appraisers holding a valid **Certified General Real Property Appraiser** credential  
53 satisfy the educational requirements for the Licensed Residential Real Property  
54 Appraiser credential.

## CERTIFIED RESIDENTIAL REAL PROPERTY APPRAISER

### 55 III. Qualifying Education

56 A. Applicants for the Certified Residential credential must satisfy at least one of  
57 the following four options (III.A.1, III.A.2, III.A.3, or III.A.4):

58 1. Hold a Bachelor's degree, or higher, from an accredited college or  
59 university. The college or university must be a degree-granting institution  
60 accredited by the Commission on Colleges, a national or regional  
61 accreditation association, or by an accrediting agency that is recognized by  
62 the U.S. Secretary of Education.

63 Applicants with a college degree from a foreign country may have their  
64 education evaluated for "equivalency" by one of the following:

- 65 • An accredited, degree-granting domestic college or university;
- 66 • The American Association of Collegiate Registrars and Admissions  
67 Officers (AACRAO);
- 68 • A foreign degree credential evaluation service company that is a  
69 member of the National Association of Credential Evaluation Services  
70 (NACES); or
- 71 • A foreign degree credential evaluation service company that provides  
72 equivalency evaluation reports accepted by an accredited degree-  
73 granting domestic college or university or by a state licensing board that  
74 issues credentials in another discipline.

75 2. Successful completion of the following five (5) College Level Examination  
76 Program® (CLEP®) examinations:

- 77 • College Algebra
- 78 • College Composition
- 79 • Principles of Macroeconomics
- 80 • Principles of Microeconomics
- 81 • Introductory Business Law

82 3. Successful completion of all courses in specific topic areas listed below from  
83 an accredited college, junior college, community college, or university:

- 84 A. English Composition (3 semester hours)
- 85 B. Economics or Finance (6 semester hours)
- 86 C. Algebra, Geometry, or higher mathematics (3 semester hours)
- 87 D. Business or Real Estate Law (3 semester hours)

88 4. Any combination of III.A.2 and III.A.3 above that includes all of the topics  
89 identified.

## Section 2: Enhanced Practicum Curriculum

### Rationale

The feedback received by the AQB in response to the Concept Paper and Discussion Draft, as well as comments received at recent AQB public meetings, indicated a high level of concern regarding the ability to accumulate the appraisal experience currently required for a credential. In recent years, opportunities for appraisal training have significantly diminished. Many experienced appraisers are reluctant to train because of the costs incurred and the lack of future monetary return, as well as concerns of potential liability. Aspiring appraisers are reluctant to engage in a training relationship because of the lack of reasonable compensation.

An issue revisited during the discussion process was the practicum course concept as outlined in Guide Note 4 (GN-4) of the *Criteria*. GN-4 was adopted effective January 1, 2008. Many responders and commenters expressed the opinion that the current guidance in GN-4 was too restrictive and required revision. Many were in favor of practicum courses, but did not consider them economically viable. To date, no practicum courses have been approved by the AQB. A practicum course involves actual practice-based experience in a classroom setting utilizing previously completed educational coursework in related theory and methodology.

Ideas were expressed during the comment period that the practicum education process should be enhanced with offerings through colleges, universities, proprietary schools, and professional organizations. Through these sources, classes could be offered in a traditional semester system. Some suggested the development of practicum courses in conjunction with intern programs. The goal for these classes is to emulate real estate appraisal practice through a series of case studies. Students would then be granted a block of experience hours after successful completion of this practicum offering. Experience hours from these courses may provide as many as 500 or 1,000 hours. Several commenters also advocated that an alternative path to the entire experience requirement be developed through a practicum curriculum. Successful completion of the coursework would require successful completion of an examination comprised of case studies.

Additionally, some responders questioned the AQB's use of practicum terminology. The term is often misunderstood with regards to its intended goal. Accordingly, the AQB is proposing this concept be relabeled as *Practical Applications of Real Estate Appraisal*.

Coursework in *Practical Applications of Real Estate Appraisal* would be based on the methodology and techniques previously learned as part of the qualifying education requirement. All qualifying education requirements would have to be completed for the respective certified levels prior to enrollment in these classes. This coursework could serve as an alternative to appraisal experience. GN-4 offers guidance for education providers developing these types of courses and state regulators approving them. Therefore, GN-4 would require updating, and revisions will be proposed in a forthcoming exposure draft.

Section 5, part D, of the *Criteria* states, in part "...experience gained for work without a traditional client cannot exceed 50% of the total experience requirement." In this proposal, a practical applications curriculum could account for up to 100% of the experience requirement. As a result, the *Criteria* would require revision to accommodate the proposed practical applications concept.

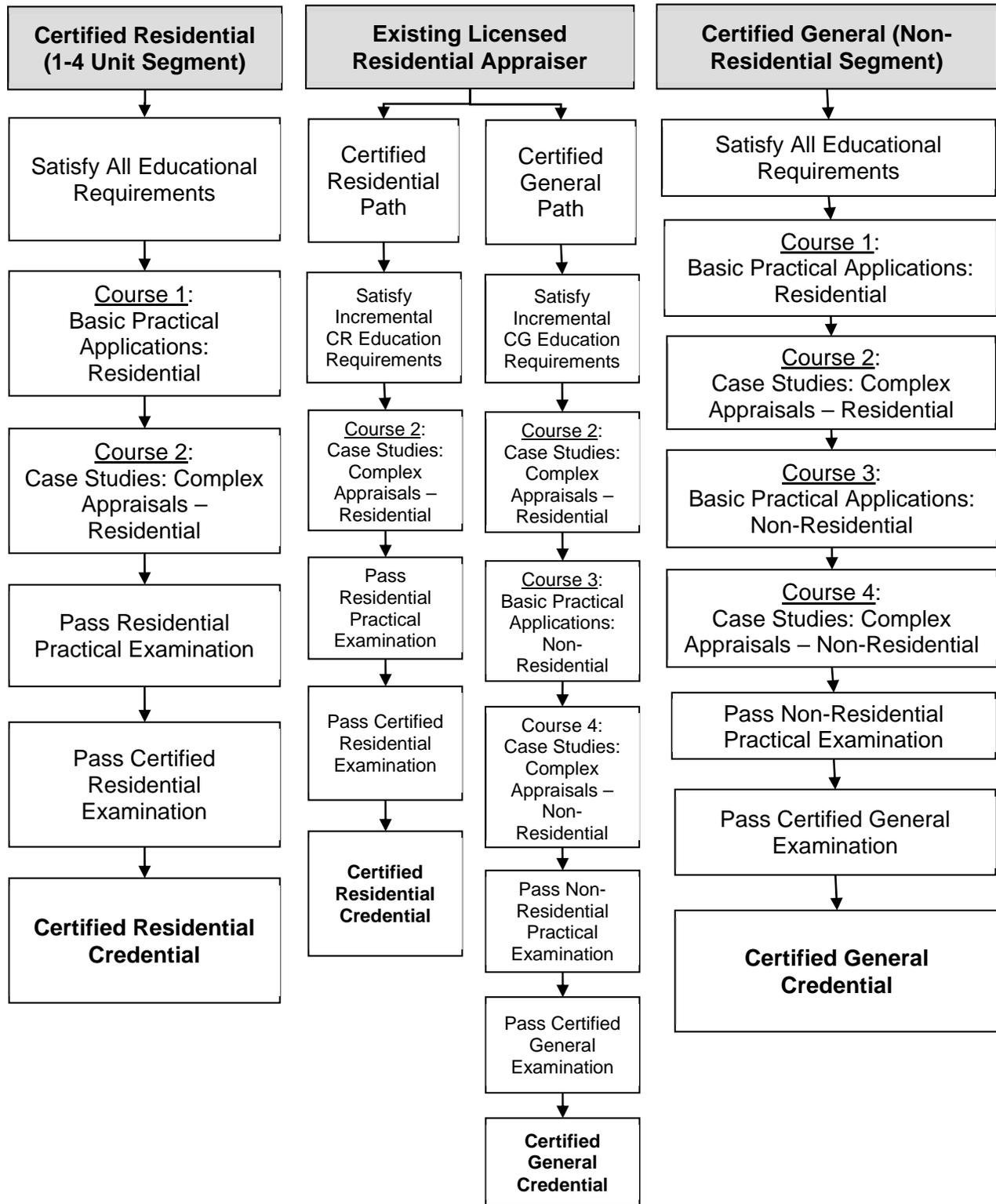
*Practical Applications of Real Estate Appraisal* could involve a series of four three-hour classes, ideally offered in a semester-length timeframe of 16 weeks (48 hours). Courses could be comprised of a residential 1-4 unit segment and a non-residential segment. Each segment could involve two classes utilizing case studies as a means of providing practical experience. In segment one, the first class could begin with basic practical applications of the appraisal process, while the second class could evolve with case studies that require completion of appraisals on difficult and complex properties. The non-residential segment could be dedicated to non-residential income properties, special use properties, and vacant land. The case studies could consist of key portions of the appraisal process and completion of at least one appraisal report. An actual subject property could be required for student analysis in areas involving property description and analysis. As stated previously, GN-4 would require revision in order to allow the use of non-traditional clients and in some cases hypothetical subject properties and data. Hypothetical properties with all necessary subject property and market data could be provided for case studies emphasizing areas of analysis only.

The course outline and matrix could be developed by the AQB in conjunction with other participants. Course topics will be developed in later exposure drafts. *Practical Applications of Real Estate Appraisal* courses could be submitted for approval through the AQB Course Approval Program.

Upon completion of each segment, the student could be eligible for certification examinations. *Practical Applications of Real Estate Appraisal* courses would not qualify for the experience requirements in the Licensed Residential classification. Completion of the first segment of practical applications could enable a student to test at the Certified Residential level. After completion of the second segment, a student could sit for the Certified General examination. Existing Licensed Residential appraisers would only be required to complete the second class in the first segment in order to test at the Certified Residential level.

The chart on the following page was designed to assist in visualizing this concept.

# Practical Applications of Real Estate Appraisal



*Practical Applications of Real Estate Appraisal* classes would provide an alternative to gaining appraisal experience. After completion of this alternate track to experience, an appraiser would be able to participate and complete appraisal assignments for the certification level completed. It would be incumbent upon the state appraiser regulatory agencies to identify these alternate experience track appraisers and have a process for reviewing initial work product. Appraisers would be required to maintain logs of their appraisal assignments. The AQB would recommend state appraiser regulatory agencies review a minimum of five (5) appraisal assignments annually for a two-year period in order to evaluate the appraiser's progress. With this comprehensive review process of completed appraisal assignments by the states, coupled with competent educational offerings providing a complete overview of the entire appraisal process, this alternative track to appraisal experience would be beneficial while maintaining public trust.

NOTE: At this point in time the AQB is seeking comments on this concept. After review of the feedback received, the AQB will propose additional detail in future exposure drafts. Therefore, no proposed edits to the *Criteria* are being shown in this document.

### Section 3: Alternative Experience

#### Rationale

There has been a great deal of discussion and support for allowing experience from other types of professions related to appraising. This includes the work of real estate brokers, market researchers, real estate investment professionals, and others. This related experience could account for a portion of the overall appraisal experience required. In addition, some have suggested that experience gained in partial appraisal work assignments (comprising less than the entire appraisal process) be allowed. This could include market research, data collection, or involvement in parts of an appraisal assignment. Various responders and panelists offered opinions suggesting that experience from alternative tracks or partial appraisal work assignments could comprise up to 50 to 60% of the required experience.

Another concern expressed involves the total required number of appraisal experience hours. Some believe the required experience hours are too cumbersome and restrict entry to the appraisal profession. Suggestions included revising cumulative experience hours and duration to 1,500 hours over 18 months for the Certified Residential classification, and 2,000 hours over 24 months for the Certified General level.

Multiple respondents to the Concept Paper, as well as panelists at the public hearing in Washington DC, introduced the idea of deferring the appraisal experience requirement, whereby an applicant would complete qualifying education and the examination for a specific credential level and then be granted a credential with the ability to practice on a provisional basis for a designated time period. Experience could then be evaluated and approved after this time period.

In the February 2016 Discussion Draft and April 2016 public meeting, comments were received suggesting alternative experience could account for 33% to 50% of the required experience hours. Those in disfavor expressed their beliefs that real estate appraisal constitutes a very unique skill set not emulated in the real estate sales or brokerage communities. Several of the respondents stressed the necessity of thorough analysis documentation by regulatory authorities to support alternative experience. Some respondents suggested the AQB include mass appraisers within the alternative experience concept. The AQB is not including assessors performing mass appraisals because they are already eligible for experience credit. Section V.E. of the current *Criteria* states, in part, "Acceptable real property appraisal practice for experience credit includes appraisal, appraisal review, appraisal consulting, and **mass appraisal.**" (Bold added for emphasis.)

One of the questions asked in the Discussion Draft concerned the current number of experience hours and duration for obtaining credentials. There were few responses to this specific question and of those received, the responses were mixed. Some agreed with the current requirements while, as mentioned above, some advocated shortening the timeframes by as many as 500 hours and 6 months.

Based on the feedback received, there is strong support and rationale for the AQB to consider revising the experience requirements. This is due to several reasons, the most critical being the inability of trainee appraisers to find willing supervisors. Much of the feedback received from the Concept Paper and Discussion Draft centered on this problem. Trainees reported either being unable to locate a supervisor or losing their supervisor during the training period. Potential supervisors indicated an unwillingness to take on trainees for a few different reasons, including increased liability, a requirement by many users of appraisal services that the supervisor accompany the trainee on all inspections, the refusal of many users to accept reports signed by trainees, and a lack of economic viability due to lower appraisal fees.

As stated above, there are drawbacks to the current model of obtaining experience through a “mentoring” process, which has been in place since the *Criteria* were first established. At that time, it was common for financial institutions to bring inexperienced individuals on staff as trainees, teaching them the business from the ground up. Many of these institutions encouraged completion of professional appraisal education, and offered mentoring on a variety of levels. These institutions also provided upward mobility opportunities, with many residential appraisers moving into the non-residential appraisal sector. Today, there are very few such opportunities. In fact, most of the institutions referred to herein are no longer in existence. Therefore, the AQB believes it is necessary to re-examine the experience requirements for obtaining a credential.

As part of its ongoing development and maintenance of the National Uniform Licensing and Certification Examinations, in 2014 the AQB performed a “job analysis,” where thousands of respondents described their day-to-day activities as appraisers. A summary of those tasks follows:

- *Identify the property rights to be appraised*
- *Develop an opinion of value of the land or site by the appropriate methodology or methods*
- *Identify and analyze comparable sales, units of comparison, and relevant elements of comparison*
- *Develop and apply appropriate adjustments to comparable sales to develop an opinion of the subject property*
- *Identify appropriate sources of cost information and estimate cost new for improvements*
- *Analyze and estimate depreciation of the subject property*
- *Analyze cost and depreciation of the improvements of the comparable sales*
- *Add site value and depreciated replacement cost of the improvement to develop an opinion of value of the subject property*
- *Identify and analyze sources of actual and market income relevant to the subject property*
- *Analyze relevant vacancy rates and credit loss and compare to the market*
- *Develop a reconstructed operating income statement of the subject property*
- *Identify holding period and analyze forecast revenue and expenses*
- *Analyze, derive, and apply appropriate capitalization rates, yield rates, or multipliers to develop an opinion of value*
- *Review appropriateness, accuracy, and quantity of data used within each approach and reconcile differences among the value indications to form final value opinion of subject property*

- *Determine professional competency given assignment requirements*
- *Review workfile and final report for compliance with USPAP*
- *Identify the problem to be solved*
- *Determine scope of work necessary for an assignment to produce credible results*
- *Communicate the assignment results*

With the foregoing in mind, the AQB is examining the following options:

#### Option 1

Elimination of time requirements for all three credentials. Currently the 2,000 hours for a Licensed Residential appraiser must be obtained in no fewer than 12 months. The 2,500 hours for a Certified Residential appraiser must be obtained in no fewer than 24 months, and the 3,000 hours for a Certified General appraiser must be obtained in no fewer than 30 months. With the revision of these requirements, the experience could be obtained in less time than specified above. The applicant would have the responsibility of preparing an experience log that showed actual assignments and the time required for each appraisal. Once the required number of hours was obtained, the experience requirement would be satisfied. The proposed revisions to the *Criteria* appear on the following pages.

#### Option 2

Reduce the hours of experience required. The experience for a Licensed Residential appraiser could be reduced to 1,500 hours, the experience for a Certified Residential appraiser could be reduced to 1,750 hours, and the experience for a Certified General appraiser could be reduced to 2,000 hours. These proposed reductions are considered reasonable due to the increased qualifying education requirements. The proposed revisions to the *Criteria* appear on the following pages.

#### Option 3

Experience from other professions could be considered for a portion of the overall experience required for licensure or certification. This experience could account for up to 50 percent of the overall experience required for the credential. Applicants would still be required to obtain at least 50 percent of their experience through the traditional requirements as spelled out in Section V of the *Criteria* (notwithstanding other proposed revisions that may be adopted as outlined in this document).

Alternative experience could be based on demonstrating certain skill sets instead of being assignment based as are existing experience requirements. A log would be required listing alternative experience assignments. The support for this alternative experience would be a written report or communication with a client. These skill sets could include the following:

- Property Inspection – This skill set should demonstrate an applicant’s ability to conduct an inspection of a building improvement and accurately describe the improvement. Knowledge of building components and terminology should be apparent. Licensed building inspectors could be given preference.
- Area Description – This skill set should demonstrate an applicant’s ability to identify and describe a market area. This would typically include the participant’s involvement

in regional and sub-market appraisal analysis. The description should include such items as area boundaries, economic factors impacting the area, population trends, employment trends, and other trends that would affect the area.

- Real Estate Agent/Broker – This skill set would involve a real estate agent or broker demonstrating participation in key parts of the real estate appraisal process including broker price opinions, comparative market analysis, and lease negotiations.
- Financial Analysis – This skill set should demonstrate the applicant’s ability to analyze a set of financial data in regards to real property. This could include an income and expense analysis of real property, a construction budget analysis, or an expense study.
- Participation in Appraisal Process – This skill set would involve verifiable assistance in key parts of the real estate appraisal process including data collection, verification and analysis, data banking, and involvement in assessment duties that were developed in accordance with USPAP STANDARD 1, but not STANDARDS 2 or 6.

The following matrix illustrates the allowable credit for alternative experience. Categories could be combined, but the alternative experience claimed shall not equal more than 50 percent of the total experience required.

Alternative Experience Grid		
	Percentage of Experience	
	Per Year	Maximum
Property Inspection	2%	10%
Area Description	2%	10%
Real Estate Agent/Broker	3%	15%
Financial Analysis	3%	15%
Participating in Appraisal	2%	10%

Applicants would have the responsibility of preparing an experience log that showed their alternative experience and the time required for each task.

**NOTE:** The AQB is seeking comments on this conceptual proposal of Option 3. After review of the feedback received, if the AQB moves forward with Option 3 it will propose additional detail in future exposure drafts. Therefore, no proposed edits to the *Criteria* are being shown in this document for Option 3.

## OPTION 1

### LICENSED RESIDENTIAL REAL PROPERTY APPRAISER

90 **IV. Experience**

91 Two thousand (2,000) hours of experience are required ~~to be obtained in no fewer~~  
92 ~~than 12 months.~~

### CERTIFIED RESIDENTIAL REAL PROPERTY APPRAISER

93 **IV. Experience**

94 Two thousand five hundred (2,500) hours of experience ~~obtained during no fewer~~  
95 ~~than twenty-four (24) months is are~~ required. ~~While the hours may be cumulative,~~  
96 ~~the required number of months must accrue before an individual can be certified.~~

### CERTIFIED GENERAL REAL PROPERTY APPRAISER

97 **IV. Experience**

98 Three thousand (3,000) hours of experience ~~obtained during no fewer than thirty~~  
99 ~~(30) months is are~~ required, of which one thousand five hundred (1,500) hours  
100 must be in non-residential appraisal work. ~~While the hours may be cumulative, the~~  
101 ~~required number of months must accrue before an individual can be certified.~~

## OPTION 2

### LICENSED RESIDENTIAL REAL PROPERTY APPRAISER

102 **IV. Experience**

103 ~~Two thousand (2,000)~~ One thousand five hundred (1,500) hours of experience are  
104 ~~required to be obtained in no fewer than 12 months.~~

### CERTIFIED RESIDENTIAL REAL PROPERTY APPRAISER

105 **IV. Experience**

106 ~~Two thousand five hundred (2,500)~~ One thousand seven hundred fifty (1,750)  
107 hours of experience ~~obtained during no fewer than twenty-four (24) months is are~~  
108 required. ~~While the hours may be cumulative, the required number of months must~~  
109 ~~accrue before an individual can be certified.~~

### CERTIFIED GENERAL REAL PROPERTY APPRAISER

110 **IV. Experience**

111 ~~Three thousand (3,000)~~ Two thousand (2,000) hours of experience ~~obtained during~~  
112 ~~no fewer than thirty (30) months is~~ are required, of which one thousand five  
113 ~~hundred (1,500)~~ (1,000) hours must be in non-residential appraisal work. ~~While the~~  
114 ~~hours may be cumulative, the required number of months must accrue before an~~  
115 ~~individual can be certified.~~

## Section 4: “Trainee” Nomenclature

### Rationale

In the Concept Paper, Public Hearing, and Discussion Draft, the AQB received feedback regarding the perception by some that the “Trainee” label did not foster public trust in the appraisal profession. The Board examined varying methods to address the concerns expressed, but ultimately determined that the existing *Criteria* include adequate options to do so. Section I.A of the *Criteria* for the Trainee Real Property Appraiser classification states:

*The Trainee Appraiser classification is intended to incorporate any documented non-certified/non-licensed real property appraisers who are subject to the Real Property Appraiser Qualification Criteria. Recognizing that individual credentialing jurisdictions may use different terminologies, “Trainee Appraisers” include, but are not limited to: registered appraisers, apprentice appraisers, provisional appraisers, or other similar designations created by state appraiser regulatory agencies.*

Although the *Criteria* already address alternative nomenclature for Trainees, the Board also heard concerns that, in some cases, the marketplace has placed additional constraints on the use of Trainees. Because of the misunderstandings by some that the *Criteria* prohibits Trainees from performing inspections without a supervisor or from signing an appraisal report, the AQB intends to issue guidance (in the form of one or more Q&As) that will distinguish the requirements in the *Criteria* from those in the marketplace. As a result, this document contains no proposed changes to the *Criteria* related to this issue.

## Section 5: Three-Year Supervisory Jurisdictional Requirement

### Rationale

When the AQB first adopted the requirement for certified appraisers to be credentialed *in a specific jurisdiction* for three years prior to becoming eligible as a Supervisory appraiser (herein referred to as a “jurisdictional” requirement), it did so in response to some concerns about “trainee mills” and inadequate supervision of Trainee appraisers. However, subsequently the Board heard that this well-intended requirement was contributing to the difficulty in Trainees finding qualified supervisors. Feedback received from the Concept Paper, Public Hearing, and Discussion Draft, all strongly suggested the requirement for a Supervisory Appraiser to be credentialed for three years in a *specific jurisdiction* was burdensome and created a barrier for some Supervisory Appraisers to supervise Trainee Appraisers.

Further, respondents pointed out that the lack of a probationary period for an appraiser obtaining reciprocity to practice in another jurisdiction suggested the requirements were inconsistent. Additionally, many appraisers (and Supervisory appraisers) currently practice in multiple jurisdictions, doing so in compliance with the geographic competency requirements in USPAP.

Perhaps most compelling if the jurisdictional requirement were removed is the fact that all Supervisory appraisers would continue to be required to comply with USPAP, including the COMPETENCY RULE. The Supervisory appraiser would continue to be responsible for the direct supervision of the Trainee appraiser.

Thus, the AQB, in proposing this change, has considered the advancements made by the state appraiser regulatory agencies and enhancements to current appraisal education. The AQB has not received sufficient information or evidence to indicate this proposed change would create a negative result for Supervisory or Trainee appraisers, thereby diminishing or harming public trust.

The AQB believes this proposed change would remove a burdensome and unnecessary requirement, and instead would promote the opportunity to gain professional appraisal experience.

NOTE: With the proposed change, the current I.C becomes redundant and is proposed for deletion as shown on the following page.

## SUPERVISORY APPRAISER REQUIREMENTS

116 Supervisory Appraisers provide a critical role in mentoring, training and development of  
117 future valuation professionals. It is inherently important to strike a proper balance between  
118 enhancing public trust by ensuring Supervisory Appraisers are competent and qualified  
119 to supervise Trainee Appraisers without making the criteria too stringent and restrictive  
120 as to discourage or prevent qualified Supervisory Appraisers from actually participating  
121 in the training and supervision of Trainee Appraisers.

### 122 I. General

123 A. Supervisory Appraisers shall be responsible for the training, guidance, and  
124 direct supervision of the Trainee Appraiser by:

- 125 1. Accepting responsibility for the appraisal by signing and certifying the  
126 appraisal complies with USPAP;
- 127 2. Reviewing and signing the Trainee Appraiser report(s); and
- 128 3. Personally inspecting each appraisal property with the Trainee Appraiser  
129 until the Supervisory Appraiser determines the Trainee Appraiser is  
130 competent to inspect the property, in accordance with the COMPETENCY  
131 RULE of USPAP for the property type.

132 B. Supervisory Appraisers shall be state-certified and in “good standing” ~~in the~~  
133 ~~jurisdiction in which the Trainee Appraiser practices~~ for a period of at least three  
134 (3) years. Supervisory Appraisers shall not have been subject to any  
135 disciplinary action within any jurisdiction within the last three (3) years that  
136 affects the Supervisory Appraiser’s legal eligibility to engage in appraisal  
137 practice. A Supervisory Appraiser subject to a disciplinary action would be  
138 considered to be in “good standing” three (3) years *after* the successful  
139 completion/termination of the sanction imposed against the appraiser.

140 ~~C. Supervisory Appraisers shall have been state-certified for a minimum of three~~  
141 ~~(3) years prior to being eligible to become a Supervisory Appraiser.~~

142 ~~D.~~ Supervisory Appraisers must comply with the COMPETENCY RULE of  
143 USPAP for the property type and geographic location where the Trainee  
144 Appraiser is being supervised.

145 ~~E.~~ Whereas a Trainee Appraiser is permitted to have more than one Supervisory  
146 Appraiser, Supervisory Appraisers may not supervise more than three (3)  
147 Trainee Appraisers at one time, unless a state program in the credentialing  
148 jurisdiction provides for progress monitoring, supervisory certified appraiser  
149 qualifications, and supervision and oversight requirements for Supervisory  
150 Appraisers.

151 ~~F.~~ An appraisal experience log shall be maintained jointly by the Supervisory  
152 Appraiser and the Trainee Appraiser. It is the responsibility of both the  
153 Supervisory Appraiser and Trainee Appraiser to ensure the experience log is  
154 accurate, current and complies with the requirements of the Trainee

155 Appraiser's credentialing jurisdiction. At a minimum, the appraisal log  
156 requirements shall include:

- 157 1. Type of property;
- 158 2. Date of report;
- 159 3. Address of appraised property;
- 160 4. Description of work performed by the Trainee Appraiser and the scope of  
161 the review and supervision of the Supervisory Appraiser;
- 162 5. Number of actual work hours by the Trainee Appraiser on the assignment;  
163 and
- 164 6. The signature and state certification number of the Supervisory Appraiser.  
165 Separate appraisal logs shall be maintained for each Supervisory  
166 Appraiser, if applicable.

167 GE. Supervisory Appraisers shall be required to complete a course that, at a  
168 minimum, complies with the specifications for course content established by  
169 the AQB, which is specifically oriented to the requirements and responsibilities  
170 of Supervisory Appraisers and Trainee Appraisers. The course is to be  
171 completed by the Supervisory Appraiser prior to supervising a Trainee  
172 Appraiser.\*

173 \* Please refer to the Supervisory Appraiser / Trainee Appraiser Course Objectives and  
174 Outline in this booklet for more information.





## **AGENDA ITEM 16**

Update on request submitted to AQB to reduce the required course length for continuing education courses from 2 hours to 1 hour.



August 1, 2016

Mr. Joseph C. Traynor, Chair  
Appraiser Qualifications Board  
1155 15<sup>th</sup> St NW, Suite 1111  
Washington DC 20005

**via email: [aqbcomments@appraisalfoundation.org](mailto:aqbcomments@appraisalfoundation.org)**

RE: Request to lower Appraiser Continuing Education course length requirement  
from 2 hours to 1 hour

Mr. Traynor

As the Appraiser Qualifications Board (AQB) considers possible changes to the Real Property Appraiser Qualification Criteria (RPAQC), the Texas Appraiser Licensing & Certification Board (TALCB) asks the AQB to consider one additional change to the criteria specific to Continuing Education. Specifically, TALCB requests the AQB to allow credit for continuing education to be granted where the length of the educational offering is 1 hour, instead of the current 2-hour requirement.

Section III.F.2 of the RPAQC includes the following criteria specific to continuing education for appraisers:

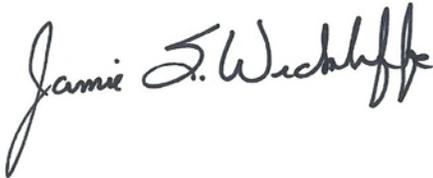
Credit towards the continuing education hour requirements for each appraiser classification may be granted only where the length of the educational offering is at least two (2) hours.

This provision allows State appraiser regulatory agencies to grant appraiser continuing education credit only if the length of the educational course offering is 2 hours or more. TALCB has been contacted by education providers who would like to offer 1-hour "lunch and learn" courses for appraiser continuing education. But TALCB has turned these providers away because of the 2-hour minimum in the AQB requirements for awarding continuing education credit. In addition, the Texas Legislature granted TALCB staff the authority to teach courses to license holders for continuing education credit in 2015. And TALCB would like to be able to offer 1-hour "lunch and learn" courses to our license holders. But TALCB cannot offer continuing education credit for such courses due to the 2-hour minimum course length requirement in the RPAQC.

TALCB believes that lowering the course length minimum for continuing education credit to be granted for all appraiser classifications would facilitate the broader use of educational opportunities to provide 1-hour “lunch and learn” updates on regulatory changes and other matters by TALCB and other educational providers. This change would increase the number of educational offerings and opportunities available to license holders to earn the required continuing education credit.

TALCB appreciates the AQB’s thoughtful consideration of this request.

Sincerely,



Jamie Wickliffe, Chair  
Texas Appraiser Licensing & Certification Board

cc: John Brennan, Director of Appraisal Issues  
Appraiser Qualifications Board

**via email:** [john@appraisalfoundation.org](mailto:john@appraisalfoundation.org)

Jenny Tidwell, Policy Manager  
Appraisal Subcommittee

**via email:** [jenny@asc.gov](mailto:jenny@asc.gov)



### **AGENDA ITEM 17**

Discussion and possible action regarding approval of FY2017 TALCB Budget and budget related policies.

### **AGENDA ITEM 18**

Update on long-term facilities plan.

### **AGENDA ITEM 19**

Discussion and possible action regarding planning workshop in November.

### **AGENDA ITEM 20**

Request for potential future meeting agenda items.

### **AGENDA ITEM 21**

Discussion and possible action to schedule future meeting dates.

### **AGENDA ITEM 22**

Adjourn.



# Texas Appraiser Licensing and Certification Board

## August 19, 2016

August 2016						
S	M	T	W	T	F	S
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**August**

19 TALCB Meeting

September 2016						
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**September**

5 Labor Day

October 2016						
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30	31					

**October**

10 Columbus Day

November 2016						
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27	28	29	30			

**November**

8 Election Day  
11 Veterans Day  
18 TALCB Meeting  
24 Thanksgiving

December 2016						
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**December**

25 Christmas Holiday

January 2017						
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**January**

1 New Year's Day

February 2017						
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**February**

20 Presidents Day

March 2017						
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**March**

April 2017						
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30						

**April**

14 Good Friday  
16 Easter

May 2017						
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**May**

14 Mother's Day  
29 Memorial Day

June 2017						
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**June**

18 Father's Day

July 2017						
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30	31					

**July**

4 Independence Day