

TEXAS APPRAISER LICENSING & CERTIFICATION BOARD



BOARD MEETING

AUGUST 15, 2014



Stephen F. Austin Building
Room 170
1700 N. Congress Ave
Austin, Texas



MEETING AGENDA

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

Friday, August 15, 2014, 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 absences, if any

PUBLIC COMMENTS

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

EXECUTIVE SESSION

4. Executive session to receive advice of counsel pursuant to Texas Government Code §551.071

CONSENT AGENDA

5. Ratification of the official record of the May 9, 2014 and July 14, 2014 Board meetings 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. Audit# 13-105 (Brandon S. Simpson, TX-1340177-T)
 - b. Complaint# 14-079 (Billy F. Jackson, TX-1320715-G)
 - c. Complaint# 14-034 (Laura Ali, TX-1334276-R)

MODIFICATIONS

7. Discussion and possible action to approve request for modification of agreed order in the matter of Complaint #13-126 (Muriel Pope, TX-1338570-G)

**CONTESTED CASES**

8. Discussion and possible action on proposal for decision from the State Office of Administrative Hearings in the matter of SOAH Docket #329-14-2114.ALC (Robert Chandler Smith, TX-1337411-L)

OTHER COMPLIANCE MATTERS

9. Discussion and possible action regarding compliance with agreed order in the matter of Complaint #13-099 (Abbie Gail Hawkins, TX-1338340-R)

COMMITTEE REPORTS

10. Report by AMC Advisory Committee
11. Report by Budget Committee
12. Report by Education Committee
13. Report by Enforcement Committee
14. Report by Executive Committee

STAFF REPORTS

15. 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

STATE AUDITOR REPORT

16. Discussion and possible action regarding report from state auditor

**RULES FOR POSSIBLE ADOPTION**

17. Discussion and possible action to adopt amendments to 22 TAC Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act:
- a. 22 TAC §153.3. The Board
 - b. 22 TAC §153.5. Fees
 - c. 22 TAC §153.8. Scope of Practice
 - d. 22 TAC §153.9. Applications
 - e. 22 TAC §153.10. Issuance of Certification, License, or Trainee Approval
 - f. 22 TAC §153.11. Examinations
 - g. 22 TAC §153.13. Educational Requirements
 - h. 22 TAC §153.15. Experience Required for Certification or Licensing
 - i. 22 TAC §153.17. Renewal or Extension of Certification and License or Renewal of Trainee Approval
 - j. 22 TAC §153.18. Appraiser Continuing Education (ACE)
 - k. 22 TAC §153.19. Licensing and Certification for Persons with Criminal Histories
 - l. 22 TAC §153.20. Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure
 - m. 22 TAC §153.21. Appraiser Trainees and Sponsors
 - n. 22 TAC §153.23. Inactive Status
 - o. 22 TAC §153.24. Complaint Processing
 - p. 22 TAC §153.25. Temporary Out-of-State Appraiser Registration
 - q. 22 TAC §153.26. Identity Theft
 - r. 22 TAC §153.27. Certification and Licensure by Reciprocity
 - s. 22 TAC §153.33. Signature or Endorsement of Appraisal
 - t. 22 TAC §153.37. Criminal Matters Referred to Law Enforcement

RULES FOR POSSIBLE PROPOSAL

18. Discussion and possible action to propose amendments to 22 TAC Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act:
- a. 22 TAC §153.1. Definitions
 - b. 22 TAC §153.5. Fees
19. Discussion and possible action to propose amendments to 22 TAC §157.31, Investigative Conference
20. 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:
- a. 22 TAC §159.1. Definitions
 - b. 22 TAC §159.3. Appraisal Management Company Advisory Committee
 - c. 22 TAC §159.4. Jurisdiction and Exemptions
 - d. 22 TAC §159.52. Fees
 - e. 22 TAC §159.101. Registration Requirements



- f. 22 TAC §159.102. Eligibility for Registration; Ownership
- g. 22 TAC §159.103. Applications
- h. 22 TAC §159.104. Primary Contact; Appraiser Contact
- i. 22 TAC §159.105. Denial of Registration
- j. 22 TAC §159.107. Expiration
- k. 22 TAC §159.108. Renewal
- l. 22 TAC §159.109. Inactive Status
- m. 22 TAC §159.154. Competency of Appraisers
- n. 22 TAC §159.155. Periodic Review of Appraisals
- o. 22 TAC §159.156. Business Records
- p. 22 TAC §159.157. Compensation of Appraisers
- q. 22 TAC §159.159. Disclosure of Registered Name and Registration Number
- r. 22 TAC §159.161. Appraiser Panel
- s. 22 TAC §159.162. Dispute Resolution
- t. 22 TAC §159.201. Guidelines for Revocation, Suspension or Denial of a Registration
- u. 22 TAC §159.204. Complaint Processing

RULE REVIEW

21. Discussion and possible action to close the review of 22 TAC, Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act

PENDING BUSINESS

22. Discussion and possible action regarding the Agency's Strategic Plan for FY2015-2019
23. Discussion and possible action on recommendations from the Budget Committee regarding FY2015 budget for the Board
24. Discussion and possible action on recommendations from the Education Committee regarding
- a. Possible amendments to 22 TAC §153.21, Appraiser Trainees and Sponsors;
 - b. Development of a voluntary appraiser trainee experience review program;
 - c. Pursuit of statutory change to allow ACE credit to be given for attending presentations by Board members or staff; and
 - d. Development of a process for license holders to receive 2-4 hours of ACE credit for attending a full meeting of the Board in compliance with AQB criteria.
25. Discussion and possible action on recommendations from the Enforcement Committee regarding
- a. Notice provided to respondents who request copy of investigative reports
 - b. Develop rule for alternate experience requirements for previously licensed applicants



26. Discussion and possible action on recommendations from the Executive Committee regarding
 - a. Topics for November training workshop
 - b. Policy for 2-year staggered appointments as PIC Members and Mentors
27. Status update regarding investigation into allegations of staff misconduct

NEW BUSINESS

28. Discussion and possible action regarding consideration and adoption of a policy interpretation on licensure requirements

OTHER BUSINESS

29. Request for potential future meeting agenda items
30. Discussion and possible action to schedule future meeting dates
31. 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.



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 15, 2014 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 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 9, 2014 and July 14, 2014 Board meetings 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)-(c)

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

- a. Audit# 13-105 (Brandon S. Simpson, TX-1340177-T)
- b. Complaint# 14-079 (Billy F. Jackson, TX-1320715-G)
- c. Complaint# 14-034 (Laura Ali, TX-1334276-R)

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 9, 2014

These minutes set out the agenda item 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. Note, while the written portion of the minutes below are published in agenda order, the Board may have taken items out of order.

The minutes are initially approved by the Board Secretary *for only publication on the website* and become the official record upon ratification by a majority of the Board at a future meeting.

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

[AGENDA ITEM 2](#) - Roll call and discussion and possible action to excuse Board member absences, 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 S. Wickliffe, Ms. Laurie C. Fontana, Mr. Mark McAnally, Mr. Luis F. DeLaGarza, Mr. Walker Beard, Mr. Brian Padden, Mr. Patrick Carlson, Mr. Clayton Black, and Mr. Jesse Barba.

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

The Chair officially welcomed new Board members Mr. Jesse Barba and Mr. Brian Padden. The Chair also recognized outgoing members Mr. Keith Kidd and Ms. Shannon McClendon for their service on the Board.

[AGENDA ITEM 4](#) - Comments from members of the public regarding non-agenda items
[Comments were made by Mr. Bobby Crisp, representing the Association of Texas Appraisers, regarding the organization's updates and announcements.](#)
[Comments were made by Ms. Shannon McClendon, representing herself, regarding possible procedural irregularities and policy issues related to complaint investigations.](#)

[AGENDA ITEM 5](#) - Ratification of the official record of the February 21, 2014 Board meeting as approved for posting on the website by the Secretary of the Board

ACTION TAKEN: Mr. DeLaGarza moved to ratify the minutes as approved for publication by the Board Secretary. Mr. Beard seconded the motion, and the Board approved the motion unanimously with the exception of Mr. Barba who abstained.

[AGENDA ITEM 6](#) - Approval of agreed final orders and surrenders in the matter of:

- a. (Marvin Reshun Hassell, TX-1340068-T)
- b. (Jason Greg Wampler, TX-1340341-T)
- c. (Sidney Patrick Victory, III, TX-1340188-T)
- d. Audit# 14-042 (Steven Price Poland, TX-1340256-T)
- e. Complaint# 14-018 (Christopher Shiao, TX-1336510-L)

- f. Complaint# 13-296 (James Shaun Blackmon, TX-1322168-R)
- g. Complaint# 13-328 (Raymond C. Harrison, TX-1324528-G)
- h. Complaint# 13-256 (Paul George Zacour, TX-1322726-G)
- i. Complaint# 14-021 (Jason Paul Grubert, TX-1337394-R)
- j. Complaint# 13-330 (Duncan Clark Gimpel, Jr., TX-1326989-G)
- k. Complaint# 13-301 (Michael John Braught, TX-1333875-R)
- l. Complaint# 13-224 (Kenneth Lynwood Becker, TX-1338662-R)
- m. Complaint# 14-036 (Michael W. Langer, TX-1333611-L)
- n. Complaint# 13-251 (Chencheng Jack Wu, TX-1322574-G)

ACTION TAKEN: Items 6a and 6c – 6n were taken together as one item. Mr. DeLaGarza moved to approve these enforcement matters. Mr. Black seconded the motion, and the Board approved the motion unanimously.

[Comments were made by Bobby Crisp, representing himself, regarding item 6b.](#)
[Troy Beaulieu, TALCB Standards & Enforcement Managing Attorney](#)
[Kyle Wolfe, TALCB Standards & Enforcement Staff Attorney](#)
[Mark Mrnak, TALCB Standards & Enforcement Director](#)

ACTION TAKEN: Mr. DeLaGarza moved to take no action on item 6b. Mr. McAnally seconded the motion. After discussion, the motion was withdrawn.

Mr. DeLaGarza moved to approve item 6b with the removal of items 1, 4 & 5, subject to a demonstration that the compliance requirements in items 2 & 3 have been completed. After discussion, the motion was withdrawn.

Ms. Fontana moved to approve item 6b with an amendment to limit the term of the probationary status to 1 day. Mr. DeLaGarza seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 7](#) - Executive session to receive advice of counsel pursuant to Texas Government Code §551.071

ACTION TAKEN: The Chair called the Board into executive session at 11:20 am.
[The Chair reconvened the meeting at 12:00 pm.](#)

[AGENDA ITEM 8](#) - Report by AMC Advisory Committee

[AGENDA ITEM 9](#) - Report by Budget Committee

[AGENDA ITEM 10](#) - Report by Enforcement Committee

[AGENDA ITEM 11](#) - Report by Executive Committee

[AGENDA ITEM 12](#) - 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. Tom Watson, Director of Information & Technology Services](#)
[Ms. Melissa Huerta, Director of Staff & Support Services](#)
[Mr. Mark Mrnak, Director of Standards & Enforcement Services](#)
[Mr. Tony Slagle, Government Relations Specialist](#)

[AGENDA ITEM 13](#) - Discussion and possible action to adopt amendments to 22 TAC §153.1.
Definitions

ACTION TAKEN: Ms. Fontana moved for the adoption of the rule as presented. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 14](#) - Discussion and possible action to adopt amendments to 22 TAC Chapter 157, Rules Relating to Practice and Procedure:

- a. 22 TAC §157.3. Scope of Rules
- b. 22 TAC §157.4. Computation of Time
- c. 22 TAC §157.5. Conduct and Decorum
- d. 22 TAC §157.6. Request for Advisory Opinions
- e. 22 TAC §157.7. Denial of a License
- f. 22 TAC §157.8. Adverse Action Against a Licensee or Registrant
- g. 22 TAC §157.9. Notice of Hearing
- h. 22 TAC §157.11. Contested Cases; Entry of Appearance; Continuance
- i. 22 TAC §157.12. Failure to Attend Hearing; Default Judgment
- j. 22 TAC §157.13. Ex Parte Consultations
- k. 22 TAC §157.14. Informal Disposition
- l. 22 TAC §157.15. Decision
- m. 22 TAC §157.17. Final Decisions and Orders
- n. 22 TAC §157.18. Motions for Rehearing; Finality of Decisions
- o. 22 TAC §157.20. Judicial Review
- p. 22 TAC §157.25. Temporary Suspension

ACTION TAKEN: Mr. Beard moved for the adoption of the rule as published. Mr. Padden seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 15](#) - Discussion and possible action to adopt amendments to 22 TAC Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act:

- a. 22 TAC §153.3. The Board
- b. 22 TAC §153.5. Fees
- c. 22 TAC §153.8. Scope of Practice
- d. 22 TAC §153.9. Applications
- e. 22 TAC §153.10. Issuance of Certification, License, or Trainee Approval
- f. 22 TAC §153.11. Examinations
- g. 22 TAC §153.13. Educational Requirements
- h. 22 TAC §153.15. Experience Required for Certification or Licensing

- i. 22 TAC §153.17. Renewal or Extension of Certification and License or Renewal of Trainee Approval
- j. 22 TAC §153.18. Appraiser Continuing Education (ACE)
- k. 22 TAC §153.19. Licensing and Certification for Persons with Criminal Histories
- l. 22 TAC §153.20. Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure
- m. 22 TAC §153.21. Appraiser Trainees and Sponsors
- n. 22 TAC §153.23. Inactive Status
- o. 22 TAC §153.24. Complaint Processing
- p. 22 TAC §153.25. Temporary Out-of-State Appraiser Registration
- q. 22 TAC §153.26. Identity Theft
- r. 22 TAC §153.27. Certification and Licensure by Reciprocity
- s. 22 TAC §153.33. Signature or Endorsement of Appraisal
- t. 22 TAC §153.37. Criminal Matters Referred to Law Enforcement

ACTION TAKEN: Mr. McAnally moved that the amendments be proposed for publication in the Texas Register for public comment as recommended by staff. Mr. Black seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 16](#) - Discussion and possible action to repeal 22 TAC §153.16. Provisional License

ACTION TAKEN: Mr. DeLaGarza moved that the repeal be proposed for publication in the Texas Register for public comment as recommended by staff. Mr. Barba seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 17](#) - Discussion and possible action to close the review of:

- a. 22 TAC, Chapter 155, Rules Relating to Standards of Practice
- b. 22 TAC, Chapter 157, Rules Relating to Practice and Procedure

ACTION TAKEN: Mr. McAnally moved that the rule review of 22 TAC Chapter 155 and 22 TAC Chapter 157 be closed. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 18](#) - Discussion and possible action to open the review of 22 TAC Chapter 159, Rules Relating to Provisions of the Texas Appraisal Management Company Registration and Regulation Act

ACTION TAKEN: Mr. Black moved that 22 TAC Chapter 159 be opened for rule review and submitted for publication in the Texas Register for public comment as recommended by staff. Ms. Fontana seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 19a](#) - Discussion and possible action on recommendations from the Enforcement Committee regarding changing the language in Board orders from “certified funds” to “cashier’s check or money order” to clarify how respondents may submit payment for administrative penalties

ACTION TAKEN: Mr. DeLaGarza moved to approve the changes to Board orders as presented. Mr. Barba seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 19b](#) - Discussion and possible action on recommendations from the Enforcement Committee regarding including the category of property being appraised in all Board orders

ACTION TAKEN: Mr. DeLaGarza moved to approve the changes to Board orders as presented. Mr. McAnally seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 19c](#) - Discussion and possible action on recommendations from the Enforcement Committee regarding retaining criteria that PIC members be certified USPAP instructors

ACTION TAKEN: Mr. DeLaGarza moved to retain the current criteria for PIC members. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 19d](#) - Discussion and possible action on recommendations from the Enforcement Committee regarding taking no additional action to inform SOAH of the federally mandated deadline for processing complaints

ACTION TAKEN: Mr. McAnally moved to take no additional action on this item. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 19e](#) - Discussion and possible action on recommendations from the Enforcement Committee regarding adopting flow charts of complaint process for posting on the website

ACTION TAKEN: The Chair moved to adopt the flow charts as presented. Mr. DeLaGarza seconded the motion, and the Board approved the motion unanimously.

The Chair called for a break at 1:32 pm.

[The Chair reconvened the meeting at 1:45 pm.](#)

[AGENDA ITEM 20a](#) - Discussion and possible action on recommendations from the Executive Committee regarding annual half-day Board workshop

ACTION TAKEN: Mr. Black moved to accept a practice of an annual half-day Board workshop. Ms. Fontana seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 20b](#) - Discussion and possible action on recommendations from the Executive Committee regarding process for leadership transition

ACTION TAKEN: Mr. DeLaGarza moved to accept a practice of leadership transition to accept floor nominations from any Board member to create a slate of officers at the last Board meeting

of the calendar year for election the following February. Mr. Black seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 20c](#) - Discussion and possible action on recommendations from the Executive Committee regarding statutory per diem and travel reimbursement policy, including election by Board members at the time of appointment

ACTION TAKEN: Mr. Beard moved to adopt the Per Diem and Travel Expense Reimbursement Election Form as presented for use by the Board. Mr. McAnally seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 20d](#) - Discussion and possible action on recommendations from the Executive Committee regarding the ASB program for drop-shipping USPAP to Texas appraisers

ACTION TAKEN: Mr. DeLaGarza moved to take no action on this item. Mr. Barba seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 20e](#) - Discussion and possible action on recommendations from the Executive Committee regarding a procedure for adding items to an agenda

ACTION TAKEN: Ms. Fontana moved to approve a policy that a Board member may add an item to the Board agenda with approval of the Chair or with the agreement of at least one other member. Mr. DeLaGarza seconded the motion. After discussion, the motion was withdrawn.

Mr. Beard moved to approve a policy consistent with Robert's Rules of Order, that a Board member may add an item to the agenda with approval of the Chair or a majority vote of the Board. Mr. Padden seconded the motion, and the Board approved the motion by a vote of 8 to 1, with Mr. DeLaGarza voting Nay.

[AGENDA ITEM 21](#) - Discussion and possible action regarding submission of comments to the Bureau of Consumer Finance Protection and other federal agencies regarding proposed federal rules for AMCs

ACTION TAKEN: Mr. Beard moved to direct staff to submit the comments on behalf of the Board. Ms. Fontana seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 22](#) - Discussion and possible action on recommendations from the Budget Committee regarding draft FY2015 budget for the Board

No action was taken.

[AGENDA ITEM 23](#) - Discussion and possible action regarding the Agency's Strategic Plan for FY2015-2019

No action was taken.

[AGENDA ITEM 24](#) - Discussion and possible action regarding alternative standards for evaluating required experience for certification

No action was taken. This item was referred to the Enforcement Committee for a recommendation.

[AGENDA ITEM 25](#) - Request for potential future meeting agenda items

ACTION TAKEN: Mr. DeLaGarza requested that an amended policy or rule change regarding adding items to the agenda be explored by the Executive Committee for future consideration by the Board. Ms. Fontana seconded the motion, and the motion was approved by a vote of 8 to 1, with Mr. McAnally voting Nay.

Mr. McAnally requested that staff processes for dismissing complaints related to evaluating experience credits be reviewed and explored by the Enforcement Committee for future consideration by the Board. Mr. DeLaGarza seconded the motion, and the motion was approved unanimously.

Mr. Padden requested an agenda item to review and discuss a draft agenda for the annual half-day Board training. The Chair approved adding this item to a future agenda.

[AGENDA ITEM 26](#) - Discussion and possible action to schedule future meeting dates

Future meeting dates were confirmed for August 15, 2014, November 20, 2014 (Board training), and November 21, 2014.

[AGENDA ITEM 27](#) - The Chair adjourned the meeting at 3:40 pm.

Minutes accompanying meeting video from July 14, 2014

These minutes set out the agenda item 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. Note, while the written portion of the minutes below are published in agenda order, the Board may have taken items out of order.

The minutes are initially approved by the Board Secretary *for only publication on the website* and become the official record upon ratification by a majority of the Board at a future meeting.



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

[AGENDA ITEM 2](#) - Roll call and discussion and possible action to excuse Board member absences, 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 S. Wickliffe, Ms. Laurie C. Fontana, Mr. Mark McAnally, Mr. Luis F. DeLaGarza, Mr. Walker Beard, Mr. Brian Padden, and Mr. Jesse Barba.

ACTION TAKEN: Mr. DeLaGarza moved to excuse the absences of Mr. Patrick Carlson and Mr. Clayton Black. Ms. Fontana seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 3](#) - Comments from members of the public regarding non-agenda items

There were no public comments.

[AGENDA ITEM 4](#) - Discussion and possible action regarding public comments received from Don Griffin at the February 2014 Board meeting

[Comments were made by Mr. Don Griffin, representing Vinson & Elkins LLP](#)

[Comments were made by Ms. Shannon McClendon, representing herself](#)

ACTION TAKEN: The Chair acknowledged her willingness to serve as a liaison on behalf of the Board as it relates to Mr. Griffin's request subject to the following conditions:

- 1) The Chair will not share information received from Mr. Griffin with other Board members; and
- 2) The Chair will recuse herself from any decision by the Board in the matter of Complaint #13-145.

Ms. Fontana moved to designate the Chair to serve as a liaison on behalf of the Board as it relates to Mr. Griffin's request for direct communication with the Board. Mr. DeLaGarza seconded the motion, and a roll call vote was conducted. The motion failed by a tie vote of 3 to 3, with Mr. Barba, Mr. Padden, and Mr. Beard voting Nay. Ms. Wickliffe abstained.

After further discussion, Ms. Fontana presented her motion again. Mr. DeLaGarza seconded the

motion, and a roll call vote was conducted. The Board approved the motion by a vote of 4 to 2, with Mr. Barba and Mr. Padden voting Nay. Ms. Wickliffe abstained.

The Chair called for a break at 3:43 pm.

[The Chair reconvened the meeting at 3:50 pm.](#)

[AGENDA ITEM 5](#) - Discussion and possible action regarding 22 Tex. Admin. Code §157.31, Investigative Conference

[Comments were made by Ms. Shannon McClendon, representing herself](#)

ACTION TAKEN: Mr. DeLaGarza moved to refer this item to the Enforcement Committee for a recommendation. Mr. McAnally seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 6](#) - Discussion and possible action regarding process for handling public information requests

No action was taken.

[AGENDA ITEM 7](#) - Discussion and possible action regarding the receipt of regular communications and briefings from the Commissioner about issues brought before the Board

No action was taken.

[AGENDA ITEM 8](#) - Discussion and possible action regarding the performance and duties of the Commissioner

No action was taken.

[AGENDA ITEM 9](#) - Executive session:

a. Tex. Gov't Code §551.071 – Consultation to receive advice from legal counsel

b. Tex. Gov't Code §551.074 – Personnel Matters: discussion relating to the performance and duties of the Commissioner

No action was taken. Executive session was not needed.

[AGENDA ITEM 10](#) - Request for potential future meeting agenda items

[AGENDA ITEM 11](#) - Discussion and possible action to schedule future meeting dates

The next regularly scheduled meeting was confirmed for Friday, August 15, 2014.

[AGENDA ITEM 12](#) - The Chair adjourned the meeting at 4:43 pm.

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 necessary to determine how to proceed with the complaint from any person.
- (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 of receipt of the response from respondent to determine whether sufficient evidence of a potential violation of TALCB's statutes or rules, or the Uniform Standards of Professional Appraisal Practice (USPAP) exists to pursue investigation and possible formal disciplinary action. If the staff determines that there is no jurisdiction, no violation exists, or there is insufficient evidence to prove a violation, or the complaint warrants dismissal, including contingent dismissal, under subsection (j) of this section, the complaint shall be dismissed with no further processing.
- (h) If the complaint is not dismissed under subsection (g) of this section, a formal

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complaint will be opened and it will be investigated by a staff investigator or peer investigative committee, as appropriate. Staff may also open a formal complaint on its own motion. A written notice that a formal complaint has been opened will be sent to the complainant and respondent.

(i) 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 for that purpose. Reports prepared by a peer investigative committee shall be reviewed by the Standards and Enforcement Services Division, which shall determine the appropriate disposition of the complaint.

(j) 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 (7) 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 appraiser's honesty, trustworthiness or integrity to the board, the appraiser'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 appraiser's honesty, trustworthiness or integrity to the board, the appraiser'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 respondent completes all remedial measures required in the agreement within a certain 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 discipline, including:

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

(ii) The nature of the disciplinary sanctions imposed;

(iii) The length of time since the previous 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;

(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 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 sanctions guidelines contained herein 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;

(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;

(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;

FOR REFERENCE

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

(IV) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

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

(VI) Up to \$250 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, 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 appraiser's practice;

(vi) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

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

(viii) Up to \$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.

(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;

(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 appraiser's practice;

(IV) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

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

(VI) Up to \$250 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules or the Act, up to the maximum \$1,000 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 appraiser's practice;

(vi) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

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

(viii) Up to \$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.

(F) 2nd 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 appraiser's practice;

(vi) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

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

(viii) Up to \$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.

(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 appraiser's practice;

(vi) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

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

(viii) \$1,000 to \$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.

(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 appraiser's practice;

(vi) Restrictions on a certified appraiser's ability to sponsor any appraiser trainees;

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

(viii) \$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.

(I) 3rd Time Discipline Level 3-- violations of the Act, Board Rules, or

FOR REFERENCE

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; and
(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.

(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
(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, the Rules, and/or USPAP.

(k) 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.

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

BRANDON S. SIMPSON
TX-1340177-T

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APPLICATION 13-105

AGREED FINAL ORDER

On the _____ day of _____, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the application for general certification of Brandon S. Simpson (the "Applicant").

In order to conclude this matter, Brandon S. Simpson neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the action set out in this Agreed Final Order. 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. Applicant is an authorized appraiser trainee in Texas who holds authorization number TX-1340177-T and was authorized by the Board during all times material to the above-noted application.
2. Applicant appraised a commercial office building property located at 8303 North Mopac Expressway, Austin, Texas and (the "MoPac property") on or about November 23rd, 2011 and a commercial office building property located at 5301 Southwest Parkway, Austin, Texas (the "Southwest property") on September 17th, 2012 (collectively, the "properties")
3. Applicant filed an application for certification with the Board.
4. Applicant was selected for audit in accordance with state and federal legal requirements. Applicant's appraisals of the properties were reviewed during the audit.
5. Upon review of Applicant's experience, concerns regarding whether his experience was performed in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP") were evaluated.
6. Applicant's application was denied by letter dated April 3rd, 2013, after which he appealed in writing.
7. The denial of Applicant's application was based upon violations of TEX. OCC. CODE §§ 1103.202, 1103.205, 1103.405 and 22 TEX. ADMIN. CODE §§ 153.15(e) and (g) and

153.20(a)(6) and 155.1(a), which all relate to USPAP deficiencies in his submitted experience.

8. The parties have reached agreement on resolution of his application denial matter. The parties agree that Applicant shall be issued a probationary general certification under the terms and conditions outlined in this order. This order shall fully resolve the application matter by means of this order in accordance with TEX. OCC. CODE § 1103.458.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over these matters pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.

2. 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. **PROBATIONARY CERTIFICATION.** Upon timely completion of all terms of this order, be issued a state certification as a general certified real estate appraiser on a probationary basis as prescribed by TEX. OCC. CODE § 1103.2091 and 22 TEX. ADMIN. CODE § 153.20(k)-(m), under the conditions outlined in this order. The probationary period shall remain in effect for the first six (6) month period Respondent is certified, after which, Applicant may be issued a non-probationary certification as a real estate appraiser;
2. **EDUCATION.** On or before February 14th, 2015, Applicant shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance and have an exam. Applicant must receive a passing grade on the exam given in each class. None of the required classes will count toward Applicant's continuing education requirements for licensure. **Applicant is solely responsible for locating and scheduling classes to timely satisfy this 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;
3. **MENTORSHIP.** On or before February 14th, 2015, Applicant shall complete 8 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. Applicant shall submit a certification of completion signed by the approved certified USPAP instructor on or before the due date listed for the mentorship requirement. Applicant

shall also submit a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees form on or before the due date listed for the mentorship requirement. **Applicant is solely responsible for locating and scheduling an approved mentor to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.** The 8 hours of mentorship shall include instruction in commercial report writing.

4. **DISCLOSURE OF PROBATIONARY STATUS REQUIRED.** Respondent shall comply with the requirements of TEX. OCC. CODE § 1103.2091 regarding disclosure of his probationary status to all clients before accepting an assignment.
5. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
6. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

ACKNOWLEDGMENT AND WAIVER

APPLICANT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE APPLICANT'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 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

Applicant 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. Applicant 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.

Applicant shall send all documents and payments necessary for compliance by: (1) email to: 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.

Signed this 17th day of July, 2014.

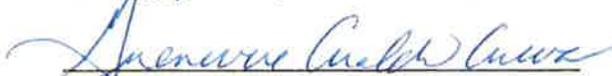


BRANDSON S. SIMPSON

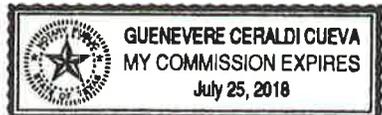


TED WHITMER, ATTORNEY FOR
BRANDSON S. SIMPSON

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 17th day of July, 2014, by BRANDSON S. SIMPSON, to certify which, witness my hand and official seal.

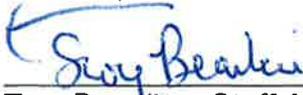


Notary Public Signature



Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 21st day of July, 2014.



Troy Beaulieu, Staff Attorney
Texas Appraiser Licensing and Certification Board

Signed by the Commissioner this _____ day of _____, 2014.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this _____ day of _____, 2014.

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

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.
14-079

Billy F. Jackson
TX-1320715-G

AGREED FINAL ORDER

On the _____ day of _____, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Billy F. Jackson (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 and 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 general real estate appraiser who holds certification number TX-1320715-G and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 14 Deerberry Court, Spring, Texas 77380 (the "Property") on or about October 22, 2013.
3. Thereafter, the complaint, numbered 14-079, was filed with the Board by StreetLinks Lender Solutions. 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 (APA), and the Act, notified Respondent of the nature of the accusations involved. 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.
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(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Property:

- a. USPAP Standards Rules 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to adequately identify and report the site description;
 - b. USPAP Standards Rules 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to adequately identify and report improvements;
 - c. USPAP Standards Rules 1-3(a) and 2-2(b)(viii); 1-1(b) – Respondent failed to support the opinions and conclusions in the Neighborhood section of the appraisal report;
 - d. USPAP Standards Rules 1-3(b) and 2-2(b)(ix) – 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(b)(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(b)(viii); 1-1(a) and 1-4(a) – 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 or made inappropriate adjustments to the sales used, and did not disclose the analysis and reasoning behind the adjustments made or not made;
 - g. USPAP Standards Rule 2-1(a) – The appraisal report for the Property contained incorrect certifications; and
 - h. USPAP Standards Rules 1-1(a), 1-1(b), 1-1(c), 2-1(a), and 2-1(b) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained several substantial errors of omission or commission by not employing correct methods and techniques. This resulted 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. 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 Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE CHPT. 1103.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(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. **MENTORSHIP.** On or before August 15, 2015. 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 the above-noted violations and proper trainee supervision, on or before August 15, 2015.
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 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. 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; (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.

Signed this 25th day of June, 2014.

Billy F. Jackson
Billy F. Jackson

Ted Whitmer
Ted Whitmer, Attorney for
Billy F. Jackson

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 25th day of June, 2014, by Billy F. Jackson, to certify which, witness my hand and official seal.

Bonnie L Hosmer
Notary Public Signature

Bonnie L. Hosmer
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 26th day of June, 2014.

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

Signed by the Commissioner this _____ day of _____, 2014.

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

Approved by the Board and Signed this _____ day of _____, 2014.

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

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

LAURA ALI
TX-1334276-R

§
§
§
§
§
§
§
§

DOCKETED COMPLAINT NO.
14-034

AGREED FINAL ORDER

On the 15th day of July, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Laura Ali (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 and 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 TX-1334276-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at: 1309 Bomar Street, Houston, Texas (the "Property") on or about September 28, 2012.
3. Thereafter, a complaint was filed with the Board by LSI Appraisal, LLC., which alleged Respondent violated various provisions of the Uniform Standards of Professional Appraisal Practice ("USPAP").
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. 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 provided the documentation.
5. 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 report for the Property:
 - a) USPAP Ethics Rule (conduct provisions) – Respondent misrepresented she had inspected the property when she did not do so;

- b) USPAP Record Keeping Rule -- Respondent failed to maintain a work file containing the documentation necessary to support of his analyses, opinions and conclusions;
- c) USPAP Scope of Work Rule 1-2(h) & Standard 2-2(vii) – Respondent failed to develop and perform the scope of work necessary to develop credible assignment results;
- d) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report adequately the site and improvements description;
- e) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix) – Respondent failed to identify and analyze the effect on use and value of economic supply and demand and market area trends and failed to provide a summary of her rationale for her determination of the property’s highest and best use;
- f) USPAP Standards 1-4(b)(i) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to utilize an appropriate method or technique to develop an opinion of site value and did not employ recognized methods and techniques;
- g) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to collect, verify, analyze, and reconcile the cost of new improvements and did not employ recognized methods and techniques;
- h) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent failed to correct, verify, analyze and reconcile comparable sales data adequately and did not employ recognized methods and techniques correctly in the Sales Comparison Approach;
- i) USPAP Standards 1-5(a) & 2-2(b)(viii) – Respondent failed to report and analyze all agreements of sale, options or listings of the Property current as of the effective date of the appraisal;
- j) USPAP Standards 1-5(b) & 2-2(b)(viii) – Respondent failed to report and analyze all sales of the Property within three years prior to the effective date of the appraisal; and,
- k) USPAP Standards 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 several substantial errors of omission or commission which significantly impacted the appraisal and resulted in a misleading appraisal report. She also misrepresented that she inspected the property when she did not do so.

6. Respondent made material misrepresentations and material omissions of material fact in his appraisal of the Property as detailed above.

7. 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 Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE CHPT. 1103.
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(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 that Respondent's Texas appraiser certification (TX-1334276-R) be suspended, effective 5:00 p.m. (CST) on August 15th, 2014 and ending at 5:00 p.m. (CST) on August 14th, 2016. IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on September 14th, 2014, the suspension is to be fully probated for 23 months, ending 5:00 p.m. (CST) on August 14th, 2016, subject to the following terms and conditions:

1. **EDUCATION.** On or before August 14th, 2015, 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 certification. **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;
 - b. A minimum, 7 classroom hour course in the Sales Comparison Approach;
 - i. No examination shall be required;
 - c. A minimum, 7 classroom hour course in the Cost Approach;

- i. No examination shall be required;
 - d. A minimum, 7 classroom hour course in the Income Approach;
 - i. No examination shall be required;
 - e. A minimum, 7 classroom hour course in Residential rReport Writing;
 - i. No examination shall be required;
- 2. **MENTORSHIP.** On or before November 14th, 2014, 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. 2 hours of mentorship in sales comparison approach;
 - b. 1 hour of mentorship in residential report writing; and,
 - c. 1 hour of mentorship in sales history analysis and disclosure.
- 3. **WRITTEN REPORTS.** On or before December 1st, 2014, Respondent shall submit to the Board a 1 page report for each of the three mentorship topic areas itemized above in which:
 - (i) she explains the deficiencies in her appraisal relative to the specific mentorship topic;
 - (ii) she describes what she learned from the specific mentorship session; and,
 - (iii) explains how she intends to apply what he learned during the specific mentorship session to her appraisal practice going forward in order to avoid future problems with her work product; and,
- 4. **ADMINISTRATIVE PENALTY.** On or before September 4th, 2014. Respondent shall pay to the Board an administrative penalty of five thousand dollars (\$5,000.00), by cashier's check or money order, within twenty (20) days of the effective date of this order (i.e. on or before September 4th, 2014).

5. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
6. 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 TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, 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. 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.

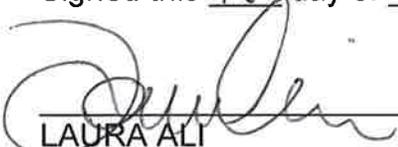
Respondent shall send all documents and payments necessary for compliance by: (1) email to: compliance.talcb@talcb.texas.gov; (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification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

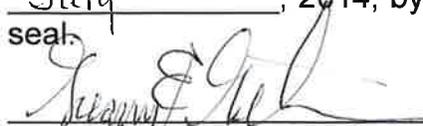
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 15th day of July, 2014.



LAURA ALI

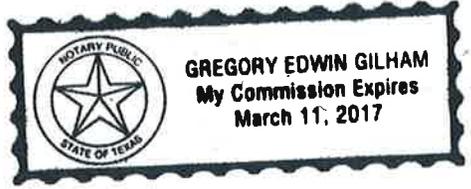
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 15 day of July, 2014, by LAURA ALI, to certify which, witness my hand and official seal.



Notary Public Signature

Gregory E Gilham

Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 21 day of July, 2014.



Troy Beaulieu, Staff Attorney
Texas Appraiser Licensing and Certification Board

Signed by the Commissioner this _____ day of _____, 2014.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this _____ day of _____, 2014.

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



AGENDA ITEM 7

Discussion and possible action to approve request for modification of agreed order in the matter of Complaint #13-126 (Muriel Pope, TX-1338570-G).

Dear Kristen Worman

I am writing regarding Complaint No.: 13-126.

I have completed all of the terms of my AFO except for a manufactured home course. I have searched the internet, appraisal institute, champions, and all the schools listed on TALCB but none are offering a in class manufactured home course. I would like to ask the Board for modification of my agreed order to substitute the 7 hour class I am unable to locate for 4 additional hours on mentorship on the topic of manufactured housing or whatever substitute they think appropriate. Thank you for your consideration.

Sincerely,

Muriel Pope

TX1338570G
(936)676-8464
Muriel@consolidated.net
504 Card Dr.
Lufkin, TX 75901

vs.

DOCKETED COMPLAINT NO.:
13-126

MURIEL J. POPE
TX-1330517-R

AGREED FINAL ORDER

On the 22 day of Nov, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Muriel J. Pope (the "Respondent").

In order to conclude this matter, the Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and 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-1335017-R, and was certified by the Board during all times material to the above-noted complaint.

2. Respondent appraised the below-noted real properties on the specified dates (collectively, the "Properties"):

- a. 137 Brook Hollow Lane, Zavalla, Texas 75980, with a date of value opinion of June 13, 2011 and a date of report of June 20, 2011;
- b. 690 Pamela Lane, Lufkin, Texas 75904, with a date of value opinion of August 29, 2011 and a date of report of September 15, 2011;
- c. 1988 County Road 4098, Timpson, Texas 75975, with a date of value opinion of May 25, 2011 and a date of report of May 25, 2011 ; and
- d. 1700 County Road 4020, Crockett, Texas 75835, with a date of value opinion of August 11, 2011 and a date of report of August 25, 2011.

3. Thereafter a referral for investigation was made to the Board by the Federal Housing Administration/U.S. Department of Housing and Urban Development ("HUD") on or about January 14, 2013 (the "Referral"). Pursuant to the Referral from HUD, the Board's Standards and Enforcement Services (SES) Division staff-initiated Complaint Number 13-126 against the Respondent on or about January 15, 2012 (the "Complaint"). The Board reviewed 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 in the Complaint and afforded the Respondent an opportunity to respond. In response to the Complaint, the Respondent was also requested to provide certain documentation to the Board. The Respondent timely responded.

5. As a result of the Board's investigation, the Board alleges that the Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3)¹ and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal reports for the Properties:

- a) USPAP Ethics Rule (Record Keeping) – Respondent violated the Ethics Rule because the Respondent failed to maintain a workfile containing all data, information, and documentation necessary to support the appraiser's opinions and conclusions.
- b) USPAP Ethics Rule-(Conduct)-- Respondent violated the Ethics Rule because the Respondent communicated assignment results in a misleading manner through the omission of material facts;
- c) USPAP Competency Rule – Respondent violated the Competency Rule because the Respondent did not acquire the necessary competency to perform the assignment and completed the assignment in an incompetent manor;
- d) USPAP Scope of Work Rule and 1-2(h) and 2-2(b)(vii) – Respondent failed to provide original photographs of the Properties and comparable properties, as required by the Fair Housing Administration assignment conditions;
- e) USPAP Standards 1-2(a) and 2-2(b)(i) – Respondent did not identify the client, FHA/HUD, as an intended user of the report;
- f) USPAP Standards 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify and report the site description adequately or negligently misstated the lot size;
- g) USPAP Standards 1-2(f) or 1-2(g), 2-1(b)(c) and 2-2(b)(x) – Respondent completed an appraisal report "as is" which did not accurately disclose any extraordinary assumptions, hypothetical conditions, or limiting conditions that directly affected the analysis, opinions and conclusions;
- h) USPAP Standards 1-2(e)(iii), 1-4(g) and 2-2(b)(viii) – Respondent did not identify and consider the effect on value of any personal property, the manufactured home, that is not real property but included in the appraisal;
- i) USPAP Standards 1-3(a) and 2-2(b)(viii); 1-1(b) – Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply and demand, physical adaptability of the real estate and market area trends;

¹ Effective December 27th, 2010, this rule was renumbered without substantive changes.

- j) USPAP Standards 1-3(b) and 2-2(b)(ix) – Respondent failed to properly develop the Respondent's opinion of highest and best use;
- k) USPAP Standards 1-4(b)(i) and 2-2(b)(viii) – Respondent failed to use an appropriate method or technique to develop an opinion of site value;
- l) USPAP Standards 1-4(b)(ii) and 2-2(b)(viii) – Respondent failed to collect, verify, analyze, and reconcile the cost new of improvements;
- m) USPAP Standards 1-4(b)(iii) and 2-2(b)(viii) – Respondent failed to collect, verify, analyze, and reconcile accrued depreciations;
- n) USPAP Standards 1-4(a) and 2-2(b)(viii); 1-1(a) and 1-4(a) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach;
- o) USPAP Standards 1-4(e) and 2-2(a)(viii) – Respondent did not appropriately analyze and report the effect on value, if any, on the assemblage of various estates or component parts of a property (that the subject improvements were titled as personal property as of the effective date of the report and not eligible for a FHA insured mortgage); and
- p) USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b) – For the reasons detailed above, Respondent produced non-credible and misleading appraisal reports for the Properties that contained several substantial errors of omission or commission by not employing correct methods and techniques.

6. Respondent made material misrepresentations and material omissions of material fact with respect to his appraisal of the properties as detailed above.

7. The parties enter into this consent order in accordance with TEX. OCC. CODE § 1103.458.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to TEX. OCC. CODE § 1103.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3)².
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(9)³ 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.

² Effective December 27th, 2010, this rule was renumbered without substantive changes.

³ Effective December 27th, 2010, this rule was renumbered without substantive changes.

ORDER

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that Respondent's Texas state certification (TX-1330517-R) is hereby suspended for twelve (12) months, beginning on Friday, November 22, 2013, with this suspension being fully probated under the following terms and conditions:

1. **EDUCATION.** On or before November 22, 2014, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this 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 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 22, 2014.
 - b. A classroom course on the sales comparison approach, a minimum of seven (7) class hours, on or before November 22, 2014.
 - c. A classroom course on the cost approach, a minimum of seven (7) class hours, on or before November 22, 2014.
 - d. A classroom course which covers the topic of appraising manufactured homes, a minimum of seven (7) class hours, on or before November 22, 2014.
2. **MENTORSHIP.** On or before November 22, 2014. Respondent shall complete eight (8) 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 Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.**
 - a. Eight (8) hours of mentorship concerning the above noted violations in the Agreed Final Order (specifically, the sales comparison approach, the cost approach, and appraising manufactured homes), on or November 22, 2014.
3. Respondent shall fully and timely comply with all of the provisions of the 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

RESPONDENT'S FAILURE TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE SHALL RESULT IN THE AUTOMATIC REVOCATION OF PROBATION AND THE SUSPENSION IMPOSED IN THIS AGREED FINAL ORDER SHALL BE EFFECTIVE FOR THE FULL TERM COMMENCING ON THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION. IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, THE RESPONDENT SHALL BE IMMEDIATELY ASSESSED A \$1,000 ADMINISTRATIVE PENALTY.

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. 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.

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. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming receipt by the board of all the necessary documents.

Respondent shall send all documents and payments necessary for compliance by: (1) email to 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.

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).

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.

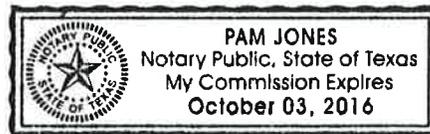
Signed this 24 day of October, 2013.


Muriel J. Pope, TX-1330517-R

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this 24~~th~~ day of October, 2013, by Muriel J. Pope, TX-1330517-R, to certify which, witness my hand and official seal.


Notary Public Signature

Pam Jones
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 14~~th~~ day of October, 2013.

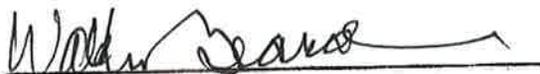

Mark J. Mrnak, SES Division Director and Staff Attorney
Texas Appraiser Licensing and Certification Board

Signed by the Commissioner this 22 day of Nov, 2013.



Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 22 day of Nov, 2013.



Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board



AGENDA ITEM 8

Discussion and possible action on proposal for decision from the State Office of Administrative Hearings in the matter of SOAH Docket #329-14-2114.ALC (Robert Chandler Smith, TX-1337411-L).

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

April 28, 2014

Douglas E. Oldmixon
Administrator
Texas Appraiser Licensing and Certification Board
1700 N. Congress Avenue, Suite 400
Austin, TX 78701

VIA INTERAGENCY

RE: Docket No. 329-14-2114.ALC; Texas Appraiser Licensing and Certification Board v. Robert Chandler Smith

Dear Mr. Oldmixon:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Texas Administrative Code § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink that reads "Michael J. O'Malley".

Michael J. O'Malley
Administrative Law Judge

MJO/Ls
Enclosure

xc: Troy Beaulieu, Staff Attorney, 1700 N. Congress Ave., Suite 400, Austin, TX -
VIA INTERAGENCY
Robert Chandler Smith, 8127 Mesa Drive, Ste. B-206-177, Austin, TX 78759 - **VIA REGULAR MAIL**
Mark Mrnak, TALCB, 1700 N. Congress Ave., Suite 400, Austin, TX 78701 -
VIA INTERAGENCY

300 W. 15th Street, Suite 502, Austin, Texas 78701/ P.O. Box 13025, Austin, Texas 78711-3025
512.475.4993 (Main) 512.475.3445 (Docketing) 512.322.2061 (Fax)
www.soah.state.tx.us

rules involved; and a short, plain statement of the matters asserted, as required by Texas Government Code § 2001.052.

The hearing was convened as scheduled before ALJ Michael J. O'Malley on April 22, 2014, at SOAH's offices in Austin, Texas.¹ Staff appeared at the hearing. Respondent did not appear. Staff offered evidence and testimony in the record to show jurisdiction, notice, and TALCB's authorization and precedent for the proposed sanction. Staff moved to proceed on a default basis, which was granted. The hearing was adjourned and the record closed the same day, April 22, 2014.

II. DISCUSSION

Based upon the following Findings of Fact and Conclusions of Law and in accordance with 1 Texas Administrative Code § 155.501, TALCB's motion for default is granted. The ALJ recommends that Respondent's state real estate appraiser certification be revoked and that he be assessed an administrative penalty of \$5,000.00, as recommended by Staff.

III. FINDINGS OF FACT

1. Respondent, Robert Chandler Smith, is a state-certified real estate appraiser who currently holds certification number TX-1337411-L and held that license during all times material to the conduct alleged by the Staff of the Texas Appraiser Licensing and Certification Board (Staff/TALCB).
2. Respondent's address, as provided to TALCB, is 8127 Mesa Drive, Suite B206-177, Austin, Texas 78759.
3. On February 10, 2014, Staff sent notice of the hearing, along with the original statement of charges, to Respondent's address of record with TALCB.
4. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.

¹ Respondent appeared at the April 14, 2014 telephonic prehearing conference and indicated he was ready to proceed to the hearing on the merits scheduled for April 22, 2014.

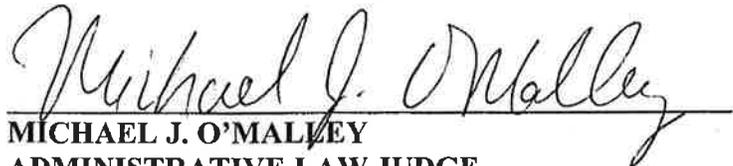
5. The notice included a disclosure, in at least 12-point, bold-face type, that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice could be granted by default, if Respondent failed to appear at the hearing.
6. On or about April 26, 2013, Respondent prepared and submitted an appraisal report for his client, Eugene A. Naparst.
7. The appraisal of the property had a report date of April 26, 2013, and an effective date of April 19, 2014.
8. Attached to the appraisal report was a copy of a real estate credential purportedly issued by TALCB to Robert Chandler Smith for state license number TX-1337411-L.
9. The purported credential was not issued by TALCB. The purported credential was invalid because it had been tampered with to make it appear as a valid credential.
10. Respondent's father, also named Robert Chandler Smith, had his credential as a state certified residential real estate appraiser (TX-1333292-R) revoked by final order on April 16, 2011.
11. Respondent was aware of the altered purported credential or participated in the tampering of the purported credential.
12. The purported credential was hand-delivered to Mr. Naparst during the inspection of the property in an effort to misrepresent that the credential was valid.
13. Respondent did not inspect Mr. Naparst's property, but represented to Mr. Naparst that he inspected the property.
14. Respondent's father inspected the property.
15. Respondent represented to Staff that he inspected the property.
16. Respondent allowed his father to inspect the property knowing that his father's credential as an appraiser had been revoked.
17. On August 22, 2013, Mr. Naparst filed a complaint.
18. After numerous requests, Respondent failed to provide Staff his work file material in connection with the complaint.
19. On April 14, 2014, the Administrative Law Judge (ALJ) convened a telephonic prehearing conference in which Respondent appeared and announced that he was ready to proceed to hearing on April 22, 2014.
20. The hearing was convened as scheduled before ALJ Michael J. O'Malley on April 22, 2014, at the State Office of Administrative Hearings' (SOAH's) offices in

Austin, Texas. Staff appeared at the hearing. Respondent did not appear. The hearing was adjourned and the record closed the same day, April 22, 2014.

IV. CONCLUSIONS OF LAW

1. TALCB has jurisdiction over this matter pursuant to Texas Occupations Code §§ 1103.451-1103.5545.
2. SOAH has jurisdiction over all matters relating to the conduct of a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to Texas Occupations Code §§ 1103.508 and 1103.518 and Texas Government Code ch. 2003.
3. Pursuant to 22 Texas Administrative Code § 157.9(b), service of the notice of hearing upon Respondent was complete and effective upon proper mailing of the notice to Respondent's most recent address as shown by the records of the Board.
4. Adequate and timely notice of the hearing was provided in accordance with Texas Government Code §§ 2001.051 and 2001.052, 22 Texas Administrative Code § 157.9, and SOAH's default rule, 1 Texas Administrative Code § 155.501.
5. The factual allegations set out in the notice of hearing and the original statement of charges are deemed admitted, pursuant to 1 Texas Administrative Code § 155.501.
6. Respondent violated Texas Occupations Code § 1103.405 and failed to comply with 22 Texas Administrative Code §§ 153.20(a)(1), (6), (7), (12), (18), (19), (20), and (24); 155.1; and 153.24(f).
7. Respondent's license should be revoked and he should be assessed an administrative penalty of \$5,000.00, pursuant to 22 Texas Administrative Code §§ 153.20(a) and 153.24(j)(2) and (j)(3)(C), and Texas Occupations Code §§ 1103.518 and 1103.552.

SIGNED April 28, 2014.


MICHAEL J. O'MALLEY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARING



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 9

Discussion and possible action regarding compliance with agreed order in the matter of Complaint #13-099 (Abbie Gail Hawkins, TX-1338340-R).

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

ABBIE GAIL HAWKINS
TX-1338340-R

§
§
§
§
§
§
§
§

DOCKETED COMPLAINT NO. 13-099

AGREED FINAL ORDER

On the 21st day of December, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Abbie Gail Hawkins (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 and further agrees to the disciplinary action set out in this Agreed Final Order.

FINDINGS OF FACT

1. Respondent Abbie Gail Hawkins is a Texas state certified residential real estate appraiser who holds certification number TX-1338340-R and was certified or licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at 3930 Feagan Street, Houston, Texas (the "property") on or about February 2nd, 2008.
3. A staff-initiated complaint was filed with the Board based upon a referral from The Fraud Unit of the Texas Department of Insurance. The complaint alleged that the Respondent produced an appraisal report for the property that contained violations of the Uniform Standards of Professional Appraisal Practice ("USPAP").
4. Thereafter the Board notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board, which was received.
5. The parties enter into this consent order ("Order") in accordance with TEX. OCC. CODE § 1103.458.
6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a) by the following acts or omissions which did not conform to the USPAP:

- a) USPAP Scope of Work Rule; 1-2(h) & 2-2(b)(v)(ii) – Respondent failed to perform the scope of work necessary to develop credible assignment results and disclose that scope of work in the report;
- b) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the site and improvement(s) description for the property;
- c) USPAP Standards 1-3(a) & -2(b)(viii) – Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply and demand, physical adaptability of the real estate and market area trends;
- d) USPAP Standards 1-3(b) & 2-2(b)(viii) – Respondent failed to provide a summary of her rationale for her termination of the property's highest and best use;
- e) USPAP Standards 1-4(b)(i) & 2-2(b)(viii) – Respondent failed to employ appropriate method or technique to determine the property's site value and did not provide her supporting rationale for this determination;
- f) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii) – Respondent failed to collect, verify, analyze and reconcile the cost new of improvements;
- g) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii) – Respondent failed to collect, verify, analyze and reconcile accrued depreciations;
- h) USPAP Standards 1-1(a) & 1-4(b) – Respondent did not employ recognized methods and techniques in his cost approach;
- i) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized methods and techniques in his sales comparison approach;
- j) USPAP Standards 1-5(a) & 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,
- k) USPAP Standards 1-1(a), 1-1(b), and 1-1(c) – For the reasons detailed above, Respondent produced an appraisal for the property that contained substantial errors of omission or commission by not employing correct methods and techniques as detailed above. This resulted in an appraisal that was not credible or reliable.

7. Respondent's report contained material misrepresentations and omissions of material fact as detailed above.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).
3. Respondent made material misrepresentations or omissions of material facts as prohibited by 22 TEX. ADMIN. CODE § 153.20(a)(12).
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 that Respondent's Texas appraiser certification be suspended for a period of 6 months, effective 5:00 p.m. (CST) on February 21st, 2014.

IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on February 21st, 2014, the suspension is to be fully probated for 6 months ending 5:00 p.m. (CST) on August 20th, 2014, subject to the following terms and conditions:

1. **EDUCATION.** On or before July 21st, 2014, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance and have an exam. Respondent must receive a passing grade on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for certification. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this 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; and,
 - B. A minimum 7 classroom hour course in the sales comparison approach;
 - i. No examination shall be required for this course;
2. **MENTORSHIP.** On or before May 21st, 2014, Respondent shall complete 20 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 on or before the due date listed for the mentorship requirement. Respondent shall also submit a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees form on or before the due date listed for the mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.** The 20 hours of mentorship shall include:

- A. 7 hours on the sales comparison approach;
 - B. 7 hours on the cost approach;
 - C. 3 hours on listing and sales history analysis; and,
 - D. 3 hours on report writing.
4. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
5. 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

RESPONDENT'S FAILURE TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE SHALL RESULT IN THE AUTOMATIC REVOCATION OF PROBATION AND THE SUSPENSION IMPOSED IN THIS AGREED FINAL ORDER SHALL BE EFFECTIVE FOR THE FULL TERM COMMENCING ON THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION. IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, THE RESPONDENT SHALL BE IMMEDIATELY ASSESSED A \$1,000 ADMINISTRATIVE PENALTY.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, 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. 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.

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. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming receipt by the Board of all the necessary documents.

Respondent shall send all documents and payments necessary for compliance by: (1) email to 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.

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).

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 ____ day of _____, 2013.

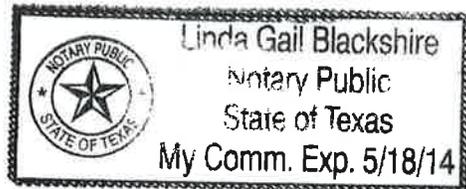
Abbie Gail Hawkins
ABBIE GAIL HAWKINS

T. Whitmer
TED WHITMER, ATTORNEY FOR
ABBIE GAIL HAWKINS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 2nd day of December, 2013, by ABBIE GAIL HAWKINS, to certify which, witness my hand and official seal.

Linda Gail Blackshire
Notary Public Signature

Linda Gail Blackshire
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 3RD day of DECEMBER, 2013.

Troy Beaulieu
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 21 day of Feb, 2014.

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

Approved by the Board and Signed this 21 day of Feb, 2014.

Walker Beard
Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board

CHAMPIONS
SCHOOL OF REAL ESTATE, INC.

CERTIFICATE OF ACHIEVEMENT

This is to certify that
Abbie G. Hawkins

has successfully completed 14 hours of study in

CE Residential Site Valuation & Cost Approach 2nd Edition

and is therefore entitled to this Certificate of Achievement

Given on Friday, July 18, 2014

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

Deena Falk
Campus Manager

Pat D. Anderson
Owner and President

Provider number:

Certificate number: 1350266



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 10

Report by AMC Advisory Committee.

TALCB Board Members

Jamie S. Wickliffe
Chair

Laurie C. Fontana
Vice Chair

Mark A. McAnally
Secretary

Jesse Barba, Jr.

Walker R. Beard

Clayton P. Black

Patrick M. Carlson

Luis F. De La Garza, Jr.

Brian L. Padden

Douglas E. Oldmixon
Commissioner

AMC Advisory Committee Report August 15, 2014

Members: Laurie Fontana, Chair, Sara Oates and Lawrence McNamara

Since the May 2014 Board meeting, the AMC Advisory Committee met on June 4, 2014 and July 18, 2014.

Meeting on June 4, 2014

Committee Members in attendance: Laurie Fontana and Sara Oates.

Staff in attendance: Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Mark Mrnak, Director-SES; Troy Beaulieu, Managing Attorney; Kyle Wolfe, Staff Attorney; Denise Sample, Licensing Manager; and Amy Jasper, Licensing Supervisor.

Public in attendance: Kimberly Drake-Loy, CoreLogic Collateral Solutions, LLC; David Montesana, ServiceLink; William B. Owen, LandSafe Appraisal Services, Inc.; and Tony Pistilli, AXIOS Valuation Solutions.

The Committee discussed several items, including AMC complaints, compliance audits, proposed federal regulations for AMCs, reasonable and customary fees, and VA and FHA appraiser lists. The Committee also considered proposed amendments to the rules for AMCs in Chapter 159, Texas Administrative Code, Title 22, and developing a rule for appraiser monitoring and reporting. The Committee approved the submission of comments in response to the proposed federal regulations for AMCs. No specific action was taken on other items at the meeting, but the Committee requested staff to bring additional language and suggestions regarding proposed audits and a penalty matrix for AMCs to the next meeting. The Committee continues to watch these developments and will consider the following issues at future meetings:

- Proposed amendments to Chapter 159, Texas Administrative Code, Title 22;
- AMC complaints, including developing a penalty matrix, and reasonable and customary fees; and
- Audits of AMCs.

The Committee will meet again at 11:00am on July 18, 2014.

Meeting on July 18, 2014

Committee Members in attendance: Laurie Fontana and Sara Oates. Lawrence McNamara joined the meeting at 2:30pm.

Staff in attendance: Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Mark Mrnak, Director-SES; Troy

Beaulieu, Managing Attorney; Kyle Wolfe, Staff Attorney; Denise Sample, Licensing Manager; and Amy Jasper, Licensing Supervisor.

Public in attendance: William B. Owen, LandSafe Appraisal Services, Inc.

The Committee discussed several items, including AMC complaints, compliance audits, developing a penalty matrix for AMCs, panel management and fee structure, and possible revisions to the scope of work in 22 Tex. Admin. Code §159.155, *Periodic Review of Appraisals*. The Committee plans to host a workshop in the future to invite stakeholder input on the scope of work for reviews performed under Rule 159.155. In addition, the Committee continues to monitor AMC licensing fees to ensure reasonableness.

As part of the quadrennial rule review process, the Committee also considered proposed amendments to the rules for AMCs in Chapter 159, Texas Administrative Code, Title 22. In particular, the Committee proposes reducing the percentage of periodic reviews to be performed by AMCs from five to two percent. The Committee recommends proposal of the rules to the Board for publication in the Texas Register.

The Committee will consider the following issues at future meetings:

- Compliance audits for AMCs;
- Developing a penalty matrix for AMCs;
- Holding a workshop to consider the scope of work for reviews performed under Rule 159.155;
- Reasonable and customary fees;
- Staff initiated complaints; and
- Panel member termination form.

The Committee did not set a future meeting date.



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 11

Report by Budget Committee.

TALCB Board Members

Jamie S. Wickliffe
Chair

Laurie C. Fontana
Vice Chair

Mark A. McAnally
Secretary

Jesse Barba, Jr.

Walker R. Beard

Clayton P. Black

Patrick M. Carlson

Luis F. De La Garza, Jr.

Brian L. Padden

Douglas E. Oldmixon
Commissioner

Budget Committee Report August 15, 2014**Members: Walker Beard, Chair, Patrick Carlson and Brian Padden**

Since the May 2014 Board meeting, the Budget Committee met via teleconference on July 31, 2014.

Meeting on July 31, 2014

Committee Members in attendance: Walker Beard and Brian Padden

Other Board Members in attendance: N/A

Staff in attendance: Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Melissa Huerta, Director-Staff Support Services; Kendall Tolbert, Budget Analyst.

Public in attendance: N/A

The Committee discussed the financial state of the Board and reviewed the draft budget for FY2015. The Committee recommends revising the draft budget to include a decrease in renewal fees for all license categories. The Committee also recommends establishing a reserve fund for education to be funded by administrative penalties collected by the Board. Possible uses for this fund would be the cost to write and develop a 2-hour Texas only legal update course for appraisers or updating the survey of reasonable and customary appraisal fees conducted by the Texas A&M University Real Estate Center on a biennial basis. The Committee also recommends establishing a separate reserve fund for facilities. This fund would allocate \$240,000 of existing reserves to explore feasibility and design costs for the construction of an office building in cooperation with the Texas Real Estate Commission. The Committee recommends the Chair appoint at least one Board member to serve on a joint working group with members of the Commission.

With the decrease in renewal fees and the establishment of reserve funds for education and facilities, the Committee recommends approval of the FY2015 budget.

The Committee will meet again on August 15, 2014 at 8:30am.

AGENDA ITEM 12

Report by Education Committee.

TALCB Board Members

Jamie S. Wickliffe
Chair

Laurie C. Fontana
Vice Chair

Mark A. McAnally
Secretary

Jesse Barba, Jr.

Walker R. Beard

Clayton P. Black

Patrick M. Carlson

Luis F. De La Garza, Jr.

Brian L. Padden

Douglas E. Oldmixon
Commissioner

Education Committee Report August 15, 2014 (revised)

Members: Luis De La Garza, Chair, Walker Beard and Clayton Black

Since the May 2014 Board meeting, the Education Committee met on July 14, 2014.

Meeting on July 14, 2014

Committee Members in attendance: Luis De La Garza and Walker Beard.

Other Board Members in attendance: Jamie Wickliffe and Laurie Fontana.

Staff in attendance: Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Mark Mrnak, Director-SES; Troy Beaulieu, Managing Attorney; Kyle Wolfe, Staff Attorney; Margarita White, Education Supervisor; and Jennifer Wheeler, Education Team Lead.

Public in attendance: Amy Ables, Joe Woller and Victor Probandt on behalf of FACT.

The Committee discussed several items, including the approval process for education courses, developing a Texas specific course for appraisers, developing an appraiser trainee review program, pursuing a statutory change to allow appraisers to earn continuing education credit for attending presentations by Board staff, and developing a process to award 2-4 hours of continuing education credit for attending a full meeting of the Board as authorized under the AQB criteria. The Committee recommends the Board:

- Amend TALCB Rule 153.21 to apply to all appraiser trainee/sponsor relationships, not just those created on or after January 1, 2015;
- Authorize the development of a voluntary appraiser trainee experience review program;
- Pursue a statutory change to allow appraisers to earn continuing education credit for attending presentations by Board staff; and
- Develop an approval process to award 2-4 hours of continuing education credit for attending a full meeting of the Board.

The Committee did not set a future meeting date.

AGENDA ITEM 13

Report by Enforcement Committee.

TALCB Board Members

Jamie S. Wickliffe
Chair

Laurie C. Fontana
Vice Chair

Mark A. McAnally
Secretary

Jesse Barba, Jr.

Walker R. Beard

Clayton P. Black

Patrick M. Carlson

Luis F. De La Garza, Jr.

Brian L. Padden

Douglas E. Oldmixon
Commissioner

Enforcement Committee Report August 15, 2014

Members: Laurie Fontana, Chair, Mark McAnally and Jesse Barba, Jr.

Since the May 2014 Board meeting, the Enforcement Committee held two meetings. The first was held in Austin on July 14, 2014 and, on July 18, 2014, another meeting was held via teleconference.

July 14, 2014:

Committee Members in attendance: Laurie Fontana, Mark McAnally, and Jesse Barba, Jr.

Other Board Members in attendance: Luis De La Garza

Staff in attendance: Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Mark Mrnak, Director SES; Kyle Wolfe, Staff Attorney; and Ellen Sameth, Assistant Attorney General.

Public in attendance: Amy Ables and Joe Woller on behalf of FACT.

The Committee discussed the process for reviewing appraiser trainee application experience logs and staff initiated complaints arising therefrom. Some confusion arose about whether the proper focus should be on appraiser trainees or their sponsors, since trainees rarely if ever sign the actual appraisal report. The Committee asked the Standards and Enforcement Services Division to provide the percent of staff initiated complaints against sponsors at the August Board meeting. The Committee also inquired about communications provided to applicants regarding the review process.

The Committee planned to meet again on July 18, 2014 to continue its discussion on these and other issues.

July 18, 2014:

Committee Members in attendance: Laurie Fontana and Mark McAnally. Jesse Barba, Jr. attended via teleconference from 9:50 am until 10:30am and then rejoined the meeting via teleconference from 11:50 until adjournment.

Other Board Members in attendance: N/A

Staff in attendance: Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Troy Beaulieu, Managing Attorney; and Kyle Wolfe, Staff Attorney. Mark Mrnak, Director SES joined the meeting at 9:17am; Douglas Oldmixon, Commissioner, and Larry Ray, Investigator, joined the meeting at 10:00am.

Public in attendance: Amy Ables, Joe Woller and Matt Cox on behalf of FACT.

The Committee considered and unanimously recommended proposed amendments to 22 Tex. Admin. Code §157.31, *Investigative Conference*. The Committee also recommended that staff provide notice to respondents who request a copy of their investigative report that releasing the report will allow others to obtain a copy of the report under the Texas Public Information Act. The Committee recommends that such notice be provided until the proposed amendments to Rule 157.31 become effective.

The Committee discussed the matter of alternate experience requirements for former license holders and recommends two possible alternatives for demonstrating experience: one alternative, granting trainee licenses could be implemented immediately; but a second alternative, granting a probationary license, would require a rule change. The Committee recommends amending the Board rules to allow for the issuance of a probationary license and to define the specific criteria for evaluating experience for persons issued trainee or probationary licenses under these circumstances.

The Committee discussed the possibility of recording investigative conferences but declined to take action at this time. The Committee also considered an issue raised by Board member Luis De La Garza regarding whether the TALCB enforcement staff should discuss USPAP questions and give guidance or counsel to Texas appraisers on such questions. The Committee determined that such action would create conflicts for the enforcement staff, and appraisers had other resources, including Mentors and associations such as FACT and ATA, that they could ask for answers to USPAP questions.

Future items for Committee work include:

- Issues regarding complaint processing for upgrades between license categories;
- Qualification criteria for Mentors;
- Review of application logs and the enforcement compliance process;
- Reasonable and customary fees; and
- Staff initiated complaints against sponsors.

The Committee appreciates the hours spent by staff and the members of the public who attended the Committee meeting and participated in the discussions.

The Committee did not set a future meeting date.

AGENDA ITEM 14

Report by Executive Committee.

TALCB Board Members**Executive Committee Report August 15, 2014**

Jamie S. Wickliffe
Chair

Since the May 9, 2014 Board meeting, the Executive Committee met via teleconference on August 4, 2014.

Laurie C. Fontana
Vice Chair

Committee Members in attendance: Jamie Wickliffe, Chair; Laurie Fontana, Vice Chair; and Mark McAnally, Secretary.

Mark A. McAnally
Secretary

Staff in attendance: Douglas Oldmixon, Commissioner; and Kristen Worman, General Counsel; Tony Slagle, Government Affairs; and Ellen Sameth, Assistant Attorney General.

Jesse Barba, Jr.

Walker R. Beard

Public in attendance: None.

Clayton P. Black

Patrick M. Carlson

The Committee reviewed several Board policies, including:

Luis F. De La Garza, Jr.

- A. Acceptability of Imaged Signatures;
- B. Confidentiality of Social Security Numbers;
- C. Work Performed by a licensed appraiser on behalf of another person for the purpose of a property tax protest;
- D. Period review of appraisals by AMCs;
- E. TALCB liaison to TREC;
- F. TALCB National Registry; and
- G. Official record of Board meetings.

Brian L. Padden

Douglas E. Oldmixon
Commissioner

Based on this review, the Committee took no action on policies A, E-G; directed the Commissioner to revise the policy regarding the confidentiality Social Security Numbers in accordance with state law; noted that policy D was no longer in effect, since this policy has been incorporated into TALCB Rule 159.155. The Committee carried over policy C for additional review with other Board policies at a future Committee meeting.

The Committee discussed several topics to recommend to the Board for discussion at the half-day November training workshop, including:

- Possible 2015 Legislative Changes;
- Limitations on lobbying by Board members;
- Letters from the Governor, Lt. Governor and Speaker of the House
- Identification of key legislative members and committee chairs;
- Overview of TALCB Committees (to be presented by each Committee Chair); and
- Training on the Public Investment Act.

The Committee also discussed implementing staggered 2-year appointments for Peer Investigative Committee (PIC) Members and Mentors, and recommends implementation of this policy by the Board for PIC members starting in 2015 and for Mentors starting in 2016.

The Committee suggested a possible future meeting date of August 27, 2014.



AGENDA ITEM 15

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-13 | Oct-13 | Nov-13 | Dec-13 | Jan-14 | Feb-14 | Mar-14 | Apr-14 | May-14 | Jun-14 | Jul-14 | Aug-14 | FYTD Total |
|--------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|--------|--------|----------------|
| Local Lines | 15,926 | 16,098 | 11,660 | 11,684 | 17,463 | 16,921 | 14,820 | 18,592 | 18,491 | 19,181 | | | 160,836 |
| TALCB LL | 1,029 | 1,056 | 918 | 947 | 1,311 | 1,131 | 996 | 1,100 | 1,207 | 1,306 | | | 11,001 |
| Total Calls | 16,955 | 17,154 | 12,578 | 12,631 | 18,774 | 18,052 | 15,816 | 19,692 | 19,698 | 20,487 | | | 171,837 |

Walk Ins

| | Sep-13 | Oct-13 | Nov-13 | Dec-13 | Jan-14 | Feb-14 | Mar-14 | Apr-14 | May-14 | Jun-14 | Jul-14 | Aug-14 | FYTD Total |
|------------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|--------|--------|--------------|
| Licensing | 297 | 281 | 161 | 206 | 261 | 210 | 221 | 284 | 251 | 229 | | | 2,401 |
| Education | 191 | 201 | 116 | 120 | 150 | 121 | 134 | 99 | 156 | 114 | | | 1,402 |
| Inspector | 8 | 9 | 9 | 12 | 14 | 18 | 8 | 16 | 10 | 18 | | | 122 |
| Enforcement | 15 | 18 | 14 | 12 | 21 | 15 | 10 | 6 | 27 | 23 | | | 161 |
| TALCB Lic | 14 | 8 | 11 | 8 | 11 | 7 | 3 | 8 | 16 | 4 | | | 90 |
| TALCB Enf | 4 | 0 | 0 | 3 | 2 | 0 | 1 | 1 | 0 | 0 | | | 11 |
| Total | 529 | 517 | 311 | 361 | 459 | 371 | 377 | 414 | 460 | 388 | | | 4,187 |

Emails

| | Sep-13 | Oct-13 | Nov-13 | Dec-13 | Jan-14 | Feb-14 | Mar-14 | Apr-14 | May-14 | Jun-14 | Jul-14 | Aug-14 | FYTD Total |
|------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------|--------|---------------|
| Licensing | 4,113 | 3,798 | 2,733 | 2,730 | 4,893 | 4,322 | 3,955 | 4,529 | 3,956 | 5,127 | | | 40,156 |
| Education | 824 | 1,088 | 631 | 562 | 999 | 1,168 | 1,171 | 620 | 788 | 807 | | | 8,658 |
| Inspector | 58 | 63 | 38 | 24 | 44 | 57 | 71 | 55 | 188 | 72 | | | 670 |
| Enforcement | 94 | 99 | 81 | 86 | 59 | 58 | 91 | 50 | 141 | 155 | | | 914 |
| TALCB Lic | 103 | 117 | 105 | 126 | 99 | 120 | 79 | 30 | 142 | 176 | | | 1,097 |
| TALCB Enf | 7 | 17 | 15 | 12 | 6 | 15 | 1 | 13 | 18 | 2 | | | 106 |
| Total | 5,199 | 5,182 | 3,603 | 3,540 | 6,100 | 5,740 | 5,368 | 5,297 | 5,233 | 6,339 | | | 51,601 |

C1 Report
FY 2014

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD
ACTIVE CERTIFICATIONS AND LICENSES

| FISCAL YEAR | END OF MONTH | TOTAL | | | | G.R.L. & P | | TRAINEE | | TOTAL | |
|----------------|--------------|--------------|--------------|------------|-------------|--------------|-----------|------------|-----------|--------------|-----------|
| | | GENERAL | RESIDENTIAL | LICENSE | PROVISIONAL | G.R.L. & P | CHANGE | TRAINEE | CHANGE | TOTAL | CHANGE |
| FY-2010 | Sep09 | 2,345 | 2,496 | 779 | 44 | 5,664 | 3 | 635 | -9 | 6,299 | -6 |
| | Oct09 | 2,347 | 2,499 | 773 | 44 | 5,663 | -1 | 628 | -7 | 6,291 | -8 |
| | Nov09 | 2,352 | 2,505 | 758 | 44 | 5,659 | -4 | 614 | -14 | 6,273 | -18 |
| | Dec09 | 2,354 | 2,508 | 750 | 41 | 5,653 | -6 | 609 | -5 | 6,262 | -11 |
| | Jan10 | 2,352 | 2,507 | 747 | 34 | 5,640 | -13 | 608 | -1 | 6,248 | -14 |
| | Feb10 | 2,351 | 2,508 | 733 | 28 | 5,620 | -20 | 613 | 5 | 6,233 | -15 |
| | Mar10 | 2,353 | 2,503 | 722 | 28 | 5,606 | -14 | 623 | 10 | 6,229 | -4 |
| | Apr10 | 2,358 | 2,500 | 712 | 28 | 5,598 | -8 | 599 | -24 | 6,197 | -32 |
| | May10 | 2,361 | 2,498 | 707 | 27 | 5,593 | -5 | 592 | -7 | 6,185 | -12 |
| | Jun10 | 2,360 | 2,500 | 694 | 28 | 5,582 | -11 | 576 | -16 | 6,158 | -27 |
| | Jul10 | 2,355 | 2,490 | 683 | 28 | 5,556 | -26 | 564 | -12 | 6,120 | -38 |
| | Aug10 | 2,358 | 2,488 | 671 | 27 | 5,544 | -12 | 547 | -17 | 6,091 | -29 |
| FY-2011 | Sep10 | 2,366 | 2,486 | 651 | 23 | 5,526 | -18 | 614 | 67 | 6,140 | 49 |
| | Oct-Dec10* | | | | | | | | | | |
| | Jan11 | 2,361 | 2,470 | 626 | 21 | 5,478 | -48 | 520 | -94 | 5,998 | -142 |
| | Feb11 | 2,370 | 2,472 | 628 | 21 | 5,491 | 13 | 534 | 14 | 6,025 | 27 |
| | Mar11 | 2,381 | 2,482 | 630 | 22 | 5,515 | 24 | 553 | 19 | 6,068 | 43 |
| | Apr11 | 2,379 | 2,486 | 629 | 22 | 5,516 | 1 | 561 | 8 | 6,077 | 9 |
| | May11 | 2,368 | 2,456 | 596 | 22 | 5,442 | -74 | 518 | -43 | 5,960 | -117 |
| | Jun11 | 2,374 | 2,458 | 598 | 22 | 5,452 | 10 | 528 | 10 | 5,980 | 20 |
| | Jul11 | 2,379 | 2,463 | 604 | 22 | 5,468 | 16 | 538 | 10 | 6,006 | 26 |
| | Aug11 | 2,396 | 2,476 | 605 | 23 | 5,500 | 32 | 549 | 11 | 6,049 | 43 |
| FY-2012 | Sep11 | 2,403 | 2,480 | 606 | 23 | 5,512 | 12 | 567 | 18 | 6,079 | 30 |
| | Oct11 | 2,408 | 2,486 | 606 | 23 | 5,523 | 11 | 574 | 7 | 6,097 | 18 |
| | Nov11 | 2,417 | 2,484 | 614 | 23 | 5,538 | 15 | 584 | 10 | 6,122 | 25 |
| | Dec11 | 2,369 | 2,414 | 543 | 13 | 5,339 | -199 | 500 | -84 | 5,839 | -283 |
| | Jan12 | 2,376 | 2,412 | 542 | 14 | 5,344 | 5 | 520 | 20 | 5,864 | 25 |
| | Feb12 | 2,358 | 2,387 | 527 | 13 | 5,285 | -59 | 498 | -22 | 5,783 | -81 |
| | Mar12 | 2,364 | 2,382 | 522 | 13 | 5,281 | -4 | 498 | 0 | 5,779 | -4 |
| | Apr12 | 2,371 | 2,381 | 518 | 13 | 5,283 | 2 | 496 | -2 | 5,779 | 0 |
| | May12 | 2,369 | 2,380 | 517 | 13 | 5,279 | -4 | 498 | 2 | 5,777 | -2 |
| | Jun12 | 2,375 | 2,381 | 513 | 11 | 5,280 | 1 | 502 | 4 | 5,782 | 5 |
| | Jul12 | 2,365 | 2,376 | 513 | 10 | 5,264 | -16 | 512 | 10 | 5,776 | -6 |
| | Aug12 | 2,371 | 2,385 | 515 | 10 | 5,281 | 17 | 515 | 3 | 5,796 | 20 |
| FY-2013 | Sep12 | 2,382 | 2,388 | 512 | 9 | 5,291 | 10 | 534 | 19 | 5,825 | 29 |
| | Oct12 | 2,385 | 2,389 | 509 | 8 | 5,291 | 0 | 531 | -3 | 5,822 | -3 |
| | Nov12 | 2,386 | 2,387 | 509 | 7 | 5,289 | -2 | 534 | 3 | 5,823 | 1 |
| | Dec12 | 2,390 | 2,381 | 501 | 6 | 5,278 | -11 | 550 | 16 | 5,828 | 5 |
| | Jan13 | 2,377 | 2,380 | 502 | 6 | 5,265 | -13 | 576 | 26 | 5,841 | 13 |
| | Feb13 | 2,379 | 2,377 | 499 | 4 | 5,259 | -6 | 591 | 15 | 5,850 | 9 |
| | Mar13 | 2,382 | 2,374 | 490 | 3 | 5,249 | -10 | 607 | 16 | 5,856 | 6 |
| | Apr13 | 2,378 | 2,373 | 484 | 2 | 5,237 | -12 | 634 | 27 | 5,871 | 15 |
| | May13 | 2,369 | 2,371 | 482 | 2 | 5,224 | -13 | 657 | 23 | 5,881 | 10 |
| | Jun13 | 2,368 | 2,369 | 480 | 2 | 5,219 | -5 | 682 | 25 | 5,901 | 20 |
| | Jul13 | 2,359 | 2,367 | 477 | 2 | 5,205 | -14 | 702 | 20 | 5,907 | 6 |
| | Aug13 | 2,367 | 2,371 | 470 | 2 | 5,210 | 5 | 724 | 22 | 5,934 | 27 |
| FY-2014 | Sep13 | 2,368 | 2,375 | 467 | 1 | 5,211 | 1 | 741 | 17 | 5,952 | 18 |
| | Oct13 | 2,367 | 2,381 | 467 | 1 | 5,216 | 5 | 767 | 26 | 5,983 | 31 |
| | Nov13 | 2,371 | 2,381 | 467 | 1 | 5,220 | 4 | 781 | 14 | 6,001 | 18 |
| | Dec13 | 2,374 | 2,380 | 466 | 1 | 5,221 | 1 | 792 | 11 | 6,013 | 12 |
| | Jan14 | 2,363 | 2,382 | 461 | 1 | 5,207 | -14 | 786 | -6 | 5,993 | -20 |
| | Feb14 | 2,365 | 2,379 | 457 | 0 | 5,201 | -6 | 780 | -6 | 5,981 | -12 |
| | Mar14 | 2,368 | 2,385 | 453 | 0 | 5,206 | 5 | 788 | 8 | 5,994 | 13 |
| | Apr14 | 2,373 | 2,393 | 454 | 0 | 5,220 | 14 | 783 | -5 | 6,003 | 9 |
| | May14 | 2,375 | 2,399 | 457 | 0 | 5,231 | 11 | 779 | -4 | 6,010 | 7 |
| | Jun14 | 2,378 | 2,401 | 451 | 0 | 5,230 | -1 | 777 | -2 | 6,007 | -3 |

(June 2014: Temporary Out of State Appraisers = 686 ; Inactive Appraisers = 119)

*Totals for October thru December 2010 are not available due to system conversion.

APPRAISAL MANAGEMENT COMPANY REGISTRATIONS & RENEWALS

JUNE 2014

| | Month | Paper Apps. Received | Online Apps. Received | Total Apps. Received | Total AMC Registrations Issued | Total AMC Renewals Issued |
|-----------------|---------|----------------------------|-----------------------------|----------------------------|--------------------------------------|---------------------------------|
| FY-2012 | Mar-12 | 18 | 4 | 22 | 0 | |
| | Apr-12 | 16 | 5 | 21 | 0 | |
| | May-12 | 25 | 16 | 41 | 44 | |
| | Jun-12 | 53 | 14 | 67 | 65 | |
| | Jul-12 | 13 | 6 | 19 | 53 | |
| | Aug. 12 | 5 | 1 | 6 | 7 | |
| FY- 2013 | Sep-12 | 0 | 1 | 1 | 3 | |
| | Oct-12 | 0 | 3 | 3 | 5 | |
| | Nov-12 | 2 | 1 | 3 | 2 | |
| | Dec-12 | 1 | 2 | 3 | 4 | |
| | Jan-13 | 0 | 0 | 0 | 2 | |
| | Feb-13 | 1 | 0 | 1 | 0 | |
| | Mar-13 | 0 | 0 | 0 | 0 | |
| | Apr-13 | 1 | 1 | 2 | 0 | |
| | May-13 | 0 | 0 | 0 | 1 | |
| | Jun-13 | 0 | 1 | 1 | 4 | |
| | Jul-13 | 0 | 1 | 1 | 1 | |
| | Aug-13 | 1 | 1 | 2 | 1 | |
| FY- 2014 | 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 | 37 | |
| TOTALS | | 139 | 66 | 205 | 205 | 98 |

| | |
|--|----|
| Registrations Surrendered in February '13 | -3 |
| Registrations Revoked in March '13 | -1 |
| Registrations Surrendered in July '13 | -1 |
| Registrations Revoked in July '13 | -1 |
| Registrations Surrendered in September '13 | -1 |
| Registrations Surrendered in February '14 | -1 |
| Registrations Surrendered in March '14 | -1 |
| Registrations Revoked in May '14 | -1 |
| Registrations Surrendered in June '14 | -1 |

TOTAL AMC REGISTRATIONS **194**

Education & Licensing Services Division - TALCB

Fiscal Year Comparison

Fiscal Year - 2014

JUNE

| | This YTD | Last YTD | Change | |
|---|--------------|--------------|-------------|----------------|
| | 9/13 - 06/14 | 9/12 - 06/13 | Count | Percent |
| <i>Original Applications Received</i> | | | | |
| Certified General Applications | 119 | 67 | 52 | 77.61% |
| Certified Residential Applications | 129 | 86 | 43 | 50.00% |
| State Licensed Applications | 54 | 36 | 18 | 50.00% |
| Appraiser Trainee Applications | 208 | 211 | -3 | -1.42% |
| Non-Residential Temporary Applications | 229 | 280 | -51 | -18.21% |
| Total Original Applications | 739 | 680 | 59 | 8.68% |
| <i>Licenses Issued from Original Applications</i> | | | | |
| Certified General Licenses | 105 | 76 | 29 | 38.16% |
| Certified Residential Licenses | 126 | 102 | 24 | 23.53% |
| State Licensed | 44 | 38 | 6 | 15.79% |
| Appraiser Trainee Licenses | 205 | 203 | 2 | 0.99% |
| Non-Residential Temporary Licenses | 229 | 279 | -50 | -17.92% |
| Total Licenses from Original Applications | 709 | 698 | 11 | 1.58% |
| <i>Licenses Issued from Renewal Applications</i> | | | | |
| Certified General Renewals | 914 | 1,174 | -260 | -22.15% |
| Certified Residential Renewals | 1,021 | 1,041 | -20 | -1.92% |
| State Licensed Renewals | 217 | 242 | -25 | -10.33% |
| Appraiser Trainee Renewals | 156 | 229 | -73 | -31.88% |
| Total Renewal Licenses Issued | 2,308 | 2,686 | -378 | -14.07% |
| <i>Licenses Issued from Reinstatement Applications</i> | | | | |
| Certified General Reinstatements | 14 | 10 | 4 | 40.00% |
| Certified Residential Reinstatements | 6 | 5 | 1 | 20.00% |
| State Licensed Reinstatements | 2 | 5 | -3 | -60.00% |
| Appraiser Trainee Reinstatements | 25 | 34 | -9 | -26.47% |
| Total Reinstatement Licenses Issued | 47 | 54 | -7 | -12.96% |

Examination Activity - Fiscal Year 2013-2014

| YEAR-TO-DATE RESULTS: SEPTEMBER 2013 thru June 2014 | | | | Overall Pass Rate | Overall Failure Rate |
|--|-----------------------|------------------------------|--------------------------|-------------------|----------------------|
| | <u>State Licensed</u> | <u>Certified Residential</u> | <u>Certified General</u> | | |
| Examinations Passed | 27 | 42 | 37 | 106 | |
| Examinations Failed | 29 | 20 | 20 | | 69 |
| Examinations Taken | 56 | 62 | 57 | 175 | 175 |
| | | | | | |
| Examination Pass Rate (%) | 48.21% | 67.74% | 64.91% | 60.57% | 39.43% |

| All examination types | |
|------------------------------|-----|
| Total first time candidates: | 126 |
| Total repeat candidates: | 49 |
| Total pass: | 106 |
| Total fail: | 69 |
| Total examinations taken: | 175 |

Examination Activity - Fiscal Year 2013-2014

| MONTHLY RESULTS: June 2014 | | | | Overall Pass Rate | Overall Failure Rate |
|-----------------------------------|-----------------------|------------------------------|--------------------------|-------------------|----------------------|
| | <u>State Licensed</u> | <u>Certified Residential</u> | <u>Certified General</u> | | |
| Examinations Passed | 2 | 3 | 5 | 10 | |
| Examinations Failed | 1 | 0 | 3 | | 4 |
| Examinations Taken | 3 | 3 | 8 | 14 | 14 |
| | | | | | |
| Examination Pass Rate (%) | 66.67% | 100.00% | 62.50% | 71.43% | 28.57% |

| All examination types | |
|------------------------------|----|
| Total first time candidates: | 10 |
| Total repeat candidates: | 4 |
| Total pass: | 10 |
| Total fail: | 4 |
| Total examinations taken: | 14 |

EXAMINATION ACTIVITY

FISCAL YEAR-TO-DATE COMPARISON JUNE

| | <u>Sept. 2013 – June 2014</u> <u>Pass Rate</u> | <u>Sept. 2012 – June 2013</u> <u>Pass Rate</u> | <u>Difference</u> |
|------------------------------------|---|---|-------------------|
| Certified General Appraiser | 64.9% | 71.8% | -6.9% |
| Certified Residential Appraiser | 67.7% | 68.0% | -0.3% |
| Licensed Appraiser | 48.2% | 46.5% | +1.7% |
| Overall Appraiser Pass Rate | 60.5% | 61.4% | -0.9% |

Information Technology Services Division

Electronic Information Outlet Statistics

TALCB As of June 2014

| World Wide Web | Latest 3 Months | Prior Yr 3 Mo | Total Fiscal YTD | Total Prior Fiscal YTD |
|-------------------------------|------------------------|----------------------|-------------------------|-------------------------------|
| Total Pages Viewed | 359,048 | 345,969 | 1,094,921 | 1,188,639 |
| Total Monthly Unique Visitors | 23,023 | 23,079 | 72,168 | 73,546 |

| Online Transactions | Total Latest 3 Mo | Online Latest 3 Mo | Online Percent | Fiscal YTD Online Percent | Prior Fiscal YTD Online Percent |
|----------------------------|--------------------------|---------------------------|-----------------------|----------------------------------|--|
|----------------------------|--------------------------|---------------------------|-----------------------|----------------------------------|--|

| | | | | | |
|---------------------------------|------------|-----------|--------------|--------------|--------------|
| Applications | 129 | 38 | 29.5% | 25.3% | 64.3% |
| AMC | 0 | 0 | | 75.0% | 64.3% |
| Certified General Appraiser | 32 | 4 | 12.5% | 6.3% | 0.0% |
| Certified Residential Appraiser | 34 | 1 | 2.9% | 1.4% | 0.0% |
| State Licensed Appraiser | 11 | 1 | 9.1% | 4.8% | 0.0% |
| Appraiser Trainee | 52 | 32 | 61.5% | 40.0% | 0.0% |

| | | | | | |
|---------------------------------|------------|------------|--------------|--------------|--------------|
| Renewals | 643 | 442 | 68.7% | 83.3% | 90.4% |
| Certified General Appraiser | 215 | 141 | 65.6% | 83.5% | 88.5% |
| Certified Residential Appraiser | 234 | 210 | 89.7% | 93.6% | 93.5% |
| State Licensed Appraiser | 108 | 36 | 33.3% | 50.7% | 0.0% |
| Appraiser Trainee | 86 | 55 | 64.0% | 64.6% | 9.1% |

| AMC Panel: | Last 3 Months | FY YTD |
|-------------------|----------------------|---------------|
| Invitations | 2452 | |
| Removals | 222 | |

Staff & Support Services Division

TALCB Budget Status Report

June 2014

2/12 = 16.7%

| Expenditure Category | Budget FY2014 | Expenditures | Balance | Budget % Remaining | Comments |
|---|--------------------|--------------------|------------------|--------------------|---|
| Salaries & Wages | \$953,259 | \$749,663 | \$203,596 | 21.4% | |
| Employee Benefits | 251,661 | 212,627 | 39,034 | 15.5% | |
| Retiree Insurance | 14,524 | 17,857 | (3,333) | -23.0% | |
| Other Personnel Costs | 38,500 | 19,320 | 19,180 | 49.8% | \$4,800 budgeted for PAC, Cobj 7025 |
| Professional Fees & Services | 100,200 | 65,698 | 34,502 | 34.4% | \$4,000 budgeted for PIC, Cobj 7253 |
| Consumables | 8,400 | 2,116 | 6,284 | 74.8% | |
| Utilities | 650 | 746 | (96) | -14.8% | Field appraiser phone service exp not budgeted. |
| Travel | 27,000 | 23,355 | 3,645 | 13.5% | |
| Office Rent | 75,252 | 37,030 | 38,222 | 50.8% | SWCAP allocated expenses have reduced the rent expense. No other rent payments are due. |
| Equipment Rental | 8,900 | 4,718 | 4,182 | 47.0% | Copier rental expense less than budgeted |
| Registration & Membership | 11,750 | 12,487 | (737) | -6.3% | Training and conferences |
| Maintenance & Repairs | 9,340 | 9,136 | 204 | 2.2% | Versa maintenance paid for the year |
| Reproduction & Printing | 1,500 | 242 | 1,258 | 83.9% | |
| Contract Services | 43,902 | 10,874 | 33,028 | 75.2% | |
| Postage | 6,125 | 5,400 | 725 | 11.8% | |
| Supplies & Equipment | 10,405 | 2,253 | 8,152 | 78.3% | |
| Communication Services | 7,916 | 6,175 | 1,741 | 22.0% | |
| Other Operating Expenses | 3,600 | 2,113 | 1,487 | 41.3% | |
| Subtotal -Operations Expenditures | 1,572,884 | 1,181,811 | 391,073 | 24.9% | |
| DPS Criminal History Background Checks | 3,000 | 2,351 | 649 | 21.6% | |
| Statewide Cost Allocation Plan (SWCAP) | 10,000 | 33,107 | (23,107) | -231.1% | SWCAP expense higher than budgeted amt. SWCAP costs attributed to SFA bldg have been offset against the rent payment, reducing the amount of rent owed. |
| Contribution to General Revenue | 30,000 | 25,000 | 5,000 | 16.7% | % allocated monthly but pmt not due until 8/31/2014 |
| Subtotal - Nonoperational Expenditures | 43,000 | 60,458 | (17,458) | -40.6% | |
| Total Expenditures | \$1,615,884 | \$1,242,269 | \$373,615 | 23.1% | |

| Revenue | FY2014 Projected | Revenue Collected | Revenue Remaining to be Collected | Revenue % Remaining to be Collected | Comments |
|-----------------------------|--------------------|--------------------|-----------------------------------|-------------------------------------|--|
| License Fees | \$1,121,711 | \$1,002,842 | \$118,869 | 10.6% | Revenue budget based on 2,430 rnwls and 845 new apps |
| AMCs | 748,430 | 652,460 | \$95,970 | 12.8% | Based on 165 AMC rnwls, 5 new AMC apps, 4,000 new panelists, 13,750 panel rnwls; Rnwls occur in 3rd & 4th qtrs |
| Other Miscellaneous Revenue | 2,812 | 961 | \$1,851 | 65.8% | PSI Admin Fees/NSF fees |
| Total Revenue | \$1,872,953 | \$1,656,263 | \$216,690 | 11.6% | |

| | FY13 Carry Forward | Allocated Amount | Remaining to be Allocated | Carry Forward % Remaining | |
|--|--------------------|------------------|---------------------------|---------------------------|----------------------------|
| AMC Revenue Carry Forward from FY13 | \$308,904 | \$257,420 | \$51,484 | 16.7% | Pro-rated thru June |

| | | | | | |
|--|------------------|------------------|--|--|-----------------------------------|
| Revenue Over/(Under) Expenditures & Transfers | \$565,973 | \$671,414 | | | Includes AMC Carry Forward |
|--|------------------|------------------|--|--|-----------------------------------|

TALCB Standards & Enforcement Services
CASE STATUS REPORT FY 2014 as of JULY 24, 2014

| # of Cases Received | | | | | | | | | | | | | | |
|-------------------------------------|------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-------------|------------|
| Case Classification | FY2013 | 13-Sep | 13-Oct | 13-Nov | 13-Dec | 14-Jan | 14-Feb | 14-Mar | 14-Apr | 14-May | 14-Jun | 14-Jul | 14-Aug | FYTD |
| Regulatory Complaints: | | | | | | | | | | | | | | |
| AMCs | 20 | 0 | 1 | 2 | 1 | 1 | 2 | 2 | 1 | 0 | 1 | 1 | | 12 |
| Dodd Frank | 28 | 4 | 0 | 1 | 1 | 0 | 0 | 0 | 1 | 3 | 0 | 2 | | 12 |
| Ethics | 8 | 0 | 0 | 0 | 0 | 0 | 2 | 1 | 1 | 0 | 0 | 0 | | 4 |
| USPAP | 160 | 11 | 14 | 5 | 7 | 6 | 16 | 7 | 12 | 11 | 6 | 7 | | 102 |
| Other | 12 | 0 | 2 | 3 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | | 6 |
| No Jurisdiction | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 |
| | 231 | 15 | 17 | 11 | 9 | 7 | 21 | 10 | 15 | 14 | 7 | 10 | SUB: | 136 |
| Experience Audits | 93 | 7 | 14 | 10 | 8 | 11 | 12 | 12 | 21 | 11 | 12 | 5 | | 123 |
| RFAs & Covert Complaints | 1 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | | 2 |
| MCD Inquiries | 7 | 2 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | | 4 |
| | 101 | 9 | 14 | 10 | 8 | 12 | 15 | 12 | 21 | 11 | 12 | 5 | SUB: | 129 |
| Opened During Month | 332 | 24 | 31 | 21 | 17 | 19 | 36 | 22 | 36 | 25 | 19 | 15 | | 265 |

| # of Cases Closed | | | | | | | | | | | | | | |
|-------------------------------|------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-------------|------------|
| Case Disposition | FY2013 | 13-Sep | 13-Oct | 13-Nov | 13-Dec | 14-Jan | 14-Feb | 14-Mar | 14-Apr | 14-May | 14-Jun | 14-Jul | 14-Aug | FYTD |
| Regulatory Complaints: | | | | | | | | | | | | | | |
| Surrendered | 8 | 0 | 0 | 3 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | | 4 |
| Agreed Final Order | 68 | 0 | 0 | 18 | 0 | 0 | 15 | 0 | 0 | 10 | 0 | 0 | | 43 |
| Other Disciplinary Action | 12 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | | 2 |
| Insufficient Evidence | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 |
| Dismissed | 271 | 10 | 11 | 14 | 14 | 11 | 6 | 7 | 5 | 7 | 4 | 10 | | 99 |
| No Jurisdiction | 8 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 |
| | 367 | 10 | 11 | 35 | 14 | 11 | 22 | 7 | 5 | 19 | 4 | 10 | SUB: | 148 |
| Experience Audits | 93 | 2 | 8 | 10 | 14 | 8 | 7 | 13 | 9 | 21 | 8 | 10 | | 110 |
| RFAs | 20 | 1 | 0 | 0 | 0 | 0 | 0 | 2 | 11 | 0 | 0 | 0 | | 14 |
| MCD Inquiries | 7 | 2 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | | 3 |
| | 120 | 5 | 8 | 10 | 14 | 8 | 8 | 15 | 20 | 21 | 8 | 10 | SUB: | 127 |
| Closed During Month | 487 | 15 | 19 | 45 | 28 | 19 | 30 | 22 | 25 | 40 | 12 | 20 | | 275 |

Total Cases Open as of 7/24/2014: 168

TALCB Standards & Enforcement Services

AMC CASE STATUS REPORT FY 2014 as of JULY 24, 2014

of Cases Received

| Case Classification | FY2013 | 13-Sep | 13-Oct | 13-Nov | 13-Dec | 14-Jan | 14-Feb | 14-Mar | 14-Apr | 14-May | 14-Jun | 14-Jul | 14-Aug | FYTD |
|-------------------------------------|-----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|-------------|-----------|
| AMC Complaints: | | | | | | | | | | | | | | |
| AMC Compliance | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | | 3 |
| Dodd Frank | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 |
| Ethics | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 |
| USPAP | 6 | 0 | 1 | 1 | 1 | 1 | 1 | 2 | 1 | 0 | 0 | 1 | | 9 |
| Other | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 |
| No Jurisdiction | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 |
| | 20 | 0 | 1 | 2 | 1 | 1 | 2 | 2 | 1 | 0 | 1 | 1 | SUB: | 12 |
| RFAs & Covert Complaints | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 |
| | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | SUB: | 0 |
| Opened During Month | 20 | 0 | 1 | 2 | 1 | 1 | 2 | 2 | 1 | 0 | 1 | 1 | | 12 |

of Cases Closed

| Case Disposition | FY2013 | 13-Sep | 13-Oct | 13-Nov | 13-Dec | 14-Jan | 14-Feb | 14-Mar | 14-Apr | 14-May | 14-Jun | 14-Jul | 14-Aug | FYTD |
|-------------------------------------|-----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|-------------|----------|
| AMC Complaints: | | | | | | | | | | | | | | |
| 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 | 2 | 0 | 0 | | 2 |
| Insufficient Evidence | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 |
| Dismissed | 17 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 2 | 1 | | 6 |
| No Jurisdiction | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 |
| | 21 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 1 | 2 | 2 | 1 | SUB: | 8 |
| RFAs & Covert Complaints | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 |
| | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | SUB: | 0 |
| Closed During Month | 21 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 1 | 2 | 2 | 1 | | 8 |

Total Cases Open as of 7/24/2014: 3

TOTAL CASES OPEN AS OF 7/24/2014:

| Fiscal Year | No. Pending (as of 11/4/13) | | No. Pending (as of 1/28/14) | | No. Pending (as of 4/23/14) | | No. Pending (as of 7/24/14) | | Percentage Change from Previous Reporting Period |
|--------------|--------------------------------|--------|--------------------------------|----------|--------------------------------|----------|--------------------------------|----------|--|
| | | | | | | | | | |
| 2008 | 5 | 1 Reg | 5 | 1 Covert | 4 | 1 Covert | 1 | 1 Covert | (75%) |
| | | 4 RFA | | 4 RFA | | 3 RFA | | 0 RFA | |
| 2009 | 6 | 2 Reg | 5 | 1 Covert | 5 | 1 Covert | 4 | 1 Covert | (20%) |
| | | 4 RFA | | 4 RFA | | 4 RFA | | 3 RFA | |
| 2010 | 8 | 3 Reg | 5 | 0 Reg | 3 | 0 Reg | 2 | 0 Reg | (33%) |
| | | 5 RFA | | 5 RFA | | 3 RFA | | 2 RFA | |
| 2011 | 9 | 4 Reg | 6 | 1 Reg | 2 | 0 Reg | 1 | 0 Reg | (50%) |
| | | 5 RFA | | 5 RFA | | 2 RFA | | 1 RFA | |
| 2012 | 14 | 12 Reg | 3 | 1 Reg | 3 | 1 Reg | 2 | 1 Reg | (33%) |
| | | 2 RFA | | 2 RFA | | 2 RFA | | 1 RFA | |
| 2013 | 89 | 88 Reg | 64 | 63 Reg | 37 | 36 Reg | 27 | 26 Reg | (27%) |
| | | 1 RFA | | 1 RFA | | 1 RFA | | 1 RFA | |
| 2014 | 32 | 32 Reg | 51 | 50 Reg | 73 | 71 Reg | 91 | 89 Reg | 24.7% |
| | | 0 RFA | | 1 RFA | | 2 RFA | | 2 RFA | |
| Total | 164 | | 139 | | 127 | | 128 | | .8% |

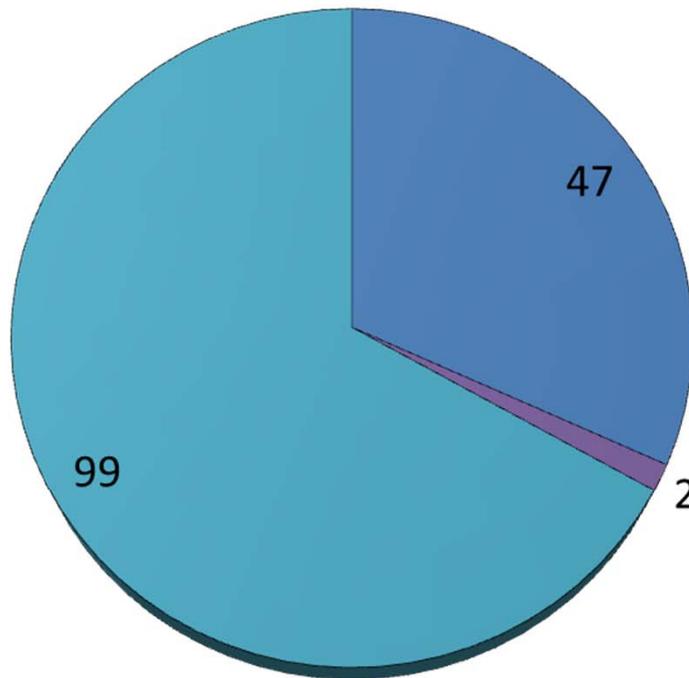
CASES AT LEAST 1 YR OLD:

| | As of 7/24/13 | As of 11/4/13 | As of 1/28/13 | As of 4/23/14 | As of 7/24/14 | Percentage Change from Reporting Period |
|--|------------------|------------------|------------------|------------------|------------------|--|
| Agreed Orders/PFD Received | 7 | 12 | 3 | 0 | 0 | —— |
| Awaiting Receipt of PFD | 0 | 0 | 0 | 0 | 1 | 100% |
| Set for Hearing | 2 | 1 | 1 | 0 | 0 | —— |
| Hearing Required/Being Processed for SOAH | 11 | 0 | 1 | 1 | 0 | —— |
| In Negotiations/Pending Contingent Dismissals | 19 | 12 | 0 | 1 | 9 | 800% |
| RFA/Covert Reviews | 21 | 22 | 22 | 16 | 12 | (25%) |
| Regulatory Reviews in Investigation | 3 | 0 | 0 | 0 | 6 | 600% |
| Sent to Peer Review Committee | 0 | 0 | 0 | 0 | 0 | —— |
| Total Cases | 63 | 47 | 27 | 19 | 28 | 47.37% |

CASE RESOLUTIONS FY 2014

September 1, 2013 – July 24, 2014

148 Total Complaints Resolved

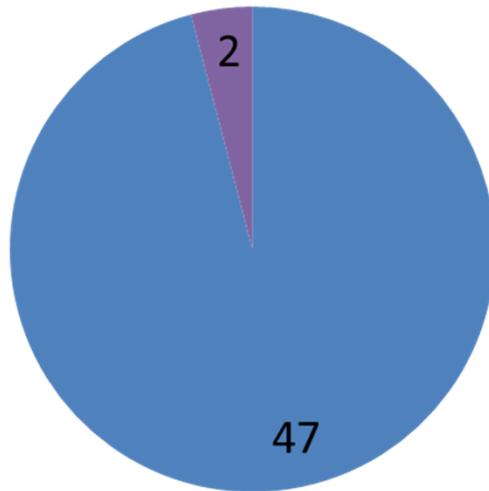


- 47 (31.8%) Agreed Orders Without Auto. Revo. Clauses
- 0 (0%) Litigated
- 0 (0%) Agreed Orders with Auto. Revo. Clauses
- 2 (1.4%) NOAV / Revocation
- 99 (66.8%) Dismissals
 - 52 (52.5%) Dismissals
 - 30 (30.3%) Dismissals with Warning Letter
 - 17 (17.2%) Contingent Dismissals
 - 0 (0%) Non-Jurisdictional Dismissals

DISCIPLINARY ACTIONS FY 2014

September 1, 2013 – July 24, 2014

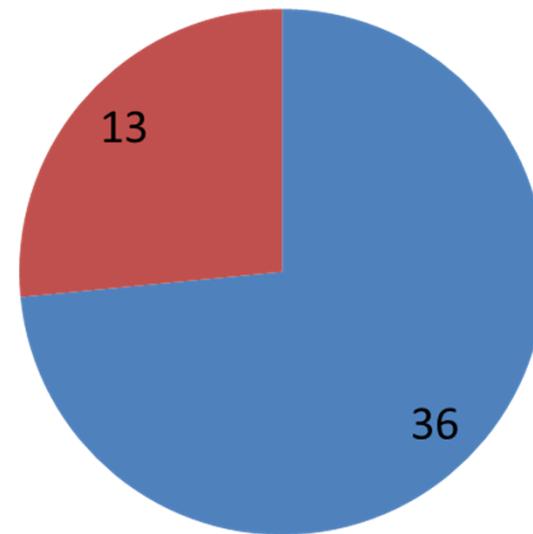
49 Disciplinary Actions



- 47 (96%) Agreed Orders w/o Auto-Revocation Clause & Voluntary Surrenders
- 0 (0%) Litigated / SOAH Proposal for Decision
- 0 (0%) Agreed Orders with Auto-Revocation Clause
- 2 (4%) NOAV / Revocation

Disciplinary Recidivism

- 36 (73.5%) Distinct Respondents
- 13 (26.5%) Repeat Offenders



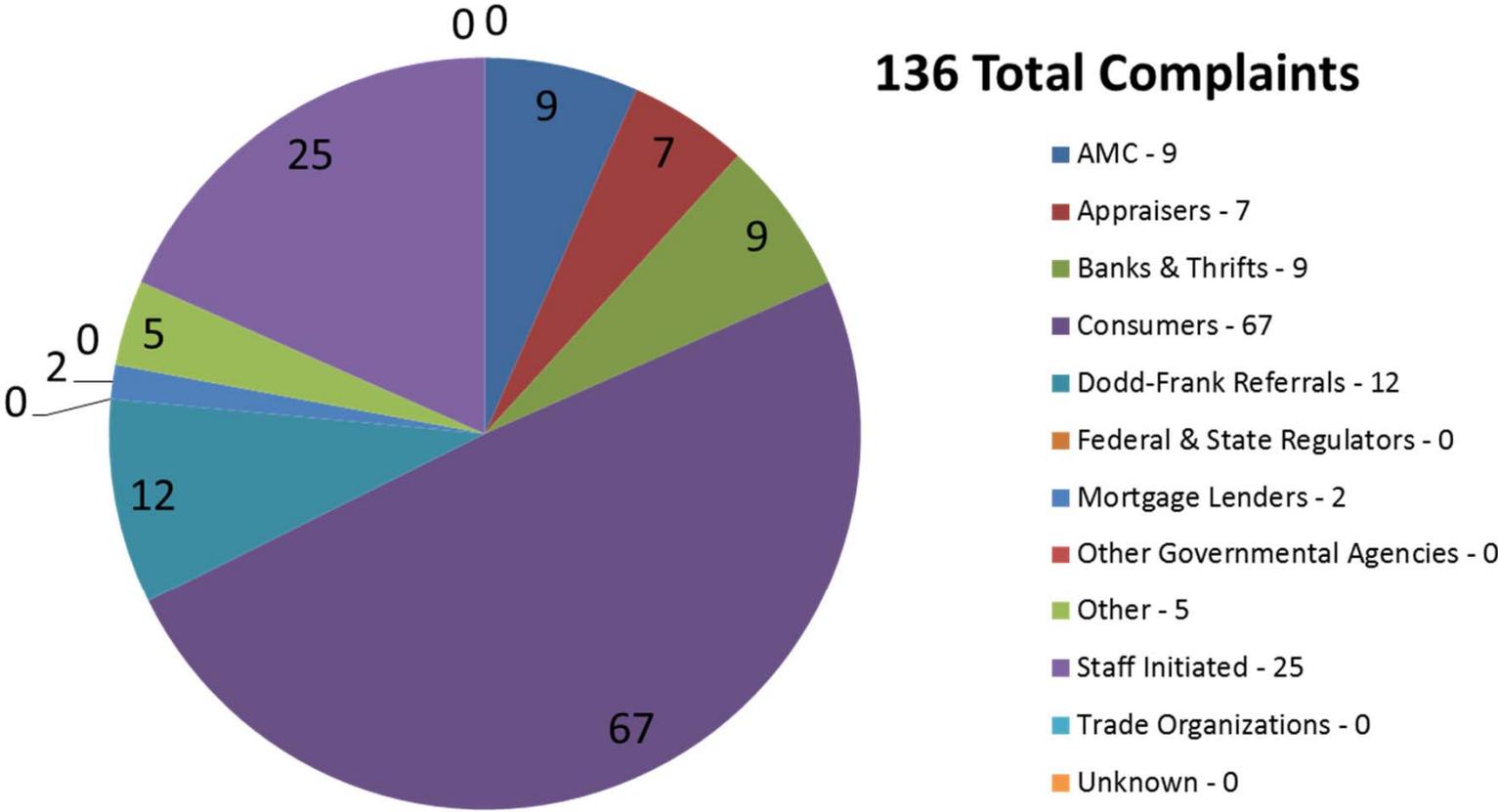
Total Number of Licensees
(as of July 24, 2014)

6991

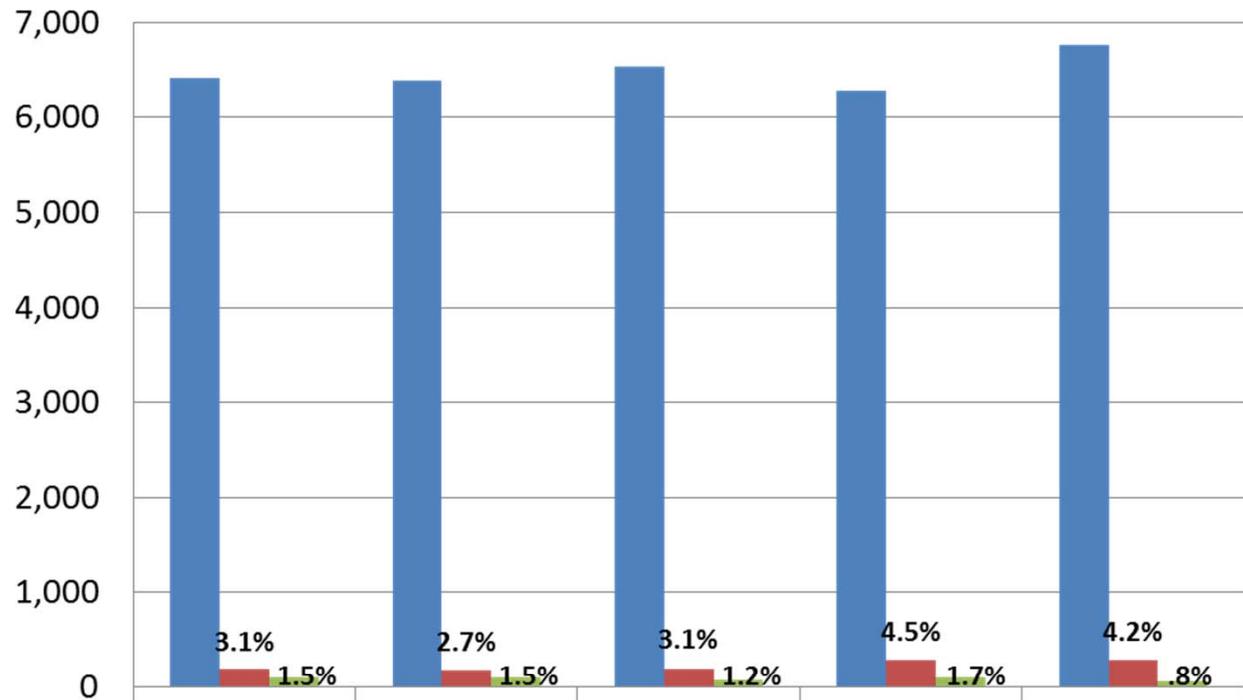
.2% Recidivism Rate

COMPLAINT SOURCES FY 2014

September 1, 2013 – July 24, 2014

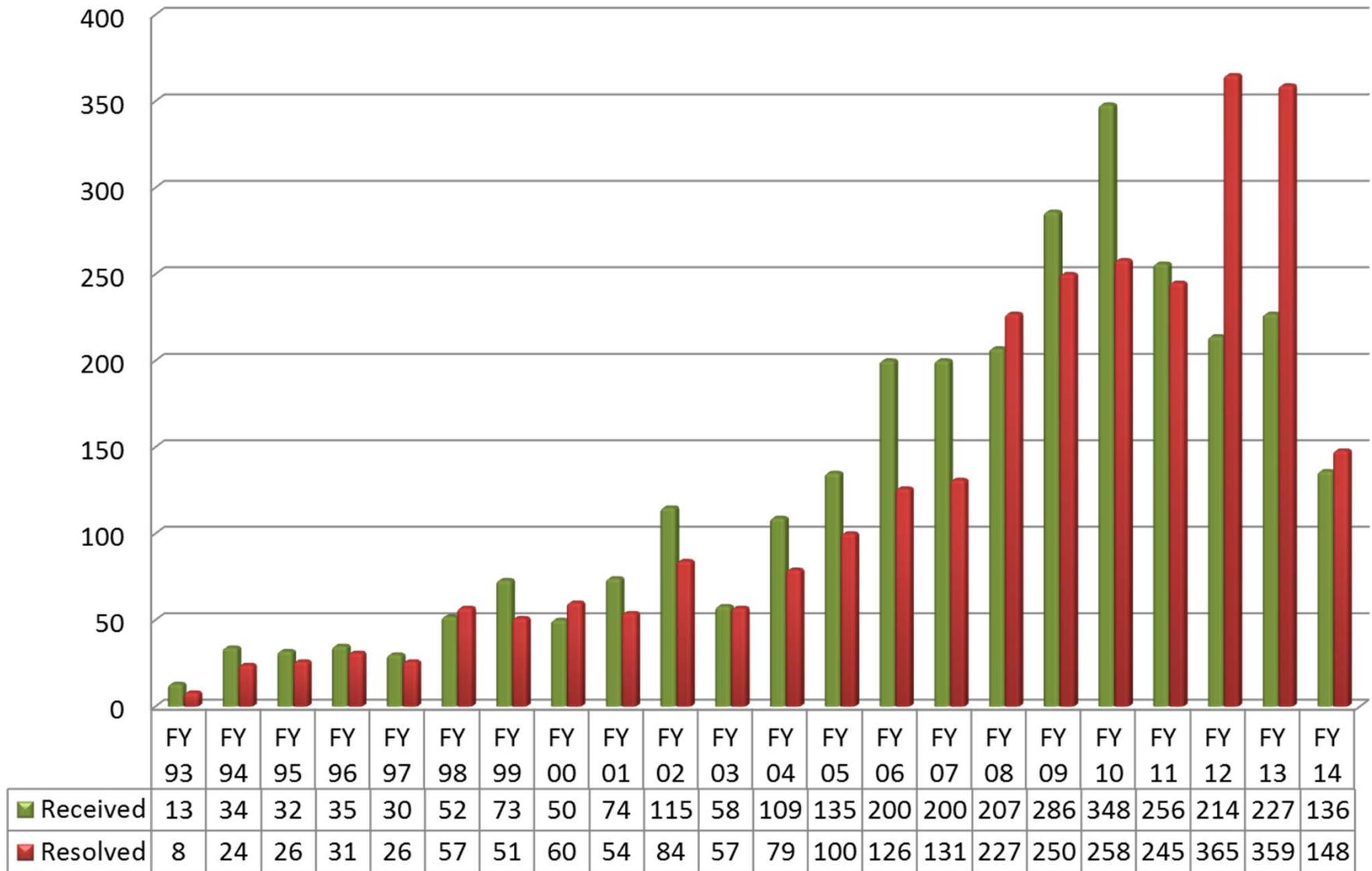


No. of Licensees vs. Respondents with Complaints & Disciplinary Actions



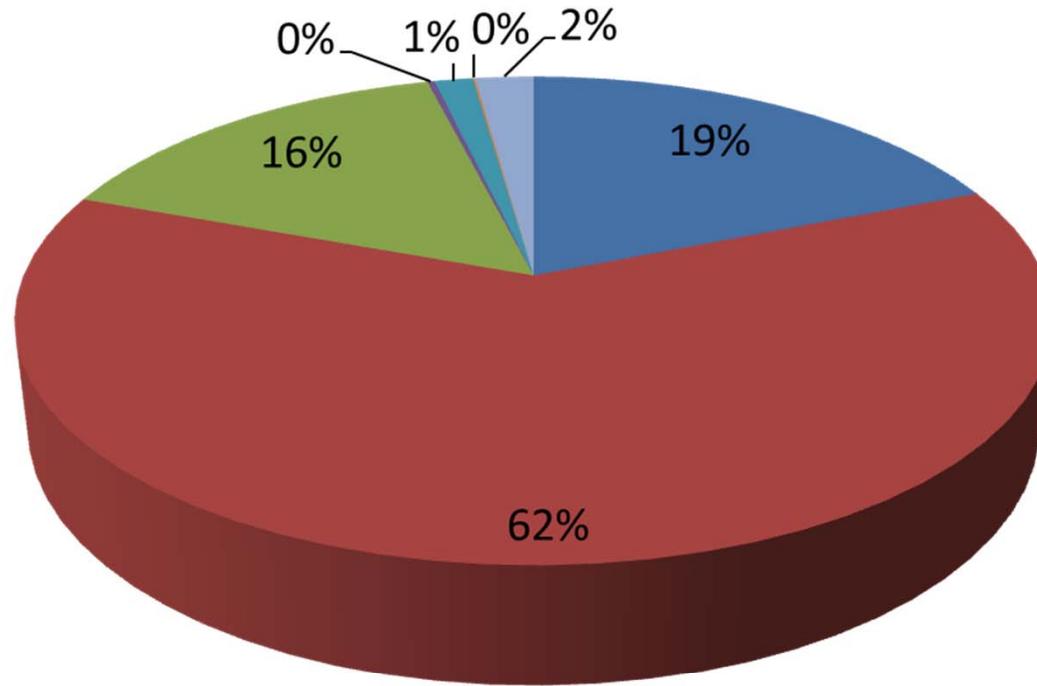
| | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2013 |
|---|---------|---------|---------|---------|---------|
| ■ # of Licensees | 6,415 | 6,385 | 6,532 | 6,277 | 6,761 |
| ■ # of Respondents w/Resolved Complaints | 198 | 174 | 200 | 285 | 287 |
| ■ # of Respondents w/Disciplinary Action | 94 | 94 | 78 | 105 | 53 |

Enforcement Case Trends FY 1993 to FY 2014



% of Complaints Received per License Type

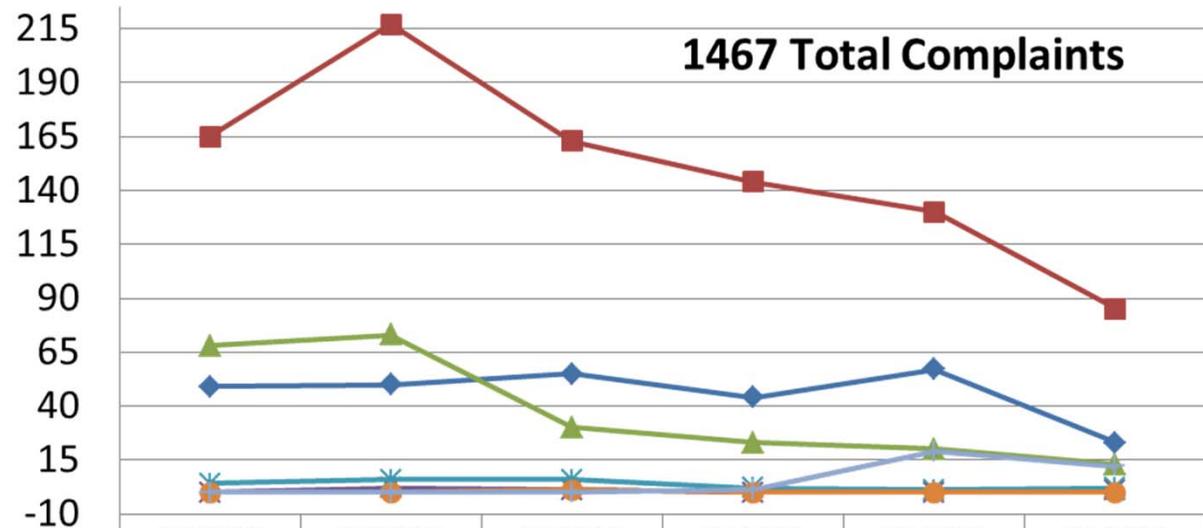
FY 2009 to FY 2014 as of July 24, 2014



1467 Total Complaints

- | | |
|---------------------------|--|
| ■ Certified General - 278 | ■ Certified Residential - 904 |
| ■ State Licensed - 227 | ■ Provisional Licensed - 4 |
| ■ Appraiser Trainees - 21 | ■ Out-of-State Temporary Registrations - 1 |
| ■ AMCs - 32 | |

No. of Complaints Received per License Type



| | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2013 | FY 2014 |
|--|---------|---------|---------|---------|---------|---------|
| ◆ Certified General | 49 | 50 | 55 | 44 | 57 | 23 |
| ■ Certified Residential | 165 | 217 | 163 | 144 | 130 | 85 |
| ▲ State Licensed | 68 | 73 | 30 | 23 | 20 | 13 |
| ✕ Provisional Licensed | 0 | 2 | 1 | 0 | 0 | 1 |
| ✧ Appraiser Trainee | 4 | 6 | 6 | 2 | 1 | 2 |
| ● Out-of-State Temporary Registrations | 0 | 0 | 1 | 0 | 0 | 0 |
| + AMCs | 0 | 0 | 0 | 1 | 19 | 12 |

(as of 7/24/14)



TEXAS

APPRAISER LICENSING & CERTIFICATION BOARD

AGENDA ITEM 16

Discussion and possible action regarding report from state auditor.



John Keel, CPA
State Auditor

An Audit Report on

**The Real Estate Commission:
A Self-directed Semi-independent
Agency**

June 2014

Report No. 14-037



An Audit Report on
**The Real Estate Commission:
A Self-directed Semi-independent Agency**

SAO Report No. 14-037
June 2014

Overall Conclusion

The Real Estate Commission (Commission) accurately and completely recorded \$23.5 million in license and permit revenue received during fiscal year 2013. However, the Commission should improve the reporting of its finances on the *Annual Financial Report* and the annual *Self-directed Semi-independent Agency Report (SDSI Report)*.

Annual Financial Report. The Commission's fiscal year 2013 *Annual Financial Report* was significantly misstated, with misstatements in both revenues and expenditures. For example, the Commission understated license and permit revenue by approximately \$1.7 million.

SDSI Report. The financial information in the Commission's fiscal year 2013 *SDSI Report* was incomplete. The *SDSI Report* contained information only on operational revenues and expenditures. That report did not present information on accounts totaling \$16.7 million in nonoperational revenues and fee surcharges¹ and \$16.4 million in nonoperational expenditures, transfers, and payments of fee surcharges to third parties.

The accuracy of the Commission's reports is important because the Legislature may use both of those reports to monitor the Commission's and the Texas Appraiser Licensing and Certification Board's finances.

The Commission also should strengthen access controls over data in its automated regulatory system, which is called Versa. The Commission adequately controls access to the Versa application, but it does not adequately protect Versa data. The Commission does not ensure segregation of duties and the integrity of data

Background Information

Texas Occupations Code, Chapter 1105, authorized the Real Estate Commission (Commission) to operate independently of the General Appropriations Act beginning in fiscal year 2012.

The Commission oversees the regulation of real estate brokers and salespersons and other real estate industry professionals. Texas Occupations Code, Section 1103.051, designates the Texas Appraiser Licensing and Certification Board (Board), which regulates real estate appraisers, as an independent subdivision of the Commission. The Commission's administrator also reports to the Board as its commissioner. The Board has certain staff who work only for the Board, but the Commission also shares certain staff with the Board.

The Commission reported that there were 43,385 active real estate broker licenses and 73,194 active real estate salesperson licenses at the end of fiscal year 2013. The Federal Financial Institutions Examinations Council Appraisal Subcommittee reported that there were 3,821 licensed appraisers in fiscal year 2013. The Commission employed 105 individuals as of August 2013.

¹The Commission is required by statute to collect revenues for State's General Revenue Fund, the Foundation School Fund, Texas A&M University, and recovery trust funds that the Commission administers. The Commission also collects surcharges that it pays to third parties, including the Department of Information Resources (for convenience fees for using the State's online payment system) and the Department of Public Safety and the Federal Bureau of Investigation (for fingerprinting or other services for a national or state criminal history check in connection with a license application or renewal).

stored on its network, the Versa database, and servers. Certain information technology staff also have administrator access that would allow them to change Versa data without a record of who accessed the administrator account or made the changes. In addition, the Commission assigns Versa user IDs by position, rather than assigning user IDs to specific individuals, and it does not consistently comply with its policy to disable and remove user accounts when users' employment is terminated. The Commission also did not have evidence showing that it regularly reviewed user access to Versa.

The Commission sets fee rates based on its budgetary needs, and it assesses penalties in accordance with statute. It collected approximately \$10.0 million in license fees and more than \$187,000 in penalties during fiscal year 2013.

Auditors communicated other, less significant issues to the Commission's management in writing.

Summary of Management's Response

The Commission agreed with the audit recommendations in this report. The Commission's detailed management responses are presented immediately following each set of recommendations in the Detailed Results section of this report.

Summary of Information Technology Review

Auditors performed a limited review of the general controls for two information systems the Commission used to account for its financial information:

- Versa, which is the Commission's automated regulatory system. The Commission uses Versa as its primary means for accounting for license and permit revenue, which represents the majority of the Commission's revenue.
- The Uniform Statewide Accounting System (USAS), which is the State's accounting system. The Commission uses USAS as its primary means of accounting for expenditures. Auditors conducted limited testing of general controls for USAS; specifically, auditors reviewed the Commission's access controls to USAS.

Auditors reviewed controls over user access and policies over change management and back-up and recovery and determined that the Commission adequately controls access to the Versa application. However, as discussed above, the Commission does not sufficiently ensure segregation of duties and the integrity of data stored on its network, the Versa database, and servers. The Commission should strengthen user access controls to minimize the risk of unauthorized alteration or deletion of data.

Summary of Objectives, Scope, and Methodology

The audit objectives were to:

- Verify the accuracy of certain key financial statement balances and the effectiveness of key financial controls at the Commission.
- Evaluate the Commission's process for setting fees and penalties.

The scope of this audit included reviewing support for financial balances the Commission reported in the fiscal year 2013 *Annual Financial Report* and in the November 2013 *SDSI Report*. Specifically, auditors reviewed bank statements, Versa information, and USAS information that supported both reports. Auditors also reviewed the Commission's process for setting fees and assessing penalties and analyzed and evaluated data and the results of related tests.

The audit methodology included collecting information and documentation from the Commission and reviewing policies and procedures, statutes, and rules related to financial reporting to the Legislature and the Commission's requirements for setting fees and penalties.

Auditors determined that expenditure data and license revenue data in USAS and Versa were sufficiently reliable for the purposes of this audit.

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Detailed Results

Chapter 1

The Commission Accounted for Fiscal Year 2013 License and Permit Revenue Accurately and Completely, But It Should Improve Its Financial Reporting

The Real Estate Commission (Commission) accurately and completely recorded \$23.5 million in fiscal year 2013 license and permit revenue data² (including amounts and revenue coding) for both itself and the Texas Appraiser Licensing and Certification Board (Board) in the Commission's automated regulatory system, which is called Versa. Auditors tied fiscal year 2013 receipt data in the Commission's bank records to Versa. License and permit revenue represented 86 percent of the Commission's and the Board's combined \$27.4 million in total revenues that were recorded in the Uniform Statewide Accounting System and Versa for fiscal year 2013.

While the Commission accurately and completely accounted for license and permit revenue, it should improve its financial reporting. The Commission reported fiscal year 2013 financial activities for itself and the Board in two reports: the fiscal year 2013 *Annual Financial Report* and the November 2013 *Self-directed Semi-independent Agency Report (SDSI Report)*. Those reports provide the Legislature a way to monitor the Commission's and the Board's finances. The Commission did not report all financial information in the fiscal year 2013 *Annual Financial Report* and *SDSI Report*, and it did not always present the information in accordance with financial reporting requirements.

Appendix 3 contains details on the Commission's revenues and expenditures for the *SDSI Report*.

Annual Financial Report

The Commission understated fiscal year 2013 license and permit revenue by approximately \$1.7 million (7 percent) on the fiscal year 2013 *Annual Financial Report*. That amount was a significant understatement, both to the license and permit revenue line item itself and to the financial statements in the fiscal year 2013 *Annual Financial Report* as a whole.

Additionally, the Commission prepared the fiscal year 2013 *Annual Financial Report* primarily on a cash basis, rather than on a full or modified accrual accounting basis as required by the Comptroller of Public Accounts'

² The Commission's License and Permits account includes license fees and other revenues including Occupational Fees, Fees Collected for Texas A&M University, Real Estate Recovery Trust Fund Recoveries, Administrative Penalties, and Miscellaneous Revenues.

Reporting Requirements for Fiscal Year 2013 Annual Financial Reports of State Agencies and Universities (Comptroller's requirements). Not properly accruing expenditures resulted in the Commission understating expenditures by nearly \$657,000 on the fiscal year 2013 *Annual Financial Report* (that \$657,000 amount included a \$554,000 understatement of the other expenditures account).

The fiscal year 2013 *Annual Financial Report* also did not comply with the Comptroller's requirements because the Commission omitted certain accounts from the primary exhibits in that report. Specifically, although the Commission reported a \$534,000 compensable leave balance liability and \$206,000 in capital assets in the notes to the fiscal year 2013 *Annual Financial Report*, it omitted those items from the primary exhibits in that report. Omitting those items from the primary exhibits affects the accuracy of fund balances in those primary exhibits. The financial reporting issues occurred because the Commission did not have a thorough review process for the *Annual Financial Report*.

SDSI Report

The Commission accurately reported \$10.6 million in revenues and \$8.9 million in expenditures in the *SDSI Report* for fiscal year 2013. However, that report did not contain a complete list of revenues and expenditures as required by the Texas Occupations Code, Section 1105.005(c)(4). For example, that report did not include accounts totaling \$16.7 million in nonoperational revenues and fee surcharges³ and \$16.4 million in nonoperational expenditures, transfers, and payments of fee surcharges to third parties. Appendix 3 contains a list of the accounts the Commission did not report on its *SDSI Report* for fiscal year 2013.

The Commission's fiscal year 2013 *SDSI Report* contained budgets approved by the members of the Texas Real Estate Commission and the members of the Texas Appraiser Licensing and Certification Board, as required by the Texas Occupations Code.

Recommendations

The Commission should:

- Strengthen controls over the preparation of *Annual Financial Reports* to help ensure those reports are accurate and prepared according to the Comptroller of Public Accounts' requirements.

³The Commission is statutorily required to collect revenues for the State's General Revenue Fund, the Foundation School Fund, Texas A&M University, and recovery trust funds that the Commission administers. The Commission also collects surcharges that it pays to third parties, including the Department of Information Resources (for convenience fees for using the State's online payment system) and the Department of Public Safety and the Federal Bureau of Investigation (for fingerprinting or other services for a national or state criminal history check in connection with a license application or renewal).

- Include all revenues and expenditures on annual *SDSI Reports*, as required by the Texas Occupations Code.

Management's Response

- *Strengthen controls over the preparation of Annual Financial Reports to help ensure those reports are accurate and prepared according to the Comptroller of Public Accounts' requirements.*

We agree with the findings during the period audited. The agency prepared the fiscal year 2013 Annual Financial Report primarily on a cash basis based on the interpretation of the Comptroller of Public Accounts Fiscal Policies and Procedures (FPP) S.009, which states that accruals and encumbrances against prior appropriation years will not be allowed during the subsequent fiscal year.

The agency was advised by our vendor, who compiled the AFR, that the compensable leave balance liability and the capital assets did not need to be included in the exhibits since they are included in the notes to the fiscal year 2013 Annual Financial Report. The agency sought and received advice from the Comptroller's Office that the amounts in question should be included in the exhibits as well as the notes.

The agency will comply with the SAO recommendations and strengthen controls over the preparation of the Annual Financial Reports.

- *Include all revenues and expenditures on annual SDSI Reports, as required by the Texas Occupations Code.*

We agree with the findings during the period audited. The agency will comply with the SAO recommendations for the fiscal year 2014 reports and will include all revenues and expenditures on the annual SDSI report per Texas Occupations Code, Section 1105.005(c)(4).

The agency may also seek a change to the SDSI report submission date in Texas Occupations Code, Section 1105.005(c) from November 1 of each year to November 20 of each year to coincide with Annual Financial Report submission date.

The Commission Should Strengthen Controls Over Data in Its Automated Regulatory System

The Commission adequately controls access to the Versa application, but it does not adequately protect Versa data. The Commission does not ensure segregation of duties and the integrity of data stored on its network, the Versa database, and servers. Certain information technology staff members also have administrator access that would allow them to change Versa data without a record of who accessed the administrator account or made the changes.

In addition, the Commission assigns network user IDs by position, rather than by assigning user IDs to specific individuals. Two (10 percent) of the 20 position-based users accounts that auditors tested were active but the associated positions were vacant. Those user accounts could be shared and used without any record of who used them or who changed data using them. Additionally, the Commission does not consistently comply with its policy to disable and remove user accounts for Versa when a user's employment is terminated.

Title 1, Texas Administrative Code, Section 202.21 (d)(4), requires an agency's information security officer to report at least annually to the agency head the status and effectiveness of information resources security controls. The Commission does not have documentation showing that it regularly reviews user access to Versa. Commission policy does not specify a regular interval for conducting those reviews. Although the Commission has relevant user access policies, most of those policies are more than eight years old.

Recommendations

The Commission should:

- Review administrator access and ensure that changes to Versa data can be traced to an individual user.
- Discontinue issuing network user IDs by position and, instead, issue unique user IDs to individual users.
- Comply with its policy to disable and remove user accounts when a user's employment is terminated.
- Document its regular reviews of Versa user access.
- Review and update its Versa user access policies and ensure that those policies require regular access reviews within a set time frame (such as annually).

Management's Response

- *Review administrator access and ensure that changes to Versa data can be traced to an individual user.*

We agree with the finding during the period audited. The commission will develop a new standard for naming user accounts to include a methodology which will relate to an individual rather than their position. Procedures will be updated to reflect this change.

- *Discontinue issuing network user IDs by position and, instead, issue unique user IDs to individual users.*

We agree with the finding during the period audited. The commission will develop a new standard for naming user accounts to include a methodology which will relate to an individual rather than their position. Procedures will be updated to reflect this change.

- *Comply with its policy to disable and remove user accounts when users' employment is terminated.*

We agree with the finding during the period audited. The commission will update the ITS procedures and work with Human Resources to ensure ITS receives notice and proper requests for disabling user IDs upon employees leaving the organization. The commission will begin permanently deactivating existing user accounts as people leave the agency and not reassign them for future use.

- *Document its regular reviews of Versa user access.*

We agree with the finding during the period audited. ITS has updated the year end procedures to include a review and documentation of the review of user IDs for network, Neubus and Versa applications. Lists will be provided to each of the operations divisions for approval of level permissions for staff.

- *Review and update its Versa user access policies and ensure that those policies require regular access reviews within a set time frame (such as annually).*

We agree with the finding during the period audited. ITS has updated the year end procedures to include a review of access policies for Versa, Neubus and the network.

The Commission Sets Fees Based on Its Budgetary Needs and Assesses Penalties in Accordance with Statute

Fees

The Commission sets fee rates based on its budgetary needs. The Commission charges fees for applications for professional licenses, renewals of professional licenses, and the operation of professional education programs. The Commission prepares its budgets by estimating expenses on a detailed level. Management then determines the fee levels that will be needed to raise the necessary revenue and charges fee rates to raise the necessary revenues.

Both the Commission and the Board have target reserve levels that are equal to three to four months' of operating expenditures. Appendix 4 shows the reserve amounts for the Commission and the Board for fiscal years 2009 through 2013, as reported in the Commission's *Annual Financial Report*.

Commission fees. The Commission had 35 fees at the end of fiscal year 2011, and it became a self-directed semi-independent agency at the beginning of fiscal year 2012. Thirty-three of the fees⁴ had set rates, and the median⁵ increase in those 33 fees was \$5.00 (or 15 percent) between the end of fiscal year 2011 and the end of fiscal year 2013. The Commission added 14 new fees between the end of fiscal year 2011 and the end of fiscal year 2013; 10 of those new fees had set fee amounts; the median of those 14 fees was \$125.⁶

The Commission's fiscal year 2013 fees were within levels allowed by the Texas Occupations Code and the Texas Administrative Code.

Board fees. The Board had 22 fees at the end of fiscal year 2011. Nineteen of those fees⁷ had set rates, and the median increase in those 19 fees was \$10.00 (or 3 percent) between the end of fiscal year 2011 and the end of fiscal year 2013. The Board added 13 new fees between the end of fiscal year 2011 and the end of fiscal year 2013; 7 of those new fees⁸ had a set amount, and the median of those 7 fees was \$30.

Appendix 2 presents detailed information on the Commission's and the Board's fees for fiscal year 2011 and fiscal year 2013.

⁴ Two Commission fees had variable rates and were not included in the calculation of the average fee increase.

⁵ The median, rather than the average, is presented because certain fees experienced relatively large increases. For example, two new Board fees for appraisal management companies were \$3,000 each, which resulted in the relatively high average of \$620. The third highest fee was \$50.

⁶ Four Commission fees had variable rates and were not included in the calculation of the average fee increase.

⁷ Three Board fees had variable rates and were not included in the calculation of the average fee increase.

⁸ Six Board fees had variable rates and were not included in the calculation of the average fee increase.

Penalties

The Commission issued penalties against individuals and entities and collected a total of more than \$187,000 in penalties in fiscal year 2013.

The Commission's schedules of administrative penalties are in the Texas Administrative Code. Those schedules contain a range of penalties for violations. The penalty levels on those schedules are within the parameters allowed by the Texas Occupations Code. Statute requires the Commission to consider factors such as the nature, extent, and the gravity of the prohibited acts and any history of previous offenses when administering penalties. The Commission's penalty schedules do not include guidance for considering those other factors when determining penalties. Appendix 5 contains information on the residential services portion of the Commission's penalty schedule.

Auditors examined 30 orders for disciplinary action that the Commission imposed against licensees during fiscal year 2013 and determined that the penalties were within levels permitted by statute and the Texas Administrative Code. The orders resulted in the following penalties:

- Fifteen (50 percent) of the 30 orders included monetary penalties for multiple offenses. For those 15 orders, the Commission assessed penalties as a single amount for multiple offenses⁹.
- Two (7 percent) of the 30 orders resulted in a monetary penalty for a single offense.
- Thirteen (43 percent) of the 30 orders resulted in nonmonetary penalties. For example, in 1 of the 13 orders, the Commission required a licensee convicted of felony theft to surrender her real estate salesperson license and not attempt to renew it for six years.

The Commission's administrator signed off on all penalties that auditors tested.

⁹ The cumulative penalty amounts for multiple offenses were within levels permitted by statute and the Texas Administrative Code and reflected the severity of the offenses.

Appendices

Appendix 1

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to:

- Verify the accuracy of certain key financial statement balances and the effectiveness of key financial controls at the Real Estate Commission (Commission).
- Evaluate the Commission's process for setting fees and penalties.

Scope

The scope of this audit included reviewing support for financial balances the Commission reported in the fiscal year 2013 *Annual Financial Report* and in the November 2013 *Self-directed Semi-independent Agency Report (SDSI Report)*. Specifically, auditors reviewed bank statements, Versa (the Commission's automated regulatory system) information, and the Uniform Statewide Accounting System (USAS) information that supported both reports. Auditors also reviewed the Commission's process for setting fees and assessing penalties and analyzed and evaluated data and the results of related tests.

Methodology

The audit methodology included collecting information and documentation from the Commission and reviewing policies and procedures, statutes, and rules related to financial reporting to the Legislature and the Commission's requirements for setting fees and penalties.

Auditors assessed the reliability of the expenditure data and license revenue data by (1) reviewing access controls in USAS and Versa, (2) gaining an understanding of general controls for Versa system, (3) comparing data to other sources of information, (4) analyzing key data elements for completeness and reasonableness, and (5) interviewing Commission employees knowledgeable about the data. Auditors determined that the expenditure data and license revenue data was sufficiently reliable for the purposes of the audit.

Auditors did not determine whether the Commission's disciplinary actions report generator contained the complete population of disciplinary actions the Commission took during fiscal year 2013. Auditors concluded that data was of undetermined reliability. Auditors selected a nonstatistical sample of

disciplinary actions to observe limited instances of the Commission's process for assessing penalties; therefore, it would not be appropriate to extrapolate those results from that sample to the population.

Information collected and reviewed included the following:

- Commission policies and procedures.
- Commission *Annual Financial Reports*.
- Texas Treasury Safekeeping Trust Company bank statements.
- USAS expenditure data.
- *SDSI Report* for November 2013.
- Payroll summary reports.
- Commission-approved operational budgets.

Procedures and tests conducted included the following:

- Interviewed Commission management and staff.
- Analyzed expenditure and revenue data reported in the *Annual Financial Report* pertaining to the Commission.
- Analyzed the financial information in the November 2013 *SDSI Report*.
- Reviewed access controls to Versa.
- Analyzed the Commission's process for setting fees.
- Reviewed license penalties for consistency.

Criteria used included the following:

- Texas Occupations Code, Chapters 1101 and 1105.
- Commission policies and procedures.
- Title 22, Texas Administrative Code, Chapter 535.
- Title 1, Texas Administrative Code, Chapter 202 (Information Security Standards).
- Comptroller of Public Accounts' *Reporting Requirements for Fiscal Year 2013 Annual Financial Reports of State Agencies and Universities*.
- Sunset Advisory Commission recommendations.

Project Information

Audit fieldwork was conducted from January 2014 through May 2014. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The following members of the State Auditor's staff performed the audit:

- Gregory Scott Adams, MPA, CPA, CGFM (Project Manager)
- Lilia C. Srubar, CPA (Assistant Project Manager)
- Johann A. Hajek
- Steven M. Summers, CPA, CISA, CFE
- Michael Yokie, CISA
- Becky Beachy, CIA, CGAP (Quality Control Reviewer)
- Nicole M. Guerrero, MBA, CIA, CGAP (Audit Manager)

Fees the Commission Charged Before and After It Became a Self-directed Semi-independent Agency

The Real Estate Commission (Commission) became a self-directed semi-independent agency in fiscal year 2012. Table 1 contrasts the fees that the Commission charged at the end fiscal year 2011 (before it became a self-directed semi-independent agency) with the fees it charged at the end of fiscal year 2013 (two years after it became a self-directed semi-independent agency).

Table 1

| Real Estate Commission Fees | | | | |
|---|--------------------------------------|-------------------|--|-----------------------|
| Fee | Fee at the End of Fiscal Year | | Change in Fee From Fiscal Year 2011 to Fiscal Year 2013 | |
| | 2011 | 2013 | Dollar Change | Percent Change |
| Title 22, Texas Administrative Code, Section 535.101, Fees - Real Estate Brokers and Salespersons | | | | |
| Original application for a real estate broker license, which includes a fee for transcript evaluation | \$105.00 | \$119.00 | \$14.00 | 13% |
| Annual renewal of a real estate broker license | \$34.00 | \$39.00 | \$5.00 | 15% |
| Original application for a real estate salesperson license, which includes a fee for transcript evaluation | \$105.00 | \$119.00 | \$14.00 | 13% |
| Annual renewal of a real estate salesperson license | \$34.00 | \$39.00 | \$5.00 | 15% |
| License examination | \$61.00 | \$61.00 | \$0.00 | 0% |
| Request for, or renewal of, a license for each additional office or place of business for a period of two years | \$20.00 | \$50.00 | \$30.00 | 150% |
| Request an inactive broker license be returned to active status | \$20.00 | \$50.00 | \$30.00 | 150% |
| Request for a license for a change of place of business, change of a licensee name, or to establish a relationship with a sponsoring broker | \$20.00 | \$20.00 | \$0.00 | 0% |
| Application for accreditation of a core education program under Texas Occupations Code, Section 1101.301 | \$400.00 | \$400.00 | \$0.00 | 0% |
| One-year operation of a core real estate education program under Texas Occupations Code, Section 1101.301 | \$200.00 | \$200.00 | \$0.00 | 0% |
| \$50 plus \$20 per classroom hour approved by the Real Estate Commission for each core education course for a period of four years | Not Applicable | Fee Amount Varies | Fee Amount Varies | Not Applicable |

| Real Estate Commission Fees | | | | |
|---|-------------------------------|-------------------|---|----------------|
| Fee | Fee at the End of Fiscal Year | | Change in Fee From Fiscal Year 2011 to Fiscal Year 2013 | |
| | 2011 | 2013 | Dollar Change | Percent Change |
| Application for accreditation as a mandatory continuing education (MCE) provider for a period of two years under Texas Occupations Code, Section 1101.302 | Not Applicable | \$400.00 | \$400.00 | Not Applicable |
| \$50 plus \$10 per classroom hour approved by the Real Estate Commission for each MCE course for a period of two years | Not Applicable | Fee Amount Varies | Fee Amount Varies | Not Applicable |
| MCE deferral fee | Not Applicable | \$200.00 | \$200.00 | Not Applicable |
| Certificate of license history, active licensure, or sponsorship | \$20.00 | \$40.00 | \$20.00 | 100% |
| Moral character determination | \$25.00 | \$50.00 | \$25.00 | 100% |
| Instructor application for a two-year period for real estate core or MCE courses, or both | \$25.00 | \$150.00 | \$125.00 | 500% |
| Annual late renewal of a real estate salesperson or broker license for a person whose license has been expired 90 or fewer days | \$51.00 | \$58.50 | \$7.50 | 15% |
| Annual late renewal of a real estate salesperson or broker license for a person whose license has been expired more than 90 days but fewer than 6 months | \$68.00 | \$78.00 | \$10.00 | 15% |
| Late reporting fee of \$250 to reactivate a license under Texas Occupations Code, Section 535.92(g) (relating to renewal, time for filing, and satisfaction of MCE requirements) | \$250.00 | \$250.00 | \$0.00 | 0% |
| Application, renewal, change request, or other record on paper that a person may otherwise file with the Real Estate Commission electronically by accessing the Real Estate Commission's Web site, entering the required information online, and paying the appropriate fee | \$20.00 | \$20.00 | \$0.00 | 0% |
| Processing a check or other equivalent instrument returned by a bank or depository as dishonored for insufficient funds | Not Applicable | \$30.00 | \$30.00 | Not Applicable |
| Title 22, Texas Administrative Code, Section 535.210, Fees - Real Estate Inspectors | | | | |
| Original application for a license as an apprentice inspector | \$35.00 | \$84.00 | \$49.00 | 140% |
| Original application for a license as a real estate inspector, which includes a fee for transcript evaluation | \$75.00 | \$89.00 | \$14.00 | 19% |
| Original application for a license as a professional inspector, which includes a fee for transcript evaluation | \$90.00 | \$104.00 | \$14.00 | 16% |

| Real Estate Commission Fees | | | | |
|---|-------------------------------|-------------------|---|----------------|
| Fee | Fee at the End of Fiscal Year | | Change in Fee From Fiscal Year 2011 to Fiscal Year 2013 | |
| | 2011 | 2013 | Dollar Change | Percent Change |
| Annual renewal of the license of an apprentice inspector | \$22.00 | \$27.00 | \$5.00 | 23% |
| Annual renewal of the license of a real estate inspector | \$27.00 | \$32.00 | \$5.00 | 19% |
| Annual renewal of the license of a professional inspector | \$27.00 | \$32.00 | \$5.00 | 19% |
| License examination | \$61.00 | \$61.00 | \$0.00 | 0% |
| Requesting a change of a licensee name, or to establish a relationship with a sponsoring professional inspector | \$20.00 | \$20.00 | \$0.00 | 0% |
| Request an inactive professional inspector license be returned to active status | \$20.00 | \$50.00 | \$30.00 | 150% |
| Certificate of license history, active licensure, or sponsorship | Not Applicable | \$40.00 | \$40.00 | Not Applicable |
| Application for accreditation of a core inspector education program for a period of four years under Texas Occupations Code, Chapter 1101 | Not Applicable | \$400.00 | \$400.00 | Not Applicable |
| One-year operation of a core education program under Texas Occupations Code, Chapter 1101 | Not Applicable | \$200.00 | \$200.00 | Not Applicable |
| \$50 plus \$10 per classroom hour approved by the Real Estate Commission for each core inspector education course for a period of four years | Not Applicable | Fee Amount Varies | Fee Amount Varies | Not Applicable |
| \$400 for filing an application for accreditation as an inspector continuing education (ICE) provider for a period of two years under Texas Occupations Code, Section 1102.205 | Not Applicable | \$400.00 | \$400.00 | Not Applicable |
| \$50 plus \$10 per classroom hour approved by the Real Estate Commission for each ICE course for a period of two years | Not Applicable | Fee Amount Varies | Fee Amount Varies | Not Applicable |
| Application for approval as an instructor for a two-year period for core or ICE courses, or both | Not Applicable | \$50.00 | \$50.00 | Not Applicable |
| Moral character determination | Not Applicable | \$50.00 | \$50.00 | Not Applicable |
| Application, renewal, change request, or other record on paper that a person may otherwise file with the Real Estate Commission electronically by accessing the Real Estate Commission's Web site, entering the required information online, and paying the appropriate fee | \$20.00 | \$20.00 | \$0.00 | 0% |
| Processing a check or other equivalent instrument returned by a bank or depository as dishonored for insufficient funds | Not Applicable | \$30.00 | \$30.00 | Not Applicable |

| Real Estate Commission Fees | | | | |
|---|-------------------------------|-------------------|---|-------------------|
| Fee | Fee at the End of Fiscal Year | | Change in Fee From Fiscal Year 2011 to Fiscal Year 2013 | |
| | 2011 | 2013 | Dollar Change | Percent Change |
| Title 22, Texas Administrative Code, Section 535.404, Fees - Easement or Right-of-way Agents | | | | |
| Application for registration for a two-year period | \$160.00 | \$200.00 | \$40.00 | 25% |
| Renewal of a registration for a two-year period | \$160.00 | \$200.00 | \$40.00 | 25% |
| Title 22, Texas Administrative Code, Section 539.231, Fees - Residential Service Companies | | | | |
| Application for a license | \$3,500.00 | \$3,500.00 | \$0.00 | 0% |
| Filing an annual report | \$3,500.00 | \$3,500.00 | \$0.00 | 0% |
| Evidence of coverage | \$250.00 | \$250.00 | \$0.00 | 0% |
| Schedule of charges | \$250.00 | \$250.00 | \$0.00 | 0% |
| Title 22, Texas Administrative Code, Section 543.3, Fees - Timeshare Act | | | | |
| Original registration, fee determined by number of interests: \$500-\$3,500 | Fee Amount Varies | Fee Amount Varies | Fee Amount Varies | Fee Amount Varies |
| Amendment application, fee determined by number of interests: \$100-\$2,000 | Fee Amount Varies | Fee Amount Varies | Fee Amount Varies | Fee Amount Varies |

Source: Real Estate Commission.

Table 2 lists the fees that the Appraiser Licensing and Certification Board charged in fiscal years 2011 and 2013.

Table 2

| Appraiser Licensing and Certification Board Fees | | | | |
|--|-------------------------------|----------|---|----------------|
| Fee | Fee at the End of Fiscal Year | | Change in Fee From Fiscal Year 2011 to Fiscal Year 2013 | |
| | 2011 | 2013 | Dollar Change | Percent Change |
| Title 22, Texas Administrative Code, Section 535.101, Fees - Real Estate Brokers and Salespersons | | | | |
| Application for a general certification | \$390.00 | \$400.00 | \$10.00 | 3% |
| Application for a residential certification | \$340.00 | \$350.00 | \$10.00 | 3% |
| Application for a license | \$315.00 | \$325.00 | \$10.00 | 3% |
| Application for approval as an appraiser trainee | \$185.00 | \$300.00 | \$115.00 | 62% |
| Timely renewal of a general certification | \$360.00 | \$370.00 | \$10.00 | 3% |
| Timely renewal of a residential certification | \$310.00 | \$320.00 | \$10.00 | 3% |
| Timely renewal of a license | \$285.00 | \$295.00 | \$10.00 | 4% |

| Appraiser Licensing and Certification Board Fees | | | | |
|--|-------------------------------|-------------------|---|-------------------|
| Fee | Fee at the End of Fiscal Year | | Change in Fee From Fiscal Year 2011 to Fiscal Year 2013 | |
| | 2011 | 2013 | Dollar Change | Percent Change |
| Timely renewal of an appraiser trainee approval | \$155.00 | \$270.00 | \$115.00 | 74% |
| Fee equal to 1-1/2 times the timely renewal fee for the late renewal of a license or certification within 90 days of expiration | Fee Amount Varies | Fee Amount Varies | Fee Amount Varies | Fee Amount Varies |
| Fee equal to two times the timely renewal fee for the late renewal of a license or certification more than 90 days but fewer than six months after expiration | Fee Amount Varies | Fee Amount Varies | Fee Amount Varies | Fee Amount Varies |
| Nonresident appraiser registration | \$150.00 | \$150.00 | \$0.00 | 0% |
| Annual federal registry | \$25.00 | \$25.00 | \$0.00 | 0% |
| Application fee by reciprocity set at the amount of the fee charged for a similar license or certificate issued to a Texas resident | Fee Amount Varies | Fee Amount Varies | Fee Amount Varies | Fee Amount Varies |
| Preparing a certificate of licensure history, active licensure, or sponsorship | \$25.00 | \$40.00 | \$15.00 | 60% |
| Addition or termination of sponsorship of an appraiser trainee | \$20.00 | \$20.00 | \$0.00 | 0% |
| Replacing a lost or destroyed certificate | \$15.00 | \$20.00 | \$5.00 | 33% |
| Fee for a returned check equal to that charged for a returned check by the Real Estate Commission | Not Applicable | \$30.00 | \$30.00 | Not Applicable |
| Extension of time to complete required continuing education | \$200.00 | \$200.00 | \$0.00 | 0% |
| Request a certificate or license be placed on inactive status | \$50.00 | \$25.00 | -\$25.00 | -50% |
| Request a return to active status | \$50.00 | \$50.00 | \$0.00 | 0% |
| Evaluation of an applicant's education | \$30.00 | \$30.00 | \$0.00 | 0% |
| Evaluation of an applicant's criminal history | \$30.00 | \$50.00 | \$20.00 | 67% |
| 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 Appraiser Licensing and Certification Board's Web site and entering the required information online | \$20.00 | \$20.00 | \$0.00 | 0% |
| Title 22, Texas Administrative Code, Section 159.52, Fees - Appraisal Management Companies | | | | |
| Application for a two-year registration | Not Applicable | \$3,000.00 | \$3,000.00 | Not Applicable |
| Timely renewal of a two-year registration | Not Applicable | \$3,000.00 | \$3,000.00 | Not Applicable |

| Appraiser Licensing and Certification Board Fees | | | | |
|---|-------------------------------|-------------------|---|----------------|
| Fee | Fee at the End of Fiscal Year | | Change in Fee From Fiscal Year 2011 to Fiscal Year 2013 | |
| | 2011 | 2013 | Dollar Change | Percent Change |
| 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 fewer than 6 months after expiration; | Not Applicable | Fee Amount Varies | Fee Amount Varies | Not Applicable |
| National registry fee in the amount charged by the appraisal subcommittee for the appraisal management company registry | Not Applicable | Fee Amount Varies | Fee Amount Varies | Not Applicable |
| Fee for each appraiser on a panel at the time of renewal of a registration | Not Applicable | \$10.00 | \$10.00 | Not Applicable |
| Fee to add an appraiser to a panel in the Appraiser Licensing and Certification Board's records | Not Applicable | \$10.00 | \$10.00 | Not Applicable |
| Fee for the termination of an appraiser from a panel | Not Applicable | \$10.00 | \$10.00 | Not Applicable |
| Return to active status | Not Applicable | \$50.00 | \$50.00 | Not Applicable |
| Prepare a certificate of licensure history or active licensure | Not Applicable | \$40.00 | \$40.00 | Not Applicable |
| Fee for a returned check equal to that charged for a returned check by the Real Estate Commission | Not Applicable | \$30.00 | \$30.00 | Not Applicable |
| Filing any application, renewal, change request, or other record on paper when the person may otherwise file electronically by accessing the Appraiser Licensing and Certification Board's Web site and entering the required information online | Not Applicable | \$20.00 | \$20.00 | Not Applicable |
| Any fee required by the Department of Information Resources for establishing and maintaining online applications | Not Applicable | Fee Amount Varies | Fee Amount Varies | Not Applicable |

Source: Appraiser Licensing and Certification Board.

Revenues and Expenditures Reported and Not Reported in the SDSI Report for Fiscal Year 2013

As noted in Chapter 1, the Real Estate Commission (Commission) did not include a complete list of revenues and expenditures for both itself and the Texas Appraiser Licensing and Certification Board (Board) in its required *Self-directed Semi-independent Agency Report (SDSI Report)* for fiscal year 2013, as required by the Texas Occupations Code, Section 1105.005 (c)(4). For example, the Commission did not include accounts totaling \$16.7 million in nonoperational and pass-through revenues and \$16.4 million in nonoperational and pass-through expenditures and transfers.

Table 3 shows the expenditures and revenues the Commission reported in the November 2013 *SDSI Report*, and Table 4 on the next page shows the expenditure and revenue accounts the Commission did not report in the November 2013 *SDSI Report*.

Table 3

| Expenditures and Revenues the Commission Reported in the SDSI Report for Fiscal Year 2013 | | | |
|---|------------------------|---|---------------|
| Category | Real Estate Commission | Appraiser Licensing and Certification Board | Totals |
| Expenditures | | | |
| Operations Expenditures | | | |
| Salaries and Wages | \$4,126,542 | \$871,061 | \$4,997,603 |
| Employee Benefits | 1,412,177 | 248,182 | 1,660,359 |
| Other Personnel Costs | 155,329 | 37,018 | 192,347 |
| Professional Fees and Services | 162,221 | 47,407 | 209,628 |
| Consumables | 22,784 | 7,445 | 30,229 |
| Utilities | 10,632 | 750 | 11,382 |
| Travel | 26,150 | 18,489 | 44,639 |
| Office Rent | 459,457 | 97,703 | 557,160 |
| Equipment Rental | 25,118 | 7,352 | 32,470 |
| Registration and Membership | 21,456 | 10,427 | 31,883 |
| Maintenance and Repairs | 110,915 | 3,273 | 114,188 |
| Reproduction and Printing | 534 | 437 | 971 |
| Contract Services | 39,732 | 19,673 | 59,405 |
| Postage | 16,420 | 3,424 | 19,844 |
| Supplies and Equipment | 85,825 | 4,616 | 90,441 |
| Communication Services | 30,929 | 5,907 | 36,836 |
| Other Operating Expenses | <u>9,620</u> | <u>1,772</u> | <u>11,392</u> |

| Expenditures and Revenues the Commission Reported in the SDSI Report for Fiscal Year 2013 | | | |
|---|---------------------------|--|---------------------|
| Category | Real Estate Commission | Appraiser Licensing and Certification Board | Totals |
| Subtotal for Operations Expenditures | \$6,715,841 | \$1,384,936 | \$8,100,777 |
| Non-operations Expenditures | | | |
| Department of Public Safety Criminal History Background Checks | \$ 13 | \$ 2,904 | \$2,917 |
| Statewide Cost Allocation Plan (SWCAP) | 44,382 | 8,982 | 53,364 |
| Contribution to General Revenue ^a | <u>720,000</u> | <u>30,000</u> | <u>750,000</u> |
| Subtotal - Non-operations Expenditures | \$764,395 | \$41,886 | \$806,281 |
| Total Expenditures | \$7,480,236 | \$1,426,822 | \$8,907,058 |
| Revenues | | | |
| License Fees | \$8,877,430 | \$1,228,050 | \$10,105,480 |
| Miscellaneous Revenue | 118,130 | 12,732 | 130,862 |
| E-newsletter | 230,636 | 0 | 230,636 |
| Appraisal Management Companies | <u>0</u> | <u>153,570</u> | <u>153,570</u> |
| Total Revenues | \$9,226,196 | \$1,394,352 | \$10,620,548 |
| ^a This is a required transfer, rather than an expenditure. Texas Occupations Code, Section 1105.005 (c)(4), which requires the <i>SDSI Report</i> , does not preclude the Commission from reporting financial information other than expenditures and revenues. Presenting transfers correctly would provide report users with a more complete picture of the Commission's finances. | | | |

Source: The Commission's *SDSI Report* for fiscal year 2013.

Table 4

| Expenditures and Revenues the Commission Did Not Report in the SDSI Report for Fiscal Year 2013 | | | |
|--|---------------------------|--|--------------------|
| Category | Real Estate Commission | Appraiser Licensing and Certification Board | Totals |
| Expenditures | | | |
| Payment from State Appropriation to Local Account | \$ 3,813,736 | \$ 0 | \$3,813,736 |
| Federal Bureau of Investigation Criminal History Checks | 2,146,688 | 0 | 2,146,688 |
| Payment of Claims from Trust ^a | 904,299 | 0 | 904,299 |
| Texas Online | 310,747 | 15,641 | 326,388 |
| Appraiser Federal Revenue Fees | <u>0</u> | <u>206,920</u> | <u>206,920</u> |
| Total Expenditures | \$7,175,470 | \$222,561 | \$7,398,031 |

| Expenditures and Revenues the Commission Did Not Report in the SDSI Report for Fiscal Year 2013 | | | |
|--|---------------------------|--|---------------------|
| Category | Real Estate Commission | Appraiser Licensing and Certification Board | Totals |
| Transfers | | | |
| Occupation Fees Transferred to the State's General Revenue Fund | \$4,703,357 | \$0 | \$4,703,357 |
| Fees Transferred to Texas A&M University | <u>4,251,540</u> | <u>0</u> | <u>4,251,540</u> |
| Total Transfers | \$8,954,897 | \$0 | \$8,954,897 |
| Total Expenditures and Transfers | \$16,130,367 | \$222,561 | \$16,352,928 |
| Revenues | | | |
| Occupation Fees | \$5,351,083 | \$0 | \$5,351,083 |
| Fees Collected for Transfer to Texas A&M University | 4,521,023 | 0 | 4,521,023 |
| Appropriations Revenue | 3,813,736 | 0 | 3,813,736 |
| Federal Bureau of Investigation Criminal History Fees | 1,888,149 | 0 | 1,888,149 |
| Real Estate Recovery Trust Fund Recoveries ^a | 455,635 | 0 | 455,635 |
| Texas Online Fees | 343,586 | 16,771 | 360,357 |
| Interest Revenue | 113,451 | 228 | 113,679 |
| Real Estate Inspection Recovery Trust Fund Recoveries | 27,820 | 0 | 27,820 |
| Annual Registry Fees ^b | <u>0</u> | <u>218,466</u> | <u>218,466</u> |
| Total Revenues | \$16,514,483 | \$235,465 | \$16,749,948 |
| ^a The Payment of Claims from Trust account and the Real Estate Recovery Trust Fund Recoveries account are within the Commission's fiduciary funds and can be used only for purposes designated by the Texas Occupations Code. ^b The payment of annual registry fees is required by federal law. | | | |

Sources: Expenditure and transfer data from the Uniform Statewide Accounting System and revenue data from the Commission's automated regulatory system (Versa).

Reserve Amounts

The Real Estate Commission (Commission) and the Appraiser Licensing and Certification Board (Board) have targeted reserve amounts equal to 3 to 4 months of operating expenses based on their business needs. Table 5 shows the reserve amounts for the Commission and the Board from the *Annual Financial Reports* for fiscal years 2009 through 2013. The reserves shown are equal to the differences between (1) total fund balances or net assets, as applicable, and (2) all other fund balance/net asset reservations or designations. Table 5 also shows the number of months of operating expenses the reserves would cover.

Table 5

| Reserve Amounts in Annual Financial Reports and Number of Months of Operating Expenses Those Reserves Would Cover | | | | |
|--|---|--|---|---|
| Fiscal Year | Real Estate Commission | | Appraiser Licensing and Certification Board | |
| | Reserves (in thousands) ^a | Months of Operating Expenses ^b Reserves Would Cover | Reserves (in thousands) ^a | Months of Operating Expenses Reserves Would Cover |
| 2009 | \$74.8 | 0.1 | \$6.4 | 0.1 |
| 2010 | \$332.8 | 0.4 | \$145.3 | 1.6 |
| 2011 | \$811.7 | 0.9 | \$133.6 | 1.6 |
| 2012 | \$2,594.1 | 2.2 | \$334.3 | 2.9 |
| 2013 | \$4,862.0 | 3.3 | \$287.9 | 2.4 |

^a The Commission's reported reserves for fiscal year 2013 did not include \$206,000 in capital assets and \$534,000 in compensable leave liabilities, which the Commission did not report in the primary exhibits of the *Annual Financial Reports*. The Board's reserves, which were reported in Exhibits VIII, Exhibit IX, and the supporting schedules of the Commission's *Annual Financial Report*, included capital assets and compensable leave liabilities.

^b Operating Expenses include Operating Transfers Out to other state agencies.

Source: The Commission's *Annual Financial Reports* for fiscal years 2009 through 2013.

In addition, the Commission and the Board both maintain the following:

- Real Estate Recovery Trust Account** - Texas Occupations Code, Chapter 1101, established the Real Estate Recovery Trust Account to reimburse persons suffering damages from individuals regulated by the Commission. The statute also required the Commission to manage the Real Estate Recovery Trust Account to ensure that it has a balance of between \$1 million and the greater of (1) \$3.5 million or (2) the total amount of claims paid from that account during the preceding four fiscal years. If the Real Estate Recovery Trust Account's balance exceeds the statutorily permitted maximum at the end of a calendar year, statute requires the Commission to transfer the excess amount to the State's General Revenue Fund.

- Real Estate Inspection Recovery Fund - Texas Occupations Code, Section 1102**, established the Real Estate Inspection Recovery Fund to reimburse persons suffering damages from individuals regulated by the Commission. The statute also required the Commission to manage the Real Estate Recovery Inspection Trust Account to ensure that it has a balance of between \$300,000 and \$600,000. If the Real Estate Inspection Recovery Fund's balance exceeds \$600,000 at the end of a calendar year, statute requires the Commission to transfer the excess amount to the State's General Revenue Fund.

Table 6 shows the reserves and claims for the Real Estate Recovery Trust Account and the Real Estate Inspection Recovery Fund in fiscal years 2009 through 2013. The table also shows statutorily required transfers from the Real Estate Inspection Recovery Fund to the State's General Revenue Fund during the same time period. The Commission did not transfer funds from the Real Estate Recovery Trust Account to the State's General Revenue Fund during that time.

Table 6

| Reserves and Claims | | | | | |
|---------------------|------------------------------------|---|--------------------------------------|---|--|
| Fiscal Year | Real Estate Recovery Trust Account | | Real Estate Inspection Recovery Fund | | |
| | Reserves (in thousands) | Amount of Claims Settled (in thousands) | Reserves (in thousands) | Amount of Claims Settled (in thousands) | Transfers to the State's General Revenue Fund (in thousands) |
| 2009 | \$2,960.2 | \$88.3 | \$624.0 | \$12.5 | \$37.7 |
| 2010 | \$3,042.6 | \$536.6 | \$630.8 | \$16.2 | \$32.3 |
| 2011 | \$2,288.9 | \$856.8 | \$601.2 | \$25.0 | \$34.4 |
| 2012 | \$2,189.0 | \$527.3 | \$604.9 | \$12.5 | \$7.3 |
| 2013 | \$1,732.7 | \$904.3 | \$616.5 | \$0.0 | \$13.2 |

Sources: The Commission's *Annual Financial Reports* for fiscal years 2009 through 2013.

Penalty Schedule

In December 2007, the Commission adopted Title 22, Texas Administrative Code, Section 539.140. Those rules contain the current schedule of administrative penalties to which residential services are subject. The Commission's penalties in those rules are listed below, followed by excerpts from the Texas Administrative Code and the Texas Occupations Code sections that are referenced in those rules.

Title 22, Texas Administrative Code, Section 539.140

(a) The administrative penalties set forth in this section take into consideration all of the criteria listed in §1303.355(c) of the Texas Occupations Code.

(b) An administrative penalty range of \$100 - \$1,500 per violation per day may be assessed for violations of the following sections of the Texas Occupations and Administrative Codes:

- (1) 22 TAC §539.137(b);
- (2) §1303.202(a);
- (3) §1303.202(b);
- (4) §1303.052; and
- (5) §1303.352(a)(1).

(c) An administrative penalty range of \$500 - \$5,000 per violation per day may be assessed for the following violations of the Texas Occupations and Administrative Codes:

- (1) §1303.101;
- (2) §1303.151;
- (3) 22 TAC §539.81;
- (4) §1303.153;
- (5) §1303.352(a)(2);
- (6) §1303.352(a)(3); and
- (7) §1303.352(a)(6).

(d) The commission may assess an additional administrative penalty of up to two times that assessed under subsections (b) and (c) of this section if the residential service company has a history of previous violations.

The following are excerpts from the Texas Administrative Code and the Texas Occupations Code that are referenced in the Commission's rules above.

Title 22, Texas Administrative Code, Section 539.137

(b) Each residential service company shall file a Mid-Year Report no later than August 1 of each year for the preceding months of January through June.

Texas Occupations Code, Section 1303.202

(a) Not later than April 1 of each year, each residential service company shall file with the commission a report covering the preceding calendar year.

(b) The report must:

(1) be on a form prescribed by the commission;

(2) be verified by at least two of the residential service company's principal officers

Texas Occupations Code, Section, Section 1303.052

(a) A residential service company must pay to the commission a fee for filing an application for a license or an amendment to the application.

(b) A residential service company shall pay to the commission a fee for:

(1) filing an annual report under Section 1303.202; and

(2) any other filing required by this chapter.

(c) A residential service company shall pay to the commission a fee for the cost of an examination conducted under Section 1303.053.

Texas Occupations Code, Section 1303.352

(a) The commission may discipline a residential service company under Section 1303.351 if the continued operation of the company would be hazardous to its contract holders or if the company:

(1) operates in conflict with its basic organizational document or in a manner that is contrary to that described in and reasonably inferred from information submitted under Section 1303.103, unless an amendment to the information has been filed with and approved by the commission;

Texas Occupations Code, Section 1303.101

(a) A person may not issue a residential service contract or perform or arrange to perform services under a residential service contract unless the person is licensed as a residential service company under this chapter or is the

authorized representative of a person licensed as a residential service company under this chapter.

Texas Occupations Code, Section 1303.151

A residential service company shall maintain a funded reserve against its liability to provide repair and replacement services under its outstanding residential service contracts written in this state.

Title 22, Texas Administrative Code, Section 539.81

(a) Each residential service company licensed by the commission shall maintain funded reserves in the amount required by Subchapter D of the Act. Accounts containing funded reserves must be identified as such and may not be encumbered or commingled with funds, which are not reserves. Separate funded reserves are required for service contracts written in Texas unless the company's combined funded reserves meet the minimum reserve requirements of the Act, Subchapter D, calculated based on all outstanding contracts. Each company shall maintain a level of liquidity equal to or greater than the amount of its funded reserve.

Texas Occupations Code, Section 1303.153

(a) As a guarantee that a residential service company will meet its obligations to its contract holders, the company shall maintain with the commission a bond or other security accepted by the commission.

Texas Occupations Code, Sections 1303.352(a)(2)(3), and (6)

(a) The commission may discipline a residential service company under Section 1303.351 if the continued operation of the company would be hazardous to its contract holders or if the company:

(2) issues evidence of coverage that does not comply with Sections 1303.251 and 1303.252

(3) uses a schedule of charges that does not comply with Section 1303.253

(6) advertised or marketed the company's services in a false, misrepresentative, misleading, deceptive, or unfair manner

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AGENDA ITEM 17

Discussion and possible action to adopt amendments to 22 TAC Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act:

- a. 22 TAC §153.3. The Board
- b. 22 TAC §153.5. Fees
- c. 22 TAC §153.8. Scope of Practice
- d. 22 TAC §153.9. Applications
- e. 22 TAC §153.10. Issuance of Certification, License, or Trainee Approval
- f. 22 TAC §153.11. Examinations
- g. 22 TAC §153.13. Educational Requirements
- h. 22 TAC §153.15. Experience Required for Certification or Licensing
- i. 22 TAC §153.17. Renewal or Extension of Certification and License or Renewal of Trainee Approval
- j. 22 TAC §153.18. Appraiser Continuing Education (ACE)
- k. 22 TAC §153.19. Licensing and Certification for Persons with Criminal Histories
- l. 22 TAC §153.20. Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure
- m. 22 TAC §153.21. Appraiser Trainees and Sponsors
- n. 22 TAC §153.23. Inactive Status
- o. 22 TAC §153.24. Complaint Processing
- p. 22 TAC §153.25. Temporary Out-of-State Appraiser Registration
- q. 22 TAC §153.26. Identity Theft
- r. 22 TAC §153.27. Certification and Licensure by Reciprocity
- s. 22 TAC §153.33. Signature or Endorsement of Appraisal
- t. 22 TAC §153.37. Criminal Matters Referred to Law Enforcement

SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act. The amendments are made following a comprehensive rule review for this Chapter to better reflect current TALCB procedures, to conform TALCB rules with criteria established by the Appraiser Qualifications Board (AQB), and to simplify and clarify where needed.

The amendments capitalize the term “Board” and replace the term “licensee” with “license holder” throughout the Chapter. The amendments also remove redundant or unused provisions and restructure certain rules to improve readability. Other specific amendments are as follows:



The amendments to §153.3 clarify that the TALCB meetings are conducted in accordance with Robert's Rules of Order unless state law or TALCB rules require otherwise.

The amendments to §153.8 remove an outdated subsection relating to provisional license, which are no longer issued by the TALCB.

The amendments to §153.9 clarify the date on which an applicant may reapply after TALCB initially denies a license application. This amendment conforms §153.9 with the changes previously made to §157.7 relating to Denial of a License.

The amendments to §153.11 clarify that an examination fee must be paid each time an examination is taken.

The amendments to §153.17 clarify the deadlines and requirements for renewing a license or requesting an extension to renew a license.

The amendments to §153.18 clarify the requirements for Appraiser Continuing Education.

The amendments to §153.19 clarify the licensing requirements for persons with criminal history and remove redundant provisions to better align the rule with the requirements in Texas Occupations Code §53.022.

The amendments to §153.21 clarify the obligations of a sponsoring appraiser.

The amendments to §153.23 clarify when a license holder may request to be placed on inactive status and the requirements that must be satisfied for a license to return to active status.

The amendments to §153.24 capitalize the terms "Complainant" and "Respondent" and restructure the text of the rule to clarify when a formal complaint is opened.

COMMENTS

No comments were received on the amendments as proposed.

STAFF RECOMMENDATION

Adopt rules as published.

**RECOMMENDED MOTION**

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption amendments to 22 TAC §153.3. The Board; 22 TAC §153.5. Fees; 22 TAC §153.8. Scope of Practice; 22 TAC §153.9. Applications; 22 TAC §153.10. Issuance of Certification, License, or Trainee Approval; 22 TAC §153.11. Examinations; 22 TAC §153.13. Educational Requirements; 22 TAC §153.15. Experience Required for Certification or Licensing; 22 TAC §153.17. Renewal or Extension of Certification and License or Renewal of Trainee Approval; 22 TAC §153.18. Appraiser Continuing Education (ACE); 22 TAC §153.19. Licensing and Certification for Persons with Criminal Histories; 22 TAC §153.20. Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure; 22 TAC §153.21. Appraiser Trainees and Sponsors; 22 TAC §153.23. Inactive Status; 22 TAC §153.24. Complaint Processing; 22 TAC §153.25. Temporary Out-of-State Appraiser Registration; 22 TAC §153.26. Identity Theft; 22 TAC §153.27. Certification and Licensure by Reciprocity; 22 TAC §153.33. Signature or Endorsement of Appraisal; 22 TAC §153.37. Criminal Matters Referred to Law Enforcement, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes required for adoption.



**ADOPTED RULE ACTION FROM
AUGUST 15, 2014 MEETING OF**

THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

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

22 TAC §153.3. The Board, 22 TAC §153.5. Fees, 22 TAC §153.8. Scope of Practice, 22 TAC §153.9. Applications, 22 TAC §153.10. Issuance of Certification, License, or Trainee Approval, 22 TAC §153.11. Examinations, 22 TAC §153.13. Educational Requirements, 22 TAC §153.15. Experience Required for Certification or Licensing, 22 TAC §153.17. Renewal or Extension of Certification and License or Renewal of Trainee Approval, 22 TAC §153.18. Appraiser Continuing Education (ACE), 22 TAC §153.19. Licensing and Certification for Persons with Criminal Histories, 22 TAC §153.20. Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure, 22 TAC §153.21. Appraiser Trainees and Sponsors, 22 TAC §153.23. Inactive Status, 22 TAC §153.24. Complaint Processing, 22 TAC §153.25. Temporary Out-of-State Appraiser Registration, 22 TAC §153.26. Identity Theft, 22 TAC §153.27. Certification and Licensure by Reciprocity, 22 TAC §153.33. Signature or Endorsement of Appraisal, 22 TAC §153.37. Criminal Matters Referred to Law Enforcement

§153.3 The Board.

- (a) A quorum of the Board [~~board~~] consists of five members.
- (b) Meetings of the Board [~~board~~] may be called by the chair on a motion by the chair or upon the written request of five members. Unless state law or Board rules require otherwise, meetings [~~Meetings~~] shall be conducted in accordance with Robert's Rules of Order.
- (c) At the end of a term, members shall continue to serve until their successors are qualified.

§153.5 Fees.

- (a) The Board shall charge and the Commissioner [~~commissioner~~] shall collect the following fees:
- (1) a fee of \$400 for an application for a certified general appraiser license [~~general certification~~];
- (2) a fee of \$350 for an application for a certified residential appraiser license [~~residential certification~~];
- (3) a fee of \$325 for an application for a state appraiser license;

- (4) a fee of \$300 for an application for [~~approval as~~] an appraiser trainee license;
- (5) a fee of \$370 for a timely renewal of a certified general appraiser license [~~general certification~~];
- (6) a fee of \$320 for a timely renewal of a certified residential appraiser license [~~residential certification~~];
- (7) a fee of \$295 for a timely renewal of a state appraiser license;
- (8) a fee of \$270 for a timely renewal of an appraiser trainee license [~~approval~~];
- (9) a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a license [~~or certification~~] within 90 days of expiration;
- (10) a fee equal to two times the timely renewal fee for the late renewal of a license [~~or certification~~] more than 90 days but less than six months after expiration;
- (11) a fee of \$250 for nonresident appraiser license [~~registration~~];
- (12) the national registry fee in the amount charged by the Appraisal Subcommittee [~~for the registry~~];
- (13) an application fee for [~~certification or~~] licensure by reciprocity in the same amount as the

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

fee charged for a similar [~~certificate or~~] license issued to a Texas resident;

(14) a fee of \$40 for preparing a certificate of licensure history, active licensure, or sponsorship;

(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 [~~certificate~~];

(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 [~~certificate or~~] 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) [(22)] 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 [~~board's~~] website and entering the required information online; and

(24) [(23)] 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) Appraisers certified or licensed by the Board shall pay an annual registry fee required under federal law.]~~

~~(c) [(d)]~~ Licensing fees are waived for members of the Board [~~TALCB~~] staff who must maintain a license [~~or certification~~] for employment with the Board only and are not also using the license [~~or certification~~] for outside employment.

§153.8 Scope of Practice.

~~(a) License holders [Appraisers] are bound by the [Competency Rule and all other provisions of the] USPAP edition in effect at the time of the appraisal.~~

~~(b) Certified General Real Estate Appraisers may appraise of all types of real property without regard to transaction value or complexity.~~

~~(c) Certified Residential Real Estate Appraisers:~~

~~(1) may appraise one-to-four residential units without regard to transaction value or complexity;~~

~~(2) may appraise vacant or unimproved land for which the highest and best use is for one-to-four family purposes;~~

~~(3) may not appraise subdivisions; and~~

~~(4) may associate with a state certified general real estate appraiser, who shall sign the appraisal report, to appraise non-residential properties.~~

~~(d) State Licensed Real Estate Appraisers:~~

~~(1) may appraise non-complex one-to-four residential units having a transaction value less than \$1 million and complex one-to-four residential units having a transaction value less than \$250,000;~~

~~(2) may appraise vacant or unimproved land for which the highest and best use is for one to four unit residential [~~family~~] purposes;~~

~~(3) may not appraise subdivisions; and~~

~~(4) may associate with a state certified general real estate appraiser, who shall sign the appraisal report, to appraise non-residential properties.~~

(e) Appraiser Trainees may appraise those properties, under the active, personal and diligent supervision of their sponsoring appraiser, which the sponsoring appraiser is permitted to appraise.

~~[(e) Provisional Licensed Real Estate Appraisers may appraise the same types of properties as a State Licensed Real Estate Appraiser.]~~

~~[(f) Appraiser Trainees:]~~

~~[(1) may appraise those properties, under the active, personal and diligent supervision of their sponsoring certified appraiser, which the supervising certified appraiser sponsor is permitted to appraise; and]~~

~~[(2) may perform appraisal or appraiser services under the active, personal and diligent supervision of an authorized supervisor as detailed in §153.21 of this title (relating to Appraiser Trainees and Sponsors).]~~

~~(f) [(g)]~~ If an appraiser or appraiser trainee is a person with a disability (as defined in the Americans

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with Disabilities Act or regulations promulgated thereunder), an unlicensed assistant may perform certain services normally requiring a license for or on behalf of the appraiser or appraiser trainee, provided that:

- (1) the services performed by the assistant do not include appraisal analysis;
- (2) the assistant only provides such services as would constitute a reasonable accommodation;
- (3) the assistant is under the direct control of the appraiser or appraiser trainee;
- (4) the appraiser or appraiser trainee is as close in physical proximity as is practical to the activity;
- (5) the assistant is not represented as being or having the authority to act as an appraiser or appraiser trainee; and
- (6) if the assistant provides significant assistance, the appraisal report includes the name of the assistant.

§153.9 Applications.

(a) A person desiring to be [~~certified or~~] licensed as an appraiser, [~~approved as an~~] appraiser trainee, or [~~registered as a~~] 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 [~~certification, license or approval of trainee status~~] to an applicant who has not:

- (1) paid the required fees;
- (2) satisfied any experience and education requirements established by the Act, Board rules, or the AQB [~~or by these sections~~];
- (3) successfully completed any qualifying examination prescribed by the Board [~~board~~];
- (4) provided all supporting documentation or information requested by the Board [~~board~~] in connection with the application;
- (5) satisfied all unresolved enforcement matters and requirements with the Board [~~board~~]; and
- (6) met any additional or superseding requirements established by the Appraisal Qualifications Board.

(b) An application may be considered void and subject to no further evaluation or processing if an applicant fails to provide information or documentation within 60 days after the Board makes a written request for the information or documentation.

(c) A license [~~certification, license, or appraiser trainee approval~~] 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 [~~certification, licensing, approval as an appraiser trainee, or registration for out-of-state temporary practice~~] to an applicant who fails to satisfy the Board [~~board~~] as to the applicant's honesty, trustworthiness, and integrity.

(e) The Board may deny a license [~~certification, licensure, approval as an appraiser trainee, or registration for out-of-state temporary practice~~] 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 one year after the date of the Board's notice denying the application as required in §157.7 of this title (relating to Denial of a License) [~~of the application denial~~].

(g) This subsection applies to an applicant who is the spouse of a person serving on active duty as a member of the armed forces of the United States.

(1) The Board shall issue on an expedited basis a [~~certificate or~~] license to an applicant who holds a current [~~certificate or~~] license issued by another state or jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the [~~certificate or~~] license issued in this state.

(2) The Board may issue a license to an applicant who within the five years preceding the application date held the [~~certificate or~~] license in this state that expired while the applicant lived in another state for at least six months.

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(3)The Board [~~board~~] may allow an applicant to demonstrate competency by alternative methods in order to meet the requirements for obtaining a particular [~~certificate or~~] 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 [~~certificate or~~] license.

(4)In lieu of the standard method(s) of demonstrating competency for a particular [~~certificate or~~] 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 shall 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.

(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 issue a [~~certificate or~~] license by endorsement in the same manner as the Texas Department of Licensing and Regulation to an applicant under this subsection.

§153.10 Issuance of Certification, License, or Trainee Approval.

(a)A license [~~certification, license, approval, authorization or registration~~] is issued when all requirements have been met and it is entered into the Board's [~~board's~~] database and a license [~~certificate, license, authorization, approval, or registration~~] number has been assigned.

(b)An applicant is not licensed [~~certified, licensed, approved, authorized, or registered~~] and may not represent himself or herself [~~hold out~~] as a certified or licensed appraiser, appraiser trainee, or registered temporary out-of-state appraiser until the license [~~certificate, license, approval, authorization, or registration~~] has been issued by the Board [~~board~~].

(c)A license [~~, certification, or trainee approval~~] issued by the Board [~~board~~] is valid for two years from the date of issuance.

(d)A license issued to [~~Registration as~~] a temporary out-of-state appraiser is valid for the period determined by the Board [~~board~~], not to exceed six months.

(e)A license [~~certification, license, approval, authorization, or registration~~] is not renewed until the renewal has been issued by the Board [~~board~~].

§153.11 Examinations.

(a)Each examination shall be consistent with the examination criteria and examination content outline of the AQB [~~Appraiser Qualifications Board (AQB)~~] for the category of license [~~or certification~~] sought. To become licensed [~~or certified~~], an applicant must achieve a passing score acceptable to the AQB on the examination.

(b)The examination fee must be paid each time the examination is taken.

~~(c)(b) [The examination fee is \$61.00.]~~

Examinations shall be administered at locations designated by the Board [~~board~~]. An applicant who is registered for an examination and fails to attend shall forfeit the examination fee.

(d)Applicants must present the following documents to the examination proctor to be admitted to the examination:

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(1) exam registration paperwork as required by the testing service under contract with the Board; and

(2) official photo-bearing personal identification.

(e) Applicants shall comply with all instructions from the Board, an examination proctor, or the testing service under contract with the Board.

Examination proctors may:

(1) refuse admittance to any applicant who cannot provide adequate identification;

(2) refuse admittance to an applicant who reports for the examination after the time the examination is scheduled to begin;

(3) refuse admittance to an applicant or dismiss an applicant from the examination if, in the proctor's opinion, the applicant's conduct or demeanor is a disruptive influence to other applicants;

(4) assign a specific desk or seat to each applicant;

(5) require an applicant to be re-seated during the course of an examination;

(6) confiscate examination materials and dismiss an applicant from the examination for giving, receiving, or attempting to give or receive unauthorized assistance or answers to examination questions.

(f) No credit will be given to applicants who are dismissed from an examination, and dismissal may result in denial of an application.

~~[(c) To be authorized for admittance to an examination, the applicant must present to the examination proctor appropriate documentation required by the testing service under contract with the board. Examination proctors shall require official photo-bearing personal identification of individuals appearing for an examination and shall deny entrance to anyone who cannot provide adequate identification. Proctors may refuse admittance to an examinee or dismiss an examinee prior to the completion of the examination, if in the proctor's opinion, the individual's conduct or demeanor is such that the proctor feels the individual would be a disruptive influence on the other examinees. Proctors may assign a specific seat or desk to each examinee. Proctors may require that an examinee be re-seated during the course of the examination. Proctors may refuse admittance to an examinee who reports to the proctor for admittance~~

~~to the examination after the time the examination is scheduled to begin.]~~

~~(g)[(d)] Examinees may [are permitted to] use slide rules or silent, battery-operated, electronic, hand-held [pocket-sized] calculators. If a calculator has printout capability, the use of the calculator must be approved by the examination proctor prior to the examination. No other electronic devices are permitted. [Cellular telephones with calculator capabilities are not permitted.]~~

~~(h)[(e)] Special examinations based on verified physical limitations or other good cause as determined by the Board [board] may be arranged for individual applicants. Requests for special examinations will be handled individually and may require medical verification or confirmation.~~

~~(i)[(f)] [Examinees shall comply with all instructions from the board, an examination proctor, or the testing service under contract with the board. Proctors may confiscate examination materials of an examinee giving or receiving or attempting to give or receive unauthorized assistance or answers to examination questions and such examinee will be dismissed from the examination session with a failing grade. Dismissal may result in disapproval of an application.] The Board [board], or the testing service under contract with the Board [board], may file theft charges against any person who removes or attempts to remove an examination or any portion thereof or any written material furnished with the examination whether by actual physical removal or by transcription. [The board may deny, suspend, or revoke a license or certification for disclosing to another person the content of any portion of an examination with the expectation that the disclosed information would be used by or made available to another applicant.]~~

~~(j) The Board may deny, suspend, or revoke a license for disclosing to another person the content of any portion of an examination.~~

~~[(g) The examination fee must be paid each time the examination is taken.]~~

~~(k)[(h)] If the applicant has not satisfied all requirements, including passing the examination, within one year from the date [time] the Board [board] accepted an application for filing, the~~

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application is terminated and a new application is required.

(l)(+) Successful completion of the examination is valid for a period of 24 months.

(m)(+) An applicant who fails the examination three consecutive times may not apply for reexamination or submit a new license application unless the applicant submits evidence satisfactory to the Board [board] that the applicant has completed 30 additional hours of core education after the date the applicant failed the examination for the third time.

(n)(+) Examination by endorsement: An applicant for a license [state license or certification] who has successfully passed an AQB approved competency examination, and is currently licensed [or certified] in another jurisdiction and in good standing, will not be required to retake the examination for the same level of licensure [or certification] to become [certified or] licensed in Texas. The applicant shall provide appropriate documentation as required.

§153.13 Education Required for Licensing [Educational Requirements].

(a) Applicants for a license [certification, licensure, or approval as a trainee] must meet all educational requirements set forth by the AQB [Appraiser Qualifications Board].

~~(b) Education by endorsement: An applicant for certification who is currently licensed and in good standing in a state that has not been disapproved by the Appraisal Subcommittee is deemed to satisfy the education requirements for the same level of certification in Texas. The applicant shall provide appropriate documentation as required by the board.~~

(b)(-) The Board [-board] may accept a course of study to satisfy educational requirements for [certification or] licensing established by the Act or by this section if the Board [board] has approved the course and determined it to be a course related to real estate appraisal.

(c)(+) The Board will [-board shall] approve courses for licensing [appraiser certification] upon a determination of the Board [board] that:

(1) the subject matter of the course was appraisal related;

(2) the course was offered by an accredited college or university, or the course was approved by the AQB [Appraiser Qualifications Board] under its course approval process as a qualifying education course;

(3) the applicant obtained credit received in a classroom presentation the hours of instruction for which credit was given and successfully completed a final examination for course credit except as specified in subsection (i) of this section (relating to distance education); and

(4) the course was at least 15 classroom hours in duration, including [which includes] time devoted to examinations that [which] are considered to be part of the course.

(d)(-) The Board [-board] may require an applicant to furnish materials such as course outlines, syllabi, course descriptions or official transcripts to verify course content or credit.

(e)(+) Course providers may obtain prior approval of a course by filing forms prescribed by the Board [board] and submitting a letter indicating that the course has been approved by the AQB [Appraiser Qualifications Board] under its course approval process. Approval of a course based on AQB approval expires [shall expire] on the date [of expiration of] the AQB approval expires and is [shall be] automatically revoked upon [the] revocation of the AQB approval.

(f)(g) If the transcript reflects the actual hours of instruction the student received from an acceptable provider, the Board will [The board shall] accept classroom hour units of instruction as shown on the transcript or other document evidencing course credit. Fifteen classroom hours of credit may be awarded for one academic semester hour of credit. [if the transcript reflects the actual hours of instruction the student received. Fifteen classroom hours of credit may be awarded for one semester hour of credit from an acceptable provider. Ten classroom hours of credit may be awarded for one quarter hour of credit from an acceptable provider. Ten classroom hours of credit may be awarded for each continuing education credit from an acceptable provider. The board may not accept courses repeated

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~~within three years of the original offering unless the subject matter has changed significantly.]~~

~~(g)The Board may not accept courses repeated within three years of the original offering unless the subject matter has changed significantly.~~

~~[(h)Instructors who are also certified or licensed appraisers may receive continuing education credit consistent with the criteria adopted by the Appraiser Qualifications Board. Credit for instructing any given course or seminar can only be awarded once during a continuing education cycle.]~~

~~(h) [(+)] Distance education courses may be acceptable to meet the classroom hour requirement, or its equivalent, provided that the course is approved by the Board [board], that a minimum time equal to the number of hours of credit elapses from the date of course enrollment until its completion, and that the course meets the criteria listed in paragraph (1) or (2) of this subsection.~~

~~(1)The course must have been presented by an accredited college or university that offers distance education programs in other disciplines; and~~

~~(A)the person has successfully completed a written examination administered to the positively identified person at a location and proctored by an official approved by the college or university; and~~

~~(B)the content and length of the course must meet the requirements for real estate appraisal related courses established by this chapter and by the requirements for qualifying education established by the AQB [Appraiser Qualifications Board of the Appraisal Foundation] and is equivalent to a minimum of 15 classroom hours.~~

~~(2)The course has received [the] approval for academic [college] credit or has been approved under the AQB Course Approval program; and~~

~~(A)the person successfully completes a written examination proctored by an official approved by the presenting entity;~~

~~(B)the course meets the requirements for qualifying education established by the AQB; and [Appraiser Qualifications Board and is equivalent to the minimum of 15 classroom hours.]~~

~~(C)is equivalent to a minimum of fifteen classroom hours.~~

~~(i) [(+)] "In-house" education and training is not acceptable for meeting the educational requirements for [certification or] licensure.~~

~~(j) [(+)] To meet [-be acceptable for meeting] the USPAP educational requirements [-requirement], a course must:~~

~~(1)utilize the "National Uniform Standards of Professional Appraisal Practice (USPAP) Course" promulgated by the Appraisal Foundation, including the Student Manual and Instructor Manual; or~~

~~(2)be an equivalent USPAP course as determined by the AQB that:~~

~~(A) [(+)] is [Be] devoted to the USPAP with a minimum of 15 classroom hours of instruction;~~

~~(B) [(+)] uses [Use-] the current edition of the USPAP promulgated by the ASB; and [Appraisal Standards Board of the Appraisal Foundation;]~~

~~(C)[(+)] provides [-Provide] each student with his or her own permanent copy of the current edition of the USPAP promulgated by the ASB [-Appraisal Standards Board of the Appraisal Foundation; and].~~

~~[(4)utilize the "National Uniform Standards of Professional Appraisal Practice (USPAP) Course" promulgated by the Appraisal Foundation, including the Student Manual and Instructor Manual or an equivalent USPAP course as determined by the AQB.]~~

~~(k)[(+)] Unless authorized by law, neither [Neither] current members of the [Texas Appraiser Licensing and Certification] Board nor those Board [board] staff engaged in the approval of courses or educational qualifications of applicants or license holders [-, certificate holders or licensees] shall be eligible to teach or guest lecture as part of an [approved appraiser qualifying or continuing] education course approved for licensing.~~

~~(l)[(+)] If the Board [-board] determines that a course no longer complies with the requirements for approval, it may suspend or revoke the approval. Proceedings to suspend or revoke approval of a course shall be conducted in accordance with the Board's [board's] disciplinary provisions for licenses [certifications, licenses, authorizations, or registrations].~~

§153.15 Experience Required for [Certification or] Licensing.

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(a) An applicant for a certified general real estate appraiser license [~~general real estate appraiser certification~~] must provide evidence satisfactory to the Board [~~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 [~~certification~~] must provide evidence satisfactory to the Board [~~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 [~~board~~] that the applicant possesses at least 2,000 hours of real estate appraisal experience [~~which was acquired~~] over a minimum of twelve months.

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

(e) The Board awards experience credit [~~Experience credit shall be awarded by the board~~] in accordance with current criteria established by the AQB [~~Appraiser Qualifications Board~~] 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 [~~must be~~] based solely on actual hours of 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 appraisal when it is performed in accordance with Standards 1 and 2 and other

provisions of the USPAP in effect at the time of the appraisal.

(2) Ad valorem tax appraisal that [~~which~~]:

(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) Technical review appraisal to the extent that it 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 [~~salesman~~] may be awarded experience credit when the analysis is prepared in conformity with USPAP Standards 1 and 2.

(6) Real property 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)(7)~~ Experience credit may not be awarded for teaching appraisal courses.

~~(g)(8)~~ Experience claimed by an applicant must be submitted on an Appraisal Experience Log with an accompanying Appraisal Experience Affidavit. [~~forms prescribed by the board.~~]

~~(1)~~ Experience claimed by an applicant shall be submitted upon an Appraisal Experience Log with an accompanying Appraisal Experience Affidavit.]

(1)~~(2)~~ In exceptional situations, the Board [~~board~~], at its discretion, may accept other evidence of experience claimed by the applicant.

(2)~~(3)~~ If [~~a consumer complaint or peer complaint is brought against the applicant alleging fraud, incompetence, or malpractice and the board finds the complaint is reasonable or if~~] the Board [~~board~~] determines [~~other~~] just cause exists for requiring further information, the Board [~~board~~] may obtain [~~the~~] additional information [~~or documentation requested~~] by:

(A) requiring the applicant to complete a form, approved [~~prescribed~~] by the Board [~~board~~], that

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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 [~~board~~]; or

(B)engaging in other investigative research determined to be appropriate by the Board [~~board~~].

(3)[(4)] The Board will [~~board shall~~] require verification of acceptable experience of all applicants [~~for all appraiser credentials~~]. Applicants have 60 days to provide all documentation requested by the Board [~~board~~]. The verification may be obtained by:

(A)requiring the applicant to complete a form, approved [~~prescribed~~] by the Board [~~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 [~~board~~];

(B)requesting copies of appraisals and all supporting documentation, including the workfiles; and

(C)engaging in other investigative research determined to be appropriate by the Board [~~board~~].

(4)[(5)] Failure to comply with a request for 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 [~~certification or licensure~~], and any disciplinary action up to and including revocation.

(h)[(g)] An applicant may be granted experience credit only for real property appraisals that [~~which~~]:

(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.

§153.17 Renewal or Extension of License [~~Certification and License or Renewal of Trainee Approval~~].

(a)General Provisions.

(1)The Board will [~~board shall~~] send a renewal notice to the license holder [~~appraiser~~] at least 90 days prior to the expiration of the license [~~certification, license, or approval~~]. It is the responsibility of the license holder [~~appraiser or trainee~~] to apply for renewal in accordance with this chapter, and failure to receive a renewal notice from the Board [~~board~~] does not relieve the license holder [~~appraiser~~] of the responsibility to timely apply for renewal.

(2)A license holder [~~An appraiser or appraiser trainee~~] renews the license [~~certification, license, or approval~~] by timely filing an [~~the prescribed~~] application for renewal, paying the appropriate fees to the Board [~~board~~], and satisfying all applicable education and experience requirements.

(3)An application for [A] renewal or extension received by the Board is timely and acceptable for processing if it is: [~~complete and, on or before the date of expiration, it is postmarked by the U.S. Postal Service, accepted by an overnight delivery service, or accepted by the agency's online renewal system.~~]

(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 [~~General Certification, Residential Certification,~~] and State Appraiser License Holders.

(1)A license holder [~~certified or licensed appraiser~~] may renew the [~~certification or~~] license by timely filing an [~~the prescribed~~] application for renewal,

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paying the appropriate fees to the Board [~~board~~] and, unless renewing on inactive status, satisfying ACE requirements.

(2) In order to renew on active status, the license holder [~~applicant~~] must complete the ACE report form approved by the Board [~~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 [~~applicant's~~] electronic license record.

(A) The Board [~~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 [~~of certification or licensure~~].

[~~(3) An appraiser renewal application or extension is acceptable for processing when it is received by the board, with proper fees, and is postmarked by the U.S. Postal Service, accepted by an overnight delivery service, or entered electronically into the TexasOnline system, on or before the expiration date of the certification or license.~~]

(3) [~~(A)~~] The Board [~~board~~] may grant, at the time it issues a [~~certification or~~] license renewal, an extension of time of up to 60 days after the expiration date [~~of expiration~~] of the previous license to complete ACE required to renew a license, subject to the following [~~general certification, residential certification, state license, or provisional license, provided the person~~]:

(A) The license holder must:

- (i) timely submit [~~submits~~] the completed renewal form with the appropriate renewal fees;
- (ii) complete [~~completes~~] an extension request form; and
- (iii) pay [~~pays~~] 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 [~~or certification~~].

(C) A person whose license was renewed with a 60-day ACE extension:

(i) will [~~shall~~] not perform appraisals in a federally related transaction [~~(FRT)~~] until verification is received by the Board [~~board~~] that the ACE requirements have been met;

(ii) may continue to perform appraisals in non-federally related transactions [~~(non-FRT)~~] under the renewed license [~~or certification~~];

(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 [~~or certification~~] 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 [~~or certification~~] will remain on inactive status until satisfactory evidence of meeting the ACE requirements has been received by the Board [~~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 [~~prescribed~~] by the Board [~~board~~], for the license period [~~of authorization or approval~~] being renewed. It is the responsibility of both the appraiser trainee and the sponsor to ensure the appraisal log is accurate, complete and signed by both parties at least quarterly or upon change in sponsors. The appraiser trainee will promptly provide copies of the experience logs and affidavits to the Board [~~board~~] upon request.

(2) Appraiser trainees may not obtain an extension of time to complete required continuing education.

(d) Renewal of Licenses [~~or Certification~~] for Persons [~~Serviceemen~~] on Active Duty.

[~~(4)~~] A person [~~previously licensed or certified by the board under this Act~~] who is on active duty in the United States armed forces may renew an expired license [~~or certification~~] without being subject to any increase in fee imposed in his or her absence, or any additional education or experience requirements if the person:

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(1)~~(A)~~ did not provide appraisal services while ~~[when]~~ on active duty;

(2)~~(B)~~ provides a copy of official orders or other documentation acceptable to the Board ~~[-board]~~ showing ~~[that]~~ the person was on active duty during the ~~[person's]~~ last renewal period;

(3)~~(C)~~ applies for the renewal within 90 days after the person's active duty ends; and

(4)~~(D)~~ pays the renewal application fees in effect when the previous license ~~[or certification]~~ expired.

(5)~~(2)~~ completes ACE requirements that would have been imposed for a timely renewal ~~[shall be deferred under this section for a period of up to 90 days].~~

(e) Expiration and Reapplication. If an application is filed within six months of the expiration of a previous license ~~[-certification, license, or approval]~~, 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 ~~[certification, license, or approval]~~. If the application for license ~~[certification, license, or approval]~~ is filed more than six months after the expiration of the previous license ~~[certification, license, or approval]~~, the applicant must meet all then-current requirements for license ~~[certification, license, or approval]~~, including retaking and passing the examination.

§153.18 Appraiser Continuing Education (ACE).

(a) The purpose of ACE is to ensure that license holders participate in programs that maintain and increase their skill, knowledge, and competency in real estate appraising.

(b)(a) To renew a license, a license holder ~~[Certified and licensed appraisers. In order to renew a license or certification, an appraiser]~~ must successfully complete~~[- during the two-year period preceding the expiration of the certification or license,]~~ the equivalent of at least 28 classroom hours of ACE courses approved by the Board ~~[board]~~, including the 7-hour National USPAP Update course during the two-year period before a license expires. The courses must comply with the requirements set out in subsection (d) ~~[(e)]~~ of this section.

~~[(b) Appraiser trainees. In order to renew an approval, a trainee must successfully complete, during the one-year period preceding the expiration of the approval, 14 classroom hours of ACE courses. Every two years, the required hours must include the 7-hour National USPAP Update course.]~~

~~(c) The Board will~~ [Approval of ACE courses. In approving ACE courses, the board shall] base its review and approval of ACE courses upon the ~~[then current]~~ appraiser qualifications criteria of the AQB ~~[Appraiser Qualifications Board (AQB)].~~

~~[(1) The purpose of ACE is to ensure that certified and licensed appraisers participate in programs that maintain and increase their skill, knowledge, and competency in real estate appraising.]~~

(d)(2) The following types of courses may be accepted for ACE ~~[educational offerings that may be accepted for meeting the ACE requirements are listed in subparagraphs (A) — (H) of this paragraph]:~~

(1)(A) A course that meets the requirements for ~~[certification or]~~ licensing also may be accepted for [meeting] ACE if ~~[provided-]~~:

(A)(i) The course is devoted to one or more of the appraisal related topics of the ~~[then current]~~ appraiser qualifications criteria of the AQB ~~[Appraiser Qualifications Board (AQB)]~~ for continuing education;

(B)(ii) the course was not repeated within a three year period; and

(C)(iii) the course ~~[-educational offering]~~ is at least two hours in length.

(2)(B) The Board will ~~[-board shall]~~ accept as ACE ~~[continuing education]~~ any continuing education course ~~[offering]~~ that has been approved by the AQB course approval process or by another state appraiser licensing and certification board. ~~[Course providers may obtain prior approval of continuing education offerings by filing forms prescribed by the board and submitting a letter indicating that the course has been approved by the AQB under its course approval process or by another state appraiser licensing and certification board. Approval of a course based on AQB approval shall expire on the date of expiration of the AQB approval and shall be automatically revoked upon the revocation of AQB approval. Approval of a course based on any other authority shall expire on~~

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~~the earlier of the date of expiration in another state, if applicable, or two years from board approval and shall be automatically revoked upon the revocation of the other state's approval.]~~

(A) Course providers may obtain prior approval of ACE courses by filing forms approved by the Board and submitting a letter indicating that the course has been approved by the AQB under its course approval process or by another state appraiser licensing and certification board.

(B) Approval of a course based on AQB approval expires on the date the AQB approval expires and is automatically revoked upon revocation of the AQB approval.

(C) Approval of a course based on another state licensing and certification board shall expire on the earlier of the expiration date in the other state, if applicable, or two years from Board approval and is automatically revoked upon revocation of the other state board's approval.

(3) Distance education courses may be accepted as ACE if:

(A) The course is:

(i) Approved by the Board;

(ii) Presented by an accredited college or university that offers distance education programs in other disciplines; or

(iii) Approved by the AQB under its course approval process; and

(B) The student successfully completes a written examination proctored by an official approved by the presenting college, university, or sponsoring organization consistent with the requirements of the course accreditation; and

(C) A minimum number of hours equal to the hours of course credit have elapsed between the time of course enrollment and completion.

~~[(C) Distance education courses, provided that the course is approved by the board and the course either has been presented by an accredited college or university that offers distance education programs in other disciplines, or has been approved by the Appraiser Qualifications Board under its course approval process and the student successfully completed a written examination proctored by an official approved by the presenting college or university or by the sponsoring organization~~

~~consistent with the requirements of the course accreditation. A minimum number of hours equal to the number of hours of credit must elapse from course enrollment until completion.]~~

~~[(D) "In-house" education and training may not be counted toward ACE requirements.]~~

~~(e)[(E)] To satisfy the USPAP ACE requirement, a course must:~~

~~(1)[(i)] be the 7-hour National USPAP Update Course or its equivalent, as determined by the AQB;~~

~~(2)[(ii)] use the current edition of the USPAP [promulgated by the Appraisal Standards Board of the Appraisal Foundation];~~

~~(3)[(iii)] provide each student with his or her own permanent copy of the current USPAP [promulgated by the Appraisal Standards Board of the Appraisal Foundation]; and~~

~~(4)[(iv)] be taught by at least one instructor who is an AQB-certified USPAP instructor and also licensed as a certified general or certified residential appraiser.~~

~~(f)[(F)] Providers of USPAP ACE courses may include up to one additional hour of supplemental Texas specific information. This may include topics such [such topics] as the [TALCB] Act, Board [TALCB] Rules, processes and procedures, enforcement issues, or other topics deemed [to be] appropriate by the Board [board].~~

~~(g)[(G)] Up to one half of a license holder's ACE requirements [an individual's continuing education requirement] may be satisfied through participation other than as a student, in real estate appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching an ACE course, educational program development, authorship of real estate appraisal textbooks, or similar activities that are determined by the Board [board] to be equivalent to obtaining ACE. [Appraisal experience may not be substituted for ACE.]~~

~~(h) The following types of courses or activities may not be counted toward ACE requirements:~~

~~(1) Teaching the same ACE course more than once per license renewal cycle;~~

~~(2) "In house" education or training; or~~

~~(3) Appraisal experience.~~

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(i)~~(H)~~ Unless authorized by law, neither ~~[Neither]~~ current members of the ~~[Texas Appraiser Licensing and Certification]~~ Board nor those ~~Board~~ ~~[board]~~ staff engaged in the approval of courses or educational qualifications of applicants, certificate holders or licensees will ~~[shall]~~ be eligible to teach or guest lecture as part of an approved ACE ~~[appraiser qualifying or continuing education]~~ course.

(j)~~(d)~~ If the Board ~~[-board]~~ determines that an ACE ~~[a]~~ course no longer complies with the requirements for approval, it may suspend or revoke the approval. Proceedings to suspend or revoke approval of a course shall be conducted in accordance with the Board's ~~[-board's]~~ disciplinary provisions for licenses ~~[certifications, licenses, authorizations, or registrations]~~.

§153.19 Licensing ~~[and Certification]~~ for Persons with Criminal History ~~[Histories]~~.

(a) No currently incarcerated individual is ~~[-will be]~~ eligible to obtain or renew a license. A person's license will be revoked upon the person's imprisonment following a felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory suspension. ~~[an appraiser license or certification.]~~

(b) The Board ~~[board]~~ may suspend or revoke an existing valid license ~~[or certification]~~, disqualify an individual from receiving a license ~~[or certification]~~, deny to a person the opportunity to be examined for a license ~~[or certification]~~, or deny any application for a license ~~[or certification]~~, if the person has been convicted of a felony, had their felony probation revoked, had their parole revoked, or had their mandatory supervision revoked. Any such action shall be made after consideration of the factors detailed in Texas Occupations Code §53.022 and subsection (d) ~~[subsections (e) and (f)]~~ of this section. ~~[A person's license, certification, authorization as an appraiser trainee, or non-resident temporary practice registration shall be revoked upon the person's imprisonment following a felony conviction, felony probation revocation, revocation of parole, or revocation of mandatory supervision.]~~

~~(c) A license holder~~ ~~[The Texas Appraiser Licensing and Certification Board considers it very important that persons who are licensed or certified, persons who are candidates to be licensed or certified, and persons who are training to be licensed or certified be honest, trustworthy, and reliable. The public necessarily reposes a great deal of trust and reliance upon licensed and certified appraisers because of the complex nature of appraisal valuation, and such relationship should not be undermined. When entering onto another's business or residential property or when representing the interests of another, an appraiser]~~ must conduct himself or herself with honesty, integrity, and trustworthiness ~~[trustworthiness, reliability, and integrity]~~. Thus, the Board has considered the factors in Texas Occupations Code §53.022 and ~~[board]~~ deems the following crimes to be ~~[felonies and misdemeanors-]~~ directly related to the occupation of appraiser or appraiser trainee ~~[licensed or certified appraisers or appraiser trainees]~~:

- (1) offenses involving fraud or misrepresentation;
- (2) offenses against real or personal property belonging to another, if committed knowingly or intentionally;
- (3) offenses against public administration;
- (4) offenses involving the sale or other disposition of real or personal property belonging to another without authorization of law;
- (5) offenses involving moral turpitude; and
- (6) offenses of attempting or conspiring to commit any of the foregoing offenses.

~~[(d) In determining whether a criminal offense is directly related to an occupation, the board shall consider the following factors:]~~

- ~~[(1) the nature and seriousness of the crime;]~~
- ~~[(2) the relationship of the crime to the purposes for requiring a license or certification to engage in the occupation;]~~
- ~~[(3) the extent to which a license or certification might offer an opportunity to engage in further criminal activity of the same type as that which the person had previously been involved; and]~~
- ~~[(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed or certified occupation.]~~

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(d)(e) In determining the present fitness of an applicant or license holder [a person] who has been convicted of a crime [under this section], the Board will [board shall] consider the following evidence:

- (1) the extent and nature of the [person's] past criminal activity;
- (2) the age [of the person] at the time of the commission of the crime;
- (3) the amount of time that has elapsed since the [person's] last criminal activity;
- (4) the conduct and work activity [of the person] prior to and following the criminal activity;
- (5) evidence of [the person's] rehabilitation or rehabilitative effort while incarcerated or following release; and
- (6) other evidence of [the person's] present fitness including letters of recommendation from:
 - (A) prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility [for the person];
 - (B) the sheriff and chief of police in the community where the applicant or license holder [person] resides; and
 - (C) any other person [persons] in contact with the applicant or license holder [convicted person].

(e)(f) It shall be the responsibility of the applicant or license holder to the extent possible to secure and provide the Board [board] the recommendations of the prosecution, law enforcement, and correctional authorities, as well as evidence, in the form required by the Board [board], relating to whether the applicant has maintained a record of steady employment, has supported his or her dependents and otherwise maintained a record of good conduct, and is current on the payment of all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which the person [he or she] has been convicted.

(f)(g) Criminal History Evaluation. Before applying for a license [or certification under this chapter], a person with a criminal history may request [that] the Board to evaluate the prospective applicant's criminal history by submitting the request form approved by the Board and paying the required fee [board]. Upon receiving such a request, the Board may request additional supporting materials. Requests will be processed under the

same standards as applications for a license [licensure or certification]. In responding to a request, the Board shall address each offense listed in the request.

§153.20 Guidelines for Revocation, Suspension, Denial of License [Licensure or Certification]; Probationary License [Licensure].

(a) The Board [board] may suspend or revoke a license [certification, authorization or registration issued under provisions of this Act] or deny issuing a license [certification, authorization or registration] to an applicant at any time the Board determines that the applicant or license holder [when it has been determined that the person applying for or holding the license, certification, authorization, or registration]:

- (1) disregards or violates a provision of the Act or [of] the Board rules [Rules of the Texas Appraiser Licensing and Certification Board];
- (2) is convicted of a felony;
- (3) fails to notify the Board [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 [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 [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 [Uniform Standards of Professional Appraisal Practice (USPAP)] in effect at the time of the appraiser service [appraisal or appraisal practice];
- (7) acts or holds himself or herself or any other person out as a licensed [or certified] real estate appraiser under the Act when not so licensed [or certified];

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(8) accepts payment for appraiser services but fails to deliver the agreed service in the agreed upon manner;

(9) refuses to refund payment received for appraiser 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 except when such action would not interfere with the appraiser's obligation to provide an independent and impartial opinion of value and full disclosure of the contingency is made in writing to the client;

(11) offers to perform appraiser services or agrees to perform such services when employment to perform such services is contingent upon a minimum, maximum, or pre-agreed value estimate except when such action would not interfere with the appraiser's obligation to provide an independent and impartial opinion of value and full disclosure of the contingency is made in writing to the client;

(12) makes a material misrepresentation or omission of material fact;

(13) has had a license [~~or certification~~] as an appraiser revoked, suspended, or otherwise acted against by any other jurisdiction for an act which is a crime [~~an offense~~] under Texas law;

(14) procures, or attempts to procure, a license [~~; certification, authorization, approval, or registration pursuant to the Act~~] by making false, misleading, or fraudulent representation;

(15) fails to actively, personally, and diligently supervise an appraiser trainee [~~under his or her sponsorship~~] or any person not licensed [~~or certified~~] under the Act who assists the license [~~licensee or certificate~~] holder in performing real estate appraiser services;

(16) 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;

(C) grossly negligent misrepresentation in the performance of [~~making of real estate~~] appraiser services;

(17) fails to make good on a payment issued to the Board [~~board~~] within thirty days after the Board [~~board~~] has mailed a request for payment by certified mail to the license holder's [~~licensee's~~] last known

business address as reflected by the Board's [~~board's~~] records;

(18) knowingly or willfully engages in false or misleading conduct or advertising with respect to client solicitation;

(19) acts or holds himself or any other person out as a licensed [~~or certified~~] real estate appraiser under this or another state's Act when not so licensed [~~or certified~~];

(20) misuses or misrepresents the type of classification or category of license [~~license, certification, approval, or registration, or the license, certification, approval, or registration~~] number;

(21) engages in any other act relating to the business of [~~or~~] appraising that the Board [~~board~~], in its discretion, believes warrants a suspension or revocation;

(22) 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 perform [~~certified or~~] licensed appraisal services;

(23) fails to comply with a final order of the Board [~~board~~];

(24) fails to answer all inquiries concerning matters under the jurisdiction of the Board [~~board~~] within 20 days of notice to said individual's address of record, or within the time period allowed if granted a written extension by the Board [~~board~~]; or

(25) after conducting reasonable due diligence, knowingly accepts an assignment from an appraisal management company that is not exempt from registration under the Act which:

(A) has not registered with the Board [~~board~~]; or

(B) is registered with the Board [~~board~~] but has not placed the appraiser on its panel of appraisers maintained with the Board [~~board~~]; or

(26) fails to approve, sign, and deliver to their appraiser trainee the appraisal experience log and affidavit required by §153.15(f)(1) and §153.17(c)(1) of this title for all experience actually and lawfully acquired by the trainee while under the appraiser's sponsorship.

(b) The Board [~~board~~] has discretion in determining the appropriate penalty for any violation under subsection (a) of this section.

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(c)The Board [~~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 appraisals or appraisal practice;

(2)the number of appraiser trainees or authority to sponsor appraiser trainees;

(3)requirements for additional education;

(4)monetary administrative penalties; and

(5)requirements for reporting real property appraisal activity to the Board [~~board~~].

(d)A person applying for reinstatement after revocation or surrender of a license [~~or certification~~] must comply with all requirements that would apply if the license [~~or certification~~] had instead expired.

(e)The provisions of this section do not relieve a person from civil liability or from criminal prosecution under the Act or other [~~under the~~] laws of this State.

(f)The Board [~~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 license holder [~~state-licensed real-estate appraiser, provisional-licensed appraiser, state-certified real-estate appraiser, or appraiser trainee~~] who 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 shall be no undercover or covert investigations conducted by authority of the Act.

~~[(h)All board members, officers, directors, and employees of this agency shall be held harmless with respect to any disclosures made to the board in connection with any complaints filed with the board.]~~

~~[(h) [(i)] A license [~~, certification, authorization or registration~~] may be revoked or suspended by the Attorney General or other court of competent jurisdiction for failure to pay child support under the provisions of Chapter 232 of the Texas Family Code.~~

~~[(j)A certified or licensed appraiser who files a complaint against another certified or licensed appraiser that the board determines to be frivolous is liable for a civil penalty. At the request of the board,~~

~~the attorney general or a district or county attorney may institute a civil action in district court to collect a penalty under this subsection. A civil penalty under this subsection may not be less than \$500 or more than \$10,000. A civil penalty recovered in a suit instituted under this subsection shall be deposited in the state treasury to the credit of the general revenue fund.]~~

~~[(i) [(k)] If the Board [~~board~~] determines that issuance of a probationary license is appropriate, the order entered by the Board [~~board~~] with regard to the application must set forth the terms and conditions for the probationary license. Terms and conditions for a probationary license may include any of the following:~~

~~(1)that the probationary license holder [~~licensee~~] comply with the Act and with the rules of the Texas Appraiser Licensing and Certification Board;~~

~~(2)that the probationary license holder [~~licensee~~] fully cooperate with the enforcement division of the [~~Texas Appraiser Licensing and Certification~~] Board in the investigation of any complaint filed against the license holder [~~licensee~~] or any other complaint in which the license holder [~~licensee~~] may have relevant information;~~

~~(3)that the probationary license holder [~~licensee~~] attend a prescribed number of classroom hours in specific areas of study during the probationary period;~~

~~(4)that the probationary license holder [~~licensee~~] limit appraisal practice as prescribed in the order;~~

~~(5)that the probationary license holder [~~licensee~~] work under the direct supervision of a certified general or certified residential appraiser who will review and sign each appraisal report completed;~~

~~(6)that the probationary license holder [~~licensee~~] report regularly to the Board [~~board~~] on any matter which is the basis of the probationary license; or~~

~~(7)that the probationary license holder [~~licensee~~] comply with any other terms and conditions contained in the order which have been found to be reasonable and appropriate by the Board [~~board~~] after due consideration of the circumstances involved in the particular application.~~

~~[(k) [(4)] Unless the order granting a probationary license specifies otherwise, a probationary license holder [~~licensee~~] may renew the license after the~~

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probationary period by filing a renewal application, satisfying applicable renewal requirements, and paying the prescribed renewal fee.

(1)~~(m)~~ If a probationary license expires prior to the completion of a probationary term and the probationary license holder ~~[licensee]~~ files a late renewal application, any remaining probationary period shall be reinstated effective as of the day following the renewal of the probationary ~~[previous]~~ license.

§153.21 Appraiser Trainees and Sponsors.

(a) A person desiring to be an appraiser trainee ~~[under the sponsorship of one or more state-certified appraisers]~~ may apply to the Board ~~[board]~~ on the approved application form for trainee authorization. In addition to the requirements set forth in §1103.353 of the Act, a prospective appraiser trainee must:

(1) complete 75 creditable classroom hours as set forth in the Trainee Core Curriculum of the AQB ~~[Appraiser Qualifications Board]~~;

(2) pass the 15-hour ~~[15 hours]~~ National USPAP course and examination; and

(3) beginning January 1, 2015, complete a Board approved Appraiser Trainee/Sponsor course.

(b) Once a person is licensed ~~[approved]~~ as an appraiser trainee by the Board ~~[board]~~, the person may perform appraisals or appraiser services only under the active, personal and diligent direction and supervision of a sponsoring ~~[certified]~~ appraiser. The trainee's authorization to perform appraisals or appraisal services terminates if:

(1) the appraiser trainee license ~~[approval]~~ expires due to nonpayment of the renewal fee or failure to satisfy the educational or experience requirements for renewal; or

(2) the appraiser trainee's authority to act has been suspended or revoked by the Board ~~[board]~~.

(c) The sponsoring ~~[certified]~~ appraiser shall immediately notify the Board ~~[board]~~ and the trainee in writing of any termination of sponsorship of an appraiser trainee, on a form approved by the Board ~~[board]~~ and shall pay a fee set by the Board ~~[board]~~ not later than the 10th day after the date of such termination.

(d) If an appraiser trainee's license ~~[approval]~~ has expired or been revoked by the Board ~~[board]~~ or the appraiser trainee is no longer under the sponsorship of a sponsoring ~~[certified]~~ appraiser, the appraiser trainee may not perform the duties of an appraiser trainee until an application to sponsor the trainee has been filed together with payment of the appropriate fee and approved by the Board ~~[board]~~.

(e) Sponsoring appraisers are ~~[Certified appraisers who sponsor appraiser trainees or who sign a report shall be]~~ responsible to the public and to the Board ~~[board]~~ for the conduct of the appraiser trainee under the Act. After notice and hearing, the Board ~~[board]~~ may reprimand a sponsoring appraiser ~~[or supervisor]~~ or may suspend or revoke a sponsoring appraiser's or supervisor's license ~~[-certification]~~ based on conduct by the appraiser trainee constituting a violation of the Act or a rule of the Board ~~[board]~~.

(f) A sponsor ~~[certified appraiser]~~ may be added ~~[as a sponsor]~~ during the term of an appraiser trainee's license ~~[authorization]~~, by completing a form approved by the Board ~~[board]~~, paying a fee set by the Board ~~[board]~~, and beginning January 1, 2015, completing a Board approved Appraiser Trainee/Sponsor course ~~[and shall assume all the duties, responsibilities, and obligations of an appraiser trainee sponsor as specified in these rules]~~.

(g) The sponsoring ~~[certified]~~ appraiser assumes all the duties, responsibilities, and obligations of a sponsor as specified in these rules and ~~[and any authorized supervisors]~~ must diligently supervise the appraiser trainee. Diligent supervision includes, but is not limited to, the following:

(1) direct supervision and training as necessary;

(2) ongoing training and supervision as necessary after the sponsor determines that the appraiser trainee no longer requires direct supervision;

(3) communication with and accessibility to the appraiser trainee; and

(4) review and quality control of the appraiser trainee's work.

(h) A licensed ~~[An approved]~~ appraiser trainee who signs an appraisal report must include his or her license ~~[TALCB approval or authorization]~~ number and the word "Trainee~~[-]~~" as part of the appraiser trainee's signature in the appraisal report.

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(i) Sponsoring [~~Certified~~] appraisers may sponsor no more than three trainees at one time. Notification of sponsorship of an appraiser trainee must be provided in writing to the Board [~~board~~] on a form approved by the Board [~~board~~] with payment of the appropriate fee prior to the start [~~assumption~~] of sponsorship. [~~Termination of sponsorship of an appraiser trainee must be provided in writing to the board on a form approved by the board with the appropriate fee prior to the release from sponsorship.~~]

(j) Sponsors [~~Certified appraisers who sponsor appraiser trainees~~] must approve and sign the appraiser trainee's appraisal log and experience affidavit at least quarterly and provide appraiser trainees [~~the trainee~~] with access to any appraisals and work files completed under the sponsor [~~or any authorized supervisor designated by the sponsor~~].

(k) Sponsors [~~Certified appraisers who sponsor appraiser trainees~~] must be in good standing and not subject to any disciplinary action within the last three years that affected the sponsor's [~~legal~~] eligibility to engage in appraisal practice.

Disciplinary action taken against a [~~the~~] sponsor within the last three years that did not affect the sponsor's [~~legal~~] eligibility to engage in appraisal practice must be disclosed in writing to the appraiser trainee prior to sponsorship.

(l) To obtain Board approval of an Appraiser Trainee/Sponsor course, a course provider must submit form ATS-0, Appraiser Trainee/Sponsor Course Approval, adopted herein by reference, [~~and which is published and available from the Board at P.O. Box 12188, Austin, Texas 78711-2188, www.taleb.texas.gov,~~] and satisfy the Board that all required content set out in form ATS-0 is adequately covered. Approval of an Appraiser Trainee/Sponsor course shall expire two years from the date of Board approval. An approved Board Appraiser Trainee/Sponsor course may be delivered through classroom or distance education. The delivery mechanism for distance education courses offered by a non-academic provider must be approved by an AQB-approved organization providing approval of course design and delivery.

(m) Sponsors who complete the Appraiser Trainee/Sponsor course may receive ACE [~~continuing education~~] credit for the course.

(n) Appraiser Trainees may not receive qualifying or ACE credit for completing the Appraiser Trainee/Sponsor course.

§153.23 Inactive Status.

(a) A license holder [~~certified or licensed appraiser or appraiser trainee~~] may request to be placed on inactive status by filing a request for inactive status on a form approved by the Board [~~board~~] and paying the required fee.

(b) A license holder [~~certified or licensed appraiser or appraiser trainee~~] whose license [~~certificate, license, or approval~~] has expired may renew on inactive status within six months after the license expiration date by:

(1) filing [~~within one year of expiration,~~] an application for renewal [~~inactive status~~] on a form approved by the Board [~~board~~];

(2) indicating on the application that the license holder [~~appraiser~~] wishes to renew on inactive status; and

(3) paying the required late renewal fees.

(c) A license holder [~~An appraiser~~] on inactive status:

(1) shall not appraise real property, engage in appraisal practice, or perform any activity for which a [~~an appraiser~~] license [~~or certification~~] 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 [~~certification, or trainee approval~~].

(d) To return to active status, a license holder [~~licensed or certified appraiser or appraiser trainee~~] who has been placed on inactive status must:

(1) request to return to active status on a form approved by the Board [~~board~~];

(2) pay the required [~~return to active status~~] fee;

(3) satisfy all ACE [~~appraiser continuing education (ACE)~~] requirements that were not completed while on inactive status, except that the license holder [~~appraiser~~] is not required to complete the most current USPAP update course more than once in

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order to return to active status and shall substitute other approved courses to meet the required number of ACE hours. [~~of ACE; and~~]

~~[(4)meet all then current requirements for certification, licensure, or approval, including retaking and passing the examination, if the certificate, license, or approval was expired for more than six months at the time the licensed or certified appraiser or appraiser trainee applied for inactive status.]~~

(e)A license holder [~~licensed or certified appraiser or appraiser trainee~~] who has been on inactive status may not resume practice until the [~~active certification, license, or approval has been issued by~~] the Board issues an active license [~~board~~].

§153.24 Complaint Processing.

(a)Receipt of a Complaint Intake Form by the Board [~~board~~] does not constitute the filing of a formal complaint by the Board [~~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 [~~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 [~~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 [~~from any person~~].

(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 [~~respondent~~] unless the complaint qualifies for covert investigation and the Standards

and Enforcement Services Division deems covert investigation appropriate.

(f)The Respondent [~~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 [~~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 [~~respondent~~] to have actual knowledge of any of the matters made the subject of the complaint and, if in the Respondent's [~~respondent's~~] possession, contact information;

(5)any documentation that supports Respondent's [~~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 [~~respondent~~] may also address other matters not raised in the complaint that the Respondent [~~respondent~~] believes need explanation; and

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

(g)Staff will evaluate the complaint within three months after [~~of~~] receipt of the response from Respondent [~~respondent~~] to determine whether sufficient evidence of a potential violation of the Act, Board rules, or the USPAP [~~TALCB's statutes or rules, or the Uniform Standards of Professional Appraisal Practice (USPAP)~~] exists to pursue

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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:

(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.

~~[(h)If the complaint is not dismissed under subsection (g) of this section, a formal complaint will be opened and it will be investigated by a staff investigator or peer investigative committee, as appropriate. Staff may also open a formal complaint on its own motion. A 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 [for that purpose]. Reports prepared by a peer investigative committee shall be reviewed by the Standards and Enforcement Services Division[, which shall determine the appropriate disposition of the complaint].~~

(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 ~~[(7)]~~ years ago;

(B)A prior warning letter, contingent dismissal or discipline given less than seven years ago will not be considered unless the Board ~~[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 ~~[board]~~ final or agreed order;

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

(E)"Minor deficiencies" is defined as violations of the Act, Board rules ~~[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 ~~[appraiser's]~~ honesty, integrity, or trustworthiness ~~[or integrity]~~ to the Board ~~[board]~~, the license holder's ~~[appraiser's]~~ clients, or intended users of the appraisal service provided;

(F)"Serious deficiencies" is defined as violations of the Act, Board rules ~~[Rules]~~ or USPAP which do impact the credibility of the appraisal assignment results, the assignment results themselves or do impact the license holder's ~~[appraiser's]~~ honesty, trustworthiness or integrity to the Board, the license holder's ~~[appraiser'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 ~~[-respondent]~~ completes all remedial measures required in the agreement within the ~~[a certain]~~ 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

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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

(iii) The length of time since the prior [~~previous~~] 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 [~~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 [~~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 [~~contained herein~~] 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 [~~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 [~~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 [~~appraiser's~~] practice;

(IV) Restrictions on the Respondent's [~~a certified appraiser's~~] ability to sponsor any appraiser trainees;

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(V)Restrictions on the scope of practice the Respondent [~~appraiser~~] 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, [~~Board Rules or the Act,~~] not to exceed \$3,000 in the aggregate.

(C)1st Time Discipline Level 3--violations of the Act, Board rules [~~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 [~~appraiser's~~] practice;

(vi)Restrictions on the Respondent's [~~a certified appraiser's~~] ability to sponsor any appraiser trainees;

(vii)Restrictions on the scope of practice the Respondent [~~appraiser~~] 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, [~~Board Rules or the Act,~~] up to the maximum \$5,000 statutory limit per complaint matter.

(D)2nd Time Discipline Level 1--violations of the Act, Board rules [~~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 [~~appraiser's~~] practice;

(IV)Restrictions on the Respondent's [~~a certified appraiser's~~] ability to sponsor any appraiser trainees;

(V)Restrictions on the scope of practice the Respondent [~~appraiser~~] 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, [~~Board Rules or the Act,~~] up to the maximum \$1,000 statutory limit per complaint matter.

(E)2nd Time Discipline Level 2--violations of the Act, Board rules [~~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 [~~appraiser's~~] practice;

(vi)Restrictions on the Respondent's [~~a certified appraiser's~~] ability to sponsor any appraiser trainees;

(vii)Restrictions on the scope of practice the Respondent [~~appraiser~~] 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, [~~Board Rules or the Act,~~] up to the maximum \$5,000 statutory limit per complaint matter.

(F)2nd Time Discipline Level 3--violations of the Act, Board rules [~~Rules~~], or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will

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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 [appraiser's] practice;
- (vi) Restrictions on the Respondent's [a-certified appraiser's] ability to sponsor any appraiser trainees;
- (vii) Restrictions on the scope of practice the Respondent [appraiser] 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, [~~Board Rules or the Act,~~] up to the maximum \$5,000 statutory limit per complaint matter.

(G) 3rd Time Discipline Level 1--violations of the Act, Board rules [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 [appraiser's] practice;
- (vi) Restrictions on the Respondent's [a-certified appraiser's] ability to sponsor any appraiser trainees;
- (vii) Restrictions on the scope of practice the Respondent's [appraiser'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, [~~Board Rules or the Act,~~] up to the maximum \$5,000 statutory limit per complaint matter.

(H) 3rd Time Discipline Level 2--violations of the Act, Board rules [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 [appraiser's] practice;
- (vi) Restrictions on the Respondent's [a-certified appraiser's] ability to sponsor any appraiser trainees;
- (vii) Restrictions on the scope of practice the Respondent [appraiser] 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, [~~Board Rules or the Act,~~] 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 [and]
- (ii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of the Act, Board rules, or USPAP, [~~Board Rules or the Act,~~] up to the maximum \$5,000 statutory limit per complaint matter.

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

- (i) A revocation; and
- (ii) \$1,500 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board rules, [~~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

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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 ~~[the Rules, and/or]~~ USPAP.

~~(1)~~ ~~(k)~~ Agreed resolutions of complaint matters pursuant to Texas Occupations Code §1103.458 or §1103.459 must be signed by the Respondent ~~[respondent]~~, a representative of the Standards and Enforcement Services Division, and the Commissioner ~~[commissioner]~~.

§153.25 Temporary Out-of-State Appraiser License [Registration].

(a) A person licensed ~~[or certified]~~ as an appraiser by another state, commonwealth, or territory may register with the Board ~~[board]~~ so as to qualify to appraise real property in this state without holding a license ~~[or certification]~~ issued under the Act if:

(1) the state, commonwealth or territory licensing ~~[and certification]~~ program under which the person holds a license ~~[or certification]~~ has not been disapproved by the ASC ~~[Appraisal Subcommittee]~~; 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 submit a completed application form approved by the Board ~~[board]~~.

(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 ~~[board]~~.

(d) A person ~~[An appraiser]~~ registered under this section may apply for a 90 day extension to the original expiration date of the temporary registration, provided the person ~~[appraiser]~~:

(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 ~~[board]~~, received by the Board ~~[board]~~ or postmarked prior to the expiration of the current temporary registration.

§153.26 Identity Theft.

(a) For purposes of this section, "identity theft" shall mean any of the following activities occurring in connection with the rendition of real estate appraisal services:

(1) Unlawfully obtaining, possessing, transferring or using a license ~~[certification, license, authorization or registration]~~ issued by the Board ~~[board]~~; and/or

(2) Unlawfully obtaining, possessing, transferring or using a person's electronic or handwritten signature.

(b) A license holder ~~[person holding a certification, license, authorization or registration issued by the board]~~ shall implement and maintain reasonable procedures to protect and safeguard themselves from identity theft.

(c) A license holder ~~[person holding a certification, license, authorization or registration]~~ shall notify the Board ~~[board]~~ if he or she is ~~[they are]~~ the victim of identity theft within 90 days of discovering such theft. Notice shall be effectuated by filing a signed, written complaint on a form prescribed by the Board ~~[board]~~.

(d) The Board ~~[board]~~ may invalidate a current license ~~[certification, license, authorization or registration]~~ and issue a new one to a person the Board ~~[board]~~ determines is a victim of identity theft. Any person seeking the invalidation of a current license ~~[certification, license, authorization or registration]~~ and issuance of a new one shall submit a written, signed request on a form provided by the Board ~~[board]~~ for the invalidation of a current license ~~[certification, license, authorization or registration]~~ and issuance of a new one. The basis

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for the request must be identity theft, and the requestor must submit credible evidence that the person is a victim of identity theft. Without limiting the type of evidence a person may submit to the Board [~~board~~], a court order issued in accordance with Texas Business and Commerce Code Chapter 521, Subchapter C, declaring that the person is a victim of identity theft shall constitute credible evidence. Any such court order must relate to identity theft as defined in this section.

(e) Engaging in identity theft in order to perform appraisals a person is not legally permitted to perform constitutes a violation of §153.20(a)(7), (20), and (22) of this title (relating to Guidelines for Revocation, Suspension, Denial of License [~~Licensure or Certification~~]; Probationary License [~~Licensure~~]). In addition to any action taken by the Board [~~board~~], persons engaging in identity theft may also be referred to the appropriate law enforcement agency for criminal prosecution.

§153.27 License [~~Certification and Licensure~~] by Reciprocity.

(a) A person who is licensed [~~or certified~~] 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 [~~or certification~~] at that same level by completing and submitting to the Board [~~board~~] the application for [~~licensure or certification~~] or license by reciprocity and paying the appropriate fee to the Board [~~board~~ ~~the fee~~].

(b) The Board [~~board~~] shall seek verification from an applicant's state of current licensure that the applicant's license [~~or certification~~] is valid and in good standing. A reciprocal license [~~or certificate~~] may not be issued without the verification required by this subsection.

(c) Renewal of a [certification or] 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 [certified or licensed appraiser] as provided in §153.17 of this title (relating to Renewal or Extension of License [Certification and License or Renewal of Trainee Approval]).

§153.33 Signature or Endorsement of Appraisal.

A license holder [certified or licensed appraiser] who signs an appraisal report is responsible for the content of the entire appraisal report.

§153.37 Criminal Matters Referred to Law Enforcement.

Matters that are referred to the appropriate state or federal law enforcement agency for criminal investigation and prosecution shall also be fully and appropriately investigated by the Board's [~~board's~~] investigators, and the Board [~~board~~] shall take appropriate disciplinary action.

This agency hereby certifies that the amendments have been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August __, 2014.

Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board



AGENDA ITEM 18(a)

Discussion and possible action to propose amendments to 22 TAC §153.1, Definitions.

SUMMARY

The amendments are proposed to eliminate redundant definitions that are defined elsewhere in state law and to correct a reference to the Appraisal Qualifications Board.

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 §153.1, Definitions, 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 15, 2014 MEETING OF
THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD**

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

22 TAC §153.1. Definitions

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §153.1. Definitions. The amendments are proposed to correct a reference to the Appraisal Qualifications Board and eliminate redundant definitions that are defined elsewhere in state law.

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 sections. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the sections. 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 benefit anticipated as a result of enforcing the sections will be a requirement that is easier to understand, apply and process.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to 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, which authorizes the Texas Appraiser Licensing and Certification Board to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to 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.

§153.1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1)ACE--Appraiser Continuing Education.
- (2)Act--The Texas Appraiser Licensing and Certification Act.
- (3)Administrative Law Judge--A judge employed by the State Office of Administrative Hearings (SOAH).
- (4)Analysis--The act or process of providing information, recommendations or conclusions on diversified problems in real estate other than estimating value.
- (5)Applicant--A person seeking a certification, license, approval as an appraiser trainee, or registration as a temporary out-of-state appraiser from the Board.
- (6)Appraisal practice--Valuation services performed by an individual acting as an

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appraiser, including but not limited to appraisal and appraisal review.

(7) Appraisal report--A report as defined by and prepared under the USPAP.

(8) Appraisal Standards Board--The Appraisal Standards Board (ASB) of the Appraisal Foundation, or its successor.

(9) Appraisal Subcommittee--The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council or its successor.

(10) Appraiser Qualifications Board--The Appraiser Qualifications Board (AQB) of the Appraisal Foundation, or its successor.

(11) Appraiser trainee--A person approved by the Board to perform appraisals or appraiser services under the active, personal and diligent supervision and direction of the sponsoring certified appraiser. In addition an appraiser trainee may perform appraisals or appraiser services under the active, personal and diligent supervision of an authorized supervisor as further detailed in this chapter.

(12) Board--The Texas Appraiser Licensing and Certification Board.

(13) Classroom hour--Fifty minutes of actual classroom session time.

(14) Client--Any party for whom an appraiser performs an assignment.

(15) College--Junior or community college, senior college, university, or any other postsecondary educational institution established by the Texas Legislature, which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or like commissions of other regional accrediting associations, or is a candidate for such accreditation.

(16) Commissioner--The commissioner of the Texas Appraiser Licensing and Certification Board.

(17) Complainant--Any person who has made a written complaint to the Board against any person subject to the jurisdiction of the Board.

(18) Complex appraisal--An appraisal in which the property to be appraised, the form of ownership, market conditions, or any combination thereof are atypical.

~~(19) Contested case--A proceeding in which the legal rights, duties or privileges of a party are to be determined by the Board after an opportunity for adjudicative hearing. A matter that is completed without being referred to SOAH is not a contested case.]~~

~~(19)~~⁽¹⁹⁾ Council--The Federal Financial Institutions Examination Council (FFIEC) or its successor.

~~(20)~~⁽²⁰⁾ Day--A calendar day unless clearly indicated otherwise.

~~(21)~~⁽²¹⁾ Distance education--Any educational process based on the geographical separation of student and instructor that provides a reciprocal environment where the student has verbal or written communication with an instructor.

~~(22)~~⁽²²⁾ Feasibility analysis--A study of the cost-benefit relationship of an economic endeavor.

~~(23)~~⁽²³⁾ Federal financial institution regulatory agency--The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, or the successors of any of those agencies.

~~(24)~~⁽²⁴⁾ Federally related transaction--Any real estate-related transaction that requires the services of an appraiser and that is engaged in, contracted for, or regulated by a federal financial institution regulatory agency.

~~(25)~~⁽²⁵⁾ Foundation--The Appraisal Foundation (TAF) or its successor.

~~(26)~~⁽²⁶⁾ Fundamental real estate appraisal course--Those courses approved by the Appraiser Qualifications ~~Board~~^{Boards} as qualifying education.

~~(27)~~⁽²⁷⁾ Inactive certificate or license--A general certification, residential certification, or

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state license which has been placed on inactive status by the Board.

(28)~~(29)~~ License--The whole or a part of any Board permit, certificate, approval, registration or similar form of permission required by law.

(29)~~(30)~~ License holder--A person certified, licensed, approved, authorized or registered by the Board under the Texas Appraiser Licensing and Certification Act.

(30)~~(31)~~ Licensing--Includes the Board processes respecting the granting, disapproval, denial, renewal, certification, revocation, suspension, annulment, withdrawal or amendment of a license.

(31)~~(32)~~ Market analysis--A study of market conditions for a specific type of property.

(32)~~(33)~~ Nonresidential real estate appraisal course--A course with emphasis on the appraisal of nonresidential real estate properties which include, but are not limited to, income capitalization, income property, commercial appraisal, rural appraisal, agricultural property appraisal, discounted cash flow analysis, subdivision analysis and valuation, or other courses specifically determined by the Board.

(33)~~(34)~~ Nonresidential property--A property which does not conform to the definition of residential property.

(34)~~(35)~~ Party--The Board and each person or other entity named or admitted as a party.

(35)~~(36)~~ Person--Any individual, partnership, corporation, or other legal entity.

(36)~~(37)~~ Personal property--Identifiable tangible objects and chattels that are considered by the general public as being "personal," for example, furnishings, artwork, antiques, gems and jewelry collectibles, machinery and equipment; all tangible property that is not classified as real estate.

(37)~~(38)~~ Petitioner--The person or other entity seeking an advisory ruling, the person petitioning for the adoption of a rule, or the party seeking affirmative relief in a proceeding before the Board.

(38)~~(39)~~ Pleading--A written document, submitted by a party or a person seeking to participate in a case as a party, that requests procedural or substantive relief, makes claims, alleges facts, makes a legal argument, or otherwise addresses matters involved in the case.

(39)~~(40)~~ Real estate--An identified parcel or tract of land, including improvements, if any.

(40)~~(41)~~ Real estate-related financial transaction--Any transaction involving: the sale, lease, purchase, investment in, or exchange of real property, including an interest in property or the financing of property; the financing of real property or an interest in real property; or the use of real property or an interest in real property as security for a loan or investment including a mortgage-backed security.

(41)~~(42)~~ Real property--The interests, benefits, and rights inherent in the ownership of real estate.

(42)~~(43)~~ Record--All notices, pleadings, motions and intermediate orders; questions and offers of proof; objections and rulings on them; any decision, opinion or report by the Board; and all staff memoranda submitted to or considered by the Board.

(43)~~(44)~~ Report--Any communication, written or oral, of an appraisal, review, or analysis; the document that is transmitted to the client upon completion of an assignment.

(44)~~(45)~~ Residential property--Property that consists of at least one but not more than four residential units.

(45)~~(46)~~ Respondent--Any person subject to the jurisdiction of the Board, licensed or unlicensed, against whom any complaint has been made.

(46)~~(47)~~ Sponsor or sponsoring appraiser--A certified general or residential appraiser who is designated as a supervisory appraiser, as defined by the AQB, for an appraiser trainee. The sponsor or sponsoring appraiser is responsible for providing active, personal and

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diligent supervision and direction of the appraiser trainee.

(47)~~(48)~~ State certified real estate appraiser--
A person certified under the Texas Appraiser Licensing and Certification Act.

(48)~~(49)~~ State licensed real estate appraiser--
A person licensed under the Texas Appraiser Licensing and Certification Act.

(49)~~(50)~~ USPAP--Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation.

(50)~~(51)~~ Workfile--Documentation necessary to support an appraiser's analysis, opinions, and conclusions, and in compliance with the record keeping provisions of USPAP.

This agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August __, 2014.

Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board



AGENDA ITEM 18(b)

Discussion and possible action to propose amendments to 22 TAC §153.5, Fees.

SUMMARY

The proposed amendments are made to reduce the renewal fees for license holders.

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 §153.5, 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 15, 2014 MEETING OF

THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

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

22 TAC §153.5. Fees

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §153.5. Fees.

The proposed amendments are made to reduce renewal fees for license holders.

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 sections. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the sections. 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 benefit anticipated as a result of enforcing the sections will be a requirement that is easier to understand, apply and process.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to 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, which authorizes the TALCB to adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to 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.

§153.5 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 state appraiser license;

(4) a fee of \$300 for an application for an appraiser trainee license;

(5) a fee of \$~~360~~~~[370]~~ for a timely renewal of a certified general appraiser license;

(6) a fee of \$~~310~~~~[320]~~ for a timely renewal of a certified residential appraiser license;

(7) a fee of \$~~290~~~~[295]~~ for a timely renewal of a state appraiser license;

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- (8) a fee of \$~~270~~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 sponsorship;
- (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 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

(24) 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.

This agency hereby certifies that the proposed amendments have been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September __, 2014.

Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board



AGENDA ITEM 19

Discussion and possible action to propose amendments to 22 TAC §157.31, Investigative Conference.

SUMMARY

The amendments are proposed to clarify the information that will be provided to a respondent prior to holding an investigative conference.

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 §157.31, Investigative Conference, 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 15, 2014 MEETING OF
THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD
Chapter 157. Rules Relating to Practice and Procedure

22 TAC §157.31. Investigative Conference

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §157.31. Investigative Conference. The amendments are proposed to clarify the information that will be provided to a respondent prior to holding an investigative conference.

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 sections. There is no anticipated significant impact on small businesses, micro-businesses or local or state employment as a result of implementing the sections. 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 benefit anticipated as a result of enforcing the sections will be a requirement that is easier to understand, apply and process.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to 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, which authorizes the Texas Appraiser Licensing and Certification Board to

adopt rules relating to certificates and licenses, and §1103.152, which authorizes TALCB to 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.

§157.31 Investigative Conference.

- (a) A respondent may meet with the Board for an investigative discussion of the facts and circumstances of the alleged violations.
- (b) A respondent may, but is not required to, have an attorney or other advocate present at an investigative conference.
- (c) A respondent will be provided with [a list of topics that may be discussed](#) ~~[the investigative report]~~ and a Statement of Investigative Conference Procedures and Rights (IC Form) not later than three (3) days prior to the date of the investigative conference. The respondent and respondent's attorney, if any, must acknowledge receipt of the IC Form by signing it and delivering it to the Board at the beginning of the investigative conference.
- (d) [At its sole discretion, the Board may provide a copy of the investigative report to the respondent or respondent's attorney for the purpose of advancing case settlement or resolution.](#)
- (e) Participation in an investigative conference is not mandatory and may be terminated at any time by either party.
- (f) ~~(e)~~ At the conclusion of the investigative conference, the Board staff may propose a settlement

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Chapter 157. Rules Relating to Practice and Procedure

offer that can include administrative penalties and any other disciplinary action authorized by the Act or recommend that the complaint be dismissed.

(g)~~(f)~~ The respondent may accept, reject, or make a counter offer to the proposed settlement not later than ten (10) days following the date of the investigative conference.

(h)~~(g)~~ If the parties cannot reach a settlement not later than ten (10) days following the date of the investigative conference, the matter will be referred to the Director of Standards and Enforcement Services to pursue appropriate action This agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

This agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August __, 2014.

Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board



AGENDA ITEM 20

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 §159.1. Definitions
- b. 22 TAC §159.3. Appraisal Management Company Advisory Committee
- c. 22 TAC §159.4. Jurisdiction and Exemptions
- d. 22 TAC §159.52. Fees
- e. 22 TAC §159.101. Registration Requirements
- f. 22 TAC §159.102. Eligibility for Registration; Ownership
- g. 22 TAC §159.103. Applications
- h. 22 TAC §159.104. Primary Contact; Appraiser Contact
- i. 22 TAC §159.105. Denial of Registration
- j. 22 TAC §159.107. Expiration
- k. 22 TAC §159.108. Renewal
- l. 22 TAC §159.109. Inactive Status
- m. 22 TAC §159.154. Competency of Appraisers
- n. 22 TAC §159.155. Periodic Review of Appraisals
- o. 22 TAC §159.156. Business Records
- p. 22 TAC §159.157. Compensation of Appraisers
- q. 22 TAC §159.159. Disclosure of Registered Name and Registration Number
- r. 22 TAC §159.161. Appraiser Panel
- s. 22 TAC §159.162. Dispute Resolution
- t. 22 TAC §159.201. Guidelines for Revocation, Suspension or Denial of a Registration
- u. 22 TAC §159.204. Complaint Processing

SUMMARY

The proposed amendments are made following a comprehensive rule review for this Chapter to better reflect current TALCB procedures and to simplify and clarify where needed. The proposed amendments capitalize the term “Board” and replace the term “licensee” with “license holder” throughout the Chapter. The proposed amendments also remove redundant or unused provisions and restructure certain rules to improve readability. Other specific amendments are as follows:

The proposed amendments to §159.155 reduce the percentage of reviews that an Appraisal Management Company (AMC) must perform from five to two percent.

The proposed amendments to §159.109 allow an AMC to renew its license while the license is on inactive status.

**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 §159.1. Definitions; 22 TAC §159.3. Appraisal Management Company Advisory Committee; 22 TAC §159.4. Jurisdiction and Exemptions; 22 TAC §159.52. Fees; 22 TAC §159.101. Registration Requirements; 22 TAC §159.102. Eligibility for Registration; Ownership; 22 TAC §159.103. Applications; 22 TAC §159.104. Primary Contact; Appraiser Contact; 22 TAC §159.105. Denial of Registration; 22 TAC §159.107. Expiration; 22 TAC §159.108. Renewal; 22

TAC §159.109. Inactive Status; 22 TAC §159.154. Competency of Appraisers; 22 TAC §159.155. Periodic Review of Appraisals; 22 TAC §159.156. Business Records; 22 TAC §159.157. Compensation of Appraisers; 22 TAC §159.159. Disclosure of Registered Name and Registration Number; 22 TAC §159.161. Appraiser Panel; 22 TAC §159.162. Dispute Resolution; 22 TAC §159.201. Guidelines for Revocation, Suspension or Denial of a Registration; 22 TAC §159.204. Complaint Processing, 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 15, 2014 MEETING OF

THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

Chapter 159. Rules Relating to Provisions of the Texas Appraisal Management Company Registration and Regulation Act

22 TAC §159.1. Definitions, 22 TAC §159.3. Appraisal Management Company Advisory Committee, 22 TAC §159.4. Jurisdiction and Exemptions, 22 TAC §159.52. Fees, 22 TAC §159.101. Registration Requirements, 22 TAC §159.102. Eligibility for Registration; Ownership, 22 TAC §159.103. Applications, 22 TAC §159.104. Primary Contact; Appraiser Contact, 22 TAC §159.105. Denial of Registration 22 TAC §159.107. Expiration, 22 TAC §159.108. Renewal, 22 TAC §159.109. Inactive Status, 22 TAC §159.154. Competency of Appraisers, 22 TAC §159.155. Periodic Review of Appraisals, 22 TAC §159.156. Business Records, 22 TAC §159.157. Compensation of Appraisers, 22 TAC §159.159. Disclosure of Registered Name and Registration Number, 22 TAC §159.161. Appraiser Panel, 22 TAC §159.162. Dispute Resolution, 22 TAC §159.201. Guidelines for Revocation, Suspension, or Denial of a Registration, 22 TAC §159.204. Complaint Processing

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §159.1. Definitions, 22 TAC §159.3. Appraisal Management Company Advisory Committee, 22 TAC §159.4. Jurisdiction and Exemptions, 22 TAC §159.52. Fees, 22 TAC §159.101. Registration Requirements, 22 TAC §159.102. Eligibility for Registration; Ownership, 22 TAC §159.103. Applications, 22 TAC §159.104. Primary Contact; Appraiser Contact, 22 TAC §159.105. Denial of Registration, 22 TAC §159.107. Expiration, 22 TAC §159.108. Renewal, 22 TAC §159.109. Inactive Status, 22 TAC §159.154. Competency of Appraisers, 22 TAC §159.155. Periodic Review of Appraisals, 22 TAC §159.156. Business Records, 22 TAC §159.157. Compensation of Appraisers, 22 TAC §159.159. Disclosure of Registered Name and Registration Number, 22 TAC §159.161. Appraiser Panel, 22 TAC §159.162. Dispute Resolution, 22 TAC §159.201. Guidelines for Revocation, Suspension, or Denial of a Registration, 22 TAC §159.204. Complaint Processing.

The proposed amendments are made following a comprehensive rule review for this Chapter to better

reflect current TALCB procedures and to simplify and clarify where needed.

The proposed amendments capitalize the term “Board” and replace the term “licensee” with “license holder” throughout the Chapter. The proposed amendments also remove redundant or unused provisions and restructure certain rules to improve readability. Other specific amendments are as follows:

The proposed amendments to §159.155 reduce the percentage of reviews that an Appraisal Management Company (AMC) must perform from five to two percent.

The proposed amendments to §159.109 allow an AMC to renew its license while the license is on inactive status.

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 sections. There is no anticipated significant

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impact on small businesses, micro-businesses or local or state employment as a result of implementing the sections. 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 benefit anticipated as a result of enforcing the sections will be a requirement that is easier to understand, apply and process.

Comments on the proposed amendments may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188 or emailed to 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 Texas Appraiser Licensing and Certification Board 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.

§159.1. Definitions.

(a) AMC--Appraisal management company.

(b) [AMC Act --Chapter 1104, Texas Occupations Code, Texas Appraisal Management Company Registration and Regulation Act.](#)

(c) Administrative law judge--A judge employed by the State Office of Administrative Hearings (SOAH).

(d) ~~(e)~~ Advertising--a written or oral statement or communication by or on behalf of an [AMC](#)~~[appraisal management company]~~ that induces or attempts to induce a member of the public to use the services of the AMC, including but not limited to all publications, radio or television broadcasts, all electronic media including email, text messages,

social networking websites, and the Internet, business stationery, business cards, signs and billboards

~~(e)~~~~(d)~~ Applicant--A person seeking to become registered under [the AMC Act](#)~~[Chapter 1104 of the Texas Occupations Code].~~

~~(f)~~~~(e)~~ Appraisal firm--An entity that employs appraisers on an exclusive basis and receives compensation for performing appraisals and issuing appraisal reports in its own name.]

~~(g)~~~~(f)~~ Appraiser contact--A person designated by an AMC pursuant to §1104.103(b)(6) of the ~~[Texas Appraisal Management Company Registration and Regulation]~~ [AMC](#) Act to respond to and communicate with appraisers on the ~~[company's]~~[AMC's](#) appraisal panel regarding appraisal assignments.

[\(h\) Board--The Texas Appraiser Licensing and Certification Board](#)

~~(i)~~~~(g)~~ Commissioner--The Commissioner of the ~~[Texas Appraiser Licensing and Certification]~~ Board.

~~(h) Contested case--A proceeding in which the legal rights, duties, or privileges of a party are to be determined by the Board after an opportunity for an adjudicative hearing. A matter that is completed without being referred to SOAH is not a contested case.]~~

~~(i)~~~~(f)~~ Day--A calendar day unless clearly indicated otherwise.

[\(k\) License--The whole or a part of any Board permit, certificate, approval, registration or similar form of permission required by Chapter 1103 or 1104, Texas Occupations Code.](#)

[\(l\) License holder--A person licensed or registered by the Board under the AMC Act.](#)

~~(m)~~~~(j)~~ Party--The Board and each person named or admitted as a party.

~~(n)~~~~(k)~~ Person--Any individual, partnership, corporation, or legal entity.

~~(l) Pleading--A written document, submitted by a party or a person seeking to participate in a case as a party, that requests procedural or substantive relief, alleges facts, makes a legal argument, or otherwise addresses matters involved in the case.]~~

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(o) ~~(m)~~ Primary contact--A person who meets the definition of "controlling person" in §1104.003 of the AMC [the Texas Appraisal Management Company Registration and Regulation] Act and is designated by an AMC pursuant to §1104.104 of the AMC Act as the primary contact for all communication between the ~~[board]~~ Board and the ~~[company]~~ AMC.

~~(n) Registrant—A person registered as an appraisal management company by the Board under the Texas Appraisal Management Company Registration and Regulation Act.~~

(p) ~~(o)~~ Respondent--Any person subject to the jurisdiction of the Board, registered or unregistered, against whom any complaint has been made.

~~(p) Rule—Any Board statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the Board and is filed with the Texas Register.]~~

(q) ~~(q)~~ SOAH--State Office of Administrative Hearings.

(r) USPAP--Uniform Standards of Professional Appraisal Practice.

§159.3. Appraisal Management Company Advisory Committee.

- (a) A quorum of the committee consists of two members.
- (b) The committee may meet at the call of the chair or upon the request of a majority of its members. The committee shall meet at the request of the Board.
- (c) Unless state law or Board rules require otherwise, meetings [Meetings] shall be conducted in accordance with ~~[the Texas Open Meetings Act and]~~ Robert's Rules of Order.
- (d) At the end of a term, members shall continue to serve until their successors are qualified.

§159.4. Jurisdiction and Exemptions.

(a) This chapter does not apply to appraisal management services provided:

- (1) for the appraisal of:
 - (A) commercial property; or

(B) residential properties of more than four units; or

(2) by persons exempted under §1104.004, the AMC Act [Texas Occupations Code].

(b) For the purposes of §1104.004 of the AMC Act [Texas Occupations Code]:

(1) a person exclusively employs appraisers on an employer and employee basis for the performance of appraisals if the person does not also employ appraisers as independent contractors or under any other arrangement;

(2) a person employs not more than 15 appraisers on an exclusive basis as independent contractors for the performance of appraisals if:

(A) the person prohibits the independent contractors from performing appraisals for others; and

(B) the person does not employ more than 15 appraisers as independent contractors at any time;

(3) a subsidiary of a financial institution is not a department or unit within the institution;

(4) an AMC [appraisal management company] that requires an employee of the AMC [appraisal management company] who is an appraiser who provided no significant real property appraisal assistance to sign an appraisal that is completed by another appraiser who contracts with the

AMC [appraisal management company in order to avoid the requirements of Chapter 1104, Texas Occupations Code], is not exempt from the AMC Act [chapter]; and

(5) an AMC [appraisal management company] has an appraisal panel of not more than 15 appraisers at all times during a calendar year if:

(A) [it] the AMC does not have more than 15 appraisers on its panel at any time; and

(B) an appraiser who has been removed from the AMC's panel is not added back to the panel within 12 months after the date of removal.

(c) A person may solicit prospective panelists in anticipation of acting as an AMC [appraisal management company] without being registered as an AMC, provided that it is registered prior to forming a panel, accepting an appraisal assignment, or

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performing any other act constituting an appraisal management service.

(d) For the purposes of the [AMC](#) Act, a property is located in Texas if it is located wholly or partly in the state.

§159.52. Fees.

(a) The Board [\[shall\]will](#) charge and the Commissioner [\[shall\]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 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](#)[\[appraisal management company\]](#) 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 to add an appraiser to a panel in the Board's records;

(7) a fee of \$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, [\[shall\]must](#) submit all future fees in the form of a cashier's check or money order.

(c) AMCs registered with the Board [\[shall\]must](#) pay any annual registry fee as required under federal law. All registry fees collected by the Board [\[shall\]will](#) be deposited in the Texas Treasury Safekeeping Trust Company to the credit of the appraiser registry fund. The Board [\[shall\]will](#) send the fees to the Appraisal Subcommittee as required by federal law.

§159.101. Use of Business Name [\[Registration Requirements\]](#). A [license holder](#)[\[Registrant\]](#) [\[shall\]must](#) notify the Board, on a form approved [by the Board](#)[\[for the purpose\]](#), within 30 days after the [license holder](#)[\[Registrant\]](#) starts or stops using a [business](#) name [\[in-business\]](#) other than the name in which [the license holder](#)[\[it\]](#) is registered.

§159.102. Eligibility for Registration; Ownership. For the purpose of certifying to the Board that an applicant has reviewed the owners of the entity as required by the [AMC](#) Act and that no such owner has had a license [\[or certificate\]](#) to act as an appraiser denied, revoked, or surrendered in lieu of revocation unless the license [\[or certification\]](#) was subsequently granted or reinstated, the applicant may rely on the Appraisal Subcommittee's online [National Registry](#) [\[license/certification\]](#) database.

§159.103. Applications.

(a) An application must be accompanied by one completed and signed Owner/Primary Contact

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Background History form for the primary contact and each owner of more than 10% of the company.

(b) An application may be rejected if incomplete.

(c) An application may be considered void and subject to no further evaluation or processing if an applicant fails to provide information or documentation within 60 days after the Board makes written request for the information or documentation.

(d) **License holders**[Registrants] ~~[shall]~~**must** retain documents establishing ownership for a period of five years from the date the application was filed.

§159.104. Primary Contact; Appraiser Contact.

(a) A **license holder**[Registrant] ~~[shall]~~**must** give the Board written notice of any change to the contact information for its primary contact or appraiser contact within 15 days of the change.

(b) If a **license holder's**[Registrant's] primary contact or appraiser contact changes, the **license holder**[Registrant] ~~[shall]~~**must** give the Board written notice of the change, including all information required by §1104.103(b)(4) ~~and~~[or] (6)[,] ~~of the AMC Act~~[Texas Occupations Code], and, if appropriate, documentation that the person is qualified to serve under §1104.104(b) [,] ~~of the AMC Act~~[Texas Occupations Code], within 15 days of the change.

(c) A **license holder**[Registrant] ~~[shall]~~**must** give the Board written notice within 15 days if its primary contact or appraiser contact ceases to serve in that role and a qualified replacement is not immediately named. If a **license holder's**[Registrant's] primary contact or appraiser contact ceases to ~~[be]~~ serve in that role and the **license holder**[Registrant] does not give the Board written notice of a replacement, the **license holder**[Registrant] ~~[shall]~~**will** be placed on inactive status.

(d) A primary contact who assumes that role during the term of the registration ~~[shall]~~**must** provide the Board written consent to a criminal history background check, as required by §1104.102[,] ~~of the AMC Act~~[Texas Occupations Code]. If the person does not satisfy **the** Board's moral character requirements, the Board ~~[shall]~~**will** remove the person

from its records and the **license holder**[Registrant] will be placed on inactive status. Such a decision by **the** Board ~~[staff]~~ may be reviewed and reconsidered by the Commissioner if the **license holder**[Registrant] submits a written request for reconsideration within ten days of notice that the person does not qualify to serve as primary contact. The **license holder**[Registrant] will remain on inactive status while the request for reconsideration is pending.

(e) The appraiser contact must hold an active, current license ~~[or certification]~~ issued by an appraiser regulatory agency within the jurisdiction of the Appraisal Subcommittee.

§159.105. Denial of Registration.

(a) ~~AMCs~~[Appraisal management companies], persons who own more than 10% of an AMC, and individuals who act as the primary contact for an AMC must be honest, trustworthy, and reliable. Accordingly, such persons must satisfy the Board of their honesty, integrity, and trustworthiness before a registration may be issued or renewed.

(b) The board deems the following felonies and misdemeanors directly related to the field of appraisal management and suggestive of a lack of the requisite moral character:

- (1) offenses involving fraud or misrepresentation;
- (2) offenses against real or personal property belonging to another, if committed knowingly or intentionally;
- (3) offenses against public administration;
- (4) offenses involving the sale or other disposition of real or personal property belonging to another without authorization of law;
- (5) offenses involving moral turpitude; and
- (6) offenses of attempting or conspiring to commit any of the foregoing offenses.

(c) In determining whether a criminal offense by an applicant, the primary contact, or an owner of more than 10% of the AMC prevents the issuance of a registration, the Board ~~[shall]~~**will** consider the following factors:

- (1) the nature and seriousness of the crime;

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(2) the relationship of the crime to the purposes for requiring a registration to provide appraisal management services;

(3) the extent to which a registration might offer an opportunity to engage in further criminal activity of the same type as that which the person had previously been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to be involved, directly or indirectly, in performing the duties and discharge the responsibilities of ~~AMC~~[appraisal management company].

(d) In determining the present fitness of a person who has committed an offense under this section, the ~~board~~Board ~~shall~~will consider the following evidence:

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person at the time of the commission of the crime;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person prior to and following the criminal activity;

(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release; and

(6) other evidence of the person's present fitness including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the person.

(e) A person is presumed to lack the requisite moral character if less than two years has elapsed since the offense was committed.

(f) An applicant is presumed to be unfit to perform appraisal management services if the person has violated the appraiser independence standards of Section 129E of the Truth in Lending Act (15 U.S.C. §1601 et seq.). This presumption may be ~~ebuted~~rebutted by credible evidence to the contrary.

(g) It ~~shall be~~is the responsibility of the applicant to the extent possible to secure and provide the ~~board~~Board the recommendations of the prosecution, law enforcement, and correctional authorities, as well as evidence, in the form required by the Board~~board~~, relating to whether the applicant has maintained a record of steady employment, has maintained a record of good conduct, and is current on the payment of any outstanding court costs, supervision fees, fines, and restitution.

(h) A currently incarcerated individual does not possess the required good moral character.

(i) The primary contact and each owner of more than 10% of the ~~AMC~~[appraisal management company] must consent in writing to a criminal history background check at the time the company submits an application.

(j) An application for renewal that is proposed to be denied by Standards and Enforcement Services Division staff may be reviewed and reconsidered by the Commissioner if the applicant submits a written request for reconsideration within ten days of notice of the proposed denial. The right to request reconsideration is distinct from, and in addition to, an applicant's right to appeal a proposed denial before SOAH~~[the State Office of Administrative Hearings]~~.

§159.107. Expiration. A registration is valid for the term for which it is issued by the Board ~~[unless suspended or revoked for cause]~~.

§159.108. Renewal.

(a) The Board ~~shall~~will send a renewal notice to the license holder's~~Registrant's~~ primary contact at least 180 days prior to the expiration of the license~~registration~~.

(b) To renew a license, a license holder must:

(1) submit an application as required by

§1104.103 of the AMC Act; and

(2) pay all applicable renewal fees established in §159.52 of this chapter.

(c) It is the responsibility of the license holder~~Registrant~~ to apply for renewal in accordance

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with ~~[Chapter 1104[, -], Texas Occupations Code]~~, and this ~~section~~~~[chapter]~~ sufficiently in advance of the expiration date to ensure that all renewal requirements, including background checks, are satisfied before the expiration date of the ~~[registration]~~license.

~~(d)~~ Failure to receive a renewal notice from the ~~[board]~~Board does not relieve the license holder~~[Registrant]~~ of the responsibility to timely apply for renewal.

~~(e)~~~~(e)~~ An application for renewal is not complete, and no renewal will issue, until all application requirements are satisfied.

§159.109. Inactive Status.

(a) To elect to be placed on inactive status, a license holder~~[Registrant]~~ must do the following:

(1) file a request for inactive status on a form approved by the Board and pay the required fee; and

(2) confirm in writing to the Board that the license holder~~[Registrant]~~ has given written notice of its election to go inactive to all appraisers listed on the license holder's~~[Registrant's]~~ appraiser panel at least 30 days prior to filing the request for inactive status.

(b) In order to return from inactive status to active status, a license holder~~[Registrant]~~ ~~[shall]~~must submit to the Board a completed Request for Active Status form and proof of compliance with all outstanding requirements for active registration.

(c) A license holder~~[Registrant]~~ that has elected or been placed on inactive status may not engage in any activity for which registration is required until an active registration has been issued by the Board.

(d) The appraiser panel of a license holder~~[Registrant]~~ on inactive status will remain in place ~~[until the Registrant's next renewal date]~~.

(e) A license holder~~[Registrant]~~ may ~~[not]~~ renew on inactive status. To renew on inactive status, a ~~[An inactive]~~ license holder~~[Registrant]~~ must satisfy:

(1) all requirements under subsection (a) of this section; and

(2) all renewal requirements for an active registration under §159.108 of this chapter.

§159.154. Competency of Appraisers.

(a) In addition to verifying an appraiser's licensure ~~[or certification]~~ as required by §1104.152 of the AMC Act, an AMC must, at the time of or before making an assignment to an appraiser, obtain a written certification from the appraiser that the appraiser:

(1) is competent in the property type of the assignment;

(2) is competent in the geographical area of the assignment;

(3) has access to appropriate data sources for the assignment;

(4) will immediately notify the AMC if the appraiser later determines that he or she is not qualified under paragraph (1), (2), or (3) of this subsection to complete the assignment; and

(5) is aware that misrepresentation of competency is subject to the mandatory reporting requirement in §1104.160 of the AMC Act.

(b) An AMC that has reviewed an appraiser's work ~~[shall]~~must consider the findings of the review in verifying competency for the purpose of assigning future work.

(c) For the purposes of verifying that an appraiser has not had a license ~~[or certification as an appraiser]~~ denied in another jurisdiction, an AMC may rely on information provided by the appraiser.

§159.155. Periodic Review of Appraisals.

(a) A license holder~~[Registrant]~~ ~~[shall]~~must review the work of appraisers performing appraisal services on 1-4 family unit properties collateralizing mortgage obligations by performing a review in accordance with Standard 3 of USPAP~~[the Uniform Standards of Professional Appraisal Practice (USPAP)]~~ of:

(1) one of the first five appraisals performed for the license holder~~[Registrant]~~ by each appraiser, prior to making a sixth assignment; and

(2) a total of two~~[five]~~ percent, randomly selected, of the appraisals performed for the AMC for each twelve-month period following the date of the AMC's registration.

(b) Appraisals performed pursuant to subsection

(a)(1) of this section ~~[shall]~~will be counted toward the

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calculation of five percent for the purposes of subsection (a)(2) of this section.

(c) A review pursuant to subsection (a)(1) of this section is not required if the first five appraisals by an appraiser were completed before the AMC was required by the [AMC Act](#) [~~Chapter 1104 of the Texas Occupations Code~~], to be registered with the Board.

(d) In addition to satisfying the requirements of §1104.153 of the [AMC Act](#), the review appraiser must have access to appropriate data sources for the appraisal being reviewed.

(e) A certified residential appraiser may perform a review of a residential real estate appraisal completed by a certified general appraiser if the review appraiser is otherwise permitted by the Texas Appraiser Licensing and Certification Act to perform the assignment.

(f) An appraiser conducting a review under §1104.155 of the [AMC Act](#) and this rule must ensure compliance with the USPAP and with §1104.154 of the [AMC Act](#).

(g) In order to satisfy the requirements of §1104.155 of the [AMC Act](#), this rule and USPAP, a [license holder](#) [~~Registrant~~] performing a review must adhere to the following minimum scope of work:

(1) research and consult the appropriate data sources for the appraisal being reviewed to, at a minimum, validate the significant characteristics of the comparables and the essential elements of the transactions including:

(A) the multiple listing service(s) or other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included a sales comparison approach;

(B) published cost data sources and other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included a cost approach;

(C) the comparable rental data, income and expense data, and other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if

the appraisal under review included an income approach; and

(D) the sales or listing history of the property which is the subject of the appraisal under review, if that property was sold within the three years prior to the effective date of the appraisal under review or listed for sale as of the effective date of the appraisal under review [~~, the scope of review must include research and consultation of that~~];

(2) state the reviewer's opinions and conclusions about the work under review for each of the approaches to value utilized in the appraisal under review, including the reason for any disagreements;

(3) identify if the appraisal under review omitted an approach to value, a particular piece of information, or an analysis of either that was necessary for credible assignment results, identify what was omitted and explain why it was necessary for credible assignment results;

(4) identify the client, any intended users and the effective date of the appraisal review;

(5) state that the appraisal review's intended use and purpose is to satisfy the requirements of §1104.155 of the [AMC Act](#) and this rule, including ensuring that the appraisal under review complies with the ~~edition of~~ USPAP [edition](#) in effect at the time of the appraisal;

(6) state that the scope of work for the appraisal review is commensurate with the requirements of §1104.155 of the [AMC Act](#), this rule and USPAP [edition](#) in effect at the time of the appraisal review and that the scope of work ensures the development of credible assignment results and that no assignment conditions impose limitations which make the results of the review not credible;

(7) identify the appraisal under review, including:

(A) any ownership interest of the appraiser or reviewer in the property that is the subject of the appraisal under review;

(B) the report date and effective date of the appraisal under review;

(C) the effective date of the opinions or conclusions in the appraisal under review;

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(D) the physical, legal, and economic characteristics of the property, properties, property type(s), or market area in the appraisal under review; and

(E) the name of all appraisers who signed or provided significant professional assistance in the appraisal under review;

(8) state clearly and conspicuously, all extraordinary assumptions and hypothetical conditions and state that their use might have affected the review; and

(9) contain a certification which complies with USPAP Standards Rule 3-6.

(h) While not required by §1104.155 of the AMC Act or this rule, if the reviewer elects to develop an opinion of value, review opinion, or real property appraisal consulting conclusion, the review must comply with the additional provisions of USPAP governing the development of an opinion of value, review opinion, or real property appraisal consulting conclusion.

§159.156. Business Records.

(a) For the purposes of the requirement in §1104.156(c) of the AMC Act regarding retention of written records of substantive communications between an AMC and an appraiser, a communication is substantive if it relates to the appraiser's qualifications or to the scope of work of an assignment.

(b) An AMC may not require an appraiser to keep confidential the existence of the appraiser's business relationship with an AMC or the fact that the appraiser has received any specific assignment from the AMC to perform an appraisal~~[-confidential]~~.

(c) A business entity registered as an AMC must maintain documentation showing that it has complied with the requirements contained in its governing documents for changing officers or managers. The business entity must promptly provide to [TALCB]the Board upon request all business formation, ownership and representative authorization records and changes thereto required to be kept by the business entity by law.

(d) Written records include electronic records.

§159.157. Compensation of Appraisers.

(a) A license holder~~[Registrant]~~ [shall]must compensate the appraisers on the panel based on a compensation policy, established by the license holder~~[Registrant]~~, that provides for customary and reasonable fees by taking into consideration the requirements of and any presumptions available under federal law.

(b) A license holder~~[Registrant]~~ [shall]must reassess its compensation policy at least annually and shall retain, for a period of five years, records of all compensation information that formed the basis for the policy.

(c) A license holder~~[Registrant]~~ [shall]must make any fee schedule adopted under its compensation policy available to each appraiser on its panel ~~[any fee schedule adopted under its compensation policy]~~.

(d) A license holder~~[Registrant]~~ [shall]may not require an appraiser to sign a certification that a fee for an assignment is customary and reasonable.

§159.159. Disclosure of Registered Name and Registration Number.

(a) For the purposes of the AMC Act, "documents used to procure appraisals" include written documents and electronic communications, including e-mail, used for that purpose, but does not include general advertisements and supporting documentation.

(b) On all documents used to procure appraisals, an AMC must disclose the name it registered with the Board, any other name that it uses in business and the registration number received from the Board.

§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. ~~[An appraisal management company may not make an assignment to an appraiser who is not a member of the AMC's panel at the time of the assignment unless the~~

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~~appraiser is employed by the AMC on an employer-employee basis.]~~

(b) To add an appraiser to a panel, the AMC ~~[shall]~~**must**:

(1) initiate the appropriate two-party transaction~~[, if available,]~~ through the ~~[Texas Appraiser Licensing and Certification]~~ Board's online ~~[license]~~**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** ~~[Either the appraiser or the AMC may terminate an appraiser's membership on a panel]~~ by:

(1) submitting a termination notice electronically~~[, if available,]~~ through the ~~[Texas Appraiser Licensing and Certification]~~ Board's online ~~[license]~~**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, ~~[she or she shall]~~**the appraiser must** immediately notify the AMC of the termination. If an AMC terminates an appraiser's membership on a panel, ~~[it]~~ ~~[shall]~~**must** immediately notify the appraiser of the termination.

(e) If an appraiser's license ~~[or certification]~~ expires or is revoked, the Board ~~[shall]~~**will** remove the appraiser from any panels on which ~~[he or she]~~**the appraiser** is listed with no fee charged to the AMC or to the appraiser.

§159.162. Dispute Resolution.

(a) **A license holder must provide a dispute resolution process for appraisers.**

~~[A Registrant's dispute resolution process for appraisers shall provide for:~~

- ~~(1) a written response to the request for review;~~
- ~~(2) a written statement of the outcome of the dispute resolution process; and~~

~~(3) copies of all relevant documentation to the appraiser upon written request.]~~

(b) The dispute resolution process ~~[shall]~~**must** provide for either:

(1) review by an external third party; or

(2) internal review by a person whose position within the company is above the level of the person responsible for the decision or action under review.

(c) A license holder's dispute resolution process for appraisers must provide for:

(1) a written response to the request for review;

(2) a written statement of the outcome of the dispute resolution process; and

(3) copies of all relevant documentation to the appraiser upon written request.

(d) An appraiser who is aggrieved under §1104.157 or §1104.161 of the AMC Act must utilize the license holder's dispute resolution process before filling a complaint against the AMC with the Board.

§159.201. Guidelines for Revocation, Suspension, or Denial of a ~~[Registration]~~ License.

(a) The Board may suspend or revoke a ~~[registration]~~ license issued under provisions of ~~[this]~~ **the AMC Act**, or deny issuing a ~~[registration]~~ license to an applicant, ~~[at]~~ any time ~~[when]~~ it **is** ~~[has been]~~ determined that the person applying for or holding the ~~[registration]~~ license or the AMC's primary contact:

(1) disregards or violates a provision of the **AMC Act** or **Board rules**~~[of the Rules of the Texas Appraiser Licensing and Certification Board];~~

(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;

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(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 [~~Uniform Standards of Professional Appraisal Practice (USPAP)~~] in effect at the time of the appraisal or appraisal practice;

(7) acts or holds [~~himself or herself or~~] any [~~other~~] person out as a registered AMC [~~appraisal management company~~] 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 [~~appraisal management company~~] 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 [~~Registrant's~~] primary contact as reflected [~~by~~] in the Board's records;

(17) knowingly or willfully engages in false or misleading conduct or advertising with respect to client solicitation;

~~[(18) acts or holds himself or any other person out as a registered appraisal management company under this or another state's Act when not so licensed or certified;]~~

~~[(19)]~~ (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;

~~[(20)]~~ (19) 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 [~~individual'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 [~~appraisal management company'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 [~~license or certification~~] had instead expired.

(e) The provisions of this section do not relieve a person from civil liability or from criminal

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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~~[appraisal management company]~~ 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 ~~[shall]~~will be no undercover or covert investigations conducted by authority of the AMC Act.

~~[(h) All Board members, officers, directors, and employees of this agency shall be held harmless with respect to any disclosures made to the Board in connection with any complaints filed with the Board.]~~

§159.204. Complaint Processing.

(a) A complaint must be in writing on a form prescribed by the Board and must be signed by the complainant. Board staff may initiate a complaint.

~~[(+)]~~ Upon receipt of a complaint, staff ~~[shall]~~will:

(1)~~[(A)]~~ assign the complaint a case number in the complaint tracking system; and

(2)~~[(B)]~~ send written acknowledgement of receipt to the complainant.

(b)~~[(2)]~~ 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 then]~~will be dismissed with no further processing. The Board or the Commissioner may delegate to ~~[Board]~~ staff the duty to dismiss complaints.

(c)~~[(3)]~~ A complaint alleging mortgage fraud or in which mortgage fraud is suspected:

(1)~~[(A)]~~ may be investigated covertly; and

(2)~~[(B)]~~ [shall]will be referred to the appropriate prosecutorial authorities.

(d)~~[(4)]~~ Staff may request additional information necessary to determine how to proceed with the complaint.

(e)~~[(5)]~~ A copy of the complaint and all supporting documentation ~~[shall]~~will be sent to the ~~[respondent]~~Respondent unless the complaint

qualifies for covert investigation and the Standards and Enforcement Services Division deems covert investigation appropriate.

~~[(f)(6)]~~ The ~~[respondent shall]~~Respondent must submit a response within 20 days of receiving a copy of the complaint. The 20-day period may be extended for good cause upon request in writing or by e-mail.

(1)~~[(A)]~~ The response ~~[shall]~~must include the following:

(A)~~[(+)]~~ a narrative response to the complaint, addressing each and every element thereof;

(B)~~[(+)]~~ a copy of all requested records and any other relevant records;

(C)~~[(+)]~~ 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]~~Respondent's possession, contact information for such persons; and

(D)~~[(+)]~~ the following statement in the letter transmitting the response: EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE COPIES OF RECORDS ACCOMPANYING THIS RESPONSE ARE TRUE AND CORRECT COPIES OF THE ACTUAL RECORDS.

(2)~~[(B)]~~ The ~~[respondent]~~Respondent may also address other matters not raised in the complaint that the ~~[respondent]~~Respondent believes likely to be raised.

(g)~~[(7)]~~ The complaint ~~[shall]~~will be assigned to a staff investigator and ~~[shall]~~will be investigated by the staff investigator or peer investigative committee, as appropriate.

(h)~~[(8)]~~ The staff investigator or peer investigative committee assigned to investigate a complaint ~~[shall]~~will prepare a report detailing its findings on a form approved by the Board for that purpose.

~~[Reports prepared by a peer investigative committee shall be reviewed by the Standards and Enforcement Services Division, which shall determine the appropriate disposition of the complaint.]~~

(i) Staff will evaluate the complaint, the Respondent's response, if any, and the investigative report to determine if there is

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probable cause to believe a violation of the AMC Act or Board rules occurred:

(1) If staff concludes there is no probable cause to believe that a violation of the AMC Act or Board rules occurred, the complaint will be dismissed with no further processing;

(2) If staff concludes there is probable cause to believe that a violation of the AMC Act or Board rules occurred, staff may recommend that the Board enter into an agreed order with the Respondent or, if an agreed resolution cannot be reached, proceed as the complainant in a contested case hearing under Chapter 2001, Government Code.

~~(j)(9)~~ Agreed orders~~[resolutions—of—complaint matters]~~ must be signed by the ~~[respondent]~~Respondent, a representative of the Standards and Enforcement Services Division, and the Commissioner.

This agency hereby certifies that the amendments have been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August __, 2014.

Kristen Worman
General Counsel
Texas Appraiser Licensing and Certification Board



AGENDA ITEM 21

Discussion and possible action to close review of 22 TAC Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act.

SUMMARY

TALCB has completed the review of Chapter 153.

STAFF RECOMMENDATION

Close the review of rules as presented.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to close the rule review of 22 TAC Chapter 153, Provisions of the Texas Appraiser Licensing and Certification Act.

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In accordance with Texas Government Code §2001.039, the Texas Appraiser Licensing and Certification Board (TALCB) has concluded its review of its Texas Administrative Code, Title 22, Part 8, Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act. The notice of proposed rule review was published in the March 14, 2014 issue of the *Texas Register* (39 TexReg 1939).

TALCB has determined that the reasoned justification for adopting 22 TAC 153 continues to exist. Furthermore, the review process may indicate that a specific rule needs to be amended to further refine or better reflect current TALCB procedures and policy considerations, or that rules be combined or reduced for simplification and clarity. Accordingly, TALCB adopts with amendments Texas Administrative Code, Title 22, Part 8, Chapter 153 (proposed in the May 30, 2014 issue of the *Texas Register* - 39 TexReg 4083) under the Adopted Rules section of this issue of the *Texas Register*.

No comments were received regarding TALCB's notice of review. This notice concludes TALCB's review of Texas Administrative Code, Title 22, Part 8, Chapter 153.



AGENDA ITEM 22

Discussion and possible action regarding the Agency's Strategic Plan for FY2015-2019.

RECOMMENDED MOTION

MOVED, that staff is authorized on behalf of the Board to submit the Strategic Plan for Fiscal Years 2015-2019, as it applies to the Board, with any recommended changes to the Strategic Plan as discussed by the Board at the August 15, 2014 meeting and approved by the Chair.

AGENDA ITEM 23

Discussion and possible action on recommendations from the Budget Committee regarding FY2015 budget for the Board.

SUMMARY

The Budget Committee recommends that the Board adopt the FY2015 budget as presented, including a reduction in renewal fees for all license categories, to be effective January 1, 2015, the creation of a reserve fund for education to be funded from administrative penalties collected by the Board, and the creation of a reserve fund for facilities to be funded through the allocation of existing reserves. The Committee also recommends that the Chair appoint at least one Board member to participate in a joint working group with members of the Texas Real Estate Commission to explore the possibility of constructing an office building.

Staff & Support Services Division
TALCB FY2015 Proposed Operating Budget
Proposed to the Budget Committee August 2014

Data Collected as of June 30, 2014

| Expenditure Category | Expended FY2012 | Expended FY2013 | Budget FY2014 | FY2014 Estimated Exp through 8/31/14 | Budget FY2015 | Budget FY2016 | Budget Variance FY2014 to FY2015 | Comments |
|--|--------------------|--------------------|--------------------|--------------------------------------|--------------------|--------------------|----------------------------------|---|
| Salaries & Wages | \$789,449 | \$871,061 | \$953,259 | \$905,451 | \$970,424 | \$970,424 | \$17,165 | FY15 Salary budget includes merits and salary adjustments |
| Employee Benefits | \$214,719 | \$248,182 | 266,185 | 274,490 | 293,033 | \$293,033 | \$26,848 | Additional ERS Payroll Retirement Contribution and Retiree Benefits |
| Other Personnel Costs | \$39,108 | \$37,018 | 38,500 | 41,100 | 42,800 | 42,800 | \$4,300 | Board member per diem, lump sum termination payment, and PAC per diem |
| Professional Services | \$75,173 | \$47,407 | 100,200 | 113,982 | 86,690 | 86,690 | (\$13,510) | Decrease Versa Customization |
| Consumables | \$6,757 | \$7,445 | 8,400 | 3,616 | 8,500 | 8,500 | \$100 | |
| Utilities | \$300 | \$750 | 650 | 2,119 | 1,740 | 1,740 | \$1,090 | |
| Travel | \$23,787 | \$18,489 | 27,000 | 27,000 | 28,500 | 28,500 | \$1,500 | Increased Board Member travel |
| Office Rent | \$97,709 | \$97,703 | 75,252 | 37,130 | 37,625 | 37,625 | (\$37,627) | Rent expense reduced due to offset of SWCAP costs related to leased space |
| Equipment Rental | \$9,378 | \$7,352 | 8,900 | 7,677 | 8,500 | 8,500 | (\$400) | Copier cost reduction |
| Registration & Membership | \$7,709 | \$10,427 | 11,750 | 14,802 | 14,875 | 14,875 | \$3,125 | Increase for training and conferences |
| Maintenance & Repairs | \$3,401 | \$3,273 | 9,340 | 9,336 | 9,340 | 9,340 | \$0 | |
| Reproduction & Printing | \$601 | \$437 | 1,500 | 1,500 | 1,500 | 1,500 | \$0 | |
| Contract Services | \$12,139 | \$19,673 | 43,902 | 43,902 | 42,080 | 42,080 | (\$1,822) | Decrease for scanning; moved courier service to Other Operating Expense line item |
| Postage | \$5,016 | \$3,424 | 6,125 | 6,125 | 6,125 | 6,125 | \$0 | |
| Supplies & Equipment | \$13,708 | \$4,616 | 10,405 | 10,405 | 10,785 | 10,785 | \$380 | |
| Communication Services | \$6,476 | \$5,907 | 7,916 | 8,728 | 8,046 | 8,046 | \$130 | Telecom |
| Other Operating Expenses | \$1,584 | \$1,772 | 3,600 | 4,112 | 4,331 | 4,331 | \$731 | Includes courier service, which was previously budgeted under Contract Services |
| DPS Criminal History Background Checks | \$3,270 | \$2,904 | 3,000 | 3,000 | 3,000 | 3,000 | \$0 | |
| Statewide Cost Allocation Plan (SWCAP) | | \$8,982 | 10,000 | 44,142 | 45,000 | 45,000 | \$35,000 | Increase due to SWCAP calculation |
| Contribution to General Revenue | \$30,000 | \$30,000 | 30,000 | 30,000 | 30,000 | 30,000 | \$0 | |
| Total Expenditures | \$1,340,284 | \$1,426,822 | \$1,615,884 | \$1,588,617 | \$1,652,894 | \$1,652,894 | \$37,010 | FY2015 budget increased from FY2014 |

| Revenue | FY2012 Revenue | FY2013 Revenue | FY2014 Projected | FY2014 Est Revenue through 8/31/14 | FY2015 Projected | FY2016 Projected | Comments |
|--------------|----------------|----------------|------------------|------------------------------------|------------------|------------------|---|
| License Fees | \$1,113,179 | \$1,170,600 | \$1,093,561 | \$1,079,573 | \$1,166,592 | 1,142,360 | FY15 adj'd for proposed fee changes effective 1/1/15 |
| AMCs | 729,460 | 153,570 | 748,430 | 845,400 | 112,830 | 639,672 | FY16 AMC fees based on renewal of 142 AMCs (90% of 147 FY14 renewals plus 90% of 11 new FY14 to renew in FY16). |

**Staff & Support Services Division
TALCB FY2015 Proposed Operating Budget**

Proposed to the Budget Committee August 2014

| | | | | | | | | |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--|--|
| Administrative Penalties | 34,420 | 57,450 | 28,150 | 45,000 | 35,000 | 35,000 | | New category dedicated for proposed Education Fund |
| Other Miscellaneous Revenue | 9,297 | 12,732 | 2,812 | 1,121 | 1,355 | 1,328 | | Exam fee \$10 for FY15 (Pearson Vue), NSF fees |
| Total Revenue | \$1,886,356 | \$1,394,352 | \$1,872,953 | \$1,971,094 | \$1,315,777 | \$1,818,360 | | |
| AMC Revenue Carry Forward | (\$377,000) | \$377,000 | (\$308,904) | (\$308,903) | \$366,285 | (\$291,361) | | AMC Carry forward FY2014 to FY2015 |
| Revenue Over/(Under) Expenditures | \$169,072 | \$344,530 | (\$51,835) | \$73,574 | \$29,168 | (\$125,895) | | |

Note - TX Online & Federal Registry receipts are pass throughs; i.e., whatever we collect is only for that purpose. Therefore, those revenues are not reflected on the budget.

| Projection of Cash Balances | Source | USAS Cash Bal | Rev |
|--|---|---------------|----------------|
| Cash Available 6/30/14 - Trust Account | Trust Acct Statement-3056 @ 6/30/14 | Appn | |
| Cash Available 6/30/14 - USAS (Treasury) | USAS Profile 56 (GL 0045), 62 & 67 | 13005 | 18,335 |
| June Accrued Revenue in 3054-Due to 3056 | | 13006 | 60,313 |
| Total Cash Available at 6/30/14 | | 13008 | 0 |
| | | 00010 | 11,821 |
| Projected Future Activity | | 00029 | 11,425 |
| Projected Revenue 7/1/14 - 8/31/14 | FY2015 Budget Worksheet | 00030 | 12,435 |
| AMC's 7/1/14-8/31/14 | FY2015 Budget Worksheet | | <u>114,329</u> |
| Projected Expenditures 7/1/14 - 8/31/14 | FY2015 Budget Worksheet | | |
| Projected Net Activity 7/1/14 - 8/31/14 | | | |
| | | | |
| * Projected Cash Balance August 31, 2014 | 49% of FY15 Exp 5.9 months | | |
| Reserve for Current Operations & Contingencies | 32% of FY15 Exp 3.8 months | | |
| Reserve for Educational Development | | | |
| Reserve for Long-Term Facilities Master Plan | | | |
| | FY 15 Budget Exp \$ 1,652,894 | | |
| | | | |
| FY2015 Activity: | | | |
| Projected Revenue | | | |
| Projected Expenditures | | | |
| AMC Carryforward to FY2016 | | | |
| Projected Net Activity - FY2015 | | | |
| | | | |
| Projected Cash Balance August 31, 2015 | 51% of FY15 Exp 6.2 months | | |
| Reserve for Current Operations & Contingencies | 32% of FY15 Exp 3.8 months | | |
| Reserve for Educational Development | | | |
| Reserve for Long-Term Facilities Master Plan | | | |

50.93% 49.16%
31.57% 31.92%

**AGENDA ITEM 24(a)**

Discussion and possible action on recommendations from the Education Committee regarding possible amendments to 22 TAC §153.21, Appraiser Trainees and Sponsors.

SUMMARY

Beginning January 1, 2015, new appraiser trainees will be required to attend an Appraiser Trainee/Sponsor course. Sponsors who add an Appraiser Trainee after January 1, 2015 will also be required to take the Appraiser Trainee/Sponsor course and may receive ACE credit for doing so. The Education Committee recommends extending the requirement to take the Appraiser Trainee/Sponsor to all Appraiser Trainees and their Sponsors. This change will require an amendment to Rule 153.21.

§153.21. Appraiser Trainees and Sponsors.

(a) A person desiring to be an appraiser trainee under the sponsorship of one or more state certified appraisers may apply to the board on the approved application for trainee authorization. In addition to the requirements set forth in §1103.353 of the Act, a prospective appraiser trainee must:

- (1) complete 75 creditable classroom hours as set forth in the Trainee Core Curriculum of the Appraiser Qualifications Board;
- (2) pass the 15 hours National USPAP course and examination; and
- (3) beginning January 1, 2015, complete a Board approved Appraiser Trainee/Sponsor course.

(b) Once a person is approved as an appraiser trainee by the board, the person may perform appraisals or appraiser services only under the active, personal and diligent direction and supervision of a sponsoring certified appraiser. The trainee's authorization to perform appraisals or appraisal services terminates if:

- (1) the appraiser trainee approval expires due to nonpayment of the renewal fee or failure to satisfy the educational or experience requirements for renewal; or
- (2) the trainee's authority to act has been suspended or revoked by the board.

(c) The sponsoring certified appraiser shall immediately notify the board and the trainee in writing of any termination of sponsorship of an appraiser trainee, on a form approved by the board and shall pay a fee set by the board not later than the 10th day after the date of such termination.

(d) If an appraiser trainee's approval has expired or been revoked by the board or the trainee is no longer under the sponsorship of a certified appraiser, the appraiser trainee may not perform the duties of an appraiser trainee until an application to sponsor the

trainee has been filed together with the appropriate fee and approved by the board.

(e) Certified appraisers who sponsor appraiser trainees or who sign a report shall be responsible to the public and to the board for the conduct of the appraiser trainee under the Act. After notice and hearing, the board may reprimand a sponsoring appraiser or supervisor or may suspend or revoke a sponsoring appraiser's or supervisor's certification based on conduct by the appraiser trainee constituting a violation of the Act or a rule of the board.

(f) A certified appraiser may be added as a sponsor during the term of an appraiser trainee's authorization, by completing a form approved by the board, paying a fee set by the board, and beginning January 1, 2015, completing a Board approved Appraiser Trainee/Sponsor course and shall assume all the duties, responsibilities, and obligations of an appraiser trainee sponsor as specified in these rules.

(g) The sponsoring certified appraiser and any authorized supervisors must diligently supervise the trainee. Diligent supervision includes, but is not limited to, the following:

- (1) direct supervision and training as necessary;
- (2) ongoing training and supervision as necessary after the sponsor determines that the trainee no longer requires direct supervision;
- (3) communication with and accessibility to the trainee; and
- (4) review and quality control of the trainee's work.

(h) An approved appraiser trainee who signs an appraisal report must include his or her TALCB approval or authorization number and the word "Trainee."

(i) Certified appraisers may sponsor no more than three trainees at one time. Notification of sponsorship of an appraiser trainee must be provided in writing to the board on a

FOR REFERENCE

form approved by the board with the appropriate fee prior to the assumption of sponsorship. Termination of sponsorship of an appraiser trainee must be provided in writing to the board on a form approved by the board with the appropriate fee prior to the release from sponsorship.

(j) Certified appraisers who sponsor appraiser trainees must approve and sign the appraiser trainee's appraisal log and experience affidavit at least quarterly and provide the trainee with access to any appraisals and work files completed under the sponsor or any authorized supervisor designated by the sponsor.

(k) Certified appraisers who sponsor appraiser trainees must be in good standing and not subject to any disciplinary action within the last three years that affected the sponsor's legal eligibility to engage in appraisal practice. Disciplinary action taken against the sponsor within the last three years that did not affect the sponsor's legal eligibility to engage in appraisal practice must be disclosed to the trainee prior to sponsorship.

(l) To obtain Board approval of an Appraiser Trainee/Sponsor course, a course provider must submit form ATS-0, Appraiser Trainee/Sponsor Course Approval, adopted herein by reference, and which is published and available from the Board at P.O. Box 12188, Austin, Texas 78711-2188, www.talcb.texas.gov, and satisfy the Board that all required content set out in form ATS-0 is adequately covered. Approval of an Appraiser Trainee/Sponsor course shall expire two years from the date of Board approval. An approved Board Appraiser Trainee/Sponsor course may be delivered through classroom or distance education. The delivery mechanism for distance education courses offered by a non-academic provider must be approved by an AQB-approved organization providing approval of course design and delivery.

(m) Sponsors who complete the Appraiser Trainee/Sponsor course may receive continuing education credit for the course.

**AGENDA ITEM 24(b)**

Discussion and possible action on recommendations from the Education Committee regarding development of a voluntary appraiser trainee experience review program.

AGENDA ITEM 24(c)

Discussion and possible action on recommendations from the Education Committee regarding pursuit of statutory change to allow ACE credit to be given for attending presentations by Board members or staff.

AGENDA ITEM 24(d)

Discussion and possible action on recommendations from the Education Committee regarding development of a process for license holders to receive 2-4 hours of ACE credit for attending a full meeting of the Board in compliance with AQB criteria.

SUMMARY

The AQB allows up to 7 hours of ACE credit to be granted for attending a full meeting of the Board. Credit may be granted only once during the license period, or once every two years. The Education Committee recommends the Board adopt a process for awarding between 2-4 hours at for attendance at a full meeting of the Board.

Staff recommends that ACE credit be awarded for attendance at the Board meeting that coincides with the Appraisal Subcommittee's biennial visit to Texas.

Appraiser Qualifications Board *Real Property Appraiser Qualification Criteria* **Interpretation – Continuing Education Credit for** **Attendance at State Appraiser Regulatory Agency** **Meetings**

This communication is for the purpose of issuing an Interpretation of the *Real Property Appraiser Qualification Criteria*. Interpretations are essential to a proper understanding of the requirements set forth in the *Criteria* and as such, are binding upon users of the *Criteria*. Interpretations will be incorporated into the published version of the *Real Property Appraiser Qualification Criteria* at its next printing.

Date Issued: January 8, 2007

Effective Date: January 1, 2008

Interpretation of Criteria Section(s):

Trainee Real Property Appraiser Classification (2003 Criteria)
Licensed Real Property Appraiser (2003 Criteria)
Certified Residential Real Property Appraiser (2003 Criteria)
Certified General Real Property Appraiser (2003 Criteria)
Continuing Education Section 4

Criteria Applicable To All Appraiser Classifications (2008 Criteria)
Criteria Specific to Continuing Education Section III (G)

Issue(s):

State-licensed and state-certified appraisers often attend meetings of their respective State appraiser regulatory agencies. These meetings can often be educational and beneficial to appraisers. However, it is currently unclear under what circumstances appraisers may receive continuing education credit for attending these meetings.

Background:

The *Real Property Appraiser Qualification Criteria* states the purpose of continuing education is to ensure that appraisers participate in a program that maintains and increases their skill, knowledge, and competency in real property appraising. In March 2006, the AQB exposed this Interpretation and received feedback causing it to reconsider allowing continuing education credit

for certain meetings of State appraiser regulatory agencies. As a result, in August 2006 the AQB exposed another Interpretation disallowing credit for meetings of State appraiser regulatory agencies. Exposure of that Interpretation resulted in additional feedback that supported the AQB's original position on this issue. The purpose of this Interpretation is to make clear that under certain circumstances, credentialed appraisers may be able to receive continuing education credit for attendance at State appraiser regulatory agency meetings.

It should be noted that special continuing education programs (i.e. seminars or workshops) offered by a state appraiser regulatory agency would be eligible for continuing education credit under other, already allowable education categories.

Criteria Section(s) Affected and New Interpretation

Trainee Real Property Appraiser Classification (2003 Criteria)

4. Continuing Education

An appraiser trainee who remains in this classification in excess of two years shall be required in the third and successive years to obtain:

- a. The equivalent of fourteen classroom hours of instruction in the courses or seminars for each year during the period preceding the renewal. (For example, a two year appraiser trainee term would require twenty-eight hours.) Continuing education hours may be obtained anytime during the term...

Licensed Real Property Appraiser (2003 Criteria)

Certified Residential Real Property Appraiser (2003 Criteria)

Certified General Real Property Appraiser (2003 Criteria)

4. Continuing Education

- a. The equivalent of fourteen classroom hours of instruction in the courses or seminars for each year during the period preceding the renewal. (For example, a two-year continuing education term would require twenty-eight hours.) Continuing education hours may be obtained anytime during the term...

Criteria Applicable to All Appraiser Classifications (2008 Criteria)

G. Criteria Specific to Continuing Education

11. The equivalent of fourteen class hours of instruction in courses or seminars for each year during the period preceding the renewal is required. For example, a two-year continuing education cycle would require twenty-eight hours. The class hour requirement can be fulfilled at any time during the cycle.

New Interpretation Language

Interpretation (for all sections):

State appraiser regulatory agencies may award continuing education credit to credentialed appraisers who attend a state appraiser regulatory agency meeting, under the following conditions:

Credit may be awarded for a single state appraiser regulatory agency meeting per continuing education cycle. The meeting must be open to the public and must be a minimum of two (2) hours in length. The total credit cannot exceed seven (7) hours.

The state appraiser regulatory agency must ensure that the credentialed appraiser attends the meeting for the required period of time.



AGENDA ITEM 25(a)

Discussion and possible action on recommendations from the Enforcement Committee regarding notice provided to respondents who request copy of investigative reports.

SUMMARY

The Enforcement Committee recommends providing notice to respondents before the release of an investigative report to inform respondents of the effect of releasing a copy of the investigative report, namely that the report will be available to any other person who requests a copy. The Committee recommends providing this notice only until the proposed amendments to Rule 157.31 take effect later this year, if ultimately adopted by the Board.

Staff recommended language for the notice is:

NOTICE TO RESPONDENTS REGARDING TEXAS PUBLIC INFORMATION ACT:

If TALCB provides you with a copy of the investigative report as requested, or as required under TALCB Rule 157.31(c), this report will be available to anyone else who may request a copy. See Tex. Gov't Code §552.007(b). If you no longer wish to receive a copy of the investigative report, please notify TALCB in writing as soon as possible.

RECOMMENDED MOTION

MOVED, that the Board adopt a policy to provide the above notice to respondents before releasing an investigative report until the effective date of the amendments proposed to Rule 157.31 at this meeting.

**AGENDA ITEM 25(b)**

Discussion and possible action on recommendations from the Enforcement Committee regarding development of a rule for alternate experience requirements for previously licensed applicants.

SUMMARY

The Board has received applications from formerly licensed appraisers who have exceeded the 5-year work file retention period and, therefore, cannot produce work files for staff to review when evaluating experience requirements under the Board's rules. The Enforcement Committee would like to explore the possibility of granting a probationary license or appraiser trainee approval to allow such applicants an opportunity to conduct appraisals and create work files for staff review when determining whether the applicant's experience complies with the Uniform Standards of Professional Appraisal Practice (USPAP). Doing so would require an amendment to the Board's rules.

AGENDA ITEM 26(a)

Discussion and possible action on recommendations from the Executive Committee regarding topics for November training workshop.

SUMMARY

The Executive Committee recommends the following as possible topics of discussion for the November training workshop:

- Possible 2015 Legislative Changes;
- Limitations on lobbying by Board members;
- Letters from the Governor, Lt. Governor and Speaker of the House
- Identification of key legislative members and committee chairs;
- Overview of TALCB Committees (presented by each Committee Chair); and
- Training on the Public Investment Act.



AGENDA ITEM 26(b)

Policy for 2-year staggered appointments as PIC Members and Mentors.

SUMMARY

The Executive Committee recommends implementing staggered two-year terms for Peer Investigative Committee (PIC) Members starting in 2015 and for Mentors starting in 2016.

AGENDA ITEM 27

Status update regarding investigation into allegations of staff misconduct.

AGENDA ITEM 28

Discussion and possible action regarding consideration and adoption of a policy interpretation on licensure requirements.

AUG 21 2006

CASHIER'S SECTION
OPERATOR 7

LAW OFFICES OF JOHN HAYWOOD, P.C.
Port Isabel Branch at the Historic Queen Isabel Inn
300 South Garcia Street • Suite A-6 • Port Isabel, Texas 78578

JOHN HAYWOOD

Board Certified Civil Trial Law
Texas Board of Legal Specialization

Tel: (956) 943-3288
Fax: (956) 943-3574

August 17, 2006

Mr. Troy Beaulieu
Enforcement Division
Texas Appraiser Licensing
and Certification Board
P.O. Box 12188
Austin, Texas 78711-2188

VIA REGULAR MAIL
AND FACSIMILE TO:
512-465-3955

RE: Request for formal opinion of the Texas Appraiser
Licensing and Certification Board.

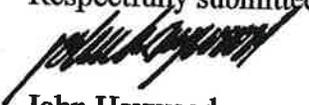
Dear Mr. Beaulieu:

Thank you for your advisory opinion letter dated August 14, 2006, addressing whether or not an out-of-state appraiser not certified, licensed, authorized or registered in Texas may testify as an expert witness in Texas for the purpose of giving an estimate of value on real property located in Texas. I have attached a copy of your letter herewith.

Because this matter is of importance to my case and because I believe this issue will continue to arise as an issue in Texas Courts, I am requesting a formal Board opinion pursuant to 22 Tex. Admin. Code §157.6. The trial of this case does not commence until October 30, 2006. I assume the Board will have sufficient time to consider this request at its October meeting.

If the Board requires further information, please call me at the telephone number shown above. Again, thank you for addressing this issue.

Respectfully submitted,


John Haywood

JH/py
Enclosure



TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

Mail: P.O. Box 12188, Austin, TX 78711-2188 • Street: 1101 Camino La Costa, Austin, TX 78752
Phone: (512) 465-3958 • Fax: (512) 465-3955 • Web site: www.talcb.state.tx.us

VIA FIRST CLASS MAIL

August 14th, 2006

Law Offices of John Haywood, P.C.
300 South Garcia Street
Port Isabel, Texas 78578

Re: Requirement of TALCB License / Certification

Mr. Haywood:

This letter is written in response to your telephone inquiry of July 31st, 2006 regarding real estate appraisal activities in Texas and the licensure requirements under the Texas Appraiser Licensing and Certification Act (TEX. OCC. CODE § 1103.001 et. seq.).

The Texas Appraiser Licensing and Certification Board ("TALCB") is a state agency charged under state law (TEX. OCC. CODE § 1103.001 et. seq. and 22 TEX. ADMIN. CODE §§ 153, 155 and 157) and federal law (12 U.S.C. § 3331 et. seq. (Federal Institutional Reform, Recovery and Enforcement Act "F.I.R.R.E.A.")) with licensing and regulating real estate appraisers in Texas to ensure that they comply with minimum professional standards for real estate appraisal practice (i.e. the Uniform Standards of Professional Appraisal Practice). Texas and other state appraiser boards have a unique relationship via federal law that requires licensure and regulation of real estate appraiser activities when the appraised property is deemed to be a "federally related transaction". Texas and other state appraiser board's are effectively under an unfunded federal mandate to regulate real estate appraisers and TALCB's activities are regularly reviewed by the federal Appraisal Subcommittee to ensure that state appraiser boards are meeting their regulatory obligations under federal law.

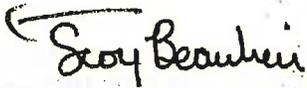
Even when the transaction is not "federally related", absent certain limited situations in which someone is authorized by other law to engage in real estate appraisals¹, an individual who wishes to render a value opinion for real property or provide an opinion about the quality of another real estate appraiser's work must obtain a license, certification, authorization or registration from TALCB to engage in such real estate appraisal activities in Texas. Engaging in such activities without a license, certification, authorization or registration constitutes unlicensed appraisal activity, which is prohibited by state law. TEX. OCC. CODE §§ 1103.5535 and 1103.5545 and 22 TEX. ADMIN. CODE § 153.37. Those who engage in unlicensed appraisal activity can face administrative, civil or even criminal penalties. Id.

You have inquired whether a real estate appraiser from another state, who is not certified, licensed, authorized or registered in Texas, may testify as an expert witness in a Texas legal proceeding for the purpose of giving an estimate of value for real property located in Texas or to rebut an appraisal for real property located in Texas that was prepared by a real estate appraiser who is licensed, certified,

¹ Acting as a real estate broker or agent or licensed under TEX. OCC. CODE CHPTS. 1151 or 1152 as property tax consultants or professionals. See TEX. OCC. CODE § 1103.004.

authorized by or registered with the Texas Appraiser Licensing and Certification Board. Under these circumstances, providing expert opinion concerning the market value of real property located in Texas and also providing expert opinion about the quality of another real estate appraiser's work falls within the ambit of appraisal activities for which a license, certification, authorization or registration must be obtained from TALCB. Engaging in such activity otherwise is a violation of state law. Thus, it is my opinion that a real estate appraiser who is not licensed, certified, authorized by or registered with the Texas Appraiser Licensing and Certification Board should not be allowed to offer testimony as an expert witness in a Texas legal proceeding for the purpose of rebutting an appraisal of real property located in Texas prepared by a real estate appraiser who is licensed, certified, authorized by or registered with the Texas Appraiser Licensing and Certification Board. Should you desire, you may request an advisory opinion on this matter from the Texas Appraiser Licensing and Certification Board in accordance with the procedures outlined in 22 TEX. ADMIN. CODE § 157.6. While the issuance of an advisory opinion is at the Board's discretion, its next scheduled meeting is October 20th, 2006 and any request you would like to forward to me will be placed on the October agenda.

Sincerely,



Troy Beaulieu
TALCB Enforcement Attorney

Texas Appraiser Licensing and Certification Board

Conference Room 235
1101 Camino La Costa
Austin, Texas 78752

October 20, 2006 - Friday - 9:00 a.m.

1. Call to Order
2. Welcome and Comments by Chair
3. Consideration and possible approval of the Minutes of the August 18, 2006, Board meeting
4. Staff Reports
 - a. Licensing and Examination
 - b. Education and course approvals
 - c. Enforcement and current active complaints
 - d. Budget update
5. Discussion and possible action regarding a request for an Advisory Opinion from John Haywood, concerning out-of-state appraisers
6. Discussion and possible action concerning appraisal experience submitted by Dale Steinhauser, applicant for state license

ENFORCEMENT MATTERS

7. Discussion and possible action regarding enforcement backlog and the upcoming audit by the Appraisal Subcommittee; and report from Board Chair on developments concerning enforcement matters and appropriations request
8. Discussion and possible action regarding contested case hearings sentencing
9. Discussion and possible action concerning Provisional Licensee associating with a certified appraiser
10. Discussion and possible action to approve Agreed Final Order concerning complaint file numbers 03-051, 04-027, 04-044, 04-110, 05-006, 06-044, 06-086
11. Discussion and possible action regarding acceptance of Surrender of License Affidavit from J.D. Garcia, Complaint No. 04-104, TX-1324990-Residential Certification
12. Discussion and possible action regarding Motion for Rehearing file by Stephen Ray Snowden, Docketed Complaint No. 06-143
13. Discussion and possible action regarding request from Guy William Nutt, complaint number 04-035 for a 90-day extension to complete the required 8-hour sales comparison approach or permission to take an alternative course from one noted in agreed order

OTHER BUSINESS

14. Comments and Presentations from Visitors
15. Selection of date for May 2007 Board meeting
16. Adjourn

The Board may meet in closed session on any agenda item listed above as authorized by the Texas Open Meetings Act, TEX GOVT CODE ANN. CHAPTER 551

MINUTES
TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

Conference Room 235
1101 Camino La Costa
Austin, Texas 78752

October 20, 2006

The October 20, 2006, meeting of the Texas Appraiser Licensing and Certification Board (TALCB) was called to order at 9:06 a.m. by Ms. Ward, Chair.

Members present: Shirley Ward, Chair; Larry Kokel, Vice Chair; Elroy Carson; Malcolm Deason; Mark McAnally; James B Ratliff; and Dona Scurry.

Members absent: William "Rusty" Faulk and Clinton Sayers.

Staff present: Wayne Thorburn, Commissioner; Troy Beaulieu, TALCB Attorney; Deloris Kraft-Longoria, Jack McComb, and Jeff Strawmyer, TALCB investigators; Margarita White and Hilary Bonner.

Visitors: Jim Gett, appraiser; Glenn Garoon, Roger Miller, Lynda Vine, and Joe Woller, Foundation of Appraisers Coalition of Texas (FACT); and Steven Snowden, appraiser.

Mr. Ratliff, seconded by Mr. McAnally, moved to approve the minutes of the August 18, 2006 Board meeting, as presented. Motion carried unanimously.

In his staff report, Commissioner Thorburn stated that in Texas the appraiser trainee is the entry position into the appraisal practice in Texas. He noted that in August of 2004, there were 1,882 appraiser trainees in contrast to the 1,407 appraiser trainees in August of 2007. This equates to about a 30% decline in approximately two years. Further, in March 2006, the new education requirements implemented in addition to the limitation of the number of trainees an appraiser may sponsor may have a profound impact on appraiser trainees. The Board should consider how these new requirements will impact the number of appraisers entering the appraisal profession. While the number of Provisional Licenses issued has remained in the 50's, we can anticipate that number going up due to new appraiser trainee limitations as a means of entering the appraisal profession.

Commissioner Thornburn referred the Board to the listing of active cases that number 213. He commended Mr. Beaulieu, the investigators and Board members on reducing the number of active complaints older than one-year from 88 to 71 by the end of the fiscal year. From September 1, 2006, to October 19, 2006, enforcement has closed 19 complaints in less than two months. Beginning in February 2006, 24 cases have been directed to the in-house Administrative Law Judge in comparison to two per year that were previously sent to State Office of Administrative Hearings. Commissioner Thorburn also provided a budget update.

Mr. Kokel thanked the Board for the opportunity to attend the Association of Appraisal Regulatory Officials (AARO) conference in Washington. He stated that this was his the first time attending an AARO Conference, so he didn't have a standard for comparison. However, it was a good arena for the exchange of ideals and discussion of the common problems many states are facing. Since many states have similar issues with funding, the Appraisal Subcommittee is in process of preparing a pamphlet that can be distributed to government agencies

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and leaders to explain the federal oversight.

Commissioner Thorburn read a portion of the letter from the Appraisal Subcommittee (ASC) to the State of Illinois after its audit. "The ASC found serious issues with enforcement and stated that if these issues are not resolved in a timely manner, the ASC will consider initiating a non-recognition proceeding against the state under Section 1118 of Title XI of 12 USC 3347." The Board can expect this kind of language after the ASC field review.

Mr. Beaulieu addressed the Board regarding a request for an Advisory Opinion letter relating to unlicensed activity. The question was whether or not an out-of-state appraiser licensed in another state who is not certified, licensed, authorized or registered in Texas, may testify as an expert witness in a Texas legal proceeding for the purpose of giving an estimate of value for real property located in Texas or to rebut an appraisal for real property located in Texas that was prepared by a real estate appraiser who is licensed, certified, authorized by or registered with the Board.

Mr. Ratliff, seconded by Mr. Carson, moved that the Board supports the interpretation of the relevant statute and rules as outlined by the Board's Staff Attorney in his response to the request for Advisory Opinion. Motion carried unanimously.

Mr. White addressed the Board relating to Mr. Steinhäuser's appraisal experience and the documents submitted by Mr. Steinhäuser supporting his experience under the category of Ad Valorem, UAPAP Standard 6.

Mr. Carson, seconded by Mr. Kokel, moved forward Mr. Steinhäuser's request regarding his appraisal experience to an appraiser member of the board for review and recommendation, consistent with the procedure previously used. Motion carried unanimously.

Mr. Beaulieu reported on the rise of number of complaints received and state that many are complex complaints relating to fraud. Ms. Ward reported that she had contacted the Governor's Office regarding the need for additional funding and staff to address the rise in the number of complaints received by the Board and the increasing complaint backlog.

In an effort to review and reduce the number of pending complaints, appraiser board members met with the individual investigators to review complaint files and make a recommendation. Mr. McAnnally expressed that it was productive. Mr. Kokel commented that it was helpful and suggested a policy that places a limit of 30 minutes to the time devoted by the investigator to make a determination as to whether the complaint has merit or not, however at the same time not rubber-stamping complaints as dismissals. Ms. Ward stated that her experience was that what appeared on surface as nothing, became serious after carefully examining the information.

Ms. Kraft-Longoria, TALCB investigator, reported that of the five complaints reviewed with Mr. McAnnally, one was dismissed, two required agreed orders, and two required further investigation. Of the complaints reviewed with Mr. Sayers, three were dismissed and three required agreed orders. Those complaints reviewed with Mr. Ratliff resulted in two dismissals, two agreed orders, and two required further investigation. The complaints

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reviewed with Mr. Kokel resulted in four dismissals, three agreed orders, and none for further investigation.

Ms. Ward requested that Mr. McAnally and Mr. Sayers attend the exit meeting with Ms. Graves regarding the October 25 and 26, 2006, agency field review.

Mr. Ratliff expressed concern regarding inconsistency relating to cases heard before the Administrative Law Judge. There was discussion regarding the need to develop matrix for enforcement sentencing guidelines to ensure consistency in the enforcement process.

Mr. Carson, seconded by Mr. Ratliff, moved to assign a task force to review TALCB Rule 153.13 (d)(2) relating to permitting a Provisional Licensee to associate with a certified appraiser. Motion carried unanimously. Mr. Ratliff, Mr. Kokel, and Mr. McAnally were assigned to this task force.

Mr. McAnally, seconded by Mr. Carson, moved to accept the signed Agreed Final Order for Shari L. Kownslar, complaint number #03-051. Motion carried unanimously.

Mr. Carson, seconded by Mr. Ratliff, moved to accept the signed Agreed Final Order for John Ryan Bachemin, complaint number 04-027. Motion carried unanimously.

Mr. Carson, seconded by Mr. Ratliff, moved to accept the signed Agreed Final Order for Robert C. Whitaker, complaint number 04-027. Motion carried unanimously.

Mr. Scott addressed the Board regarding complaint 04-044.

Mr. Ratliff, seconded by Mr. Carson, moved to accept the signed Agreed Final Order for Bryan Alan Carrell, complaint number 04-044. Mr. Kokel recused himself. Members voting NO: Ms. Scurry, Mr. McAnally, and Ms. Ward. Motion failed.

The Board recessed at 12:15 p.m. and reconvened at 12:22 p.m.

Ms. Scurry, seconded by Mr. Carson, moved to deny Guy Williams Nutt's request for a 90-day extension to complete the required 8-hour sales comparison approach or permission to take an alternative course from one noted in agreed order. Motion carried unanimously

Mr. Stephen Ray Snowden and Mr. Beaulieu addressed the Board regarding the request for a rehearing regarding complaint number 06-143.

Mr. Carson, seconded by Mr. Ratliff, moved to grant Mr. Snowden a request for a rehearing regarding Docketed Complaint Number 06-143. Motion carried unanimously

Mr. Garoon commended Mr. Carson on his service to the Board.

The meeting adjourned at 1:00 p.m.

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APPROVED this the 9th day of February 2007.

ATTEST:

/s/Larry Kokel

~~Shirley Ward~~, Larry Kokel, Chair

/s / Wayne Thorburn

Wayne Thorburn, Commissioner



AGENDA ITEM 29

Request for potential future meeting agenda items.

AGENDA ITEM 30

Discussion and possible action to schedule future meeting dates.

AGENDA ITEM 31

Adjourn.

Texas Appraiser Licensing and Certification Board

August 15, 2014

| August 2014 | | | | | | |
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August

15 TALCB Meeting

September

1 Labor Day

October

26 Daylight Savings

November

4 Election Day
11 Veteran's Day
20/21 TALCB Meeting
27 Thanksgiving

| December 2014 | | | | | | |
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| February 2015 | | | | | | |
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December

25 Christmas Holiday
31 New Year's Eve

January

1 New Year's Day
19 Martin Luther King Day

February

16 Presidents' Day

March

| April 2015 | | | | | | |
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| June 2015 | | | | | | |
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| July 2015 | | | | | | |
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April

3 Good Friday
5 Easter

May

25 Memorial Day

June

21 Father's Day

July

4 Independence Day