Texas Appraiser Licensing & Certification Board

BOARD MEETING

November 20, 2015

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, November 20, 2015, 10:00 a.m.

CALL TO ORDER

1. Call to order and pledges of allegiance

2. Roll call and discussion and possible action to excuse Board member absence(s), if any

PUBLIC COMMENTS

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

EXECUTIVE SESSION

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

CONSENT AGENDA

5. Ratification of the official record of the August 14, 2015 Board meeting as approved for posting on the website by the Secretary of the Board

6. Approval of agreed final orders and surrenders in the matter of:
   a. Complaint #14-286 (Lateef A. Akanji, TX-1335567-R)
   b. Complaint #13-324, 14-076 & 14-207 (Juvenal Herrera, TX-1333094-R)
   c. Complaint #15-063, 15-228, 15-267, 15-297, 15-324, 15-328 & 15-345 (James P. Edwards, Jr., Unlicensed)
   d. Complaint #15-133 (Barry Keith Duncan, TX-1322178-R)
   e. Complaint #14-217 & 14-310 (Bruce E. Martin, TX-1321092-G)
   f. Complaint #15-059 & 15-260 (Todd Eugene Davis, 13260206-R)
   g. Complaint #15-124 & 15-173 (Rodger Thornton Williams, TX-1334530-R)
   h. Complaint #15-065 & 15-157 (Joe Jeffrey Roberts, TX-1320506-G)
   i. Complaint #14-149 & 15-222 (Larry S. Jones, TX-1322720-G)
   j. Complaint #14-228 (Linda D. Webb, TX-1324809-G)

k. Complaint #15-111 (Peggy Diamond, TX-1326071-R)
l. Complaint #15-028 (Kenneth L. Becker, TX-1338662-R)

MODIFICATIONS

7. Discussion and possible action to approve request for modification of agreed order in the matter of:
   a. Complaint #11-164 and Docketed Denial (John Hiram Goddard, TX-1338543-L)
   b. Complaint #14-023 (Billy James Williams, TX-1326207-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 #329-15-4424.ALC (William Edward Mercer, Unlicensed)

COMMITTEE REPORTS

9. Report by AMC Advisory Committee

10. Report by Education Committee

11. Report by Enforcement Committee

STAFF REPORTS

12. 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

RENEWAL OF EFFECTIVENESS FOR RULES PREVIOUSLY ADOPTED ON AN EMERGENCY BASIS

13. Discussion and possible action to renew emergency amendments to 22 TAC, Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Act:
   a. §153.9, Applications
   b. §153.17, Renewal or Extension of License

14. Discussion and possible action to renew emergency amendments to 22 TAC §157.18, Motions for Rehearing; Finality of Decisions

RULES FOR POSSIBLE ADOPTION

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. §153.1, Definitions
    b. §153.5, Fees
    c. §153.9, Applications
    d. §153.16, License Reinstatement
    e. §153.17, Renewal or Extension of License
    f. §153.20, Guidelines for Revocation, Suspension, Denial of License; Probationary License
    g. §153.21, Appraiser Trainees and Sponsors

16. Discussion and possible action to adopt amendments to 22 TAC, Chapter 157, Rules Relating to Practice and Procedure:
    a. Subchapter A. General Provisions
        i. 157.7, Denial of a License
        ii. 157.8, Adverse Action Against a License Holder or Registrant
    b. Subchapter B. Contested Case Hearings
        i. §157.9, Notice of Hearing
        ii. §157.12, Failure to Attend Hearing; Default Judgment
    c. Subchapter C. Post Hearing
        i. §157.17, Final Decisions and Orders
        ii. §157.18, Motions for Rehearing; Finality of Decisions
        iii. §157.20, Judicial Review
    d. Subchapter D. Penalties and Other Enforcement Provisions
        i. §157.25, Temporary Suspension
        ii. §157.26, Unlicensed Activity
    e. Subchapter E. Alternative Dispute Resolution
        i. §157.31, Investigative Conference

17. Discussion and possible action to adopt repeal of 22 TAC §157.19, Prerequisite to Judicial Review

RULES FOR POSSIBLE PROPOSAL

18. Discussion and possible action to propose new 22 TAC §153.22, Voluntary Appraiser Trainee Experience Reviews

19. 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. §153.18, Appraiser Continuing Education (ACE)
b. §153.27, License by Reciprocity

20. Discussion and possible action to propose amendments to 22 TAC §159.155, Periodic Review of Appraisals

NEW BUSINESS

21. Discussion and possible action regarding floor nominations to create a slate of candidates for the offices of Vice Chair and Secretary of the Board

22. Discussion and possible action regarding continuing need for presence of OAG General Counsel at Board and Committee meetings

23. Discussion and possible action regarding appointments to the Working Group for AQB Background Checks

24. Discussion and possible action regarding approval of Reserve Fund Balance Policy

25. Discussion and possible action on recommendations from Education Committee regarding approval of application forms for:
    a. License Reinstatement
    b. Voluntary Appraiser Trainee Experience Reviews

26. Discussion and possible action on recommendations from Enforcement Committee regarding:
    a. Approval of Confidentiality Agreement
    b. Recommendation for Board members to participate in investigative conferences

OTHER BUSINESS

27. Request for potential future meeting agenda items

28. Discussion and possible action to schedule future meeting dates

29. 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 November 20, 2015 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 August 14, 2015 Board meeting as approved for posting on the website by the Secretary of the Board.

FOR REFERENCE:
22 TAC §153.24. Complaint Processing.

AGENDA ITEMS 6(a)-(l)

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

a. Complaint #14-286 (Lateef A. Akanji, TX-1335567-R)
b. Complaint #13-324, 14-076 & 14-207 (Juvenal Herrera, TX-1333094-R)
c. Complaint #15-063, 15-228, 15-267, 15-297, 15-324, 15-328 & 15-345 (James P. Edwards, Jr., Unlicensed)
d. Complaint #15-133 (Barry Keith Duncan, TX-1322178-R)
e. Complaint #14-217 & 14-310 (Bruce E. Martin, TX-1321092-G)
f. Complaint #15-059 & 15-260 (Todd Eugene Davis, 13260206-R)
g. Complaint #15-124 & 15-173 (Rodger Thornton Williams, TX-1334530-R)
h. Complaint #15-065 & 15-157 (Joe Jeffrey Roberts, TX-1320506-G)
i. Complaint #14-149 & 15-222 (Larry S. Jones, TX-1322720-G)
j. Complaint #14-228 (Linda D. Webb, TX-1324809-G)
k. Complaint #15-111 (Peggy Diamond, TX-1326071-R)
l. Complaint #15-028 (Kenneth L. Becker, TX-1338662-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 August 14, 2015

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

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

AGENDA ITEM 1 - Call to order and pledges of allegiance

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

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

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

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

No comments were offered.

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

ACTION TAKEN: The Chair called the Board into executive session at 11:35 am.

The Chair reconvened the meeting at 12:21 pm.

AGENDA ITEMS 5 & 6 - Consent agenda

Ratification of the official record of the May 15, 2015 Board meeting as approved for posting on the website by the Secretary of the Board; and

Approval of agreed final orders and surrenders in the matter of:
a. Complaint #14-251 (Andrew Thomas Huffstetler, TX-1350029-L)
b. Complaint #14-253 (William Jackson Huffstetler, TX-1321011-R)

c. Complaint #14-111 (Russell Earl Milan, TX-1323544-R)
d. Complaint #15-091 (Ernest Claude Dunson, TX-1336144-L)
e. Complaint #14-260 & 15-071 (Joseph Edward Acker, TX-1360097-R)
f. Complaint #14-209 & 15-162 (Sidney Jack Crawford, TX-1337551-R)
g. Complaint #15-125 (Kristina L. Mabey, TX-1327024-R)
h. Complaint #14-221 (Sean Michael Murphy, TX-1350087-L)
i. Complaint #14-222 (Thomas R. Rohde, TX-1323013-G)

ACTION TAKEN: Agenda items 5 and 6 were taken together as one item. Ms. Fontana moved to approve these matters. Mr. Jeffries seonded the motion, and the Board approved the motion unanimously.

AGENDA ITEM 7 - Discussion and possible action to approve request for modification of agreed order in the matter of Complaint #13-299 (Ben Autry Campbell, TX-1325877-G)

ACTION TAKEN: Mr. Beard moved to approve the request for modification as presented and recommended by staff. Mr. McAnally seconded the motion, and the Board approved the motion unanimously.

AGENDA ITEM 8 - Report by AMC Advisory Committee

AGENDA ITEM 9 - Report by Budget Committee

AGENDA ITEM 10 - Report by Education Committee

AGENDA ITEM 11 - Report by Enforcement Committee

AGENDA ITEM 12 - Report by Executive Committee

AGENDA ITEM 13 - Staff reports on processes, monthly activities, and statistical data
Mr. Douglas Oldmixon, Commissioner
Ms. Lorie Deanda, Director of Reception & Communication Services
Ms. Gwen Jackson, Director of Education & Licensing Services
Mr. Steve Spyropoulos, Director of Information & Technology Services
Mr. Douglas Oldmixon (on behalf of Staff & Support Services)
Mr. Troy Beaulieu, Director of Standards & Enforcement Services

AGENDA ITEM 14 - Discussion and possible action to adopt amendments to 22 TAC §153.1, Definitions

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

AGENDA ITEM 15 - Discussion and possible action to adopt amendments to 22 TAC §155.2, Work Relating to Property Tax Protests

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

AGENDA ITEM 16 - Discussion and possible action to adopt amendments to 22 TAC §159.204, Complaint Processing

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

AGENDA ITEM 17A - Discussion and possible action to adopt emergency amendments to 22 TAC §153.9, Applications

ACTION TAKEN: Ms. Fontana moved to adopt the amendments on an emergency basis as presented and to adopt related form revisions with an effective date of September 1, 2015. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

AGENDA ITEM 17B - Discussion and possible action to adopt emergency amendments to 22 TAC §153.17, Renewal or Extension of License

ACTION TAKEN: Ms. Fontana moved to adopt the amendments on an emergency basis as presented with an effective date of September 1, 2015. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

AGENDA ITEM 18 - Discussion and possible action to adopt emergency amendments to 22 TAC §157.18, Motions for Rehearing; Finality of Decisions

ACTION TAKEN: Mr. Beard moved to adopt the amendments on an emergency basis as presented with an effective date of September 1, 2015. Mr. Padden seconded the motion, and the Board approved the motion unanimously.

AGENDA ITEM 19A - Discussion and possible action to propose amendments to 22 TAC §153.1, Definitions

ACTION TAKEN: Mr. Beard moved that the amendments be proposed for publication in the Texas Register for public comment as recommended by staff. Mr. Jeffries seconded the motion.

The Chair called for a break at 1:10 pm.

The Chair reconvened the meeting at 1:20 pm.
The Board resumed its discussion of agenda item 19A; however approximately 1 minute of the meeting audio, during which the Chair reconvened the meeting and resumed the discussion, was not recorded.

ACTION TAKEN: After further discussion, Mr. Beard amended his motion that the amendments be proposed with changes as presented. Mr. Jeffries seconded the amended motion, and the Board approved the motion unanimously.

AGENDA ITEM 19B - Discussion and possible action to propose amendments to 22 TAC §153.5, Fees

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

AGENDA ITEM 19C - Discussion and possible action to propose amendments to 22 TAC §153.9, Applications

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

AGENDA ITEM 19D - Discussion and possible action to propose amendments to 22 TAC §153.16, License Reinstatement

ACTION TAKEN: Mr. McAnally moved that the amendments be proposed 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 19E - Discussion and possible action to propose amendments to 22 TAC §153.17, Renewal or Extension of License

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

AGENDA ITEM 19F - Discussion and possible action to propose amendments to 22 TAC §153.20, Guidelines for Revocation, Suspension, Denial of License; Probationary License

ACTION TAKEN: Mr. Beard moved that the amendments be proposed 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 19G - Discussion and possible action to propose amendments to 22 TAC §153.21, Appraiser Trainees and Sponsors

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

AGENDA ITEM 20 - Discussion and possible action to propose amendments to 22 TAC, Chapter 157, Rules Relating to Practice and Procedure:

a. Subchapter A. General Provisions
   i. §157.7, Denial of a License
   ii. §157.8, Adverse Action Against a License Holder or Registrant
b. Subchapter B. Contested Case Hearings
   i. §157.9, Notice of Hearing
   ii. §157.12, Failure to Attend Hearing; Default Judgment
c. Subchapter C. Post Hearing
   i. §157.17, Final Decisions and Orders
   ii. §157.18, Motions for Rehearing; Finality of Decisions
   iii.§157.20, Judicial Review
d. Subchapter D. Penalties and Other Enforcement Provisions
   i. §157.25, Temporary Suspension
   ii. §157.26, Unlicensed Activity
e. Subchapter E. Alternative Dispute Resolution
   i. §157.31, Investigative Conference

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

AGENDA ITEM 21 - Discussion and possible action to repeal 22 TAC §157.19, Prerequisite to Judicial Review

ACTION TAKEN: Ms. Fontana 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 ITEMS 22 & 23 - Discussion and possible action regarding FY2016 TALCB Budget; Update on new building plans

ACTION TAKEN: Mr. Beard moved to approve the expenditure of additional funds to pursue the feasibility of building construction as part of the FY2016 budget. Mr. McAnally seconded the motion, and the Board approved the motion unanimously.

Mr. Beard moved to adopt the FY2016 TALCB Budget as presented. Mr. Jeffries seconded the motion, and the Board approved the motion unanimously.

AGENDA ITEM 24 - Discussion and possible action on recommendations from AMC Committee regarding proposed changes to AMC forms

ACTION TAKEN: Ms. Fontana moved to approve the Application for Registration as an AMC, Renewal of Registration as an AMC, and AMC Owner/Primary Contact Background History form revisions as presented. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

AGENDA ITEM 25 - Discussion and possible action on recommendations from Enforcement Committee regarding changes to Mentor criteria

ACTION TAKEN: Mr. Jeffries moved to adopt the Mentor criteria as recommended to be effective with the next cycle of Mentor applications. Mr. Padden seconded the motion. After further discussion, Mr. Jeffries amended his motion to allow for the call of applications immediately. Mr. Padden seconded the amended motion, and the motion was passed by a vote of 6 to 1 with Mr. McAnally voting Nay.

AGENDA ITEM 26 - Discussion and possible action regarding appointment of a Working Group to develop recommendations regarding criminal background checks

No action was taken.

AGENDA ITEM 27 - Discussion and possible action regarding approval of Memorandum of Understanding between the Texas Real Estate Commission and TALCB

ACTION TAKEN: Ms. Fontana moved to approve the Memorandum of Understanding as presented. Mr. McAnally seconded the motion, and the Board approved the motion unanimously.

AGENDA ITEM 28 - Request for potential future meeting agenda items

Ms. Fontana requested that the Executive Committee consider reviewing the consistency of USPAP interpretations in Board orders and having non-appraiser members take the 7- or 15-hour USPAP training course.

Ms. Wickliffe and Mr. Barba requested that the Executive Committee consider amendments to MOU between TREC and the Board as it relates to building construction.

Mr. Barba requested that the Executive Committee revisit our policy on retaining counsel from the Attorney General's Office at all Board meetings and Committee meetings.

AGENDA ITEM 29 - Discussion and possible action to schedule future meeting dates

Future meeting dates remained set for November 20, 2015 and February 19, 2016.

AGENDA ITEM 30 - The Chair adjourned the meeting at 1:35 pm.

§153.24. Complaint Processing

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

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

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

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

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

(1)may be investigated covertly; and

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

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

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

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

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

(2)a copy of the Respondent's work file associated with the appraisal(s) listed in the complaint, with the following signed statement attached to the work file(s): I SWEAR AND AFFIRM THAT EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE COPY OF EACH AND EVERY APPRAISAL WORK FILE ACCOMPANYING THIS RESPONSE IS A TRUE AND CORRECT COPY OF THE ACTUAL WORK FILE, AND NOTHING HAS BEEN ADDED TO OR REMOVED FROM THIS WORK FILE OR ALTERED AFTER PLACEMENT IN THE WORK FILE. (SIGNATURE OF RESPONDENT);

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

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

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

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

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

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

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

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

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

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

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

(1)For the purposes of these sanctions guidelines:

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

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

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

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

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

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

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

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

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

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

(B)Whether the Respondent has previously been disciplined;

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

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

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

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

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

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

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

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

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

(ii)The Board;

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

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

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

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

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

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

(i)The level of appraisal credential Respondent held;

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

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

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

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

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

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

(i)Dismissal;

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

(iii)Contingent dismissal with remedial measures.

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

(i)Contingent dismissal with remedial measures; or

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

(I)Remedial measures;

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

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

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

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

specified time period or until specified conditions are satisfied; or

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

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

(i)A period of suspension;

(ii)A revocation;

(iii)Remedial measures;

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

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

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

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

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

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

(i)Dismissal;

(ii)Dismissal with non-disciplinary warning letter;

(iii)Contingent dismissal with remedial measures; or

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

(I)Remedial measures;

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

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

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

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

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

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

(i)A period of suspension;

(ii)A revocation;

(iii)Remedial measures;

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

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

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

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

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

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

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

(i)A period of suspension;

(ii)A revocation;

(iii)Remedial measures;

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

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

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

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

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

(G)3rd Time Discipline Level 1--violations of the Act, Board rules, or USPAP which evidence minor deficiencies will result in a final order which imposes one or more of the following:

(i)A period of suspension;

(ii)A revocation;

(iii)Remedial measures;

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

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

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

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

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

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

(i)A period of suspension;

(ii)A revocation;

(iii)Remedial measures;

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

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

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

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

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

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

(i)A revocation; or

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

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

(i)A revocation; and

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

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

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

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

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

(C)requiring additional reporting requirements; and

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

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

SURRENDER OF CERTIFICATION

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
	§	
	§	
	§	
vs.	§	DOCKETED COMPLAINT NO. 14-286
	§	
	§	
LATEEF A. AKANJI	§	
TX-1335567-R	§	

AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared LATEEF AKANJI, who being by me duly sworn, deposes as follows:

My name is LATEEF AKANJI. I am over 18 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am a STATE CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER in the State of Texas and I am voluntarily and permanently surrendering my CERTIFICATION to the Texas Appraiser Licensing and Certification Board because I no longer desire to be CERTIFIED.

I understand that through this action the Texas Appraiser Licensing and Certification Board will permanently revoke my CERTIFICATION without formal charges, notice, or a hearing.

I hereby waive my right to appeal or complain of any final order entered by the Texas Appraiser Licensing and Certification Board accepting the voluntary surrender of my CERTIFICATION.

Lateef A. Akanji

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 20 day of July, 2015, by Lateef A. Akanji, to certify which witness my hand and official seal.

CAMPBELL R. SIDENER
Notary Public, State of Texas
My Commission Expires
November 08, 2016

Notary Public's Signature

SURRENDER OF CERTIFICATION

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
	§	
	§	
vs.	§	DOCKETED COMPLAINT NO. 14-286
	§	
LATEEF A. AKANJI TX-1335567-R	§	

ORDER OF THE BOARD

WHEREAS, LATEEF A. AKANJI has submitted to the Board his affidavit that he no longer desires to be approved as a Texas state certified residential real estate appraiser, and that he has voluntarily surrendered his certification, the Board takes the following action:

NOW, THEREFORE, IT IS ORDERED that certification number TX-1335567-R hereto issued to LATEEF A. AKANJI, to practice real property appraisal in the State of Texas, be revoked without formal charges, notice of hearing, or a formal hearing.

Approved by the Board and Signed this ____ day of _____, 2015.

_____

Jamie Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board

SURRENDER OF CERTIFICATION

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
	§	
	§	
	§	
vs.	§	DOCKETED COMPLAINT NO. 13-324, 14-076 & 14-207
	§	
	§	
JUVENAL HERRERA	§	
TX-133094-R	§	

AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared JUVENAL HERRERA, who being by me duly sworn, deposes as follows:

My name is JUVENAL HERRERA. I am over 18 years of age, of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am a STATE CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER in the State of Texas and I am voluntarily and permanently surrendering my CERTIFICATION to the Texas Appraiser Licensing and Certification Board because I no longer desire to be CERTIFIED.

I understand that through this action the Texas Appraiser Licensing and Certification Board will accept the voluntarily surrender of my CERTIFICATION without formal charges, notice, or a hearing. The effective date of this voluntary surrender shall be December 18, 2015.

I hereby waive my right to appeal or complain of any final order entered by the Texas Appraiser Licensing and Certification Board accepting the voluntary surrender of my CERTIFICATION.

Juvenal Herrera

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 26 day of September, 2015, by Juvenal Herrera, to certify which witness my hand and official seal.

SHANNA L. BUTTERFIELD
Notary Public, State of Texas
My Commission Expires
NOVEMBER 24, 2018

Notary Public's Signature

SURRENDER OF CERTIFICATION

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
	§	
	§	
	§	
vs.	§	DOCKETED COMPLAINT NO. 13-324, 14-076 & 14-207
	§	
	§	
JUVENAL HERRERA	§	
TX-133094-R	§	

ORDER OF THE BOARD

WHEREAS, JUVENAL HERRERA has submitted to the Board his affidavit that he no longer desires to be approved as a Texas state certified residential real estate appraiser, and that he has voluntarily surrendered his certification, the Board takes the following action:

NOW, THEREFORE, IT IS ORDERED that the voluntary surrender of certification number TX-133094-R hereto issued to JUVENAL HERRERA, to practice real property appraisal in the State of Texas, be accepted without formal charges, notice of hearing, or a formal hearing. The effective date of this Order shall be December 18, 2015.

Approved by the Board and Signed this ____ day of _____, 2015.

_____

Jamie Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
	§	
	§	
	§	
vs.	§	DOCKETED COMPLAINT NO.
	§	15-063, 15-228, 15-267, 15-297,
	§	15-324,15-328, & 15-345
JAMES P. EDWARDS, JR.	§	
UNLICENSED	§	

AGREED FINAL ORDER

On the _____ day of _____, 2015, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the unlicensed activity of James P. Edwards Jr. (Respondent).

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

FINDINGS OF FACT

1. Respondent is not a licensed or certified Texas real estate appraiser and was not licensed or certified by the Board during all times material to the above-noted complaints.

2. Respondent appraised multiple properties without a real estate appraiser certificate or license.

3. Thereafter, the complaint, numbered 15-063, was filed with the Board by a bank, on or about October 31, 2014; the complaint, numbered 15-228, was filed with the Board by a bank, on or about April 28, 2015; the complaint, numbered 15-267, was filed with the Board by a bank, on or about June 3, 2015; the complaint, numbered 15-297, was filed with the Board by a bank, on or about June 26, 2015; the complaint, numbered 15-324, was filed with the Board by a bank, on or about July 30, 2015; the complaint, numbered 15-328, was filed with the Board by a bank, on or about July 30, 2015; and the complaint, numbered 15-345, was filed with the Board by a bank, on or about August 11, 2015.

4. The Board investigated the complaints to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act), and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).

5. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved in complaint 15-063, on or about November 5, 2015. Respondent was afforded an opportunity to

respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about April 8, 2015; the Board notified Respondent of the nature of the accusations involved in complaint 15-228, on or about May 15, 2015. Respondent responded to the complaint, on or about August 12, 2015; the Board notified Respondent of the nature of the accusations involved in complaint 15-267, on or about June 18, 2015. Respondent responded to the complaint, on or about August 12, 2015; the Board notified Respondent of the nature of the accusations involved in complaint 15-297, on or about July 23, 2015. Respondent responded to the complaint, on or about August 12, 2015; the Board notified Respondent of the nature of the accusations involved in complaint 15-324, on or about August 24, 2015. Respondent responded to the complaint, on or about September 14, 2015; the Board notified Respondent of the nature of the accusations involved in complaint 15-328, on or about August 26, 2015. Respondent responded to the complaint, on or about September 14, 2015; and the Board notified Respondent of the nature of the accusations involved in complaint 15-345, on or about September 15, 2015.

6. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.201 by appraising properties without a real estate appraisal certificate or license.

7. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.401 by using identification that misled the public as to his credentials to perform appraisal services.

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

CONCLUSIONS OF LAW

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

2. Respondent violated TEX. OCC. CODE § 1103.201 by appraising properties without an appraisal certificate or license.

3. Respondent violated TEX. OCC. CODE § 1103.401 by using identification that misled the public as to his credentials to perform appraisal services

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. **ADMINISTRATIVE PENALTY**. On or before December 10, 2015, Respondent shall pay to the Board an administrative penalty of twenty-eight thousand dollars ($28,000.00), by cashier's check or money order, within twenty (20) days of the effective date of this Agreed Final Order.

2. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and

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

ACKNOWLEDGMENT AND WAIVER

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. 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.

RESPONDENT

Signed this 22nd day of SEPTEMBER, 2015.

James P. Edwards, Jr.

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 22nd day of September, 2015, by James P. Edwards, Jr., to certify which witness my hand and official seal.

CALLY MILLS BROWN
MY COMMISSION EXPIRES
August 8, 2017

Notary Public's Signature

RESPONDENT'S ATTORNEY

Signed this 22 day of Sep, 2015.

Tom Pappas, Respondent's Attorney

STANDARDS AND ENFORCEMENT SERVICES DIVISION

Signed by the Standards and Enforcement Services Division this 24th day of September, 2015.

Kyle Wolfe, Staff Attorney
Texas Appraiser Licensing and Certification Board

COMMISSIONER

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

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

CHAIRPERSON

Approved by the Board and Signed this ____ day of _____, 2015.

Jamie Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
vs.	§	DOCKETED COMPLAINT NO. 15-133
BARRY KEITH DUNCAN TX-1322178-R	§	

AGREED FINAL ORDER

On the _____ day of _____, 2015, the Texas Appraiser Licensing and Certification Board (the "Board"), considered the matter of the certification of Barry Keith Duncan (the "Respondent").

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

FINDINGS OF FACT

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-1322178-R and was certified by the Board during all times material to the above-noted complaint.

2. Respondent appraised residential real property located at 9403 Highmeadow Dr., Houston, Texas 77063 (the "Property"), on or about October 7, 2014.

3. Thereafter, the complaint, numbered 15-133, was filed with the Board by an appraisal management company, on or about January 23, 2015. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHS. 153 and 155 (the "Rules").

4. The Board, in accordance with the mandate of TEX. GOV'T CODE CH. 2001 (the "APA") and the Act, notified Respondent of the nature of the accusations involved, on or about February 3, 2015. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about March 13, 2015.

5. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the

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

a. USPAP Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal report;

b. USPAP Standards Rules 1-4(a) and 2-2(a)(viii); 1-1(a) and 1-4(a); 1-6(a) and 2-2(a)(viii); 1-1(b); and 2-1(a) – Respondent 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 and did not disclose the analysis and reasoning behind the adjustments made or not made; Respondent failed to reconcile the quality and quantity of the data within the sales comparison approach used in the appraisal report; Respondent produced an appraisal report for the Property that contained substantial errors of omission or commission. This resulted in an appraisal report that was not credible.

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

CONCLUSIONS OF LAW

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

2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).

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

ORDER

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

1. **EDUCATION**. On or before May 20, 2016, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely

satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.

a. A classroom course on unique and complex property appraisal, a minimum of eighteen (18) class hours, on or before May 20, 2016.

2. **ADMINISTRATIVE PENALTY**. On or before December 10, 2015, Respondent shall pay to the Board an administrative penalty of five hundred dollars ($500.00), by cashier's check or money order, within twenty (20) days of the effective date of this Agreed Final Order.

3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and

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

ACKNOWLEDGMENT AND WAIVER

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

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

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

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

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

DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE

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

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

EXECUTION

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

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

RESPONDENT

Signed this 17TH day of AUGUST, 2015.

Barry Keith Duncan

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 17th day of August, 2015, by Barry Keith Duncan, to certify which witness my hand and official seal.

BRIANA CAPE
Notary Public
STATE OF TEXAS
My Comm. Exp. June 20, 2018

Briana Cape
Notary Public's Signature

STANDARDS AND ENFORCEMENT SERVICES DIVISION

Signed by the Standards and Enforcement Services Division this 18th day of August, 2015.

Kyle Wolfe, Staff Attorney
Texas Appraiser Licensing and Certification Board

COMMISSIONER

Signed by the Commissioner this 18 day of Aug, 2015.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

CHAIRPERSON

Approved by the Board and Signed this ____ day of _____, 2015.

Jamie Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
vs.	§	**DOCKETED COMPLAINT NO. 14-217 & 14-310**
BRUCE E. MARTIN TX-1321092-G	§	

AGREED FINAL ORDER

On the _____ day of _____, 2015, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Bruce E. Martin (the "Respondent").

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

FINDINGS OF FACT

1. Respondent is a Texas state certified general real estate appraiser who holds Certification number TX-1321092-G and was certified by the Board during all times material to the above-noted complaint.

2. Respondent appraised residential real property located at 1210 FM 1745 N. Colmesneil, Texas 75938 (the "Colmesneil Property"), on or about March 29, 2014, April 3, 2014, and April 11, 2014.

3. Thereafter, complaint number 14-217, was filed with the Board by a homeowner on or about May 13, 2014. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (the "Act") and 22 TEX. ADMIN. CODE CH. 153 and 155 (the "Rules").

4. Respondent appraised residential real property located at 4 Wood Farm Estates Road, Huntsville, Texas 77320, Texas (the "Huntsville Property"), on or about May 9, 2014, and May 23, 2014.

5. Thereafter, complaint number 14-310 was filed with the Board by a real estate salesperson on or about August 25, 2014. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice

(USPAP), TEX. OCC. CODE CH. 1103 (the "Act") and 22 TEX. ADMIN. CODE CH. 153 and 155 (the "Rules").

6. The Board, in accordance with the mandate of TEX.GOV'T CODE ANN. CH. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved in these complaints, on or about May 29, 2014 and September 22, 2014, respectively. Respondent was afforded an opportunity to respond to the accusations in both complaints and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about July 9, 2014 and October 7, 2014, respectively.

7. As a result of the Board's investigation into complaints 14-217 and 14-310, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Colmesneil and Huntsville Properties:

a. USPAP Record Keeping Rule – Respondent failed to maintain a work file containing all documentation necessary to support his analyses, opinions and conclusions;

b. USPAP Scope of Work Rule; 1-2(h) and 2-2(a)(vii) – Respondent failed to perform the scope of work necessary to develop credible assignment results;

c. USPAP Standards 1-2(e), 1-3(a)-(b), and 2-2(a)(iii), (viii), and (ix) – Respondent failed to identify the characteristics of the property that are relevant to the intended use of the property; and failed to identify or analyze existing land use requirements, supply and demand, physical adaptability of the real estate or existing market trends and, did not summarize in his analysis supporting his determination of the highest and best use;

d. USPAP Standards 1-1(a), 1-4(b)(i)-(iii) and 2-2(a)(viii) – Respondent did not employ recognized methods and techniques for the cost approach correctly; Respondent failed to support his site value , cost new, and depreciation determinations, and failed to summarize his reasoning that supports those analyses, opinions, and conclusions in the cost approach;

e. USPAP Standards 1-1(a), 1-4(a) and 2-2(a)(viii) – Respondent did not employ recognized methods and techniques based on the sales approach correctly; Respondent failed to support adjustments made to the sales he used as comparables; and failed to collect, verify and analyze comparable sales data adequately;

f. USPAP Standards 1-5(a), and 2-2(a)(viii) - Respondent failed to analyze the listing of the property;

g. USPAP Standards 1-6(a)-(b), and 2-2(a)(viii)- Respondent failed to provide a reconciliation of the quality or quantity of the data used in the approaches.

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

CONCLUSIONS OF LAW

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

10. 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).

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

12. 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** Respondent to do the following:

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

    a. A minimum, 15 hour classroom course in USPAP (with exam); and

    b. A seven (7) hour classroom course in appraisal report writing.

2. **MENTORSHIP**. On or before May 20, 2016, Respondent shall complete sixteen (16) 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 sales comparison (adjustment support and comparable selection);

b. Four (4) hours of mentorship concerning cost approach (site valuation, cost new, and market-derived depreciation);

c. Four (4) hours of mentorship concerning written client communication; and,

d. Four (4) hours concerning scope of work.

3. **ADMINISTRATIVE PENALTY**. On or before December 10, 2015, Respondent shall pay to the Board an administrative penalty of Fifteen Hundred Dollars ($1500.00), by cashier's check or money order.

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

ACKNOWLEDGMENT AND WAIVER

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

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

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

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

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

DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE

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

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

EXECUTION

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

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

RESPONDENT

Signed this 8 day of September, 2015.

Bruce Earl Martin

Bruce Earl Martin

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 8 day of September, 2015, by Bruce Earl Martin, witnessed by my hand and official seal.

BUNA JONES
NOTARY PUBLIC, STATE OF TEXAS
MY COMMISSION EXPIRES
May 30, 2019

Buna Jones

Notary Public's Signature

STANDARDS AND ENFORCEMENT SERVICES DIVISION

Signed by the Standards and Enforcement Services Division this 10th day of September, 2015.

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

COMMISSIONER

Signed by the Commissioner this 14 day of Sep, 2015.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

CHAIRPERSON

Approved by the Board and Signed this ____ day of _____, 2015.

Jamie Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
	§	
	§	
	§	
vs.	§	DOCKETED COMPLAINT NO. 15-059 and 15-260
	§	
	§	
TODD EUGENE DAVIS TX-1360206-R	§	
	§	

AGREED FINAL ORDER

On the _____ day of _____, 2015, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the certification of Todd Eugene Davis (Respondent).

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

FINDINGS OF FACT

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-1360206-R and was certified by the Board during all times material to the above-noted complaints.

2. Respondent appraised residential real property located at 2030 Bloommist, Rosenberg, Texas 77469 (Bloommist Property), on or about October 6, 2014, and appraised residential real property located at 1119 Morning Mist Court, Sugar Land, Texas 77498 (Morning Property), on or about July 2, 2013.

3. Thereafter, a complaint (15-059) regarding the Bloommist Property was filed with the Board by a lender, on or about October 6, 2014, and a complaint (15-260) regarding the Morning Property was filed with the Board by an appraisal management company, on or about May 19, 2015. The Board investigated the complaints to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).

4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved in complaint 15-059, on or about November 4, 2014, and complaint 15-260, on or about June 27, 2015. Respondent was afforded an opportunity to respond to the accusations in the complaints and was also requested to provide certain documentation to the Board. Thereafter, the

Respondent responded with documentation to complaint 15-059, on or about December 9, 2015, and to complaint 15-260, on or about July 26, 2015.

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

a. USPAP Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal;

b. USPAP Scope of Work Rule, USPAP Standards Rules 1-2(h) and 2-2(a)(viii) – Respondent failed to perform the scope of work necessary for credible assignment results;

c. USPAP Standards Rules 1-2(e)(i) and 2-2(a)(iii); 1-3(a) and 2-2(a)(viii); 1-3(b) and 2-2(a)(ix) – Respondent failed to adequately identify and report the site description; Respondent failed to support the opinions and conclusions in the Neighborhood section of the appraisal report; Respondent failed to properly develop the opinion of highest and best use;

d. USPAP Standards Rules 1-4(b)(i), 1-4(b)(ii) and 2-2(a)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to develop a site value determination; Respondent failed to use an appropriate method or technique to determine the cost new of improvements and failed to collect, verify, analyze and reconcile the cost new of improvements;

e. USPAP Standards Rules 1-4(a) and 2-2(a)(viii); 1-1(a) and 1-4(a); 1-6(a), 1-6(b), and 2-2(a)(viii) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in the sales comparison approach; Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison approach; Respondent also failed to make appropriate adjustments to the sales used, and did not disclose the analysis and reasoning behind the adjustments made or not made; Respondent failed to reconcile the quality and quantity of the data within the sales comparison approach;

f. USPAP Standards Rules 1-1(a), 1-1(b), 1-1(c), and 2-1(a) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible.

6. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the

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

a. USPAP Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal;

b. USPAP Scope of Work Rule, USPAP Standards Rules 1-2(h) and 2-2(b)(viii) – Respondent failed to perform the scope of work necessary for credible assignment results;

c. USPAP Standards Rules 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to adequately identify and report the site description; Respondent failed to adequately identify and report the improvements;

d. USPAP Standards Rules 1-2(e)(iv) and 2-2(b)(viii); 1-3(a) and 2-2(b)(viii); 1-1(b); 1-3(b) and 2-2(b)(ix) – Respondent failed to consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature; Respondent failed to support the opinions and conclusions in the Neighborhood section of the appraisal report; 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 Rules 1-4(c)(i), 1-4(c)(ii), 1-4(c)(iii), 1-4(c)(iv) and 2-2(b)(viii); 1-1(a) and 1-4(b) –Respondent failed to use an appropriate method or technique to determine the gross income potential of the subject and failed to collect, verify, analyze and reconcile comparable rental data for subject rent and/or the potential earnings capacity of the property to estimate the gross income potential of the subject; Respondent failed to use an appropriate method or technique to determine

the comparable operating expenses and failed to collect, verify, analyze and reconcile the comparable operating expenses; Respondent failed to use an appropriate method or technique to estimate capitalization and/or discount rates and failed to collect, verify, analyze and reconcile the estimate capitalization and/or discount rates; Respondent failed to base projections of future rent or income potential and expenses on reasonable clear and appropriate evidence;

h. USPAP Standards Rules 1-5(a) and 2-2(b)(viii); 1-5(b) and 2-2(b)(viii) – Respondent failed to disclose and analyze information regarding the property's current listing (or contract); Respondent failed to analyze all sales of the subject within three (3) years prior to the effective date of the appraisal;

i. USPAP Standards Rules 1-6(a), 1-6(b), and 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches; and

j. 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.

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

CONCLUSIONS OF LAW

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

2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).

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

ORDER

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

1. **EDUCATION**. On or before November 20, 2016, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count

toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.

a. A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before November 20, 2016.

2. **MENTORSHIP**. On or before November 20, 2016, Respondent shall complete sixteen (16) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.

   a. Six (6) hours of mentorship concerning the sales comparison approach, on or before November 20, 2016.

   b. Two (2) hours of mentorship concerning the cost approach, on or before November 20, 2016.

   c. Two (2) hours of mentorship concerning the income approach, on or before November 20, 2016.

   d. Two (2) hours of mentorship concerning recordkeeping, on or before November 20, 2016.

   e. Two (2) hours off mentorship concerning report writing, on or before November 20, 2016.

   f. Two (2) hours of mentorship concerning USPAP Standards 1 and 2, on or before November 20, 2016.

3. **TRAINEES**. Respondent shall not sponsor any trainees for twelve (12) months, from November 20, 2015 to November 20, 2016.

4. **ADMINISTRATIVE PENALTY**. On or before December 10, 2015, Respondent shall pay to the Board an administrative penalty of one thousand five hundred dollars ($1,500.00), by cashier's check or money order, within twenty (20) days of the effective date of this Agreed Final Order.

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

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

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

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

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

DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE

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

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

EXECUTION

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

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

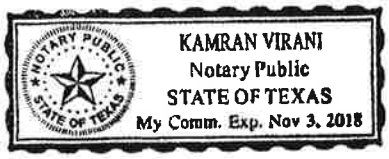
RESPONDENT

Signed this 21st day of September, 2015.

Todd Eugene Davis

Todd Eugene Davis

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 21st day of September, 2015, by Todd Eugene Davis, to certify which witness my hand and official seal.



Notary Public's Signature

STANDARDS AND ENFORCEMENT SERVICES DIVISION

Signed by the Standards and Enforcement Services Division this 22nd day of September, 2015.

Kyle Wolfe, Staff Attorney
Texas Appraiser Licensing and Certification Board

COMMISSIONER

Signed by the Commissioner this 22 day of Sep, 2015.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

CHAIRPERSON

Approved by the Board and Signed this ____ day of _____, 2015.

Jamie Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
vs.	§	DOCKETED COMPLAINT NO. 15-124 and 15-173
RODGER THORNTON WILLIAMS TX-1334530-R	§	

AGREED FINAL ORDER

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

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

FINDINGS OF FACT

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-1334530-R and was certified by the Board during all times material to the above-noted complaints.

2. Respondent appraised residential real property located at 1904 Alsdorf Road, Ennis, Texas 75119 (Alsdorf Property), on or about October 21, 2014, and appraised residential real property located at 1034 Lake Sawyer Road, Ennis, Texas 75119 (Lake Sawyer Property), on or about September 22, 2014.

3. Thereafter, a complaint (15-124) regarding the Alsdorf Property was filed with the Board by an appraisal management company, on or about December 19, 2014, and a complaint (15-173) regarding the Lake Sawyer Property was filed with the Board by an appraisal management company, on or about February 18, 2015. The Board investigated the complaints to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).

4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved in complaint 15-124, on or about January 8, 2015, and complaint 15-173, on or about March 20, 2015. Respondent was afforded an opportunity to respond to the accusations in the complaints and was also requested to provide certain documentation to the Board. Thereafter, the

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

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

a. USPAP Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal;

b. USPAP Scope of Work Rule, USPAP Standards Rules 1-2(h) and 2-2(a)(viii) – Respondent failed to perform the scope of work necessary for credible assignment results;

c. USPAP Standards Rules 1-2(f), 2-1(c) and 2-2(a)(x) – Respondent failed to identify and report extraordinary assumptions;

d. USPAP Standards Rules 1-2(e)(i) and 2-2(a)(iii) – Respondent failed to adequately identify and report the improvements; Respondent failed to adequately identify and report the site description;

e. USPAP Standards Rules 1-2(e)(iv) and 2-2(a)(viii); 1-2(e)(iv) and 2-2(a)(viii); 1-3(b) and 2-2(a)(ix) – Respondent failed to consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature; Respondent failed to identify and report the Property's zoning; Respondent failed to properly develop the opinion of highest and best use;

f. USPAP Standards Rules 1-4(b)(i), 1-4(b)(ii) and 2-2(a)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to develop a site value determination; Respondent failed to use an appropriate method or technique to determine the cost new of improvements and failed to collect, verify, analyze and reconcile the cost new of improvements;

g. USPAP Standards Rules 1-4(a) and 2-2(a)(viii); 1-1(a) and 1-4(a); 1-6(a), 1-6(b), and 2-2(a)(viii) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in the sales comparison approach; Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison approach; Respondent also failed to make appropriate adjustments to the sales used, and did not disclose the analysis and reasoning behind the adjustments made or not made; Respondent failed to reconcile the quality and quantity of the data within the sales comparison approach;

h. USPAP Standards Rules 1-4(c) and 2-2(a)(viii) – Respondent failed to properly support the exclusion of the income approach;

i. USPAP Standards Rules 1-5(a) and 2-2(a)(viii) – Respondent failed to disclose and analyze information regarding the property's current listing; and

j. USPAP Standards Rules 1-1(a), 1-1(b), 1-1(c), and 2-1(a) – For the reasons detailed above, Respondent produced an appraisal report for the Property that contained substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible.

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

a. USPAP Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal;

b. USPAP Scope of Work Rule, USPAP Standards Rules 1-2(h) and 2-2(a)(viii) – Respondent failed to perform the scope of work necessary for credible assignment results;

c. USPAP Standards Rules 1-2(f), 2-1(c) and 2-2(a)(x) – Respondent failed to identify and report extraordinary assumptions;

d. USPAP Standards Rules 1-2(e)(iv) and 2-2(a)(viii); 1-3(b) and 2-2(a)(ix) – Respondent failed to identify and report the Property's zoning; Respondent failed to properly develop the opinion of highest and best use;

e. USPAP Standards Rules 1-4(b)(i), 1-4(b)(ii), 1-4(b)(iii) and 2-2(a)(viii); 1-1(a) and 1-4(b) – Respondent failed to use an appropriate method or technique to develop a site value determination; Respondent failed to use an appropriate method or technique to determine the cost new of improvements and failed to collect, verify, analyze and reconcile the cost new of improvements; Respondent failed to use an appropriate method or technique to determine accrued depreciations and failed to collect, verify, analyze and reconcile the accrued depreciations;

f. USPAP Standards Rules 1-4(a) and 2-2(a)(viii); 1-1(a) and 1-4(a); 1-6(a), 1-6(b), and 2-2(a)(viii) – Respondent has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in the sales comparison approach; Respondent did not provide appropriate supporting documentation nor reasoning and a summary of analysis of the sales comparison approach; Respondent also failed to make appropriate adjustments to the sales used, and did not disclose the analysis and reasoning

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

g. USPAP Standards Rules 1-4(c) and 2-2(a)(viii) – Respondent failed to explain and support the exclusion of the income approach; and

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

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

CONCLUSIONS OF LAW

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

2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).

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

ORDER

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

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

    a. A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before November 20, 2016.

    b. A classroom course on the sales comparison approach, a minimum of thirty (30) class hours, on or before November 20, 2016.

c. A classroom course on the cost approach, a minimum of fifteen (15) class hours, on or before November 20, 2016.

d. A classroom course on report writing, a minimum of fifteen (15) class hours, on or before November 20, 2016.

2. **MENTORSHIP**. On or before November 20, 2016, Respondent shall complete eighteen (18) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.

   a. Six (6) hours of mentorship concerning the sales comparison approach, on or before November 20, 2016.

   b. Six (6) hours of mentorship concerning the cost approach, on or before November 20, 2016.

   c. Three (3) hours of mentorship concerning report writing, on or before November 20, 2016.

   d. Three (3) hours of mentorship concerning USPAP Standards 1 and 2, on or before November 20, 2016.

3. **TRAINEES**. Respondent shall not sponsor any trainees for twelve (12) months, from November 20, 2015 to November 20, 2016.

4. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and

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

ACKNOWLEDGMENT AND WAIVER

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

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

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

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

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

DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE

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

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

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

EXECUTION

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

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

RESPONDENT

Signed this 21 day of September, 2015.

Rodger Thornton Williams

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

Sharon Holcombe Jackson

Notary Public's Signature

Sharon Holcombe Jackson
Notary Public,
State of Texas
Expires:07-14-2018

STANDARDS AND ENFORCEMENT SERVICES DIVISION

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

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

COMMISSIONER

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

_____
Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

CHAIRPERSON

Approved by the Board and Signed this_____day of_____, 2015.

_____
Jamie Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
	§	
	§	
	§	
vs.	§	**DOCKETED COMPLAINT NOS. 15-065 AND 15-157**
	§	
	§	
JOE JEFFREY ROBERTS TX-1320506-G	§	
	§	

AGREED FINAL ORDER

On the _____ day of _____, 2015, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Joe Jeffrey Roberts (the "Respondent").

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

FINDINGS OF FACT

1. Respondent is a Texas state certified general real estate appraiser who holds Certification number TX-1320506-G and was certified by the Board during all times material to the above-noted complaint.

2. Respondent appraised multi-family residential real property located at 1029 East Hickory, Denton, Texas 76205 (the "Denton Property"), on or about August 8, 2014.

3. Thereafter, complaint number 15-065 was filed with the Board by a financial institution on or about November 3, 2014. A second complaint number 15-157, also involving the Denton Property, was filed with the Board by an appraisal management company on or about January 16, 2015. The Board investigated both complaints to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (the "Act") and 22 TEX. ADMIN. CODE CH. 153 and 155 (the "Rules").

4. The Board, in accordance with the mandate of TEX.GOV'T CODE ANN. CH. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved in these complaints, on or about November 18, 2014, and on June 5, 2015, respectively. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. After an extended period of delay (the lapse of several months), and repeated

correspondence requesting his response to the complaints and certain work file documentation, Respondent ultimately responded to each complaint and belatedly provided the requested documentation.

5. As a result of the Board's investigation into complaints 15-065 and 15-157, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Denton Property:

a. USPAP Ethics Rule – Respondent misrepresented to his client that he inspected the Denton Property when he did not. When his client discovered the issue and confronted him, he continued to misrepresent to them that he had inspected the Denton Property and sent inaccurate pictures to further his misrepresentations of inspecting the Denton Property (inspection was required by his client's assignment conditions);

b. USPAP Record Keeping Rule – Respondent failed to maintain the required documentation in his work file necessary to support his opinions and conclusions;

c. USPAP Scope of Work Rule; 1-2(h) and 2-2(a)(vii) – Respondent failed to perform the scope of work necessary to develop credible results and misrepresented his scope of work in the appraisal report (including the fact that he did not inspect the Denton Property);

d. USPAP Standards 1-2(f)-(g), 2-1(c), and 2-2(a)(xi) – Respondent failed to disclose all assumptions and hypothetical conditions clearly and accurately, particularly those related to using the Multiple Listing Service in lieu of commercial data sources given that the Denton Property in a 4-unit apartment complex;

e. USPAP Standards 1-2(e), 1-4(f), and 2-2(a)(iii) – Respondent failed to identify and describe the site, any improvements, any anticipated improvements or easements and restrictions adequately, including failing to disclose that the Denton Property encroaches on a neighboring tract of land;

f. USPAP Standards 1-4(b) and 2-2(a)(viii) – Respondent failed to provide support for his exclusion of the cost approach, and failed to conduct a cost approach which should have been conducted as it was necessary for credible assignment results;

g. USPAP Standards -1-1(a), 1-4(a), and 2-2(a)(viii) – Respondent failed to collect, analyze, verify and reconcile comparable sales data adequately and did not employ recognized methods in his sales comparison approach;

h. USPAP Standards 1-4(c) and 2-2(a)(viii) – Respondent failed to collect, analyze, verify and reconcile comparable rental data or potential earnings capacity adequately and did not employ recognized methods and techniques in his income approach;

i. USPAP Standards 1-5(b) and 2-2(a)(viii) – Respondent failed to analyze the prior sales history of the Denton Property;

j. USPAP Standard 1-1(b) – Respondent failed to analyze significant and material information about a prior listing of the Denton Property; and,

k. USPAP Standards 1-1(b)-(c) and 2-1(a) – Respondent produced a misleading appraisal containing substantial errors of omission or commission as detailed above that affected the appraisal and made it not credible.

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

CONCLUSIONS OF LAW

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

8. 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).

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

10. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(24) and 153.24(6) by failing to provide requested documentation and work file materials for both complaint matters timely.

11. 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 state certification (TX-1320506-G) is hereby revoked for twenty-four (24) months, with this revocation being fully probated under the following terms and conditions:

1. **EDUCATION.** On or before May 17, 2016, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to

ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider;

i. A minimum, 15 hour classroom course in the income approach.

2. **MENTORSHIP**. On or before February 17, 2016, Respondent shall complete four (4) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion;

i. Four (4) hours of mentorship concerning the income approach.

3. **ADMINSTRATIVE PENALTY.** Respondent shall pay to the Board an administrative penalty of Two Thousand Dollars ($2,000.00) via (20) twenty, monthly installment payments of $100.00, by cashier's check or money order.

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

a) $100.00 on or before December 5, 2015;

b) $100.00 on or before January 5, 2016;

c) $100.00 on or before February 5, 2016;

d) $100.00 on or before March 5, 2016;

e) $100.00 on or before April 5, 2016;

f) $100.00 on or before May 5, 2016;

g) $100.00 on or before June 5, 2016;

h) $100.00 on or before July 5, 2016;

i) $100.00 on or before August 5, 2016;

j) $100.00 on or before September 5, 2016;

k) $100.00 on or before October 5, 2016;

l) $100.00 on or before November 5, 2016;

m) $100.00 on or before December 5, 2016;

n) $100.00 on or before January 5, 2017;

o) $100.00 on or before February 5, 2017;

p) $100.00 on or before March 5, 2017;

q) $100.00 on or before April 5, 2017;

r) $100.00 on or before May 5, 2017;

s) $100.00 on or before June 5, 2017; and,

t) $100.00 on or before July 5, 2017.

4. **COMPLIANCE WITH PRIOR ORDER.** On or before November 19, 2016, Respondent shall comply with all of the terms of the previous Agreed Final Order for complaint #13-187; and,

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

ACKNOWLEDGMENT AND WAIVER

RESPONDENT'S FAILURE TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS SPECIFIC, STATED DUE DATES, SHALL RESULT IN THE AUTOMATIC REVOCATION OF PROBATION AND THE REVOCATION IMPOSED IN THIS AGREED FINAL ORDER SHALL BE EFFECTIVE ON THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION.

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

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

extinguishing the right to bring suit on the matter by the parties or those in privity with them. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

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

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

DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE

Respondent is solely responsible for timely delivery to the Board of all documents necessary for compliance of this Agreed Final Order. 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 and Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, Texas 78701.

EXECUTION

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

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

RESPONDENT

Signed this 8 day of Oct, 2015.

Joe Jeffrey Roberts

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 8th day of October, 2015, by Joe Jeffrey Roberts, witnessed by my hand and official seal.

EVELYN CANNON
My Commission Expires
February 10, 2018

Notary Public's Signature

STANDARDS AND ENFORCEMENT SERVICES DIVISION

Signed by the Standards and Enforcement Services Division this 9th day of OCTOBER, 2015.

Troy Beaulieu

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

COMMISSIONER

Signed by the Commissioner this 12 day of Oct, 2015.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

CHAIRPERSON

Approved by the Board and Signed this ____ day of _____, 2015.

_____

Jamie Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
	§	
	§	
vs.	§	DOCKETED COMPLAINT NO.
	§	13-187
	§	
JOE J. ROBERTS	§	
TX-1320506-G	§	

AGREED FINAL ORDER

On the 21 day of NOV, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Joe J. Roberts (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 TX-1320506-G and was certified by the Board during all times material to the above-noted complaint.

2. Respondent appraised residential real property located at: 6936 Country Road 527, Burleson, Texas 76028 (the "Property") on or about January 30, 2013.

3. Thereafter, a complaint was filed with the Board by Deb Nikodym, an employee of Rels Valuation, 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 he had inspected the property when he 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(b)(vii) – Respondent failed to develop and perform the scope of work necessary to develop credible assignment results;

d) USPAP Standards 1-2(f), 2-1(c) & 2-2(b)(x) – Respondent failed to set forth extraordinary assumptions clearly and accurately which directly affected his analyses, opinions and conclusions;

e) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report adequately the site and improvements description;

f) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed to consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature;

g) 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 his determination of the property's highest and best use;

h) 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;

i) 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;

j) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-1(b) – Respondent failed to collect, verify, analyze and reconcile accrued depreciations and did not employ recognized methods and techniques;

k) 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;

l) USPAP Standards 1-6(a), (b) & 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used and the applicability or suitability of the approaches; and,

m) 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. He also misrepresented that she inspected the property when he 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-1320506-G) be suspended, effective 5:00 p.m. (CST) on November 21st, 2014 and ending at 5:00 p.m. (CST) on November 20th, 2016. IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on November 21st, 2014, the suspension is to be fully probated for 24 months, ending 5:00 p.m. (CST) on November 20th, 2016, subject to the following terms and conditions:

1. **EDUCATION.** On or before November 20th, 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 Residential Report Writing;

   i. No examination shall be required;

2. **MENTORSHIP.** On or before February 20th, 2015, 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 Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.**

   a. 3 hours of mentorship in sales comparison approach;

   b. 2 hours of mentorship in residential report writing; and,

   c. 3 hours of mentorship in the cost approach.

3. **PREVENTATIVE POLICIES & PROCEDURES.** On or before February 20th, 2015, Respondent shall submit to the Board written preventative policies and procedures addressing the topic areas itemized above in which he identifies, describes and details newly developed appraisal practice policies and procedures he will apply to his appraisal practice going forward in order to avoid future problems with his work product.

4. **ADMINISTRATIVE PENALTY.** On or before December 11th, 2014, Respondent shall pay to the Board an administrative penalty of two thousand dollars ($2,000.00), by cashier's check or money order, within twenty (20) days of the effective date of this order (i.e. on or before December 11th, 2014).

5. **TRAINEES.** Respondent shall not sponsor any trainees during the entire 24 month period of probation, ending on November 20th, 2016.

6. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and

7. 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 term in this agreed final order, which has a specific, stated due date, the Respondent shall also 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 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 17 day of September, 2014.

JOE J. ROBERTS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 17th day of September, 2014, by JOE J. ROBERTS, to certify which, witness my hand and official seal.

Bryan Hull

Notary Public Signature

Bryan Hull

Notary Public's Printed Name

BRYAN HULL
My Commission Expires
March 22, 2016

Signed by the Standards and Enforcement Services Division this 15TH day of OCTOBER, 2014.

Troy Beaulieu

Troy Beaulieu, Staff Attorney
Texas Appraiser Licensing and Certification Board

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

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

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

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

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
	§	
	§	
	§	
vs.	§	DOCKETED COMPLAINT NO. 14-149 & 15-222
	§	
	§	
LARRY S. JONES TX-1322720-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 Larry S.Jones (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-1322720-G and was certified by the Board during all times material to the above-noted complaint.

2. Respondent appraised residential real property (modular home) located at 6701 County Road 57, Midland, Texas (the "Property"), on or about May 24th, 2013.

3. Thereafter, the complaint, numbered 14-149, was filed with the Board by a financial institution, on or about February 21st, 2014. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").

4. Complaint number 15-222 was filed by the Board on or about April 24, 2015 based upon documentation submitted to the Board in conjunction with an experience audit being conducted on work submitted by Respondent's appraiser trainee (Dedra Hardy) as part of her application for licensure. 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").

5. The Board, in accordance with the mandate of TEX.GOV'T CODE ANN. CHPT. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved, on or about March 7th, 2014 and April

24th, 2015, respectively. Respondent was afforded an opportunity to respond to the accusations in each complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about April 8th, 2014 and July 13th, 2015, respectively.

6. As a result of the Board's investigation into complaint 14-149, 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 of the Property:

a) USPAP Record Keeping Rule- Respondent failed to provide the data in the work file to support appraiser's opinions and conclusions, and to show compliance with USPAP;

b) USPAP Standards 1-2 (c) and 2-2(b)(v) – Respondent failed to address exposure time as a component of the definition of value and did not develop an opinion of reasonable exposure time linked to the value opinion;

c) USPAP Standard 1-2(f)-(g), 2-1(c), and 2-2(b)(x) - Respondent failed to notify intended users that the extraordinary assumptions might have affected assignment results;

d) USPAP Standard 1-2(e)(i) and 2-2(b)(iii) – Respondent failed to identify the characteristics of the Property relevant for value definition and intended use. Respondent also failed to document in the report or in the work file what materials would be used to construct the proposed improvements;

e) USPAP Standards 1-4(b)(ii) and 2-2(b)(viii); 1-1(a) – Respondent failed to provide his supporting rationale for his site value determinations and explain how he reached his conclusions. Respondent did not employ recognized methods and techniques in his cost approach;

f) USPAP Standard 1-4(a) and 2-2(b)(viii); 1-1(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and employ recognized methods and techniques in the sales comparison approach;

g) USPAP Standards 1-5(b) and 2-2(b)(viii) – Respondent failed to analyze a prior sale of the Property that occurred 1 month prior to the effective date of his appraisal which he was aware of;

h) USPAP Standards 1-2(e) and 2-2(a)(viii) –Respondent failed to analyze the effect on value of the assemblage of the lot and the modular home; and,

i) USPAP Standard 1-1(b), 1-1(c) and 2-1(a) – Respondent rendered appraisal services in a careless and negligent manner. Respondent committed substantial errors of commission as detailed above. In addition, he misrepresented to the intended users of the report that he was a member of the Appraisal Institute when he was not. As a result, Respondent's appraisal report was misleading.

7. Respondent made material misrepresentations and omissions of material fact with respect to the appraisal of the Property as detailed above.

8. As a result of the Board's investigation into complaint 15-222, Respondent made material misrepresentations and submitted false documents to the Board in conjunction with an experience audit being conducted on work submitted by his appraiser trainee (Dedra Hardy) as part of her application for licensure. These statements and documents relate to the content and nature of the appraisal reports Ms. Hardy claimed credit for on her experience log, some of which were submitted to Board staff for audit. These appraisal assignments include: 6701 E. County Road 57, Midland, Texas; 5712 104th Street, Lubbock, Texas, and 5718 67th Street, Lubbock, Texas.

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

CONCLUSIONS OF LAW

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

2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).

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

4. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(14) by attempting to procure a license by making false, misleading or fraudulent representations to the Board.

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

ORDER

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that Respondent's Texas state certification (TX-1322720-G) is hereby revoked for eighteen (18) months, with this revocation being fully probated under the following terms and conditions:

1. **EDUCATION**. On or before May 17, 2016, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count

toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.

a. A minimum 15 classroom hour course in USPAP;

b. A minimum 4 classroom hour course covering the supervisory appraiser / trainee relationship;

2. **MENTORSHIP**. On or before March 31, 2016, Respondent shall complete seven (7) 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. Three (3) hours in the sales comparison approach;

   b. Two (2) hours in prior sales history analysis and reporting; and,

   c. Two (2) hours on report writing.

3. **ADMINISTRATIVE PENALTY**. Respondent shall pay to the Board an administrative penalty of Five Thousand Dollars ($5,000.00) via (2) two installment payments by cashier's check or money order. Payments shall timely be delivered to the Board based on the following payment schedule:

   a. $500.00 payable on or before December 10, 2015; and,

   b. $4,500.00 payable on or before February 1, 2016.

4. **TRAINEES**. Respondent shall not supervise any appraiser trainees for twelve (12) months, from November 21, 2015 through November 20, 2016.

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

RESPONDENT'S FAILURE TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS SPECIFIC, STATED DUE DATES, SHALL RESULT IN THE AUTOMATIC REVOCATION OF PROBATION AND THE REVOCATION IMPOSED IN THIS AGREED FINAL ORDER SHALL BE EFFECTIVE ON THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION.

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

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

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

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

DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE

Respondent is solely responsible for timely delivery to the Board of all documents necessary for compliance of this Agreed Final Order. 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 and Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, Texas 78701.

EXECUTION

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

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

RESPONDENT

Signed this 22nd day of October, 2015.

LARRY S. JONES

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 22nd day of October, 2014, by LARRY S. JONES, to certify which witness my hand and official seal.

Notary Public's Signature

Alexis Anderson
Notary Public's Printed Name

ALEXIS ANDERSON
Notary Public, State of Texas
My Commission Expires
9/3/2017

RESPONDENT'S ATTORNEY

Signed and approved as to form by Respondent's Attorney this 22 day of October, 2015.

TED WHITMER, Respondent's Attorney

STANDARDS AND ENFORCEMENT SERVICES DIVISION

Signed by the Standards and Enforcement Services Division this 22nd day of October, 2015.

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

COMMISSIONER

Signed by the Commissioner this 23 day of Oct, 2015.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

CHAIRPERSON

Approved by the Board and Signed this ____ day of _____, 2015.

Jamie Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
vs.	§	DOCKETED COMPLAINT NO. 14-228
LINDA D. WEBB TX-1324809-G	§	

AGREED FINAL ORDER

On the _____ day of _____, 2015, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Linda D. Webb (the "Respondent").

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

FINDINGS OF FACT

1. Respondent is a Texas state certified general real estate appraiser who holds Certification number TX-1324809-G and was certified by the Board during all times material to the above-noted complaint.

2. Respondent appraised residential real property located at 5 Pinehurst Street, Abilene, Texas 79606 (the "Abilene Property"), on or about September 3, 2013.

3. Thereafter, complaint number 14-228, was filed with the Board by an Appraisal Management Company on or about May 28, 2014. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (the "Act") and 22 TEX. ADMIN. CODE CH. 153 and 155 (the "Rules").

4. The Board, in accordance with the mandate of TEX.GOV'T CODE ANN. CH. 2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved in this complaint, on or about June 3, 2014. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about June 27, 2014.

5. As a result of the Board's investigation into complaint 14-228, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Abilene Property:

a. USPAP Standards 1-2(e), 1-4(g), and 2-2(b)(viii) –Respondent failed to identify and describe the site and improvements accurately; Respondent failed to identify and consider the effect on value of any personal property;

b. USPAP Standards 1-3(a) and 2-2(b)(viii) – Respondent failed to analyze the effect on use and value of economic supply and demand and market area trends;

c. USPAP Standards 1-4(a), 1-4(b)(i) and (b)(iii) and 2-2(b)(viii); 1-1(a) – Respondent failed to use an appropriate method or technique to develop her site value opinion and failed to analyze comparable data to estimate the difference between cost new and the present worth of improvements;

d. USPAP Standards 1-4(a) & 2-2(b)(viii) – Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately;

e. USPAP Standards 1-5(b), and 2-2(b)(viii) - Respondent failed to analyze a prior sale of the Abilene Property which occurred within three (3) years prior to the effective date of the appraisal; and,

f. USPAP Standards 1-1(b)-(c) and 2-1(a) – As detailed above, Respondent made substantial errors of omission or commission that were negligent and misleading, and affected the resulting appraisal significantly.

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

CONCLUSIONS OF LAW

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

8. 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).

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

10. 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** Respondent to do the following:

1. **EDUCATION**. On or before May 17, 2016, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.

   a. A minimum, 15 hour classroom course in USPAP (with exam).

2. **MENTORSHIP**. On or before February 17, 2016, Respondent shall complete twelve (12) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.

   a. Four (4) hours of mentorship concerning comparable selection and analysis;

   b. Two (2) hours of mentorship concerning market analysis;

   c. Two (2) hours of mentorship concerning Fannie Mae/Freddie Mac appraisal guidelines; and,

   d. Four (4) hours of mentorship concerning appraisal report writing.

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

ACKNOWLEDGMENT AND WAIVER

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

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

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

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

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

DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE

Respondent is solely responsible for timely delivery to the Board of all documents necessary for compliance of this Agreed Final Order. 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 and Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, Texas 78701.

EXECUTION

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

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

RESPONDENT

Signed this 23 day of October, 2015.

Linda D. Webb

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 23 day of October, 2015, by Linda D. Webb, witnessed by my hand and official seal.

CHRISTINE GRAY
Notary Public, State of Texas
My Commission Expires
September 10, 2019

Notary Public's Signature

STANDARDS AND ENFORCEMENT SERVICES DIVISION

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

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

COMMISSIONER

Signed by the Commissioner this 26 day of October, 2015.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

CHAIRPERSON

Approved by the Board and Signed this ____ day of _____, 2015.

Jamie Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
	§	
	§	
	§	
vs.	§	DOCKETED COMPLAINT NO. 15-111
	§	
	§	
PEGGY DIAMOND TX-1326071-R	§	
	§	

AGREED FINAL ORDER

On the _____ day of _____, 2015, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the certification of Peggy Diamond (Respondent).

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

FINDINGS OF FACT

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-1326071-R and was certified by the Board during all times material to the above-noted complaint.

2. Respondent appraised residential real property located at 1300 Bentbrook, Sherman, Texas 75092 ("the Property"), on or about August 16, 2014.

3. Thereafter, the complaint, numbered 15-111, was filed with the Board by an appraisal management company, on or about December 12, 2014. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (Rules).

4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about December 12, 2014. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about February 9, 2015.

5. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the

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

a. USPAP Record Keeping Rule – Respondent failed to maintain a work file containing all documentation necessary to support her analyses, opinions and conclusions;

b. USPAP Competency Rule; USPAP Scope of Work Rule; 1-2(h) and 2-2(a)vii) – Respondent failed to perform the appraisal assignment for the Property in a competent manner and did not perform a scope of work necessary for development of credible assignment results;

c. USPAP Standards 1-2(e), 2-2(a)(iii), and 2-2(a)(viii); 1-3(a)-(b), 2-2(a)(viii) and 2-2(a)(ix) – Respondent failed to identify and describe the site and improvements accurately and did not address easements, or restrictions, and incorrectly reported the Property's zoning. Respondent also failed to analyze the effect on use and value of existing land use regulations and develop and providing a supporting explanation for her highest and best use determination;

d. USPAP Standards 1-4(b) and 2-2(a)(viii); 1-1(a) – Respondent failed to use an appropriate method or technique to develop her site value determination and generally did not employ recognized methods and techniques in her cost approach with regards to site value and depreciation. She also failed to collect, verify, and analyze cost data to determine the cost new of the improvements and to calculate accrued depreciation (related to obsolescence from the Property's in ground pool);

e. USPAP Standards 1-4(a) and 2-2(a)(viii); 1-1(a) – Respondent failed to collect, verify and analyze comparable sales data and did not employ recognized methods and techniques in the sales comparison approach both in terms of selection of sales and in the analysis and application of adjustments for any differences between the sales and the Property;

f. USPAP Standards 1-5(a) and (b) and 2-2(a)(viii) – Respondent failed to analyze the contact for the Property and a prior sale of the Property which occurred within 3 years prior to the effective date of her report; and,

g. USPAP Standards 1-1(b), 1-1(c) and 2-1(a) – For the reasons detailed above, Respondent produced a report for the Property which contained careless errors and substantial errors of omission or commission which resulted in a misleading appraisal report for the Property and was not credible.

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

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

CONCLUSIONS OF LAW

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

2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).

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

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

ORDER

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

1. **EDUCATION**. On or before May 17, 2016, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.

   a. A minimum, 15 hour classroom course in USPAP;

   b. A minimum, 7 hour classroom course in residential report writing;

2. **MENTORSHIP**. On or before February 17, 2016, Respondent shall complete sixteen (16) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final

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

a. Six (6) hours in the sales comparison approach (both selection of sales and analysis and support for adjustments);

b. Six (6) hours in the cost approach (including site valuation, cost new of improvements and market-derived depreciation analysis and support); and,

c. Four (4) hours in scope of work development.

3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and

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

ACKNOWLEDGMENT AND WAIVER

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

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

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

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

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

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

DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE

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

RESPONDENT

Signed this 15th day of October, 2015.

PEGGY DIAMOND

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 15th day of October, 2015, by PEGGY DIAMOND, to certify which witness my hand and official seal.

Notary Public's Signature

CASEY FOX
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
08-24-2017

STANDARDS AND ENFORCEMENT SERVICES DIVISION

Signed by the Standards and Enforcement Services Division this 27th day of OCTOBER, 2015.

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

COMMISSIONER

Signed by the Commissioner this 27 day of October, 2015.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

CHAIRPERSON

Approved by the Board and Signed this ____ day of _____, 2015.

Jamie Wickliffe, Chairperson
Texas Appraiser Licensing and Certification Board

AGENDA ITEM 7(a)

Discussion and possible action to approve request for modification of agreed order in the matter of Complaint #11-164 and Docketed Denial (John Hiram Goddard, TX-1338543-L).

Dione Frederick

From: West Texas Services <westtexasservices@gmail.com>
Sent: Tuesday, October 27, 2015 8:19 AM
To: Enforcement TALCB
Subject: Re: November 20th Board Meeting Agenda

Mr. Wolfe,

Mr. Goddard spoke with you yesterday and is in agreement of 36 hours of mentorship and the 100 hours of course work and also the review of 2 samples of work. I do plan on being at the board meeting on November 20.

Thank you,

Liz Overton
Assistant to John Goddard

Liz Overton

Accu-Spec & West Texas Pest Control
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On Thu, Oct 22, 2015 at 9:46 AM, Enforcement TALCB <enforcement.talcb@trec.texas.gov> wrote:

> Mr. Goddard,
>
> Please call me at (512) 936-3625. I did not see a phone number in your request below. I am calling to discuss the following proposal:
>
> (1) Complete thirty-six (36) hours of mentorship (covering the deficiencies itemized in the order) with a Board approved mentor w/in 6 months;
>
> (2) After completion of the mentorship, complete and submit an experience log and affidavit with 100 additional/new hours of appraisal work; and

(3) Board staff will review two (2) samples of the work product from the experience log for compliance with USPAP.

This above proposal would replace the 500 hour requirement in your attached agreed final order. If agreeable, we will place the above modification on the Board agenda and recommend the Board approve the modification.

I look forward to hearing from you.

Thank you,

KYLE WOLFE

Attorney | Texas Appraiser Licensing and Certification Board

1700 N. Congress Avenue, Ste. 400 | Austin, TX 78701

512-936-3625 | 512-936-3966 (fax)

kyle.wolfe@talcb.texas.gov | www.talcb.texas.gov

From: West Texas Services [mailto:westtexasservices@gmail.com]
Sent: Friday, October 16, 2015 11:23 AM
To: Enforcement TALCB <enforcement.talcb@trec.texas.gov>
Cc: John Goddard <westpest1@yahoo.com>
Subject: November 20th Board Meeting Agenda

Hello,

Mr. John Goddard, TALCB # 1338534 would like to be added to the agenda for the November 20, 2015 board meeting.

Certain portions of disciplinary order from 2011 have been impossible for him to complete. Mr. Goddard would like to discuss the possibility of amending the order during the November 20th meeting with the board.

I have attached a copy of the order from 2011.

Please advise if it is possible to be added to the agenda.

Thank you,

Liz Overton

Assistant to John Goddard

Accu-Spec & West Texas Pest Control
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TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
	§	
	§	
vs.	§	DOCKETED COMPLAINT NO. 11-164
	§	AND DOCKETED DENIAL
	§	
	§	
	§	
JOHN HIRAM GODDARD	§	
TX-1338543-L	§	

AGREED FINAL ORDER

On this the _____ day of _____, 2011, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the license of John Hiram Goddard (Respondent) and his application for certification.

In order to conclude this matter John Hiram Goddard 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 Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent, John Hiram Goddard, is a state licensed real estate appraiser who currently holds and held license number TX-1338543-L or trainee authorization TX-1329944-T during all times material to the above-noted complaint case.

2. Respondent appraised 2245 Christine Street, Pampa, TX 79065 ("the Christine property") on or about January 26th, 2009.

3. Respondent appraised 2133 N. Dwight Street, Pampa, TX 79065 ("the 1st Dwight property") on or about January 9th, 2009.

4. Respondent appraised 2133 N. Dwight Street, Pampa, TX 79065 ("the 2nd Dwight property") on or about July 19th, 2010.

5. Thereafter, Respondent filed an application for a state certification with the Board.

6. As part of the application process Respondent's experience (the Christine and Dwight property appraisals) w audited for compliance with the Uniform Standards of Professional Appraisal Practice ("USPAP").

7. The application was initially denied by the Board Staff after his experience submitted in conjunction with application was evaluated.

8. The proposed denial of Petitioner's application was based upon alleged violations of TEX. OCC. CODE §§ 1103.203, 1103.205 and 1103.405 and 22 TEX. ADMIN. CODE §§ 153.15(c), (d) and (f), 153.20(a)(3) and 155.1(a) all stemming from the failure to comply with the USPAP in the Christine and Dwight property appraisals.

9. On or about December 15th, 2010, Troy Beaulieu filed a staff-initiated complaint with the Board based on allegations that the Respondent had produced appraisal report for the properties that contained various USPAP violations.

10. On or about December 16th, 2010 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent's response to this complaint was received.

11. Respondent and the Board have reached agreement on resolution of this application denial matter and all pending complaint matters and wish to fully resolve these proceedings by means of this Agreed Final Order.

12. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Christine property:

    a) Respondent failed to comply with the record keeping provisions of the Ethics Rule;

    b) Respondent failed to identify and report the site and improvement(s) description adequately;

    c) Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply & demand, physical adaptability of the real estate and market area trends;

    d) Respondent failed to provide support for his determination of the property's highest and best use;

    e) Respondent failed to use an appropriate method or technique to determine site value and did not provide support for the site value determination, failed to collect, verify, analyze and reconcile the cost new of improvements, accrued depreciations, and generally failed to employ recognized methods and techniques in his cost approach;

f) Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized techniques in his sales comparison approach;

g) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the Christine property.

13. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the 1st Dwight property:

a) Respondent failed to comply with the record keeping provisions of the Ethics Rule;

b) Respondent failed to identify the intended use of her opinions and conclusions and failed to identify the date of the report;

c) Respondent failed to clearly and accurately disclose any extraordinary assumption, hypothetical condition, or limiting condition that directly affects the analysis, opinions, and conclusions;

d) Respondent failed to identify and report the site and improvement(s) description adequately;

e) 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;

f) Respondent failed to provide support for her determination of the property's highest and best use;

g) Respondent failed to use an appropriate method or technique to determine site value and did not provide support for the site value determination, failed to collect, verify, analyze and reconcile the cost new of improvements, accrued depreciations, and generally failed to employ recognized methods and techniques in her cost approach;

h) Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and failed to employ recognized techniques in her sales comparison approach;

i) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the Dwight property;

j) Respondent failed to analyze all agreements of sale, options or listings of the subject current as of the effective date of the appraisal;

k) Respondent failed to analyze all sales of the subject within three years prior to the effective date of the appraisal;

l) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the Dwight property.

14. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the 2nd Dwight property:

a) Respondent failed to comply with the record keeping provisions and prior service provisions of the Ethics Rule;

b) Respondent failed to identify the type and definition of value and its source;

c) Respondent failed to indicate whether the value estimate is in terms of cash or terms equivalent to cash and other precisely defined terms or non market financing;

d) Respondent failed identify the date of the report;

e) Respondent failed to identify and report the site description adequately;

f) 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;

g) Respondent failed to provide support for his determination of the property's highest and best use;

h) Respondent failed to use an appropriate method or technique to determine site value and did not provide support for the site value determination, failed to collect, verify, analyze and reconcile the cost new of improvements, accrued depreciations, and generally failed to employ recognized methods and techniques in his cost approach;

i) Respondent failed to employ recognized techniques in his sales comparison approach;

j) Respondent failed to analyze all agreements of sale, options or listings of the subject current as of the effective date of the appraisal;

k) Respondent failed to analyze all sales of the subject within three years prior to the effective date of the appraisal;

l) Respondent failed to include a signed certification in his report; and,

m) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the 2nd Dwight property.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (ethics, record keeping, & prior service); USPAP Standards: 1-2(c) & 2-2(b)(v); 2-2(b)(vi); 1-2(b) & 2-2(b)(ii); 2-2(b)(vi); 1-2(f) or 1-2(g) & 2-1(c); 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-5(a) & 2-2(b)(viii); 1-5(b) & 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); 2-1(a) and, 2-3 & 2-2(b)(xi).

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

This Agreed Final Order entered into between John Hiram Goddard and the Board is hereby approved. Once John Hiram Goddard satisfies the terms of this Order, the Board directs staff to issue John Hiram Goddard a state certification. Based on the above findings of fact and conclusions of law, the Board **ORDERS** that prior to issuance of a state certification the Respondent shall:

a. Attend and complete a minimum, 15 classroom-hour course in USPAP;

b. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;

c. Attend and complete a minimum, 7 classroom-hour course in Quality Control;

i. No examination shall be required for this course;

d. John Hiram Goddard shall complete a minimum of 500 additional hours of real estate appraisal activity under the supervision and mentorship of a certified real property appraiser which must satisfy experience credit criteria under the Texas Appraiser Licensing and Certification Act and applicable Board rules. Upon completion of the additional hours, John Hiram Goddard shall submit a signed and notarized experience log and affidavit to the Board for auditing to ensure the additional hours submitted comport with experience credit criteria.

e. 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.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for licensure or certification.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's license or certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

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 shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's license or certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent complies with all the terms of this Agreed Final Order.

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

delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 22 day of March, 2011.

JOHN HIRAM GODDARD

TED WHITMER, ATTORNEY FOR
JOHN HIRAM GODDARD

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 22 day of March, 2011, by JOHN HIRAM GODDARD, to certify which, witness my hand and official seal.

Notary Public Signature

MARSHA D. POOLE
NOTARY PUBLIC,
STATE OF TEXAS
My Commission Expires 09-22-2012

Marsha D. Poole
Notary Public's Printed Name

Signed by the Standards and Enforcement Services Division this 19th day of MAY, 2011.

Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 20th day of May, 2011.

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 20th day of May, 2011.

~~James B. Ratliff, Chairperson~~ Luis De La Garza
Texas Appraiser Licensing and Certification Board

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
	§	
	§	
vs.	§	DOCKETED COMPLAINT NO.
	§	11-164 AND
	§	DOCKETED DENIAL
	§	
John Hiram Goddard	§	
TX-1338543-L	§	

FINAL ORDER

On this 9th day of November, 2012, the Board considered the above-noted matter, in which an Agreed Final Order was previously entered by the Board on May 20, 2011.

The Texas Appraiser Licensing and Certification Board, after review and due consideration of Respondent's request for modification of the previously entered Agreed Final Order, attached hereto as Exhibit A, now enters this Final Order modifying the previously entered Agreed Final Order.

NOW, THEREFORE, IT IS ORDERED by the Texas Appraiser Licensing and Certification Board that John Hiram Goddard's request for modification of the Agreed Final Order to allow the mentorship hours requirement to be completed via long distance communication by telephone, email, or interactive internet technology with Mr. Jim Jacob is approved.

Approved by the Board and signed this 9th day of November, 2012.

Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board

AGENDA ITEM 7(b)

Discussion and possible action to approve request for modification of agreed order in the matter of Complaint #14-023 (Billy James Williams, TX-1326207-G).

Dione Frederick

From: Bill Williams <bjwwms@gmail.com>
Sent: Tuesday, October 27, 2015 12:56 PM
To: Kyle Wolfe
Subject: RE: Class courses

Kyle, I am trying to keep it as simple as possible. I just want to get it over with ASAP and go on with my life. I have also included a COC of a 2014-2015 7 Hour class on USPAP that I took 03/13/2015. Just to let you know. Please treat as a request that I will take in January. If I find a course from another provider I will take it. Thank you for your assistance in this matter.

From: Kyle Wolfe [mailto:Kyle.Wolfe@trec.texas.gov]
Sent: Tuesday, October 27, 2015 12:22 PM
To: Bill Williams
Subject: RE: Class courses

Mr. Williams,

Our office will update your file with the competed class certificates.

Any extension request requires the Board to modify your agreed final order. Do you want me to treat your extension request as a modification request to take the report writing course on January 16–17? If so, our office will place the modification request on the upcoming Board agenda.

Please respond at your earliest convenience to ensure the modification request is timely.

Please feel free to call or email if you have any questions, comments, or concerns.

Thank you,

KYLE WOLFE
Attorney | Texas Appraiser Licensing and Certification Board
1700 N. Congress Avenue, Ste. 400 | Austin, TX 78701
512-936-3625 | 512-936-3966 (fax)
kyle.wolfe@talcb.texas.gov | www.talcb.texas.gov

From: Bill Williams [mailto:bjwwms@swbell.net]
Sent: Tuesday, October 27, 2015 11:15 AM
To: Kyle Wolfe <Kyle.Wolfe@trec.texas.gov>
Subject: Class courses

Kyle, attached you will find the three classes I have completed as per the requirements. I had scheduled the appraisal Report writing Class for Oct 10,11. It was canceled the Friday prior to the class commencing. Texas OU week end. The required number of students cancelled or something. I am requesting an extension for the final class. It is scheduled in Dallas for Jan 16-17. I will spend some time today searching for another provider that might have a 15 hr report writing class. The 15 hr is the problem. Can any other class be substituted or possibly two 7 hr classes. I must renew my license prior to 05/31/2016 and I am going to be taking an additional 28 for that and as stated the hours I have taken cannot be used in that. I need some help, advise or whatever. Thanks for your immediate attention to this matter.

Bill Williams
PO Box 1134
Gainesville, TX 76241-1134
Office: 940-665-0376
Fax: 940-665-8011
Cell: 940-736-6377
Email: bjwwms@gmail.com

SALES RECEIPT

Champions School of Real Estate
Dallas North Campus
3721 Mapleshade Lane
Plano, Texas 75075
972-867-4100
www.ChampionsSchool.com

11/06/2015
1:33pm

Customer:	Bill Williams
Payment method:	CrCd-American Express
Clerk:	kdoyle
Card holder:	Bill Williams
Card number:	xxxxxxxxxxx1005
Approval code:	242251

Subtotal: 199.00 **Owed:** 199.00 **Paid:** 199.00 **Balance Due:** 0.00

Type	Name	Price	Discount	Owed	Paid
Course	**APP QE - Report Writing (CL)** Dallas North Campus 8:30am-4:45pm Jan 16-17	199.00	0.00	199.00	199.00
Material	Appraisal Report Writing	0.00	0.00	0.00	0.00

REFUND POLICY

- Course Refunds
  - Correspondence courses are refundable **WITHIN 5 DAYS** from date of purchase. After the 5 days, courses are non-refundable.
  - Online courses are refundable **WITHIN 5 DAYS** from date of purchase. After the 5 days, courses are non-refundable.
  - All other courses are refundable **WITHIN 5 DAYS** from date of purchase. After the 5 days, courses are non-refundable.
  - The Prep course is Non-Refundable once a student has picked up their textbook or attended any portion of the class.
  - All courses have a $20 non-refundable fee.
- Textbook Refunds
  - All textbooks are included in class prices. Additional textbooks can be purchased individually.
  - There are NO refunds on textbooks or software. All sales are final. If an item is defective we will gladly exchange it for a new one of the same version within ten (10) days of your purchase date.

Electronic Check Transfer

When you provide a check as payment, you authorize us to use information from your check to make a one-time electronic fund transfer from your account. Funds may be withdrawn from your account as soon as the same day we receive your payment, and you will not receive your check back from your financial institution.

Signature: _____

Thank You For Your Business

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
	§	
	§	
	§	
vs.	§	DOCKETED COMPLAINT NO. 14-023
	§	
	§	
Billy James Williams TX-1326207-G	§	

AGREED FINAL ORDER

On the 21 day of NOV, 2014, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certifcation of Billy James Williams (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 certifcation number TX-1326207-G and was certified by the Board during all times material to the above-noted complaint.

2. Respondent appraised residential real property located at 6151 Southmayd Road, Collinsville, Texas 76233 (the "Property") on or about April 15, 2013 and September 13, 2013.

3. Thereafter, the complaint, numbered 14-023, was filed with the Board by Robert Lambert, on or about September 19, 2013. The Board investigated the complaints 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, on or about September 30, 2013. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent responded with documentation, on or about October 22, 2013.

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 reports for the Property:

a. USPAP Ethics Rule – Respondent knowingly communicated an appraisal report that was misleading; Respondent failed to report that appraisal services performed on the subject property within the three (3) year period immediately preceding acceptance of an assignment;

b. USPAP Record Keeping Rule – Respondent failed to create and maintain a workfile containing all data, information, and documentation necessary to support the opinions and conclusions in the appraisal;

c. USPAP Scope of Work Rule, USPAP Standards Rule 1-2(h) and 2-2(b)(viii) – Respondent failed to perform the scope of work necessary for credible assignment results;

d. USPAP Standards Rule 1-4(f) and 2-2(b)(viii) – Respondent failed to identify report improvements on the site;

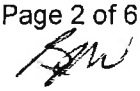
e. USPAP Standards Rule 1-3(b) and 2-2(ix) – Respondent failed to properly develop the opinion of highest and best use;

f. USPAP Standards Rule 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;

g. USPAP Standards Rule 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;

h. USPAP Standards Rule 1-6(a), 1-6(b) and 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches; and

i. USPAP Standards Rule 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 appraisals 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 Act.

2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(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** that Respondent's Texas state real estate appraiser certifcation (TX-1326207-G) is hereby suspended for eighteen (18) months, with this suspension being fully probated under the following terms and conditions:

1. **EDUCATION.** On or before November 21, 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 licensure. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**

    a. A classroom course on USPAP, a minimum of fifteen (15) class hours, on or before November 21, 2015.

b. A classroom course on residential report writing, a minimum of fifteen (15) class hours, on or before November 21, 2015.

c. A classroom course on the cost approach, a minimum of fifteen (15) class hours, on or before November 21, 2015.

d. A classroom course on market analysis, a minimum of fifteen (15) class hours, on or before November 21, 2015.

2. **ADMINISTRATIVE PENALTY.** On or before December 11, 2014, Respondent shall pay to the Board an administrative penalty of three thousand dollars ($3,000), by cashier's check or money order, within twenty (20) days of the effective date of this Agreed Final Order.

3. **TRAINEES**. Respondent shall not sponsor any trainees for twelve (12) months, beginning on November 21, 2014.

4. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and

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

ACKNOWLEDGMENT AND WAIVER

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.

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.

RESPONDENT

Signed this 28 day of August, 2014.

RITA F. GREER
Notary Public
STATE OF TEXAS
My Comm. Exp. February 24, 2016

Billy James Williams

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 28th day of August, 2014, by Billy James Williams, to certify which witness my hand and official seal.

Notary Public's Signature

Rita F. Greer
Notary Public's Printed Name

STANDARDS AND ENFORCEMENT SERVICES DIVISION

Signed by the Standards and Enforcement Services Division this 29th day of AUGUST, 2014.

Kyle Wolfe, Staff Attorney
Texas Appraiser Licensing and Certification Board

COMMISSIONER

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

Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

CHAIRPERSON

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

Jamie Wickliffe, 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 #329-15-4424.ALC (William Edward Mercer, Unlicensed).

State Office of Administrative Hearings

Cathleen Parsley
Chief Administrative Law Judge

October 21, 2015

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

VIA INTERAGENCY

RE: Docket No. 329-15-4424.ALC; Texas Appraiser Licensing and Certification Board v. William Edward Mercer

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 Tex. Admin. Code § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

Henry D. Card
Administrative Law Judge

HDC/lh
Enclosure
xc: Kyle Wolfe, Staff Attorney, 1700 N. Congress Ave., Suite 400, Austin, TX – **VIA INTERAGENCY**
Greg Wilhelm, Law Offices of Gregory E. Wilhelm, PC, P.O. Box 2539, Waxahachie, TX 75168 - **VIA REGULAR MAIL**
Mark Mrnak, TALCB, 1700 N. Congress Ave., Suite 400, Austin, TX 78701 – (with 1 hearing CD(s); Certified Evidentiary Record) **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

Upload Date: 20151021135825 Account Number: 16 Upload Description: 15-4424.ALCPFD

SOAH DOCKET NO. 329-15-4424.ALC

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD,	§	**BEFORE THE STATE OFFICE**
Petitioner	§	
	§	**OF**
v.	§	
	§	
WILLIAM EDWARD MERCER,	§	
Applicant	§	**ADMINISTRATIVE HEARINGS**

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Appraiser Licensing and Certification Board (Board) denied the application of William Edward Mercer for a real estate appraiser trainee designation. Mr. Mercer appealed the denial, which was based on Mr. Mercer's criminal history. The Administrative Law Judge (ALJ) concludes that, based on the evidence presented and the applicable law, the Board should deny the application.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

No issues were raised regarding jurisdiction or notice. Accordingly, those matters are addressed in the Findings of Fact and Conclusions of Law sections below without further discussion here.

The hearing in this matter was held on September 3, 2015, at the State Office of Administrative Hearings (SOAH) before ALJ Henry D. Card. Staff Attorney Kyle Wolfe represented Staff. Attorney Gregory Wilhelm represented Mr. Mercer. The hearing adjourned and the record closed that same day.

II. FACTUAL BACKGROUND AND APPLICABLE LAW

On or about August 25, 2014, the Board received an application for approval as an appraiser trainee from Mr. Mercer. In the application, Mr. Mercer disclosed he had been convicted of the following felonies:

- On or about August 13, 2007, Mr. Mercer was convicted of Unlawful Possession of a Controlled Substance Cocaine, a felony of the third degree, and sentenced to 2 years in penitentiary.[1]

- On or about August 13, 2007, Mr. Mercer was convicted of Burglary of a Building, a state jail felony, and sentenced to 180 days in state jail.[2]

- On or about August 13, 2007, Mr. Mercer was convicted of Evading Arrest/Detention Facility Using Motor Vehicle, Previous Conviction/Enhanced, a state jail felony, and sentenced to 180 days in state jail.[3]

- On or about October 2, 2007, Mr. Mercer was convicted of Possession of a Controlled Substance, a state jail felony, and sentenced to 365 days in state jail.[4]

- On or about October 2, 2007, Mr. Mercer was convicted of Engaging in Organized Criminal Activity, a state jail felony, and sentenced to 365 days in state jail.[5]

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[1] *See* Tex. Health & Safety Code § 481.115(c).

[2] *See* Tex. Penal Code § 30.02(c)(1).

[3] *See* Tex. Penal Code § 38.04(b)(1).

[4] *See* Tex. Health & Safety Code § 481.115(b).

[5] *See* Tex. Penal Code § 71.02.

Mr. Mercer was released on parole on January 31, 2008, and was discharged from parole on March 29, 2009.

The Board sent Mr. Mercer a letter on January 13, 2015, denying his application based on his criminal history. Mr. Mercer appealed the denial and requested a hearing.

Staff contended that Mr. Mercer's application should be denied because he failed to satisfy the Board as to his honesty, trustworthiness and integrity, in violation of Texas Occupations Code § 1103.353(4) and 22 Texas Administrative Code (TAC) § 153.9(d); because he had been convicted of a felony, in violation of 22 TAC § 153.20(a)(2); because he had been convicted of crimes of moral turpitude, in violation of 22 TAC § 153.19(c)(5); because he had committed an offense against public administration, in violation of 22 TAC § 153.19(c)(3); and because he had committed an offense against real or personal property belonging to another, in violation of 22 TAC § 153.19(c)(2).

In evaluating the present fitness for licensure of a person who has committed a crime, the Board is required to consider several factors that are set out in chapter 53 of the Texas Occupations Code and in 22 TAC § 153.19(d) and (e):

> (d) In determining the present fitness of an applicant or license holder who has been convicted of a crime, the Board will consider the following evidence:
>
> (1) the extent and nature of the past criminal activity;
>
> (2) the age at the time of the commission of the crime;
>
> (3) the amount of time that has elapsed since the last criminal activity;
>
> (4) the conduct and work activity prior to and following the criminal activity;
>
> (5) evidence of rehabilitation or rehabilitative effort while incarcerated or following release; and
>
> (6) other evidence of present fitness including letters of recommendation from:
>
> (A) prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility;

(B) the sheriff and chief of police in the community where the applicant or license holder resides; and

(C) any other person in contact with the applicant or license holder.

(e) It shall be the responsibility of the applicant or license holder to the extent possible to secure and provide the Board the recommendations of the prosecution, law enforcement, and correctional authorities, as well as evidence, in the form required by the 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 has been convicted.

Staff had the burden of proof in this proceeding, pursuant to 1 TAC § 155.427.

III. EVIDENCE AND ARGUMENTS

Staff presented copies of the court judgments of conviction against Mr. Mercer, along with his application and various other documents related to the case, such as the notice of hearing. Staff also presented a letter of recommendation sent to the Board from Nick Harris, Pastor Emeritus of Ovilla Road Baptist Church, which Mr. Mercer attends.

Board Appraiser Investigator Marjorie Caldwell testified for Staff. Ms. Caldwell reviewed Mr. Mercer's criminal convictions. She testified that his record showed a lack of honesty and integrity, that burglary and evading arrest were crimes of moral turpitude, that burglary was a crime against another person or another person's property, and that evading arrest was a crime against public administration and authority. In her opinion, any of those crimes would be reason for the Board to reject Mr. Mercer's application. Ms. Caldwell stated she was not aware of any convicted felon who had been licensed by the Board.

Ms. Caldwell emphasized that appraisers serve the public and are allowed access to people's homes and businesses. Often appraisers are alone on that property. Ms. Caldwell stated

that most people do not check their appraiser's background and that the appraisal profession requires a high degree of honesty and trust.

Ms. Caldwell recommended that Mr. Mercer's application be denied. Although Mr. Mercer presented numerous letters of recommendation, those letters did not change Ms. Caldwell's opinion. On cross-examination, she agreed that a Board license does not guarantee trustworthiness, but she opined that it demonstrates to the public that the Board has reviewed an applicant for competence and honesty.

Mr. Mercer testified on his own behalf and presented testimony and letters of recommendation from numerous relatives, ex-relatives, friends, neighbors, supervisors, co-workers, and his pastor.[6] Mr. Mercer, who was 52 years old at the time of the hearing, did not contest that he had been convicted of the crimes in question. In fact, as was noted earlier, he admitted to them and discussed them in his application to the Board.

Mr. Mercer described his period of criminal behavior as an aberration from the course of his life before and after. He explained that he worked for many years in the Circulation Department of the Dallas Morning News. In June of 2006 he resigned from the newspaper after months of turmoil in that Department. Not long before, he and his wife had divorced. In September of 2006, Mr. Mercer tried cocaine, which led to addiction and to the series of crimes of which he was convicted. He explained that he committed burglary to get more money after exhausting his financial assets. The organized criminal activity of which he was also convicted was for a burglary that he and other persons had been intending to commit.

Mr. Mercer stated that he found God while he was incarcerated and used his time in prison to study the Bible and set goals for his life. Upon his release, he set out to rebuild relationships with his family, especially his youngest son, whose mother had passed away in February of 2008. He has remarried, has repaid money he had borrowed from family members,

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[6] Mercer Exs. 1-26.

and has been steadily employed, except for a brief period of time after being laid off. He has taken, and passed, numerous drug tests since his release.

Mr. Mercer was introduced to the appraisal profession through his mother-in-law, Jolee Langness, who is a licensed appraiser and who sponsored his application. He explained that he finds the appraisal profession attractive because he is very detail-oriented.

In addition to writing letters of support, many of Mr. Mercer's family members, and ex-family members, testified on his behalf. Persons who testified included: Tina Askew, his sister, who is a licensed real estate professional; Michelle Conte, his former sister-in-law; Melvin Mercer, his father, who was a detentions office in Dallas County; Mike Gordon, his uncle; Brenda Wagonseller, his aunt; Randy Wagonseller, his uncle; Arlene Tanalski, his former aunt by marriage; Diane Kennedy, also his former aunt by marriage; and Ms. Langness. Their testimony was similar[7] in that they described Mr. Mercer as a person of good character, who had made some bad mistakes, but had turned his life around and improved himself as a person. Generally, the witnesses also described Mr. Mercer as diligent, reliable, helpful, caring, and detail-oriented. Several of the witnesses spoke of having successfully hired people with criminal backgrounds in their own businesses or professional lives. None of Mr. Mercer's witnesses believed he posed any threat to members of the public.

IV. ALJ'S ANALYSIS

In his written explanation to the Board, Mr. Mercer stated that he set out to rebuild his relationships with his family upon his release from incarceration. He clearly has fulfilled, and is continuing to fulfill, that goal. Long-time family members, new family members, and even former family members wrote letters and testified in his behalf. Some of the factors set out in 22 TAC § 153.19(d) and (e) weigh in favor of Mr. Mercer as well. Most notably, his conduct and work activity before and after his period of criminal behavior have been admirable. Since his release, he has been a respected member of his church and a helpful and caring neighbor and

[7] Although the themes of the supportive testimony were similar, the testimony was not identical or rehearsed.

family member. He is recommended by fellow workers as well as family members. Mr. Mercer's period of criminal activity does appear to have been a detour from the normal course of his life.

Despite those positive factors, however, the preponderance of the evidence supports Staff's denial of Mr. Mercer's application. The most important factor is the nature of Mr. Mercer's crimes, especially the burglary conviction and the organized criminal activity conviction, which was related to an intended burglary. Burglary is clearly and directly related to the appraisal profession, which requires clients to place their faith and trust in appraisers who may be alone in their homes or businesses. In addition, although Mr. Mercer's life has changed since his imprisonment, it cannot be ignored that he was not a youth, but rather a middle-aged man when he committed the five felonies of which he was convicted. Moreover, Mr. Mercer did not offer letters of recommendation from prosecution, law enforcement, or correctional officers who were involved in his cases.

The ALJ concludes that the Board's duty to protect the public supports the denial of Mr. Mercer's application. Specifically, the Board should deny the application pursuant to Texas Occupations Code § 1103.353(4) and 22 TAC §§ 153.9(d), 153.20(a)(2), 153.19(c)(5), 153.19(c)(3); and 153.19(c)(2), as recommended by Staff.

V. FINDINGS OF FACT

1. On or about August 25, 2014, the Texas Appraiser Licensing and Certification Board (Board) received an application for approval as a real estate appraiser trainee from William Edward Mercer.

2. In the application, Mr. Mercer disclosed he had been convicted of multiple felonies.

3. The Board's staff (Staff) denied Mr. Mercer's application based on his criminal record.

4. Mr. Mercer filed a timely appeal of the denial.

5. Notice of the hearing before the State Office of Administrative Hearings (SOAH) was sent to Mr. Mercer on June 24, 2015.

6. 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.

7. The hearing was held on September 3, 2015, at SOAH before Administrative Law Judge Henry D. Card. Staff Attorney Kyle Wolfe represented Staff. Attorney Gregory Wilhelm represented Mr. Mercer. The hearing adjourned and the record closed that same day.

8. On or about October 2, 2007, Mr. Mercer was convicted of Possession of a Controlled Substance, a state jail felony, and sentenced to 365 days in state jail.

9. On or about October 2, 2007, Mr. Mercer was convicted of Engaging in Organized Criminal Activity, a state jail felony, and sentenced to 365 days in state jail.

10. On or about August 13, 2007, Mr. Mercer was convicted of Unlawful Possession of a Controlled Substance Cocaine, a felony of the third degree, and sentenced to 2 years in penitentiary.

11. On or about August 13, 2007, Mr. Mercer was convicted of Burglary of a Building, a state jail felony, and sentenced to 180 days in state jail.

12. On or about August 13, 2007, Mr. Mercer was convicted of Evading Arrest/Detention Facility Using Motor Vehicle, Previous Conviction/Enhanced, a state jail felony, and sentenced to 180 days in state jail.

13. Mr. Mercer was released on parole on January 31, 2008, and was discharged from parole on March 29, 2009.

14. Mr. Mercer's conduct and work activity before and after his period of criminal behavior have been admirable.

15. Mr. Mercer's conviction for engaging in organized criminal activity was related to an intended burglary.

16. Burglary is clearly and directly related to the appraisal profession, which requires clients to place their faith and trust in appraisers who may be alone in their homes or businesses.

17. Mr. Mercer was a middle-aged man when he committed the five felonies of which he was convicted.

18. Mr. Mercer did not offer letters of recommendation from prosecution, law enforcement, or correctional officers who were involved in his cases.

VI. CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter. Tex. Occ. Code ch. 1103.

2. SOAH has jurisdiction over the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law. Tex. Occ. Code § 1103.508; Tex. Gov't Code chs. 2001, 2003.

3. Timely and adequate notice of the hearing was provided in accordance with Texas Government Code §§ 2001.051 and 2001.052.

4. Staff had the burden of proof in this proceeding. 1 Tex. Admin. Code § 155.427.

5. The Board should deny Mr. Mercer's application pursuant to Texas Occupations Code § 1103.353(4) and 22 TAC §§ 153.9(d), 153.20(a)(2), 153.19(c)(5), 153.19(c)(3), and 153.19(c)(2).

SIGNED October 21, 2015.

HENRY D. CARD
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

AGENDA ITEM 9

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

James J. Jeffries

Brian L. Padden

Douglas E. Oldmixon
Commissioner

AMC Advisory Committee Report November 20, 2015

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

Since the August 2015 Board meeting, the AMC Advisory Committee met via teleconference on October 30, 2015.

Meeting on October 30, 2015

Committee Members in attendance: Laurie Fontana, Sara Oates, and Lawrence McNamara

Other Board Members in attendance: None

Staff in attendance: Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Dione Frederick, Recording Secretary; Troy Beaulieu, Director-SES; Kyle Wolfe, Staff Attorney; Jim Jacobs, Staff Investigator; Melissa Huerta, Director-SSS; Denise Sample, Licensing Manager; Becky Jarmon, Licensing Specialist; and Ellen Sameth, Assistant Attorney General.

Public in attendance: Joe Woller, FACT; Bobby Crisp, ATA; Richard Prigmore, Appraisal Consultants; and Linda Cogburn, Service Link.

The Committee received staff reports on AMC complaint cases, AMC registrations and AMC registration fees and revenue. The Committee discussed several items, including pending panel member invitations; the add/drop panel member function and fees; appraisal signature requirements for AMC clients; and questions regarding AMC rules.

The Committee considered proposed changes to Rule 159.155, as drafted by Committee Member Sara Oates, and a separate proposal presented by Staff. The Committee recommends the Board publish the proposed changes to Rule 159.155 as drafted by Ms. Oates for public comment and possible future adoption.

Due to time constraints caused by inclement weather, the Committee tabled its continuing discussion of the newly adopted federal rules regarding AMCs and the process and format for AMC compliance audits until a future Committee meeting.

The Committee did not set a future meeting date.

AGENDA ITEM 10

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

James J. Jeffries

Brian L. Padden

Douglas E. Oldmixon
Commissioner

Education Committee Report November 20, 2015

Members: Jim Jeffries, Chair, Walker Beard and Brian Padden

The Education Committee met via teleconference on October 8, 2015.

Meeting on October 8, 2015

Committee Members in attendance: Jim Jeffries, Chair; Walker Beard and Brian Padden.

Other Board Members in attendance: None

Staff in attendance: Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Dione Frederick, Recording Secretary; Troy Beaulieu, Director-SES; Jeff Strawmeyer, Staff Investigator; Gwen Jackson, Director-ELS; Jennifer Wheeler, Education Manager.

Public in attendance: Joe Woller, FACT

The Committee considered and discussed several items, including the development of rules for approval of continuing education providers and courses; a proposed rule for a voluntary appraiser trainee review program; processes for awarding appraiser continuing education (ACE) credit for attending a Board meeting and attending presentations by Board members or staff; and development of a Texas Legal Update course for appraisers.

The Committee recommends the Board publish the proposed rule for a voluntary appraiser trainee review program for public comment and possible future adoption. The Committee also recommends that the Board approve processes for awarding ACE credit for attending a Board meeting and for attending presentations given by board members or staff.

The Committee tabled its discussion of rules for continuing education providers and courses and asked staff to bring additional information for the Committee to consider at its next meeting.

The Committee did not set a future meeting date.

AGENDA ITEM 11

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

James J. Jeffries

Brian L. Padden

Douglas E. Oldmixon
Commissioner

Enforcement Committee Report November 20, 2015

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

Since the August 2015 Board meeting, the Enforcement Committee met on October 30, 2015 via teleconference.

Meeting on October 30, 2015

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

Other Board Members in attendance: None

Staff in attendance: Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Dione Frederick, Recording Secretary; Troy Beaulieu, Director-SES; Kyle Wolfe, Staff Attorney; Jim Jacobs, Staff Investigator; and Ellen Sameth, Assistant Attorney General.

Public in attendance: Joe Woller, FACT; Bobby Crisp, ATA; Luis de la Garza; and Mark Loftus.

The Committee considered several items, including a status update on mentor applications under the new mentor criteria approved by the Board at its August 2015 meeting; changes to the conflicts of interest language in the "Guidelines for TALCB Mentors and Mentees"; Board member participation in investigative conferences; the format of Board orders; and approval of a proposed confidentiality agreement.

The Committee declined to recommend proposed changes to the conflicts of interest language in the "Guidelines for TALCB Mentors and Mentees." The Committee recommends that all Board members take the opportunity to attend at least one investigative conference and asked staff to inform Board members of upcoming investigative conferences that Board members might attend. Board members would then be able to coordinate their individual attendance with staff. The Committee also recommends approval of the proposed confidentiality agreement.

The Committee did not set a future meeting date.

AGENDA ITEM 12

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-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	FYTD Total 2015	FYTD Total 2014
Local Lines	15,634	17,394	11,564	14,115	19,236	17,015	20,183	18,409	19,297	24,027	20,835	18,808	216,517	198,094
TALCB LL	**1,031**	**1,151**	**886**	**1,040**	**1,334**	**980**	**1,260**	**1,198**	**1,180**	**1,548**	**1,448**	**1,149**	**14,205**	**13,725**
Total Calls	16,665	18,545	12,450	15,155	20,570	17,995	21,443	19,607	20,477	25,575	22,283	19,957	**230,722**	**211,819**

Walk Ins

	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	FYTD Total 2015	FYTD Total 2014
Licensing	210	157	154	115	167	169	204	175	176	194	203	162	2,086	2,885
Education	144	45	75	47	41	52	51	51	64	39	63	27	699	1,593
Inspector	18	7	6	8	11	24	12	9	13	7	7	12	134	138
Enforcement	19	21	20	10	16	19	12	9	12	9	6	12	165	220
TALCB Lic	**6**	**3**	**12**	**8**	**9**	**0**	**7**	**0**	**3**	**4**	**10**	**1**	**63**	**104**
TALCB Enf	**0**	**0**	**0**	**1**	**0**	**0**	**0**	**0**	**2**	**2**	**0**	**0**	**5**	**11**
Total	397	233	267	189	244	264	286	244	270	255	289	214	**3,152**	**4,951**

Emails

	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	FYTD Total 2015	FYTD Total 2014
Lice**nsing**	4,478	4,502	3,302	3,969	5,366	4,566	5,714	5,224	4,692	5,475	6,193	5,249	58,730	51,836
Education	659	1,129	750	832	1,029	1,170	1,080	1,401	1,326	1,361	1,384	1,042	13,163	10,623
Inspector	87	66	81	128	56	80	142	127	95	82	67	79	1,090	805
Enforcement	115	106	85	75	60	73	86	73	73	77	77	129	1,029	1,230
TALCB Lic	**70**	**139**	**121**	**249**	**115**	**191**	**378**	**314**	**304**	**294**	**211**	**217**	**2,603**	**1,379**
TALCB Enf	**4**	**7**	**3**	**6**	**6**	**5**	**12**	**8**	**16**	**17**	**15**	**4**	**103**	**140**
Total	5,413	5,949	4,342	5,259	6,632	6,085	7,412	7,147	6,506	7,306	7,947	6,720	**76,718**	**66,013**

C1 Report
FY2015

Reception and Communication Services Division

Incoming Calls

	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	**FYTD Total 2016**
Local Lines	16,624												16,624
TALCB LL	**947**												**947**
Total Calls	17,571												**17,571**

Walk Ins

	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	**FYTD Total 2016**
Licensing	131												131
Education	26												26
Inspector	3												3
Enforcement	6												6
TALCB Lic	**3**												**3**
TALCB Enf	**3**												**3**
Total	172												**172**

Emails

	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	**FYTD Total 2016**
Lice**nsing**	5,023												5,023
Education	1,066												1,066
Inspector	84												84
Enforcement	117												117
TALCB Lic	**289**												**289**
TALCB Enf	**16**												**16**
Total	6,595												**6,595**

C1 Report
FY2016

Customer Service Surveys

FY2016	Surveys Received	Responded by Email	Responded by Phone	Anonymous
September	14	9	1	4
October				
November				
December				
January				
February				
March				
April				
May				
June				
July				
August				
Grand Total	**14**	**9**	**1**	**4**

C2 Report

TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD
ACTIVE CERTIFICATIONS AND LICENSES

FISCAL YEAR	END OF MONTH	GENERAL	RESIDENTIAL	LICENSE	PROVISIONAL	TOTAL G.R.L. & P	*G.R.L.& P CHANGE*	TRAINEE	*TRAINEE CHANGE*	*TOTAL*	*TOTAL CHANGE*
FY-2011	Sep10	2,366	2,486	651	23	5,526	*-18*	614	*67*	6,140	*49*
	Oct-Dec10 - Totals for October thru December 2010 are not available due to system conversion										
	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	N/A	5,201	*-6*	780	*-6*	5,981	*-12*
	Mar14	2,368	2,385	453	N/A	5,206	*5*	788	*8*	5,994	*13*
	Apr14	2,373	2,393	454	N/A	5,220	*14*	783	*-5*	6,003	*9*
	May14	2,375	2,399	457	N/A	5,231	*11*	779	*-4*	6,010	*7*
	Jun14	2,378	2,401	451	N/A	5,230	*-1*	777	*-2*	6,007	*-3*
	Jul14	2,377	2,403	454	N/A	5,234	*4*	766	*-11*	6,000	*-7*
	Aug14	2,386	2,405	453	N/A	5,244	*10*	760	*-6*	6,004	*4*
FY-2015	Sep14	2,393	2,407	451	N/A	5,251	*7*	767	*7*	6,018	*14*
	Oct14	2,402	2,418	448	N/A	5,268	*17*	766	*-1*	6,034	*16*
	Nov14	2,407	2,415	440	N/A	5,262	*-6*	749	*-17*	6,011	*-23*
	Dec14	2,409	2,431	442	N/A	5,282	*20*	756	*7*	6,038	*27*
	Jan15	2,405	2,437	446	N/A	5,288	*6*	767	*11*	6,055	*17*
	Feb15	2,417	2,437	442	N/A	5,296	*8*	760	*-7*	6,056	*1*
	Mar15	2,423	2,445	444	N/A	5,312	*16*	761	*1*	6,073	*17*
	Apr15	2,408	2,451	442	N/A	5,301	*-11*	763	*2*	6,064	*-9*
	May15	2,404	2,444	436	N/A	5,284	*-17*	761	*-2*	6,045	*-19*
	Jun15	2,413	2,436	432	N/A	5,281	*-3*	773	*12*	6,054	*9*
	Jul15	2,409	2,424	432	N/A	5,265	*-16*	774	*1*	6,039	*-15*
	Aug15	2,408	2,415	434	N/A	5,257	*-8*	779	*5*	6,036	*-3*
FY-2016	**Sep15**	**2,406**	**2,417**	**428**	**N/A**	**5,251**	***-6***	**786**	***7***	**6,037**	***1***

(September 2015: Temporary Out of State Appraisers = 973; Inactive Appraisers = 142)

APPRAISAL MANAGEMENT COMPANY REGISTRATIONS
August 2015

	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	38
	Jul-14	0	0	0	0	24
	Aug-14	0	0	0	0	15
FY- 2015	Sep-14	1	1	2	1	4
	Oct-14	0	0	0	1	2
	Nov-14	1	1	2	2	2
	Dec-14	3	1	4	1	0
	Jan-15	3	0	3	1	1
	Feb-15	0	0	0	5	1
	Mar-15	1	0	1	0	0
	Apr-15	0	1	1	0	1
	May-15	0	0	0	1	0
	Jun-15	0	0	0	1	0
	Jul-15	1	0	1	1	6
	Aug-15	1	1	2	1	0
TOTALS		**150**	**71**	**221**	**220**	**155**

Registrations Surrendered as of August 2015	-12
Registrations Revoked as of August 2015	-3
Registrations Expired > 6 months as of August 2015	-26
TOTAL AMC REGISTRATIONS	**179**

APPRAISAL MANAGEMENT COMPANY REGISTRATIONS
September 2015

	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	38
	Jul-14	0	0	0	0	24
	Aug-14	0	0	0	0	15
FY- 2015	Sep-14	1	1	2	1	4
	Oct-14	0	0	0	1	2
	Nov-14	1	1	2	2	2
	Dec-14	3	1	4	1	0
	Jan-15	3	0	3	1	1
	Feb-15	0	0	0	5	1
	Mar-15	1	0	1	0	0
	Apr-15	0	1	1	0	1
	May-15	0	0	0	1	0
	Jun-15	0	0	0	1	0
	Jul-15	1	0	1	1	6
	Aug-15	1	1	2	1	0
FY-2016	Sep-15	1	0	1	0	1
TOTALS		**151**	**71**	**222**	**220**	**156**

Registrations Surrendered as of September 2015	-12
Registrations Revoked as of September 2015	-3
Registrations Expired > 6 months as of September 2015	-26
TOTAL AMC REGISTRATIONS	**179**

Education & Licensing Services Division - TALCB

Fiscal Year Comparison

Fiscal Year - 2015
AUGUST

	This YTD 9/14 - 08/15	Last YTD 9/13 – 08/14	Change Count	Change Percent
Original Applications Received				
Certified General Applications	134	141	-7	-4.96%
Certified Residential Applications	162	155	7	4.52%
State Licensed Applications	65	62	3	4.84%
Appraiser Trainee Applications	235	247	-12	-4.86%
Non-Residential Temporary Applications	238	270	-32	-11.85%
Total Original Applications	834	875	-41	-4.69%
Licenses Issued from Original Applications				
Certified General Licenses	132	130	2	1.54%
Certified Residential Licenses	162	143	19	13.29%
State Licensed	71	52	19	36.54%
Appraiser Trainee Licenses	201	240	-39	-16.25%
Non-Residential Temporary Licenses	235	275	-40	-14.55%
Total Licenses from Original Applications	801	840	-39	-4.64%
Licenses Issued from Renewal Applications				
Certified General Renewals	1,366	1,094	272	24.86%
Certified Residential Renewals	1,252	1,206	46	3.81%
State Licensed Renewals	244	261	-17	-6.51%
Appraiser Trainee Renewals	438	253	185	73.12%
Total Renewal Licenses Issued	3,300	2,814	486	17.27%
Licenses Issued from Reinstatement Applications				
Certified General Reinstatements	17	19	-2	-10.53%
Certified Residential Reinstatements	11	7	4	57.14%
State Licensed Reinstatements	5	2	3	150.00%
Appraiser Trainee Reinstatements	13	26	-13	-50.00%
Total Reinstatement Licenses Issued	46	54	-8	-14.81%

Education & Licensing Services Division - TALCB

Fiscal Year Comparison

Fiscal Year - 2016
SEPTEMBER

	This YTD 9/15 - 09/15	Last YTD 9/14 – 09/14	Change Count	Change Percent
Original Applications Received				
Certified General Applications	6	20	-14	-70.00%
Certified Residential Applications	6	16	-10	-62.50%
State Licensed Applications	8	7	1	14.29%
Appraiser Trainee Applications	21	27	-6	-22.22%
Non-Residential Temporary Applications	19	14	5	35.71%
Total Original Applications	60	84	-24	-28.57%
Licenses Issued from Original Applications				
Certified General Licenses	9	19	-10	-52.63%
Certified Residential Licenses	10	13	-3	-23.08%
State Licensed	1	4	-3	-75.00%
Appraiser Trainee Licenses	15	26	-11	-42.31%
Non-Residential Temporary Licenses	19	12	7	58.33%
Total Licenses from Original Applications	54	74	-20	-27.03%
Licenses Issued from Renewal Applications				
Certified General Renewals	46	79	-33	-41.77%
Certified Residential Renewals	69	87	-18	-20.69%
State Licensed Renewals	16	22	-6	-27.27%
Appraiser Trainee Renewals	17	44	-27	-61.36%
Total Renewal Licenses Issued	148	232	-84	-36.21%
Licenses Issued from Reinstatement Applications				
Certified General Reinstatements	0	0	0	0.00%
Certified Residential Reinstatements	2	0	2	N/A
State Licensed Reinstatements	0	1	-1	-100.00%
Appraiser Trainee Reinstatements	1	1	0	0.00%
Total Reinstatement Licenses Issued	3	2	1	50.00%

Examination Activity - Fiscal Year 2014-2015

YEAR-TO-DATE RESULTS: SEPTEMBER 2014 thru August 2015	State Licensed	Certified Residential	Certified General	Overall Pass Rate	Overall Failure Rate
Examinations Passed	32	72	36	140	
Examinations Failed	39	54	23		116
Examinations Taken	71	126	59	256	256
Examination Pass Rate (%)	45.07%	57.14%	61.02%	54.69%	45.31%

All examination types	
Total first time candidates:	169
Total repeat candidates:	87
Total pass:	140
Total fail:	116
Total examinations taken:	256

Examination Activity - Fiscal Year 2014-2015

MONTHLY RESULTS: August 2015	State Licensed	Certified Residential	Certified General	Overall Pass Rate	Overall Failure Rate
Examinations Passed	4	4	2	10	
Examinations Failed	4	2	1		7
Examinations Taken	8	6	3	17	17
Examination Pass Rate (%)	50.00%	66.67%	66.67%	58.82%	41.18%

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

EXAMINATION ACTIVITY

FISCAL YEAR-TO-DATE COMPARISON
AUGUST

	August 2015 Pass Rate	August 2014 Pass Rate	Difference
Certified General Appraiser	61.0%	65.3%	- 4.3%
Certified Residential Appraiser	57.1%	65.7%	- 8.6%
Licensed Appraiser	45.0%	50.0%	- 5.0%
Overall Appraiser Pass Rate	54.6%	60.8%	-6.2%

TALCB Examination Activity

YEAR-TO-DATE RESULTS: September 2015	State Licensed	Certified Residential	Certified General	Overall Pass Rate	Overall Failure Rate
Examinations Passed	3	4	1	8	
Examinations Failed	2	9	1		12
Examinations Taken	5	13	2	20	20
Examination Pass Rate (%)	60.00%	30.77%	50.00%	40.00%	60.00%

All examination types	
Total first time candidates:	12
Total repeat candidates:	8
Total pass:	8
Total fail:	12
Total examinations taken:	20

EXAMINATION ACTIVITY

FISCAL YEAR-TO-DATE COMPARISON
SEPTEMBER

	September 2015 Pass Rate	September 2014 Pass Rate	Difference
Certified General Appraiser	50.0%	100.0%	- 50.0%
Certified Residential Appraiser	30.7%	46.6%	-15.9%
Licensed Appraiser	60.0%	50.0%	-10.0%
Overall Appraiser Pass Rate	40.0%	58.3%	-18.3%

Information Technology Services Division

Electronic Information Outlet Statistics

TALCB as of September 2015

World Wide Web	4th Quarter FY 2014	4th Quarter FY 2015	September FY 2016	September FY 2015
Total Pages Viewed	354,587	1,762,046	608,213	121,804
Total Monthly Unique Visitors	23,244	81,876	27,757	7,990

Online Transactions	Total Latest 3 Mo	Online Latest 3 Mo	Online Percent	Fiscal YTD Online Percent	Prior Fiscal YTD Online Percent
Applications	**114**	**47**	**41.2%**	**37.8%**	**39.6%**
AMC	2	1	**50.0%**	0.0%	0.0%
Certified General Appraiser	27	3	**11.1%**	0.0%	11.8%
Certified Residential Appraiser	20	1	**5.0%**	11.1%	12.5%
State Licensed Appraiser	11	7	**63.6%**	0.0%	0.0%
Appraiser Trainee	54	35	**64.8%**	65.0%	69.2%
Renewals	**544**	**494**	**90.8%**	**92.2%**	**88.8%**
AMC	7	6	85.7%	100.0%	75.0%
Certified General Appraiser	207	183	88.4%	87.9%	93.2%
Certified Residential Appraiser	258	242	93.8%	95.2%	96.3%
State Licensed Appraiser	38	34	89.5%	93.8%	80.0%
Appraiser Trainee	34	29	85.3%	85.7%	54.5%
AMC Panel:	**Last 3 Months**			**FY 2016 YTD**	**FY 2015 TOTAL**
Invitations	2213			717	6818
Removals	153			80	750

Staff & Support Services Division

TALCB Budget Status Report

August 2015

0/12 = 0%

Expenditure Category	Budget FY2015	Expenditures	Balance	Budget % Remaining	Comments
Salaries & Wages	$970,424	$823,961	$146,463	15.1%	Decrease in staff
Employee Benefits	259,397	240,483	18,914	7.3%	Decrease in staff
Retiree Insurance	33,636	29,815	3,821	11.4%	
Other Personnel Costs	42,800	32,416	10,384	24.3%	Peer Assistance and Perf Plan Incentive budget not expended
Professional Fees & Services	86,690	68,048	18,642	21.5%	Budget not expended for: Versa Customization, Network upgrade, Neubus customization, Expert witnesses, PIC
Consumables	8,500	2,449	6,051	71.2%	
Utilities	1,740	1,168	572	32.9%	
Travel	30,000	22,880	7,120	23.7%	
Office Rent	37,625	31,747	5,878	15.6%	Reduced square footage which resulted in a decrease in our lease payment.
Equipment Rental/Leases	8,500	5,512	2,988	35.2%	Copier expense less than projected
Registration & Membership	14,875	6,772	8,104	54.5%	
Maintenance & Repairs	9,340	8,933	407	4.4%	
Reproduction & Printing	1,500	82	1,418	94.5%	
Contract Services	42,080	9,104	32,976	78.4%	Court Reporter/Transcripts/Subpoenas
Postage	6,125	4,792	1,333	21.8%	
Supplies & Equipment	10,785	2,741	8,044	74.6%	PC Refresh - expense will be under Equip Rental/Leases
Communication Services	8,046	7,496	551	6.8%	
Other Operating Expenses	4,331	3,089	1,242	28.7%	
Subtotal -Operations Expenditures	**1,576,394**	**1,301,486**	**274,908**	**17.4%**	
DPS Criminal History Background Checks	3,000	3,670	(670)	-22.3%	
Statewide Cost Allocation Plan (SWCAP)	45,000	**43,371**	1,629	3.6%	
Contribution to General Revenue	30,000	30,000	0	0.00%	
Subtotal - Nonoperational Expenditures	**78,000**	**77,041**	**959**	**1.2%**	
Total Expenditures	**$1,654,394**	**$1,378,527**	**$275,867**	**16.7%**	

Revenue	FY2015 Projected	Revenue Collected	Revenue Remaining to be Collected	Revenue % Remaining to be Collected	Comments
License Fees	$1,201,592	$1,226,889	($25,297)	-2.1%	
AMCs	112,830	196,900	($84,070)	-74.5%	16 new apps, 15 renewals, 8426 panelists
Other Miscellaneous Revenue	1,355	2,493	($1,138)	-84.0%	Examination fees collected exceeded projections
Total Revenue	**$1,315,777**	**$1,426,282**	**($110,505)**	**-8.4%**	

	FY14 Carry Forward	Allocated Amount	Remaining to be Allocated	Carry Forward % Remaining	
AMC Revenue Carry Forward from FY14	**$366,285**	**$366,285.00**	**$0**	**0.0%**	**Full carry forward amount allocated**

Revenue Over/(Under) Expenditures & Transfers	**$27,668**	**$414,039**			**Includes AMC Carry Forward**

Staff & Support Services Division

TALCB Budget Status Report

September 2015

11/12 = 91.7%

Expenditure Category	Budget FY2016	Expenditures	Balance	Budget % Remaining	Comments
Salaries & Wages	$875,842	$68,987	$806,855	92.1%	
Employee Benefits	277,440	12,733	264,707	95.4%	
Retiree Insurance	39,600	9,694	29,906	75.5%	
Other Personnel Costs	25,220	760	24,460	97.0%	
Professional Fees & Services	77,550	10,675	66,875	86.2%	
Consumables	7,500	0	7,500	100.0%	
Utilities	1,740	105	1,635	94.0%	
Travel	30,000	979	29,021	96.7%	
Office Rent	37,625	0	37,625	100.0%	
Equipment Rental	14,138	0	14,138	100.0%	
Registration & Membership	16,125	710	15,415	95.6%	
Maintenance & Repairs	12,267	0	12,267	100.0%	
Reproduction & Printing	1,600	0	1,600	100.0%	
Contract Services	29,540	0	29,540	100.0%	
Postage	6,350	500	5,850	92.1%	
Supplies & Equipment	6,500	0	6,500	100.0%	
Communication Services	8,246	394	7,852	95.2%	
Other Operating Expenses	4,342	527	3,815	87.9%	
Subtotal -Operations Expenditures	**1,471,625**	**106,065**	**1,365,560**	**92.8%**	
DPS Criminal History Background Checks	3,000	0	3,000	100.0%	
Statewide Cost Allocation Plan (SWCAP)	45,000	0	45,000	100.0%	
Contribution to General Revenue	30,000	2,500	27,500	91.7%	% allocated monthly but pmt not due until 8/31/16
Subtotal - Nonoperational Expenditures	**78,000**	**2,500**	**75,500**	**96.8%**	
Total Expenditures	**$1,549,625**	**$108,565**	**$1,441,060**	**93.0%**	

Revenue	FY2016 Projected	Revenue Collected	Revenue Remaining to be Collected	Revenue % Remaining to be Collected	Comments
License Fees	$1,084,345	$79,490	$1,004,855	92.7%	
AMCs	749,580	15,110	$734,470	98.0%	Majority of renewals occur in last quarter
Other Miscellaneous Revenue	71,280	3,280	$68,000	95.4%	Exam Admin Fees/NSF fees/Misc
Total Revenue	**$1,905,205**	**$97,880**	**$1,807,325**	**94.9%**	

	FY16 Carry Forward	Allocated Amount	Remaining to be Allocated	Carry Forward % Remaining	This is estimated AMC revenues collected in FY16 that will be set aside for FY17 budget.
AMC Revenue Carry Forward from FY15	**($290,054)**	**($24,171)**	**($265,883)**	**91.7%**	**Pro-rated thru September**

Revenue Over/(Under) Expenditures & Transfers	**$65,526**	**($34,856)**			**Includes AMC Carry Forward**

Staff Services Division

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

August 2015

Purchase Date	Par Value	Purchase Price	Beginning Market Value	Additions Changes	Ending Market Value	Accrued Interest	Description	Maturity Date
12/04/2014	100,000.00	100,484.97	100,180.00	(55.00)	100,125.00	106.56	U.S. T-Notes, 0.50%	06/15/2016
12/04/2014	100,000.00	100,168.26	100,039.00	6.00	100,045.00	53.28	U.S. T-Notes, 0.25%	12/15/2015
07/16/2015	100,000.00	100,839.34	100,516.00	(68.00)	100,448.00	404.21	U.S. T-Notes, 0.88%	09/15/2016
Totals	$ 300,000.00	$ 301,492.57	$ 300,735.00	$ (117.00)	$ 300,618.00	$ 564.05		

Receipts:	**Current Month**	**FY2015 Cumulative Total**
Treasury Note Earnings	0.00	975.00

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

Melissa Huerta

Melissa Huerta, Investment Officer

Barbara C Kolb

Barbara Kolb, Alternate Investment Officer

Staff Services Division

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

September 2015

Purchase Date	Par Value	Purchase Price	Beginning Market Value	Additions Changes	Ending Market Value	Accrued Interest	Description	Maturity Date
12/04/2014	100,000.00	100,168.26	100,045.00	(6.00)	100,039.00	73.77	U.S. T-Notes, 0.25%	12/15/2015
12/04/2014	100,000.00	100,484.97	100,125.00	49.00	100,174.00	147.54	U.S. T-Notes, 0.50%	06/15/2016
07/16/2015	100,000.00	100,839.34	100,448.00	18.00	100,466.00	38.46	U.S. T-Notes, 0.88%	09/15/2016
Totals	$ 300,000.00	$ 301,492.57	$ 300,618.00	$ 61.00	$ 300,679.00	$ 259.77		

Receipts:	**Current Month**	**FY2016 Cumulative Total**
Treasury Note Earnings	437.50	437.50

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

Melissa Huerta

Melissa Huerta, Investment Officer

Barbara C Kolb

Barbara Kolb, Alternate Investment Officer

TALCB Standards & Enforcement Services

CASE STATUS REPORT FY 2016 as of OCTOBER 30, 2015

# of Cases Received

Case Classification	FY2014	FY2015	15-Sep	15-Oct	15-Nov	15-Dec	16-Jan	16-Feb	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	FYTD
Complaint Category:															
AMCs	12	8	0	1											1
Dodd Frank	16	22	0	0											0
Ethics	5	4	0	0											0
USPAP	114	143	22	10											32
Other	4	11	1	1											2
No Jurisdiction	0	3	2	1											3
	151	**191**	25	13	0	0	0	0	0	0	0	0	0	**SUB:**	**38**
Experience Audits	155	161	19	14											33
RFAs & Covert Complaints	3	13	0	0											0
MCD Inquiries	4	3	0	0											0
	162	**177**	19	14	0	0	0	0	0	0	0	0	0	**SUB:**	**33**
Opened During FY Year|Month	**313**	**368**	**44**	**27**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**		**71**

# of Cases Closed

Case Disposition	FY2014	FY2015	15-Sep	15-Oct	15-Nov	15-Dec	16-Jan	16-Feb	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	FYTD
Surrendered	4	5	0	0											0
Agreed Final Order / Final Order	44	43	0	0											0
Other Disciplinary Action	3	2	0	0											0
Insufficient Evidence	0	2	0	0											0
Dismissed	110	125	12	7											19
No Jurisdiction	0	7	1	3											4
	161	**184**	13	10										**SUB:**	**23**
Experience Audits	131	186	7	8											15
RFAs	14	10	0	0											0
MCD Inquiries	3	0	0	0											0
	148	**196**	7	8	0	0	0	0	0	0	0	0	0	**SUB:**	**15**
Closed During FY Year|Month	**309**	**380**	**20**	**18**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**		**38**

Total Cases Open as of 10/30/15: **234**

TALCB Standards & Enforcement Services

AMC CASE STATUS REPORT FY 2016 as of OCTOBER 30, 2015

# of Cases Received

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

# of Cases Closed

Case Disposition	FY2014	FY2015	15-Sep	15-Oct	15-Nov	15-Dec	16-Jan	16-Feb	16-Mar	16-Apr	16-May	16-Jun	16-Jul	16-Aug	FYTD
Surrendered	0	0	0	0											0
Agreed Final Order	0	0	0	0											0
Other Disciplinary Action	2	0	0	0											0
Insufficient Evidence	0	0	0	0											0
Dismissed	7	8	0	0											0
No Jurisdiction	0	1	0	1											1
	9	**9**	0	1	0	0	0	0	0	0	0	0	0	**SUB:**	**1**
RFAs & Covert Complaints	0	0	0	0	0	0	0	0	0	0	0	0	0		0
Closed During FY Year|Month	**9**	**9**	**0**	**1**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**		**1**

Total Cases Open as of 10/30/15: **3**

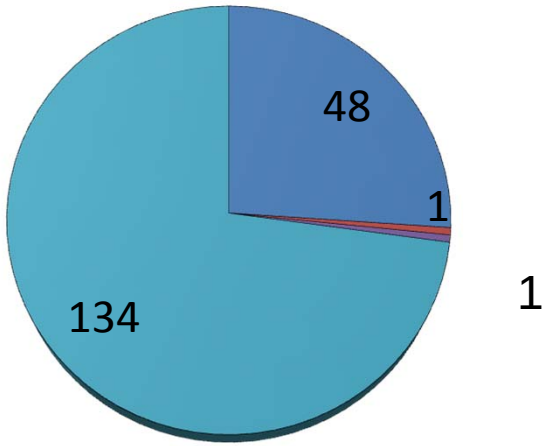
TOTAL OPEN COMPLAINTS

Fiscal Year	No. Pending (as of 7/24/15)	No. Pending (as of 10/30/2015)	IN REVIEW	INVEST COMPLETE	SOAH	AWAITING FINAL DISPOSITION	RFAs & COVERT CASES	Percentage Change from Previous Reporting Period
2009	1	1	___	___	___	___	1	_____
2010	0	0	___	___	___	___	___	_____
2011	0	0	___	___	___	___	___	_____
2012	0	0	___	___	___	___	___	_____
2013	3	3	___	___	1	1	1	_____
2014	23	10	___	1	___	7	2	(56.52%)
2015	124	130	80 (5 @ PIC)	17	1	22	10	4.84%
2016	___	34	___	___	___	___	___	_____
Total	151	178	80	18	2	30	14	17.9%
Total 1 YR OLD	26	12	___	2	1	9	___	(53.85%)

CASE RESOLUTIONS FY 2015

SEPTEMBER 1, 2014 – AUGUST 31, 2015

184 Total Complaints Resolved



- 48 (26.1%) Agreed Final Orders & Voluntary Surrenders
- 1 (0.54%) Litigated
- 1 (0.54%) NOAV / Default Orders
- 134 (72.82%) Dismissals
  - 51 (38.06%) Dismissals
  - 49 (36.57%) Dismissals with Warning Letter
  - 27 (20.15%) Contingent Dismissals
  - 7 (5.22%) Non-Jurisdictional Dismissals

% of License Holders w/Disciplinary Action

FY 2013	FY 2014	FY 2015
.8%	.6%	.7%

Total Number of Licensees (as of September 30, 2015)

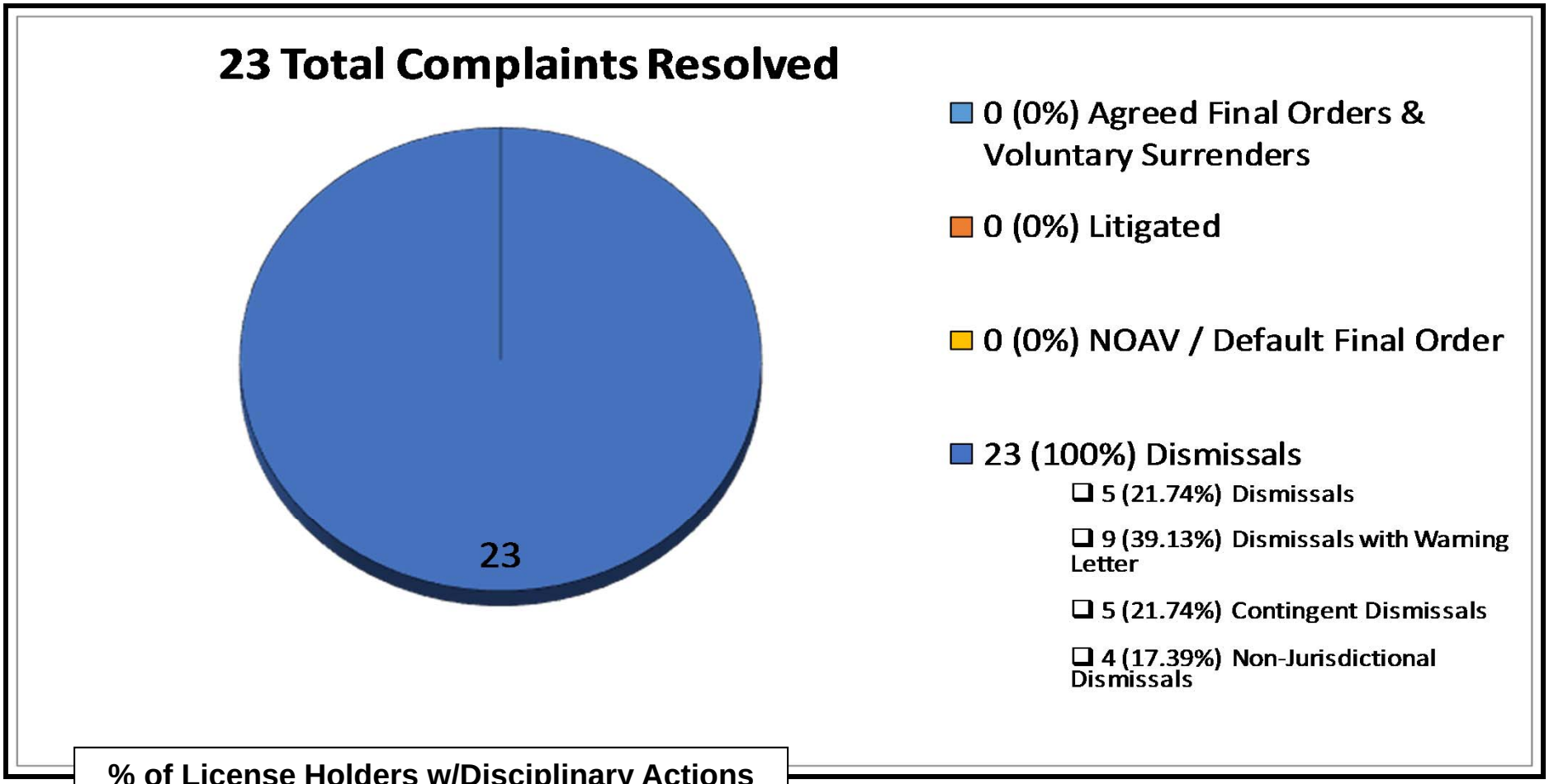
7,152

FY 2015 Recidivism Rate:

10%

CASE RESOLUTIONS - FY 2016

SEPTEMBER 1, 2015 – OCTOBER 30, 2015



% of License Holders w/Disciplinary Actions

FY 2013	FY 2014	FY 2015	FY 2016
.8%	.6%	.7%	0%

Total Number of Licensees (as of September 30, 2015):

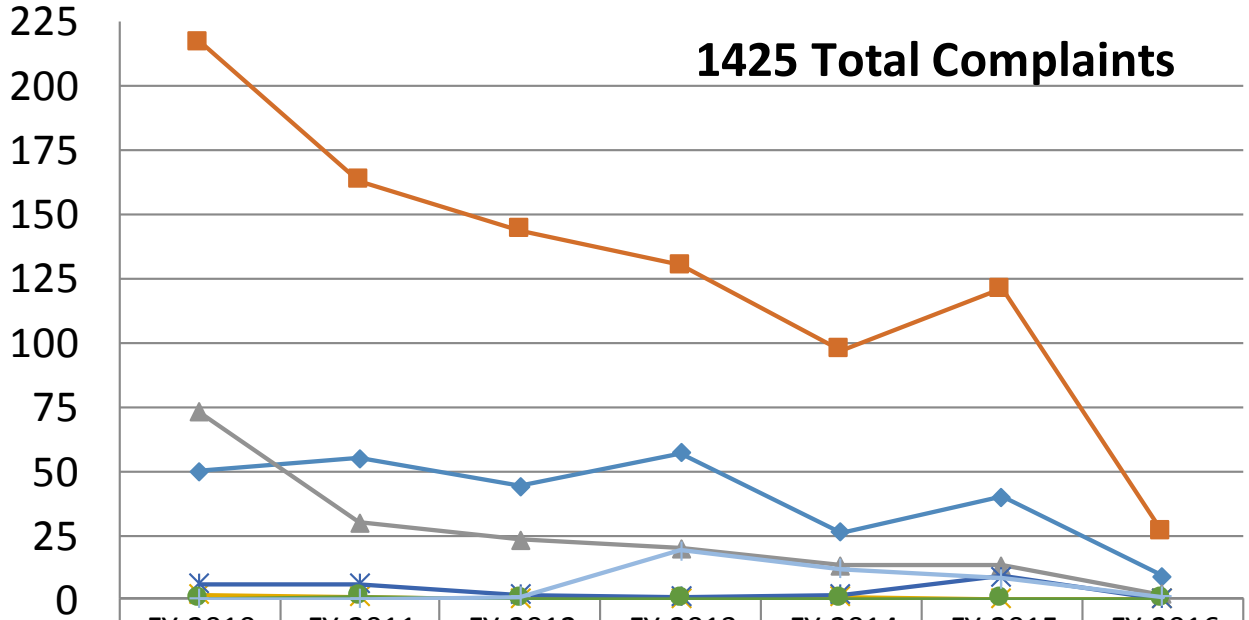
7,152

FY 2016 Recidivism Rate:

0%

Total # of Complaints Received

(Per License Type)

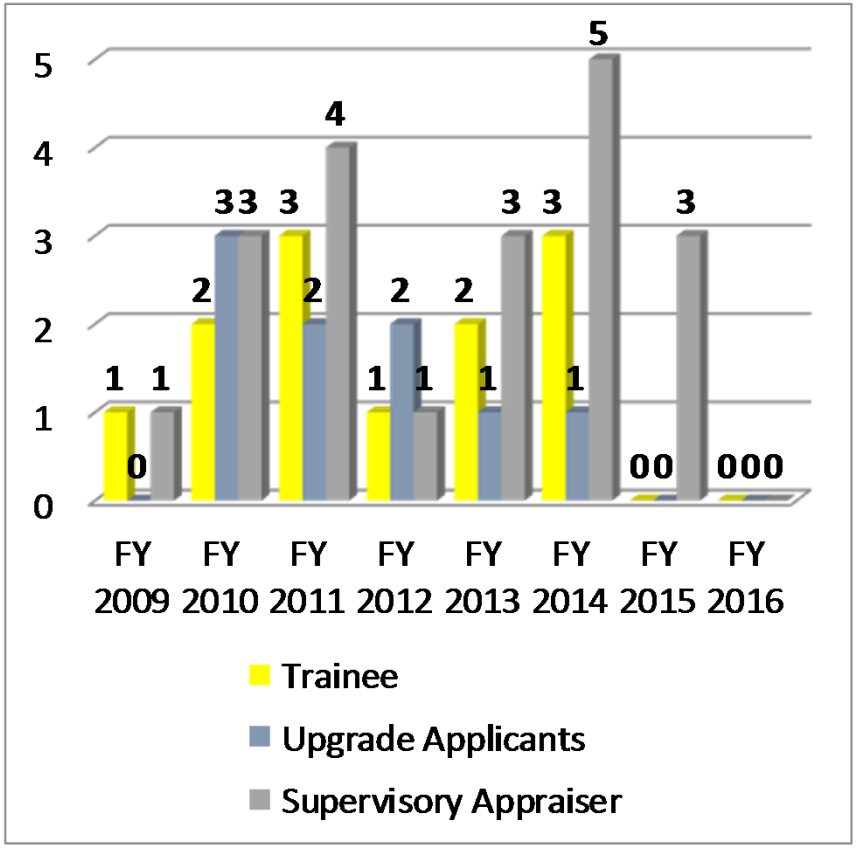


	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Certified General	50	55	44	57	26	40	9
Certified Residential	217	163	144	130	97	121	26
State Licensed	73	30	23	20	13	13	2
Provisional Licensed	2	1	0	0	1	0	0
Appraiser Trainee	6	6	2	1	2	9	0
Out-of-State Temporary Registrations	0	1	0	0	0	0	0
AMCs	0	0	1	19	12	8	1

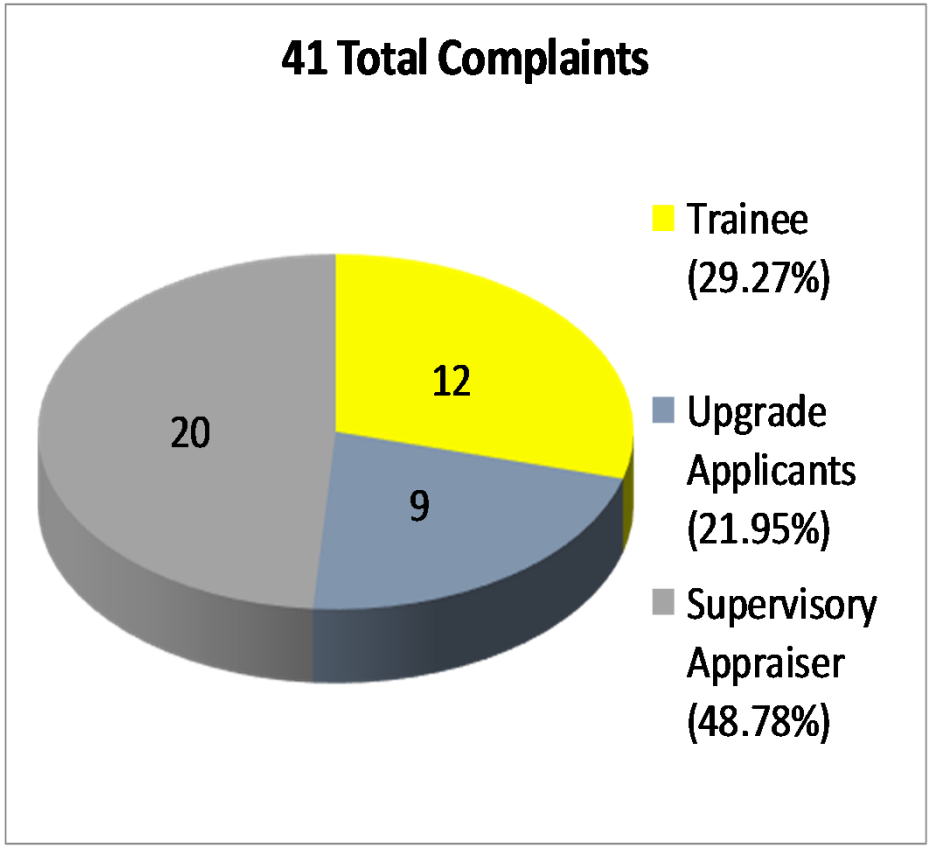
(as of 10/30/15)

STAFF-INITIATED COMPLAINTS BASED ON EXPERIENCE AUDITS

# of Staff-Initiated Complaints from Audits per Fiscal Year



% of Staff-Initiated Complaints from Audits per Respondent Type



(as of 10/30/15)

AGENDA ITEM 13(a)

Discussion and possible action to renew emergency amendments to 22 TAC §153.9, Applications.

SUMMARY

The amendments were originally adopted on an emergency basis to implement changes in Chapter 55, Texas Occupations Code, adopted by the 84th Legislature, which were effective September 1, 2015. The original filing is due to expire December 29, 2015, but the proposed amendments to 22 TAC §153.9, if adopted by the Board today, will not become effective until January 1, 2016. To avoid a gap in the effectiveness of the Board's rules, the emergency amendments must be renewed. The renewal will be effective for 60 days.

STAFF RECOMMENDATION

Renew emergency amendments as presented.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit for renewal emergency amendments to 22 TAC §153.9, Applications, as originally filed in the *Texas Register*.

RENEWAL OF EMERGENCY RULE ACTION FROM

NOVEMBER 20, 2015 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 §153.9. Applications

§153.9. Applications.

(a)A person desiring to be licensed as an appraiser, appraiser trainee, or temporary out-of-state appraiser shall file an application using forms prescribed by the Board or the Board's online application system, if available. The Board may decline to accept for filing an application that is materially incomplete or that is not accompanied by the appropriate fee. Except as provided by the Act, the Board may not grant a license to an applicant who has not:

(1)paid the required fees;

(2)satisfied any experience and education requirements established by the Act, Board rules, or the AQB;

(3)successfully completed any qualifying examination prescribed by the Board;

(4)provided all supporting documentation or information requested by the Board in connection with the application;

(5)satisfied all unresolved enforcement matters and requirements with the 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 is valid for the term for which it is issued by the Board unless suspended or revoked for cause and unless revoked, may be renewed in accordance with the requirements of §153.17 of this title (relating to Renewal or Extension of Certification and License or Renewal of Trainee Approval).

(d)The Board may deny a license to an applicant who fails to satisfy the Board as to the applicant's honesty, trustworthiness, and integrity.

(e)The Board may deny a license to an applicant who submits incomplete, false, or misleading information on the application or supporting documentation.

(f)When an application is denied by the Board, no subsequent application will be accepted within 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).

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

(1)The Board shall waive the license application and examination fees for an applicant who is:

(A)a military service member or military veteran whose military service, training, or education substantially meets all of the requirements for the license; or

(B)a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.

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

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

(4)[~~(3)~~] The Board may allow an applicant to demonstrate competency by alternative methods in order to meet the requirements for obtaining a particular license issued by the Board. For purposes of this subsection, the standard method of demonstrating competency is the specific examination, education, and/or experience required to obtain a particular license.

(5)[~~(4)~~] In lieu of the standard method(s) of demonstrating competency for a particular license and based on the applicant's circumstances, the alternative methods for demonstrating competency may include any combination of the following as determined by the Board:

(A)education;

(B)continuing education;

(C)examinations (written and/or practical);

(D)letters of good standing;

(E)letters of recommendation;

(F)work experience; or

(G)other methods required by the commissioner.

(h)This subsection applies to an applicant who is serving on active duty or is a veteran of the armed forces of the United States.

(1)The Board will credit any verifiable military service, training or education obtained by an applicant that is relevant to a license toward the requirements of a license.

(2)This subsection does not apply to an applicant who holds a restricted license issued by another jurisdiction.

(3)The applicant must pass the qualifying examination, if any, for the type of license sought.

(4)The Board will evaluate applications filed by an applicant who is serving on active duty or is a veteran of the armed forces of the United States consistent with the criteria adopted by the AQB and any exceptions to those criteria as authorized by the AQB.

(i)A person applying for license under subsection (g) or (h) of this section must also:

(1)submit the Board's approved application form for the type of license sought;

(2)submit the appropriate fee for that application; and

(3)submit the supplemental form approved by the Board applicable to subsection (g) or (h) of this section.

(j)The commissioner may waive any prerequisite to obtaining a license for an applicant as allowed by the AQB [~~issue a license under subsection (c) or (d) by endorsement in the same manner as the Texas Department of Licensing and Regulation to an applicant under this subsection~~].

AGENDA ITEM 13(b)

Discussion and possible action to renew emergency amendments to 22 TAC §153.17, Renewal or Extension of License.

SUMMARY

The amendments were originally adopted on an emergency basis to implement changes in Chapter 55, Texas Occupations Code, adopted by the 84th Legislature, which were effective September 1, 2015. The original filing is due to expire December 29, 2015, but the proposed amendments to 22 TAC §153.17, if adopted by the Board today, will not become effective until January 1, 2016. To avoid a gap in the effectiveness of the Board's rules, the emergency amendments must be renewed. The renewal will be effective for 60 days.

STAFF RECOMMENDATION

Renew emergency amendments as presented.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit for renewal emergency amendments to 22 TAC §153.17, Renewal or Extension of License, as originally filed in the *Texas Register*.

RENEWAL OF EMERGENCY RULE ACTION FROM

NOVEMBER 20, 2015 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 §153.17. Renewal or Extension of License

§153.17. Renewal or Extension of License.

(a)General Provisions.

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

(2)A license holder renews the license by timely filing an application for renewal, paying the appropriate fees to the Board, and satisfying all applicable education and experience requirements.

(3)An application for renewal or extension received by the Board is timely and acceptable for processing if it is:

(A)complete;

(B)accompanied with payment of proper fees; and

(C)postmarked by the U.S. Postal Service, accepted by an overnight delivery service, or accepted by the Board's online processing system on or before the date of expiration.

(b)Certified General, Certified Residential and State Appraiser License Holders.

(1)A license holder may renew the license by timely filing an application for renewal, paying the appropriate fees to the Board and, unless renewing on inactive status, satisfying ACE requirements.

(2)In order to renew on active status, the license holder must complete the ACE report form approved by the Board and, within 20 days of filing the renewal, submit course completion certificates for each course that was not already submitted by the provider and reflected in the license holder's electronic license record.

(A)The Board may request additional verification of ACE submitted in connection with a renewal. If requested, such documentation must be provided within 20 days after the date of request.

(B)Knowingly or intentionally furnishing false or misleading ACE information in connection with a renewal is grounds for disciplinary action up to and including license revocation.

(3)The Board may grant, at the time it issues a license renewal, an extension of time of up to 60 days after the expiration date of the previous license to complete ACE required to renew a license, subject to the following:

(A)The license holder must:

(i)timely submit the completed renewal form with the appropriate renewal fees;

(ii)complete an extension request form; and

(iii)pay an extension fee of $200.

(B)ACE courses completed during the 60-day extension period apply only to the current renewal and may not be applied to any subsequent renewal of the license.

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

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

(ii)may continue to perform appraisals in non-federally related transactions under the renewed license;

(iii)must, within 60 days after the date of expiration of the previous license, complete the approved ACE report form and submit course

completion certificates for each course that was not already submitted by the provider and reflected in the applicant's electronic license record; and

(iv)will have the renewed license placed in inactive status if, within 60 days of the previous expiration date, ACE is not completed and reported in the manner indicated in paragraph (2) of this subsection. The renewed license will remain on inactive status until satisfactory evidence of meeting the ACE requirements has been received by the Board and the fee to return to active status required by §153.5 of this title (relating to Fees) has been paid.

(c)Appraiser Trainees.

(1)Appraiser trainees must maintain an appraisal log and appraisal experience affidavits on forms approved by the Board, for the license period being renewed. It is the responsibility of both the appraiser trainee and the 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 upon request.

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

(d)Renewal of Licenses for Persons on Active Duty. A person who is on active duty in the United States armed forces may renew an expired license without being subject to any increase in fee imposed in his or her absence, or any additional education or experience requirements if the person:

(1)did not provide appraisal services while on active duty;

(2)provides a copy of official orders or other documentation acceptable to the Board showing the person was on active duty during the last renewal period;

(3)applies for the renewal within two years [~~90 days~~] after the person's active duty ends;

(4)pays the renewal application fees in effect when the previous license expired; and

(5)completes ACE requirements that would have been imposed for a timely renewal.

(e)Expiration and Reapplication. If an application is filed within six months of the expiration of a previous license, the applicant shall also provide satisfactory evidence of completion of any continuing education that would have been required for a timely renewal of the previous license. If the application for license is filed more than six months after the expiration of the previous license, the applicant must meet all then-current requirements for license, including retaking and passing the examination.

AGENDA ITEM 14

Discussion and possible action to renew emergency amendments to 22 TAC §157.18, Motions for Rehearing; Finality of Decisions.

SUMMARY

The amendments were originally adopted on an emergency basis to implement changes in Chapter 55, Texas Occupations Code, adopted by the 84th Legislature, which were effective September 1, 2015. The original filing is due to expire December 29, 2015, but the proposed amendments to 22 TAC §157.18, if adopted by the Board today, will not become effective until January 1, 2016. To avoid a gap in the effectiveness of the Board's rules, the emergency amendments must be renewed. The renewal will be effective for 60 days.

STAFF RECOMMENDATION

Renew emergency amendments as presented.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit for renewal emergency amendments to 22 TAC §157.18, Motions for Rehearing; Finality of Decisions, as originally filed in the *Texas Register*.

RENEWAL OF EMERGENCY RULE ACTION FROM

NOVEMBER 20, 2015 MEETING OF

THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

Chapter 157. Rules Relating to Practice and Procedure
Subchapter C. Post Hearing

22 TAC §157.18. Motions for Rehearing; Finality of Decisions

§157.18. Motions for Rehearing; Finality of Decisions.

(a) Motions for rehearing in proceedings under Chapter 1103, Texas Occupations Code, are governed by §§2001.144 - 2001.147, Texas Government Code, and this section. [~~Filing times. A motion for rehearing must be filed within 20 days after a party has been notified, either in person or by certified mail, return receipt requested, of the final decision or order made by the Board.~~]

(b)Motions for rehearing in proceedings under Chapter 1104, Texas Occupations Code, are governed by §1104.216, Texas Occupations Code, §§2001.144 - 2001.147, Texas Government Code, and this section.

(c)A timely-filed motion for rehearing is a prerequisite to appeal except as provided in section 157.17 of this subchapter.

(d)Replies to a motion for rehearing may be filed as provided in Chapter 2001, Texas Government Code.

(e)[~~(b)~~] A motion for rehearing shall set forth the particular finding of fact, conclusion of law, ruling, or other action which the complaining party asserts caused substantial injustice to the party and was in error such as violation of a constitutional or statutory provision, lack of authority, unlawful procedure, lack of substantial evidence, abuse of discretion, other error of law, or other good cause specifically described in the motion. In the absence of specific grounds in the motion, the Board shall presume that the motion should be overruled.

[~~(c)Board action. Board action on a motion must be taken no later than the 20th day after the date the commissioner is served with the motion for rehearing. If Board action is not taken within the 20 day period, the motion for rehearing is overruled by operation of law.~~]

[~~(d)A decision is final, in the absence of a timely motion for rehearing, on the expiration of the period for filing a motion for rehearing. A decision is final and appealable on the date of rendition of the order overruling a motion for rehearing, or on the date the motion for rehearing is overruled by operation of law.~~]

(f)[~~(e)~~] Any party may request oral arguments before the Board prior to the final disposition of the motion for rehearing. Oral arguments will be conducted in accordance with paragraphs (1) - (5) of this subsection.

(1)The chairperson or the Board member designated by the chairperson to preside (the presiding member) shall announce the case. Upon the request of any party, the presiding member may conduct a prehearing conference with the parties and their attorneys of record. The presiding member may announce reasonable time limits for any oral arguments to be presented by the parties.

(2)The hearing on the motion shall be limited to a consideration of the grounds set forth in the motion. Testimony by affidavit or documentary evidence such as excerpts of the record before the presiding officer may be offered in support of, or in opposition to, the motion; provided, however, a party offering affidavit testimony or documentary evidence must provide the other party with copies of the affidavits or documents at the time the motion is filed. New evidence may not be presented on the substance of

the case unless the party submitting the evidence can establish that the new evidence was not reasonably available at the time of the original hearing or the party offering the evidence was misled by a party regarding the necessity for offering the evidence at the original hearing.

(3)In presenting oral arguments, the party filing the motion will have the burden of proof and shall open and close. The party responding to the motion may offer rebuttal arguments. Parties may request an opportunity for additional rebuttal subject to the discretion of the presiding member.

(4)After being recognized by the presiding member, the members of the Board may ask questions of the parties. If a party is represented by counsel, the questions must be directed to the party's attorney. Questions must be limited to the grounds asserted for the motion to be granted and to the arguments made by the parties.

(5)Upon the conclusion of oral arguments, questions by the members of the Board, and any discussion by the member of the Board, the presiding member shall call for a vote on the motion. A member of the Board need not make a separate motion or second a motion filed by a party. The presiding member may vote on the motion. A motion may be granted only if a majority of the members present and voting vote in favor of the motion. In the event of a tie vote, the presiding member shall announce that the motion is overruled.

(g)[~~(f)~~] A decision is final and appealable on the date rendered if:

(1) the Board finds that an imminent peril to the public health, safety or welfare requires immediate effect; and[~~,~~]

(2)the Board's [~~in which event the~~] decision or order recites this [~~shall recite the~~] finding and the fact that the decision is final and effective on the date rendered.

AGENDA ITEM 15(a)

Discussion and possible action to adopt amendments to 22 TAC §153.1, Definitions.

SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.1, Definitions, as published in the September 25, 2015 issue of the *Texas Register* (40 TexReg 6494). The amendments clarify the definition of "Appraiser Trainee" and add definitions of "Certified General Appraiser," "Certified Residential Appraiser," "Licensed Residential Appraiser," "Supervisory Appraiser," and "Trade Association" to align the rule with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

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 §153.1, Definitions, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes required for adoption.

ADOPTION RULE ACTION FROM

NOVEMBER 20, 2015 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

§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 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 supervisory [~~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)Certified General Appraiser--A certified appraiser who is authorized to appraise all types of real property.

(14)Certified Residential Appraiser--A certified appraiser who is authorized to appraise one-to-four unit residential properties without regard to value or complexity.

(15)[~~(13)~~] Classroom hour--Fifty minutes of actual classroom session time.

(16)[~~(14)~~] Client--Any party for whom an appraiser performs an assignment.

(17)[~~(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.

(18)[~~(16)~~] Commissioner--The commissioner of the Texas Appraiser Licensing and Certification Board.

(19)[~~(17)~~] Complainant--Any person who has made a written complaint to the Board against any person subject to the jurisdiction of the Board.

(20)[~~(18)~~] Complex appraisal--An appraisal in which the property to be appraised, the form of ownership, market conditions, or any combination thereof are atypical.

(21)[~~(19)~~] Council--The Federal Financial Institutions Examination Council (FFIEC) or its successor.

(22)[~~(20)~~] Day--A calendar day unless clearly indicated otherwise.

(23)[~~(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.

(24)[~~(22)~~] Feasibility analysis--A study of the cost-benefit relationship of an economic endeavor.

(25)[~~(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.

(26)[~~(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.

(27)[~~(25)~~] Foundation--The Appraisal Foundation (TAF) or its successor.

(28)[~~(26)~~] Fundamental real estate appraisal course--Those courses approved by the Appraiser Qualifications Board as qualifying education.

(29)[~~(27)~~] Inactive certificate or license--A general certification, residential certification, or state license which has been placed on inactive status by the Board.

(30)[~~(28)~~] License--The whole or a part of any Board permit, certificate, approval, registration or similar form of permission required by law.

(31)[~~(29)~~] License holder--A person certified, licensed, approved, authorized or registered by the Board under the Texas Appraiser Licensing and Certification Act.

(32)Licensed Residential Appraiser--A licensed appraiser who is authorized to 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.

(33)[~~(30)~~] Licensing--Includes the Board processes respecting the granting, disapproval, denial, renewal, certification, revocation, suspension, annulment, withdrawal or amendment of a license.

(34)[~~(31)~~] Market analysis--A study of market conditions for a specific type of property.

(35)[~~(32)~~] 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.

(36)[~~(33)~~] Nonresidential property--A property which does not conform to the definition of residential property.

(37)[~~(34)~~] Party--The Board and each person or other entity named or admitted as a party.

(38)[~~(35)~~] Person--Any individual, partnership, corporation, or other legal entity.

(39)[~~(36)~~] 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.

(40)[~~(37)~~] 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.

(41)[~~(38)~~] 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.

(42)[~~(39)~~] Real estate--An identified parcel or tract of land, including improvements, if any.

(43)[~~(40)~~] Real estate appraisal experience--Valuation services performed as an appraiser or

appraiser trainee by the person claiming experience credit. Significant real property appraisal experience requires active participation; mere observation of another appraiser's work is not real estate appraisal experience.

(44)[~~(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.

(45)[~~(42)~~] Real property--The interests, benefits, and rights inherent in the ownership of real estate.

(46)[~~(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.

(47)[~~(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.

(48)[~~(45)~~] Residential property--Property that consists of at least one but not more than four residential units.

(49)[~~(46)~~] Respondent--Any person subject to the jurisdiction of the Board, licensed or unlicensed, against whom any complaint has been made.

(50)Supervisory Appraiser--A certified general or residential appraiser who is designated as a supervisory appraiser, as defined by the AQB, for an appraiser trainee. The supervisory appraiser is responsible for providing active, personal and diligent supervision and direction of the appraiser trainee.

(51)Trade Association--A nonprofit voluntary member association or organization:

(A)whose membership consists primarily of persons who are licensed as appraisers and pay membership dues to the association or organization;

(B)that is governed by a board of directors elected by the members; and

(C)that subscribes to a written code of professional conduct or ethics.

[~~(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 diligent supervision and direction of the appraiser trainee.~~]

[~~(48)State certified real estate appraiser--A person certified under the Texas Appraiser Licensing and Certification Act.~~]

[~~(49)State licensed real estate appraiser--A person licensed under the Texas Appraiser Licensing and Certification Act.~~]

(52)[~~(50)~~] USPAP--Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation.

(53)[~~(51)~~] Workfile--Documentation necessary to support an appraiser's analysis, opinions, and conclusions, and in compliance with the record keeping provisions of USPAP.

AGENDA ITEM 15(b)

Discussion and possible action to adopt amendments to 22 TAC §153.5, Fees.

SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.5, Fees, as published in the September 4, 2015 issue of the *Texas Register* (40 TexReg 5669). The amendments change terminology in the rule to be consistent with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature and add a provision for the Board to collect fees for providing certified copies.

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 §153.5, Fees, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes required for adoption.

ADOPTION RULE ACTION FROM

NOVEMBER 20, 2015 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

§153.5. Fees.

(a)The Board shall charge and the Commissioner shall collect the following fees:

(1)a fee of $400 for an application for a certified general appraiser license;

(2)a fee of $350 for an application for a certified residential appraiser license;

(3)a fee of $325 for an application for a licensed residential [~~state~~] appraiser license;

(4)a fee of $300 for an application for an appraiser trainee license;

(5)a fee of $360 for a timely renewal of a certified general appraiser license;

(6)a fee of $310 for a timely renewal of a certified residential appraiser license;

(7)a fee of $290 for a timely renewal of a licensed residential [~~state~~] appraiser license;

(8)a fee of $250 for a timely renewal of an appraiser trainee license;

(9)a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a license within 90 days of expiration;

(10)a fee equal to two times the timely renewal fee for the late renewal of a license more than 90 days but less than six months after expiration;

(11)a fee of $250 for nonresident license;

(12)the national registry fee in the amount charged by the Appraisal Subcommittee;

(13)an application fee for licensure by reciprocity in the same amount as the fee charged for a similar license issued to a Texas resident;

(14)a fee of $40 for preparing a certificate of licensure history, active licensure, or supervision [~~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 per certification when providing certified copies of documents;

(24) [~~(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

(25) [~~(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.

AGENDA ITEM 15(c)

Discussion and possible action to adopt amendments to 22 TAC §153.9, Applications.

SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.9, Applications, as published in the September 4, 2015 issue of the *Texas Register* (40 TexReg 5670). The amendments implement changes for processing license applications from military members, veterans, or spouses of military members and provide for a two-year waiting period before reapplying after an application is denied.

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 §153.9, Applications, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes required for adoption.

ADOPTION RULE ACTION FROM

NOVEMBER 20, 2015 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 §153.9. Applications

§153.9. Applications.

(a)A person desiring to be licensed as an appraiser, appraiser trainee, or temporary out-of-state appraiser shall file an application using forms prescribed by the Board or the Board's online application system, if available. The Board may decline to accept for filing an application that is materially incomplete or that is not accompanied by the appropriate fee. Except as provided by the Act, the Board may not grant a license to an applicant who has not:

(1)paid the required fees;

(2)satisfied any experience and education requirements established by the Act, Board rules, or the AQB;

(3)successfully completed any qualifying examination prescribed by the Board;

(4)provided all supporting documentation or information requested by the Board in connection with the application;

(5)satisfied all unresolved enforcement matters and requirements with the 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 is valid for the term for which it is issued by the Board unless suspended or revoked for cause and unless revoked, may be renewed in accordance with the requirements of §153.17 of this title (relating to Renewal or Extension of Certification and License or Renewal of Trainee Approval).

(d)The Board may deny a license to an applicant who fails to satisfy the Board as to the applicant's honesty, trustworthiness, and integrity.

(e)The Board may deny a license to an applicant who submits incomplete, false, or misleading information on the application or supporting documentation.

(f)When an application is denied by the Board, no subsequent application will be accepted within two years [~~one year~~] after the date of the Board's notice of denial [~~denying the application~~] as required in §157.7 of this title [~~(relating to Denial of a License)~~].

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

(1)The Board shall waive the license application and examination fees for an applicant who is:

(A)a military service member or military veteran whose military service, training, or education substantially meets all of the requirements for the license; or

(B)a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.

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

equivalent to the requirements for the license issued in this state.

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

(4)[~~(3)~~] The Board may allow an applicant to demonstrate competency by alternative methods in order to meet the requirements for obtaining a particular license issued by the Board. For purposes of this subsection, the standard method of demonstrating competency is the specific examination, education, and/or experience required to obtain a particular license.

(5)[~~(4)~~] In lieu of the standard method(s) of demonstrating competency for a particular license and based on the applicant's circumstances, the alternative methods for demonstrating competency may include any combination of the following as determined by the Board:

(A)education;

(B)continuing education;

(C)examinations (written and/or practical);

(D)letters of good standing;

(E)letters of recommendation;

(F)work experience; or

(G)other methods required by the commissioner.

(h)This subsection applies to an applicant who is serving on active duty or is a veteran of the armed forces of the United States.

(1)The Board will credit any verifiable military service, training or education obtained by an applicant that is relevant to a license toward the requirements of a license.

(2)This subsection does not apply to an applicant who holds a restricted license issued by another jurisdiction.

(3)The applicant must pass the qualifying examination, if any, for the type of license sought.

(4)The Board will evaluate applications filed by an applicant who is serving on active duty or is a veteran of the armed forces of the United States consistent with the criteria adopted by the AQB and any exceptions to those criteria as authorized by the AQB.

(i)A person applying for license under subsection (g) or (h) of this section must also:

(1)submit the Board's approved application form for the type of license sought;

(2)submit the appropriate fee for that application; and

(3)submit the supplemental form approved by the Board applicable to subsection (g) or (h) of this section.

(j)The commissioner may waive any prerequisite to obtaining a license for an applicant as allowed by the AQB [~~issue a license under subsection (c) or (d) by endorsement in the same manner as the Texas Department of Licensing and Regulation to an applicant under this subsection~~].

AGENDA ITEM 15(d)

Discussion and possible action to adopt a new rule 22 TAC §153.16, License Reinstatement.

SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts a new rule 22 TAC §153.16, License Reinstatement, as published in the September 4, 2015 issue of the *Texas Register* (40 TexReg 5672). This new rule allows persons who previously held a license issued by the Board to reinstate an expired license as authorized by the Appraiser Qualifications Board (AQB).

COMMENTS

No comments were received on the new rule as proposed. However, staff recommends changes to subsections (d)(1)(A) and (d)(2)(B)(i), as published, for consistency and to provide better clarity for license holders.

STAFF RECOMMENDATION

Adopt rules as presented.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption new rule 22 TAC §153.16, License Reinstatement, with changes to text as presented, along with any technical or non-substantive changes required for adoption.

ADOPTION RULE ACTION FROM

NOVEMBER 20, 2015 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 §153.16. License Reinstatement

§153.16. License Reinstatement.

(a)This section applies only to a person who:
(1)previously held an appraiser license issued by the Board that has expired; and
(2)seeks to obtain the same level of appraiser license previously held by the person before its expiration.
(b)A person described in subsection (a) may apply to reinstate the person's former license by:
(1)submitting an application for reinstatement on a form approved by the Board;
(2)paying the applicable fee;
(3)satisfying the Board as to the person's honesty, trustworthiness and integrity; and
(4)satisfying the experience requirements in this section.
(c)Applicants for reinstatement under this section must demonstrate completion of 14 hours of appraiser continuing education for each year since the last renewal of the person's previous license.
(d)Applicants for reinstatement must demonstrate that their appraisal experience complies with USPAP as follows:
(1)Persons who have work files/license expired less than 5 years. A person described in subsection (a) who has appraisal work files and whose previous license has been expired less than five years may apply to reinstate the person's previous license by submitting an experience log as follows:
(A)For reinstatement as a licensed residential appraiser, a minimum of 10 residential appraisal reports representing at least 200 hours of residential real estate appraisal experience.
(B)For reinstatement as a certified residential real estate appraiser, a minimum of 10 residential appraisal reports representing at least 250 hours of residential real estate appraisal experience.
(C)For reinstatement as a certified general appraiser, a minimum of 10 non-residential appraisal reports representing at least 300 hours of non-residential real estate appraisal experience.
(2)Persons who do not have work files/license expired more than 5 years.
(A)A person described in subsection (a) who does not have appraisal work files or whose previous license has been expired for more than five years may apply for a license as an appraiser trainee for the purpose of acquiring the appraisal experience required under this subsection.
(B)An appraiser trainee licensed under this section may apply for reinstatement at the same level of appraiser license that the applicant previously held, after the applicant completes the required number of appraisal reports or hours of real estate appraisal experience as follows:
(i)For reinstatement as a licensed residential appraiser, the applicant must complete a minimum of 10 residential appraisal reports or 200 hours of residential real estate appraisal experience, whichever is more.
(ii)For reinstatement as a certified residential appraiser, the applicant must complete a minimum of 10 residential appraisal reports or 250 hours of residential real estate appraisal experience, whichever is more.
(iii)For reinstatement as a certified general appraiser, the applicant must complete a minimum of 10 non-residential appraisal reports or 300 hours

of non-residential real estate appraisal experience, whichever is more.

(B)Upon completion of the required number of appraisal reports or hours of real estate appraisal experience, the applicant must submit an experience log.

(e)Consistent with section 153.15, the Board will evaluate each applicant's real estate appraisal experience for compliance with USPAP based on the submitted experience log.

(f)For those persons described in subsection (a) the Board may waive the following requirements:

(1)Proof of qualifying education;

(2)College education or degree requirement; and

(3)Examination.

(g)Consistent with this chapter, upon review of the applicant's real estate appraisal experience, the Board may:

(1)Reinstate the applicant's previous appraiser license;

(2)Reinstate the applicant's previous appraiser license, contingent upon completion of additional education, experience or mentorship; or

(3)Deny the application.

AGENDA ITEM 15(e)

Discussion and possible action to adopt amendments to 22 TAC §153.17, Renewal or Extension of License.

SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.17, Renewal or Extension of License, as published in the September 4, 2015 issue of the *Texas Register* (40 TexReg 5673). The amendments change terminology in the rule and extend the license renewal period for persons serving on active duty in the military to be consistent with statutory changes to Chapters 55 and 1103, Texas Occupations Code, adopted by the 84th Legislature.

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 §153.17, Renewal or Extension of License, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes required for adoption.

ADOPTION RULE ACTION FROM

NOVEMBER 20, 2015 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 §153.17. Renewal or Extension of License

§153.17. Renewal or Extension of License.

(a)General Provisions.

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

(2)A license holder renews the license by timely filing an application for renewal, paying the appropriate fees to the Board, and satisfying all applicable education and experience requirements.

(3)An application for renewal or extension received by the Board is timely and acceptable for processing if it is:

(A)complete;

(B)accompanied with payment of proper fees; and

(C)postmarked by the U.S. Postal Service, accepted by an overnight delivery service, or accepted by the Board's online processing system on or before the date of expiration.

(b)Certified General, Certified Residential and Licensed Residential Appraisers [~~State Appraiser License Holders~~].

(1)A license holder may renew the license by timely filing an application for renewal, paying the appropriate fees to the Board and, unless renewing on inactive status, satisfying ACE requirements.

(2)In order to renew on active status, the license holder must complete the ACE report form approved by the Board and, within 20 days of filing the renewal, submit course completion certificates for each course that was not already submitted by the provider and reflected in the license holder's electronic license record.

(A)The Board may request additional verification of ACE submitted in connection with a renewal. If requested, such documentation must be provided within 20 days after the date of request.

(B)Knowingly or intentionally furnishing false or misleading ACE information in connection with a renewal is grounds for disciplinary action up to and including license revocation.

(3)The Board may grant, at the time it issues a license renewal, an extension of time of up to 60 days after the expiration date of the previous license to complete ACE required to renew a license, subject to the following:

(A)The license holder must:

(i)timely submit the completed renewal form with the appropriate renewal fees;

(ii)complete an extension request form; and

(iii)pay an extension fee of $200.

(B)ACE courses completed during the 60-day extension period apply only to the current renewal and may not be applied to any subsequent renewal of the license.

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

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

(ii)may continue to perform appraisals in non-federally related transactions under the renewed license;

(iii)must, within 60 days after the date of expiration of the previous license, complete the approved ACE report form and submit course

completion certificates for each course that was not already submitted by the provider and reflected in the applicant's electronic license record; and

(iv)will have the renewed license placed in inactive status if, within 60 days of the previous expiration date, ACE is not completed and reported in the manner indicated in paragraph (2) of this subsection. The renewed license will remain on inactive status until satisfactory evidence of meeting the ACE requirements has been received by the Board and the fee to return to active status required by §153.5 of this title (relating to Fees) has been paid.

(c)Appraiser Trainees.

(1)Appraiser trainees must maintain an appraisal log and appraisal experience affidavits on forms approved by the Board, for the license period being renewed. It is the responsibility of both the appraiser trainee and the supervisory appraiser [~~sponsor~~] to ensure the appraisal log is accurate, complete and signed by both parties at least quarterly or upon change in supervisory appraiser [~~sponsors~~]. The appraiser trainee will promptly provide copies of the experience logs and affidavits to the Board upon request.

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

(d)Renewal of Licenses for Persons on Active Duty. A person who is on active duty in the United States armed forces may renew an expired license without being subject to any increase in fee imposed in his or her absence, or any additional education or experience requirements if the person:

(1) did not provide appraisal services while on active duty;

(2) provides a copy of official orders or other documentation acceptable to the Board showing the person was on active duty during the last renewal period;

(3) applies for the renewal within two years [~~90 days~~] after the person's active duty ends;

(4) pays the renewal application fees in effect when the previous license expired; and

(5) completes ACE requirements that would have been imposed for a timely renewal.

(e) Late Renewal [~~Expiration and Reapplication~~]. If an application is filed within six months of the expiration of a previous license, the applicant shall also provide satisfactory evidence of completion of any continuing education that would have been required for a timely renewal of the previous license. [~~If the application for license is filed more than six months after the expiration of the previous license, the applicant must meet all then-current requirements for license, including retaking and passing the examination.~~]

AGENDA ITEM 15(f)

Discussion and possible action to adopt amendments to 22 TAC §153.20, Guidelines for Revocation, Suspension, Denial of License; Probationary License.

SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.20, Guidelines for Revocation, Suspension, Denial of License; Probationary License, as published in the September 4, 2015 issue of the *Texas Register* (40 TexReg 5674). The amendments implement changes regarding compliance with an agreed order of the Board and the statute of limitations for investigating a complaint to align the rule with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

COMMENTS

No comments were received on the amendments as proposed. However, the paragraph numbering for this section has been changed to correct an error.

STAFF RECOMMENDATION

Adopt rules as presented.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption amendments to 22 TAC §153.20, Guidelines for Revocation, Suspension, Denial of License; Probationary License, with changes to text as presented, along with any technical or non-substantive changes required for adoption.

ADOPTION RULE ACTION FROM

NOVEMBER 20, 2015 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 §153.20. Guidelines for Revocation, Suspension, Denial of License; Probationary License

§153.20. Guidelines for Revocation, Suspension, Denial of License; Probationary License.

(a)The Board may suspend or revoke a license or deny issuing a license to an applicant at any time the Board determines that the applicant or license holder:

(1)disregards or violates a provision of the Act or the Board rules;

(2)is convicted of a felony;

(3)fails to notify the Board not later than the 30th day after the date of the final conviction if the person, in a court of this or another state or in a federal court, has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud or moral turpitude;

(4)fails to notify the Board not later than the 30th day after the date of incarceration if the person, in this or another state, has been incarcerated for a criminal offense involving fraud or moral turpitude;

(5)fails to notify the Board not later than the 30th day after the date disciplinary action becomes final against the person with regard to any occupational license the person holds in Texas or any other jurisdiction;

(6)fails to comply with the USPAP edition in effect at the time of the appraiser service;

(7)acts or holds himself or herself or any other person out as a person licensed [~~real estate appraiser~~] under the Act when not so licensed;

(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 as an appraiser revoked, suspended, or otherwise acted against by any other jurisdiction for an act which is a crime under Texas law;

(14)procures, or attempts to procure, a license by making false, misleading, or fraudulent representation;

(15)fails to actively, personally, and diligently supervise an appraiser trainee or any person not licensed under the Act who assists the license 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 appraiser services;

(17)fails to make good on a payment issued to the Board within thirty days after the Board has mailed a request for payment by certified mail to the license holder's last known business address as reflected by the 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 person licensed [~~real estate appraiser~~] under this or another state's Act when not so licensed;

(20)misuses or misrepresents the type of classification or category of license number;

(21)engages in any other act relating to the business of appraising that the 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 licensed appraisal services;

(23)fails to comply with an agreed order or a final order of the Board;

(24)fails to answer all inquiries concerning matters under the jurisdiction of the 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; 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; or

(B)is registered with the Board but has not placed the appraiser on its panel of appraisers maintained with the 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 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 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.

(d)A person applying for reinstatement after revocation or surrender of a license must comply with all requirements that would apply if the license 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 laws of this State.

(f)The Board may not investigate a complaint submitted to the Board more than four years after the date on which the alleged violation occurred [~~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 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)A license 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.

(i)If the Board determines that issuance of a probationary license is appropriate, the order entered by the 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 comply with the Act and with the rules of the Texas Appraiser Licensing and Certification Board;

(2)that the probationary license holder fully cooperate with the enforcement division of the Board in the investigation of any complaint filed against the license holder or any other complaint in which the license holder may have relevant information;

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

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

(5)that the probationary license holder 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 report regularly to the Board on any matter which is the basis of the probationary license; or

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

(j)[~~(k)~~]Unless the order granting a probationary license specifies otherwise, a probationary license holder may renew the license after the probationary period by filing a renewal application, satisfying applicable renewal requirements, and paying the prescribed renewal fee.

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

AGENDA ITEM 15(g)

Discussion and possible action to adopt amendments to 22 TAC §153.21, Appraiser Trainees and Sponsors.

SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §153.21, Appraiser Trainees and Sponsors, as published in the September 4, 2015 issue of the *Texas Register* (40 TexReg 5676). The amendments implement changes to align the rule with statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

COMMENTS

No comments were received on the amendments as proposed. However, the paragraph numbering for this section has been changed to provide greater clarity for license holders.

STAFF RECOMMENDATION

Adopt rules as presented.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption amendments to 22 TAC §153.21, Appraiser Trainees and Sponsors, with changes to text as presented, along with any technical or non-substantive changes required for adoption.

ADOPTION RULE ACTION FROM

NOVEMBER 20, 2015 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 §153.21. Appraiser Trainees and Sponsors

§153.21. Appraiser Trainees and Supervisory Appraisers [Sponsors].

(a)Supervision of appraiser trainees required. [~~A person desiring to be an appraiser trainee may apply to the 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;~~]

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

[~~(3)complete a Board approved Appraiser Trainee/Sponsor course.~~]

(1) [~~(b)~~] An [~~Once a person is licensed 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 supervisory [~~sponsoring~~] appraiser. [~~The trainee's authorization to perform appraisals or appraisal services terminates if:~~]

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

(2)An appraiser trainee may be supervised by more than one supervisory appraiser. [~~the appraiser trainee's authority to act has been suspended or revoked by the Board.~~]

(3) Supervisory appraisers may supervise no more than three appraiser trainees at one time.

(4)A supervisory appraiser may be added during the term of an appraiser trainee's license if:

(A)The supervisory appraiser and appraiser trainee have provided proof to the Board of completion of an approved Appraiser Trainee/Supervisory Appraiser course;

(B)an application to supervise has been received and approved by the Board; and

(C)the applicable fee has been paid.

(5)A licensed appraiser trainee who signs an appraisal report must include his or her license number and the word "Trainee" as part of the appraiser trainee's signature in the report.

(b)Eligibility requirements for appraiser trainee supervision.

(1)To be eligible to supervise an appraiser trainee, a certified appraiser must:

(A)be in good standing and not subject to any disciplinary action within the last three years that affected the certified appraiser's eligibility to engage in appraisal practice;

(B)complete an approved Appraiser Trainee/Supervisory Appraiser course; and

(C)submit proof of course completion to the Board.

(2)Before supervising an appraiser trainee, the supervisory appraiser must notify the appraiser trainee in writing of any disciplinary action taken against the supervisory appraiser within the last three years that did not affect the supervisory appraiser's eligibility to engage in appraisal practice.

(3)An application to supervise must be received and approved by the Board before supervision begins.

(c)Maintaining eligibility to supervise appraiser trainees. [~~The sponsoring 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.~~]

(1)A supervisory appraiser who wishes to continue to supervise appraiser trainees upon renewal of his/her license must complete an approved Appraiser Trainee/Supervisory Appraiser course within four years before the expiration date of the supervisory appraiser's current license and provide proof of completion to the Board.

(2)If a supervisory appraiser has not provided proof of course completion at the time of renewal, but has met all other requirements for renewing the license the supervisory appraiser will no longer be eligible to supervise appraiser trainees; and the Board will take the following actions:

(A)the supervisory appraiser's license will be renewed on active status; and

(B)the license of any appraiser trainees supervised solely by that supervisory appraiser will be placed on inactive status.

(3)A certified appraiser may restore eligibility to supervise appraiser trainees by:

(A)completing the course required by this section; and

(B)submitting proof of course completion to the Board.

(4)The supervisory appraiser's supervision of previously supervised appraiser trainees may be reinstated by:

(A)submitting the required form to the Board; and

(B)payment of any applicable fees.

(d)Maintaining eligibility to act as an appraiser trainee. [~~If an appraiser trainee's license has expired or been revoked by the Board or the appraiser trainee is no longer under the sponsorship of a sponsoring 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.~~]

(1)An appraiser trainee must complete an approved Appraiser Trainee/Supervisory Appraiser course within four years before the expiration date of the appraiser trainee's current license and provide proof of completion to the Board.

(2)If an appraiser trainee has not provided proof of course completion at the time of renewal, but has met all other requirements for renewing the license:

(A) the Board will renew the appraiser trainee's license on inactive status;

(B) the appraiser trainee will no longer be eligible to perform appraisals or appraisal services; and

(C) the appraiser trainee's relationship with any supervisory appraiser will be terminated.

(3)An appraiser trainee may return the appraiser trainee's license to active status by:

(A)completing the course required by this section;

(B)submitting proof of course completion to the Board;

(C)submitting an application to return to active status, including an application to add a supervisory appraiser; and

(D) paying any applicable fees.

(e)Duties of the supervisory appraiser. [~~Sponsoring appraisers are 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 may suspend or revoke a sponsoring appraiser's or supervisor's license based on conduct by the appraiser trainee constituting a violation of the Act or a rule of the Board.~~]

(1)Supervisory appraisers are responsible to the public and to the Board for the conduct of the appraiser trainee under the Act.

[~~(f)A sponsor may be added during the term of an appraiser trainee's license, by completing a form approved by the Board, paying a fee set by the Board, and completing a Board approved Appraiser Trainee/Sponsor course.~~]

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

(A) [~~(1)~~] direct supervision and training as necessary;

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

(C) [~~(3)~~] communication with and accessibility to the appraiser trainee; and

(D) [~~(4)~~] review and quality control of the appraiser trainee's work.

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

[~~(i) Sponsoring 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 form approved by the Board with payment of the appropriate fee prior to the start of sponsorship.~~]

(3) [~~(j)~~] Supervisory appraisers [~~Sponsors~~] must approve and sign the appraiser trainee's appraisal log and experience affidavit at least quarterly and provide appraiser trainees with access to any appraisals and work files completed under the supervisory appraiser [~~sponsor~~].

(4)After notice and hearing, the Board may reprimand a supervisory appraiser or may suspend or revoke a supervisory appraiser's license based on conduct by the appraiser trainee constituting a violation of the Act or Board rules.

(g)Termination of supervision.

(1)Supervision may be terminated by the supervisory appraiser or the appraiser trainee.

(2)If supervision is terminated, the terminating party must:

(A)immediately notify the Board on a form approved by the Board; and

(B)notify the non-terminating party in writing no later than the 10th day after the date of termination; and

(C)pay any applicable fees no later than the 10th day after the date of termination.

(3)If an appraiser trainee is no longer under the supervision of a supervisory appraiser:

(A)the appraiser trainee may no longer perform the duties of an appraiser trainee; and

(B)is not eligible to perform those duties until:

(i)an application to supervise the trainee has been filed;

(ii)any applicable fees have been paid; and

(iii)the Board has approved the application.

[~~(k)Sponsors must be in good standing and not subject to any disciplinary action within the last three years that affected the sponsor's eligibility to engage in appraisal practice. Disciplinary action taken against a sponsor within the last three years that did not affect the sponsor's eligibility to engage in appraisal practice must be disclosed in writing to the appraiser trainee prior to sponsorship.~~]

[~~(l)Beginning September 1, 2015, all sponsors and appraiser trainees must provide proof that they have completed a Board approved Appraiser Trainee/Sponsor course at the time they renew their license. The course must have been completed within four years of the expiration date of the current license.~~]

(h)Course approval.

(1) [~~(m)~~] To obtain Board approval of an Appraiser Trainee/Supervisory Appraiser [~~Sponsor~~] course, a course provider must:

(A)submit form ATS-0, Appraiser Trainee/Supervisory Appraiser [~~Sponsor~~] Course Approval, adopted herein by reference;[~~,~~] and

(B)satisfy the Board that all required content set out in form ATS-0 is adequately covered.

(2)Approval of an Appraiser Trainee/Supervisory Appraiser [~~Sponsor~~] course shall expire two years from the date of Board approval.

(3)An [~~approved Board~~] Appraiser Trainee/Supervisory Appraiser [~~Sponsor~~] course may be delivered through:

(A)classroom delivery method; or

(B)distance education delivery method. 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.

(i)ACE credit.

(1) [~~(n)~~] Supervisory appraisers [~~Sponsors~~] who complete the Appraiser Trainee/Supervisory Appraiser [~~Sponsor~~] course may receive ACE credit for the course.

(2) [~~(o)~~] Appraiser Trainees may not receive qualifying or ACE credit for completing the Appraiser Trainee/ Supervisory Appraiser [~~Sponsor~~] course.

AGENDA ITEM 16(a)

Discussion and possible action to adopt amendments to 22 TAC, Chapter 157, Rules Relating to Practice and Procedure, Subchapter A, General Provisions:

i. §157.7, Denial of a License
ii. §157.8, Adverse Action Against a License Holder or Registrant

SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §§157.7, Denial of a License, and 157.8, Adverse Action Against a License Holder or Registrant, as published in the September 4, 2015 issue of the *Texas Register* (40 TexReg 5678). The amendments reorganize these rules for better understanding and clarity.

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 §§157.7, Denial of a License, and 157.8, Adverse Action Against a License Holder or Registrant, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes required for adoption.

ADOPTION RULE ACTION FROM

NOVEMBER 20, 2015 MEETING OF

THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

Chapter 157. Rules Relating to Practice and Procedure
Subchapter A. General Provisions

22 TAC §157.7. Denial of a License
22 TAC §157.8. Adverse Action Against a License Holder or Registrant

§157.7. Denial of a License; Adverse Action Against a License Holder.

(a)Denial of a License.

(1)If the Board denies a certification, license, trainee approval, or registration, the Board shall promptly give written notice of denial to the applicant. If the applicant is supervised [~~sponsored~~] by another license holder, the Board shall send a copy of the notice of denial to the supervisory appraiser [~~sponsor~~].

(2)The notice of denial shall include:

(A)a statement of the Board's action;

(B)a summary of the facts and laws on which the action is based;

(C)a statement of the right of the person to request a hearing; and

(D)the following language in capital letters in boldface type: IF YOU FAIL TO REQUEST A HEARING IN WRITING WITHIN 30 DAYS, THIS DETERMINATION WILL BECOME FINAL.

(3)If a person fails to request a hearing in writing within 30 days of receiving the notice, the Board's determination will become final.

(b)Adverse Action Against a License Holder.

(1)If the Board proposes to take adverse action against a license holder, former license holder, or registrant, the Board shall promptly give written notice to the person against whom the action is proposed to be taken. If an appraiser trainee is the respondent, the Board shall send a copy of the notice to the supervisory appraiser.

(2)The notice of adverse action shall include:

(A)a summary of the facts and laws on which the proposed action is based;

(B)a statement of the action proposed by the Board, including the proposed sanction and/or the amount of any administrative penalties; and

(C)a statement of the right of the person to a hearing.

[~~(b)The notice shall include:~~]

[~~(1)a statement of the Board's action;~~]

[~~(2)a summary of the facts and laws on which the action is based;~~]

[~~(3)a statement of the right of the person to request a hearing; and~~]

[~~(4)the following language in capital letters in boldface type: IF YOU FAIL TO REQUEST A HEARING IN WRITING WITHIN 30 DAYS, THIS DETERMINATION WILL BECOME FINAL.~~]

(c)A license holder who has agreed in writing to suspension or revocation for failure to comply with the terms of a consent order, consent agreement, or agreed order in connection with an application or a previous disciplinary matter is deemed to have had notice and an opportunity for a hearing in a subsequent action resulting from failure to comply with an administrative requirement of probation, such as payment of a fee or completion of coursework. [~~If a person fails to request a hearing in writing within 30 days of receiving the notice, the Board's determination will become final.~~]

§157.8. Order Modifications [~~Adverse Action Against a License Holder or Registrant~~].

[~~(a)If the Board proposes to take adverse action against a license holder, former license holder, or registrant, the Board shall promptly give written notice to the person against whom the action is proposed to be taken. If an appraiser trainee is the respondent, the Board shall send a copy of the notice to the sponsor.~~]
[~~(b)The notice shall include:~~]
[~~(1)a summary of the facts and laws on which the proposed action is based;~~]
[~~(2)a statement of the action proposed by the Board, including the proposed sanction and/or the amount of any administrative penalties; and~~]
[~~(3)a statement of the right of the person to a hearing.~~]
[~~(c)A license holder or registrant who has agreed in writing to suspension or revocation for failure to comply with the terms of a consent order, consent agreement, or agreed order in connection with an application or a previous disciplinary matter is deemed to have had notice and an opportunity for a hearing in a subsequent action resulting from failure to comply with an administrative requirement of probation, such as payment of a fee or completion of coursework.~~]
[~~(d)~~] The Board will consider a modification of an existing agreed or consent order at its next scheduled Board meeting if the license holder or registrant:
(1)is currently in compliance with the existing order; and
(2)submits a written request that sets out the specific modification requested and the reason for the modification to the Board's general counsel on or before the 14th day prior to a scheduled Board meeting. Submission of a request for modification of an agreed or consent order to the Board does not relieve the license holder or registrant of compliance obligations under the existing order.

AGENDA ITEM 16(b)

Discussion and possible action to adopt amendments to 22 TAC, Chapter 157, Rules Relating to Practice and Procedure, Subchapter B, Contested Case Hearings:

i. §157.9, Notice of Hearing
ii. §157.12, Failure to Attend Hearing; Default Judgment

SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §§157.9, Notice of Hearings, and 157.12, Failure to Attend Hearing; Default Judgment, as published in the September 4, 2015 issue of the *Texas Register* (40 TexReg 5679). The amendments implement statutory changes to Chapter 2001, Texas Government Code, and Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

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 §§157.9, Notice of Hearings, and 157.12, Failure to Attend Hearing; Default Judgment, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes required for adoption.

ADOPTION RULE ACTION FROM

NOVEMBER 20, 2015 MEETING OF

THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

Chapter 157. Rules Relating to Practice and Procedure
Subchapter B. Contested Case Hearings

22 TAC §157.9. Notice of Hearings
22 TAC §157.12. Failure to Attend Hearing; Default Judgment

§157.9. Notice of Hearing.

(a)The notice of hearing must comply with Chapter 2001, Texas Government Code.
(b)[~~(a)~~] The notice of hearing shall be served not later than the 30th day before the hearing date.
(c) [~~(b)~~] Service of notice of hearing must be made in the manner prescribed by Chapter 2001, Texas Government Code, and the rules of the State Office of Administrative Hearings. Notice to a person who is a current license holder or applicant of the Board shall be complete and effective if sent by certified mail, return receipt requested, to the respondent or applicant at his or her most recent address as shown by the records of the Board. Service by mail shall be complete upon deposit of the document in question in a post paid properly addressed envelope in a post office of official depository under the care and custody of the United States Postal Service.
(d) [~~(c)~~] The notice shall include the following language in capital letters in boldface type: FAILURE TO APPEAR AT THE HEARING WILL RESULT IN THE ALLEGATIONS AGAINST YOU SET OUT IN THE COMPLAINT BEING ADMITTED AS TRUE AND A DEFAULT JUDGMENT BEING TAKEN AGAINST YOU.

§157.12. Failure to Attend Hearing; Default [Judgment].

(a)SOAH rules regarding Default Proceedings and Dismissal Proceedings [~~1 TAC §155.501 and §155.503 (relating to Default Proceedings and Dismissal Proceedings) (SOAH rules)~~] apply when [~~where~~] a respondent or applicant fails to appear [~~in person or through his legal representative~~] on the day and [~~at the~~] time set for hearing in a contested case. If a respondent or applicant fails to appear at a contested case hearing, [~~regardless of whether an appearance has been entered and~~] the Board's staff may move [~~moves~~] either for dismissal of the case from SOAH's docket or for the issuance of a default proposal for decision by the administrative law judge. [~~In either case, the Board shall enter a default judgment in the matter adverse to the respondent who has failed to attend the hearing, upon proper proof of notice to the defaulting party.~~]
(b)If the administrative law judge issues a default proposal for decision or an order dismissing the case from the SOAH docket, the factual allegations included in the notice sent to respondent or applicant are deemed admitted as true and, upon return of the case from SOAH, the Board shall enter a default order against the respondent or applicant. [~~For purposes of this section, a default judgment shall mean the issuance of a final order against the respondent in which the factual allegations against the respondent contained in the notice sent to respondent pursuant to §157.9 of this chapter (relating to Notice of Hearing) or the petition filed at SOAH shall be admitted as prima facie evidence and deemed admitted as true, without any requirement for additional proof to be submitted to the Board prior to the Board entering the final order~~]
(c)No additional proof is required to be submitted to the Board before the Board enters the final default order.

AGENDA ITEM 16(c)

Discussion and possible action to adopt amendments to 22 TAC, Chapter 157, Rules Relating to Practice and Procedure, Subchapter C, Post Hearing:

i. §157.17, Final Decisions and Orders
ii. §157.18, Motions for Rehearing; Finality of Decisions
iii. §157.20, Judicial Review

SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §§157.17, Final Decisions and Orders, and 157.18, Motions for Rehearing; Finality of Decisions, and 157.20, Judicial Review, as published in the September 4, 2015 issue of the *Texas Register* (40 TexReg 5680). The amendments implement statutory changes to Chapter 1103, Texas Occupations Code, and Chapter 2001, Texas Government Code, adopted by the 84th Legislature and clarify the action to be taken by the Board when a motion for rehearing does not include specific grounds for rehearing.

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 §§157.17, Final Decisions and Orders, and 157.18, Motions for Rehearing; Finality of Decisions, and 157.20, Judicial Review, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes required for adoption.

ADOPTION RULE ACTION FROM

NOVEMBER 20, 2015 MEETING OF

THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

Chapter 157. Rules Relating to Practice and Procedure
Subchapter C. Post Hearing

22 TAC §157.17. Final Decisions and Orders
22 TAC §157.18. Motions for Rehearing; Finality of Decisions
22 TAC §157.20. Judicial Review

§157.17. Final Decisions and Orders.

(a)After a proposal for decision has been issued by an administrative law judge, the Board will render the final decision in the contested case or remand the proceeding for further consideration by the administrative law judge.
(b)The Board is responsible for imposing disciplinary action and/or assessing administrative penalties, if any, against a respondent who is found to have violated any of the Board's statutes or rules. The Board welcomes recommendations from an administrative law judge as to the sanctions to be imposed, but the Board is not required to give presumptively binding effect to the judge's recommendations and is not bound by such recommendations.
(c)If the Board remands the case to the administrative law judge, the Board may direct that further consideration be accomplished with or without reopening the hearing and may limit the issues to be considered. If, on remand, additional evidence is admitted that results in a substantial revision of the proposal for decision, or the underlying facts, an amended or supplemental proposal for decision shall be prepared by the administrative law judge and the provisions of this subchapter shall apply. Exceptions and replies shall be limited to items contained in the supplemental proposal for decision.
(d)The proposal for decision may be acted upon by the Board after the expiration of the applicable time periods for filing exceptions and replies to exceptions, and after the administrative law judge has ruled on any exceptions and replies.
(e)Any party may request oral arguments before the Board prior to the final disposition of the contested case. Oral arguments will be conducted in accordance with [~~paragraphs (1) (5) of~~] this subsection.
(1)The chairperson or the Board member designated by the chairperson to preside (the presiding member) shall announce the case. Upon the request of any party, the presiding member may conduct a prehearing conference with the parties and their attorneys of record. The presiding member may announce reasonable time limits for any oral arguments to be presented by the parties.
(2)The hearing on the proposal for decision shall be limited to the record. New evidence may not be presented on the substance of the case unless the party submitting the evidence can establish that the new evidence was not reasonably available at the time of the original hearing or the party offering the evidence was misled by a party regarding the necessity for offering the evidence at the original hearing.
(3)In presenting oral arguments, the party bearing the burden of proof shall open and close. The party responding may offer rebuttal arguments. Parties may request an opportunity for additional rebuttal subject to the discretion of the presiding member.
(4)After being recognized by the presiding member, the members of the Board may ask

questions of the parties. If a party is represented by counsel, the questions must be directed to the party's attorney. Questions must be limited to the record and to the arguments made by the parties.

(5)Upon the conclusion of oral arguments, questions by the members of the Board, and any discussion by the member of the Board, the presiding member shall call for a motion regarding disposition of the contested case. The presiding member may vote on the motion. A motion may be granted only if a majority of the members present and voting vote in favor of the motion. In the event of a tie vote, the presiding member shall announce that the motion is overruled.

(f)Final orders on contested cases shall be in writing and signed by the presiding officer of the Board. Final orders shall include findings of fact and conclusions of law separately stated from disciplinary actions imposed and administrative penalties assessed. Parties shall be notified as provided in Chapter 2001, Texas Government Code [~~either personally or by mail of any decision or order~~]. On written request, a copy of the decision or order shall be delivered or mailed to any party and to the respondent's attorney of record.

(g)The Board may change a finding of fact or conclusion of law in a proposal for decision when the Board determines:

(1)that the judge did not properly apply or interpret applicable law, agency rules, written policies provided by staff or prior administrative decisions;

(2)that a prior administrative decision on which the judge relied is incorrect or should be changed; or

(3)that a technical error in a finding of fact should be changed.

(h)If the Board modifies, amends, or changes a finding of fact or conclusion of law in a proposal for decision, the order shall reflect the Board's changes as stated in the record of the meeting and state the specific reason and legal basis for the changes.

(i)If the Board does not follow the recommended disciplinary action and/or administrative penalty in a proposal for decision, the order shall explain why the Board chose not to follow the recommendation as stated in the record of the meeting.

(j)Imminent Peril. If the Board finds that an imminent peril to the public health, safety, or welfare requires immediate effect on a final decision or order in a contested case, it shall recite the factual and legal basis for its finding in the decision or order as well as the fact that the decision or order is final and effective on the date rendered, in which event the decision or order is final and appealable on the date rendered, and no motion for rehearing is required as a prerequisite for appeal.

(k)Conflict of Interest. A Board member shall recuse himself or herself from all deliberations and votes regarding any matter:

(1)the Board member reviewed as a member of a Peer Investigative Committee;

(2)involving persons or transactions about which the Board member has a conflict of interest; [~~or~~]

(3)involving persons or transactions related to the Board member sufficiently closely as to create the appearance of a conflict of interest; or[~~.~~]

(4)in which the Board member participated in the negotiation of a consent order.

[~~(l)A Board member's participation in the negotiation of a consent order under Texas Occupations Code, §1103.458, does not require recusal under subsection (k) of this section.~~]

§157.18. Motions for Rehearing[~~; Finality of Decisions~~].

(a)Motions for rehearing in proceedings under Chapter 1103, Texas Occupations Code, are governed by §§2001.144 - 2001.147, Texas Government Code, and this section. [~~Filing times. A motion for rehearing must be filed within 20 days after a party has been notified, either in person or by certified mail, return receipt requested, of the final decision or order made by the Board.~~]

(b)Motions for rehearing in proceedings under Chapter 1104, Texas Occupations Code, are governed by §1104.216, Texas Occupations Code, §§2001.144 - 2001.147, Texas Government Code, and this section.

(c)A timely-filed motion for rehearing is a prerequisite to appeal, except as provided in §157.17 of this subchapter.

(d)Replies to a motion for rehearing may be filed as provided in Chapter 2001, Texas Government Code.

(e) [~~(b)~~] A motion for rehearing shall set forth the particular finding of fact, conclusion of law, ruling, or other action which the complaining party asserts caused substantial injustice to the party and was in error such as violation of a constitutional or statutory provision, lack of authority, unlawful procedure, lack of substantial evidence, abuse of discretion, other error of law, or other good cause specifically described in the motion. In the absence of specific grounds in the motion, the Board will take no action, and [~~shall presume that~~] the motion will [~~should~~] be overruled by operation of law.
[~~(c)Board action. Board action on a motion must be taken no later than the 20th day after the date the commissioner is served with the motion for rehearing. If Board action is not taken within the 20 day period, the motion for rehearing is overruled by operation of law.~~]
[~~(d)A decision is final, in the absence of a timely motion for rehearing, on the expiration of the period for filing a motion for rehearing. A decision is final and appealable on the date of rendition of the order overruling a motion for rehearing, or on the date the motion for rehearing is overruled by operation of law.~~]
(f) [~~(e)~~] Any party may request oral arguments before the Board prior to the final disposition of the motion for rehearing. If the Board grants a request for oral argument, oral [~~Oral~~] arguments will be conducted in accordance with [~~paragraphs (1) (5) of~~] this subsection.

(1)The chairperson or the Board member designated by the chairperson to preside (the presiding member) shall announce the case. Upon the request of any party, the presiding member may conduct a prehearing conference with the parties and their attorneys of record. The presiding member may announce reasonable time limits for any oral arguments to be presented by the parties.

(2)The hearing on the motion shall be limited to a consideration of the grounds set forth in the motion. Testimony by affidavit or documentary evidence such as excerpts of the record before the presiding officer may be offered in support of, or in opposition to, the motion; provided, however, a party offering affidavit testimony or documentary evidence must provide the other party with copies of the affidavits or documents at the time the motion is filed. New evidence may not be presented on the substance of the case unless the party submitting the evidence can establish that the new evidence was not reasonably available at the time of the original hearing or the party offering the evidence was misled by a party regarding the necessity for offering the evidence at the original hearing.

(3)In presenting oral arguments, the party filing the motion will have the burden of proof and shall open and close. The party responding to the motion may offer rebuttal arguments. Parties may request an opportunity for additional rebuttal subject to the discretion of the presiding member.

(4)After being recognized by the presiding member, the members of the Board may ask questions of the parties. If a party is represented by counsel, the questions must be directed to the party's attorney. Questions must be limited to the grounds asserted for the motion to be granted and to the arguments made by the parties.

(5)Upon the conclusion of oral arguments, questions by the members of the Board, and any discussion by the member of the Board, the presiding member shall call for a vote on the motion. A member of the Board need not make a separate motion or second a motion filed by a party. The presiding member may vote on the motion. A motion may be granted only if a majority of the members present and voting vote in favor of the motion. In the event of a tie vote, the presiding member shall announce that the motion is overruled.
(g) [~~(f)~~] A decision is final and appealable on the date rendered if:

(1)the Board finds that an imminent peril to the public health, safety or welfare requires immediate effect; and[~~,~~]

(2)the Board's [~~in which event the~~] decision or order recites this [~~shall recite the~~] finding and the fact that the decision is final and effective on the date rendered.

§157.20. Judicial Review.

(a)A person who has exhausted all administrative remedies[~~,~~] and who is aggrieved by a final decision in a contested case is entitled to judicial review.

(b)The petition for judicial review must [~~shall~~] be filed in a district court of Travis County, Texas, as provided in Chapter 2001, Texas Government Code [~~within 30 days after the decision or order of the Board is final and appealable~~].
(c)Pursuant to Texas Government Code, §2001.177, a party seeking judicial review of a final decision of the Texas Appraiser Licensing and Certification Board in a contested case shall pay all costs of preparing the original or certified copy of a record of the contested case proceedings.

AGENDA ITEM 16(d)

Discussion and possible action to adopt amendments to 22 TAC, Chapter 157, Rules Relating to Practice and Procedure, Subchapter D, Penalties and Other Enforcement Provisions:

i. §157.25, Temporary Suspension
ii. §157.26, Unlicensed Activity

SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §157.25, Temporary Suspension, and new rule §157.26, Unlicensed Activity, as published in the September 4, 2015 issue of the *Texas Register* (40 TexReg 5683). The amendments and new rule implement statutory changes to Chapter 2001, Texas Government Code, and Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

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 §157.25, Temporary Suspension, and new rule §157.26, Unlicensed Activity, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes required for adoption.

ADOPTION RULE ACTION FROM

NOVEMBER 20, 2015 MEETING OF

THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

Chapter 157. Rules Relating to Practice and Procedure
Subchapter D. Penalties and Other Enforcement Provisions

22 TAC §157.25. Temporary Suspension
22 TAC §157.26. Unlicensed Activity

§157.25. Temporary Suspension.

(a)The purpose of a temporary suspension proceeding is to determine whether the continued practice by a person licensed, certified or registered by the Board would constitute a continuing threat to the public welfare. It is ancillary to a disciplinary proceeding regarding alleged violations of the Act or Board rules and is not dispositive concerning any such violations.
(b)The three Board members of the Enforcement Committee appointed by the chair of the Board shall serve as the disciplinary panel ("Panel") under Texas Occupations Code, §1103.5511 and §1104.211. The chair of the Board shall also appoint a Board member to act as an alternate member of the Panel in the event a member of the Panel is recused or unable to attend a temporary suspension proceeding.
(c)Board staff must request a temporary suspension proceeding in writing by filing a motion for temporary suspension with the Board's general counsel.
(d)The Panel may make a determination regarding a temporary suspension without notice or hearing pursuant to Texas Occupations Code, §1103.5511(c)(1) or §1104.211(c)(1), or may, if appropriate in the judgment of the chair of the Panel, provide the license holder or registrant with three days' notice of a temporary suspension hearing.
(e)The requirement under Texas Occupations Code, §1103.5511(c)(1) or §1104.211(c)(1) that "institution of proceedings for a contested case hearing is initiated simultaneously with the temporary suspension" shall be satisfied if, on the same day the motion for temporary suspension is filed with the Board's general counsel, the licensed, certified or registered person that is the subject of the temporary suspension motion, and the State Office of Administrative Hearings, as applicable, is sent one of the following documents that alleges facts that precipitated the need for a temporary suspension:
(1)Notice of Alleged Violation;
(2)Original Statement of Charges; or
(3)Amended Statement of Charges.
(f)The Panel shall post notice of the temporary suspension proceeding pursuant to §551.045 of the Texas Government Code and Texas Occupations Code, §1103.5511(e) or §1104.211(e) and hold the temporary suspension proceeding as soon as possible.
(g)The determination whether the continued practice by a person licensed, certified or registered by the Board would constitute a continuing threat to the public welfare shall be determined from information presented to the Panel. The Panel may receive information and testimony in oral or written form. Documentary evidence must be submitted to the Board's general counsel in electronic format at least 24 hours in advance of the time posted for the temporary suspension hearing in all cases where the Panel will be meeting via teleconference. If a hearing is held following notice to a license holder or registrant, Board staff will have the burden of proof and shall open and close. The party responding to the motion for temporary suspension

may offer rebuttal arguments. Parties may request an opportunity for additional rebuttal subject to the discretion of the chair of the Panel. The chair of the Panel may set reasonable time limits for any oral arguments and evidence to be presented by the parties. The Panel may question witnesses and attorneys at the members' discretion. Information and testimony that is clearly irrelevant, unreliable, or unduly inflammatory will not be considered.
(h)The determination of the Panel may be based not only on evidence admissible under the Texas Rules of Evidence, but may be based on information of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs.
(i)If the Panel suspends a license or certificate, it shall do so by order and the suspension shall remain in effect for the period of time stated in the order, not to exceed the date a final order is issued by the Board in the underlying contested case proceeding. The Panel order must recite the factual and legal basis for imminent peril warranting temporary suspension.
(j)A temporary suspension under Texas Occupations Code, §1103.5511 or §1104.211 shall not automatically expire after 45 days if the Board has scheduled a hearing on the contested case to take place within that time and the hearing is continued beyond the 45th day for any reason other than at the request of the Board.
(k)If credible and verifiable information that was not presented to the Panel at a temporary suspension hearing, which contradicts information that influenced the decision of the Panel to order a temporary suspension, is subsequently presented to the Panel with a motion for rehearing on the suspension, the chair of the Panel will schedule a rehearing on the matter. The chair of the Panel will determine, in the chair's sole discretion, whether the new information meets the standard set out in this subsection. A rehearing on a temporary suspension will be limited to presentation and rebuttal of the new information. The chair of the Panel may set reasonable time limits for any oral arguments and evidence to be presented by the parties. Panel members may question witnesses and attorneys. Information and testimony that is clearly irrelevant, unreliable, or unduly inflammatory will not be considered. Any temporary suspension previously ordered will remain in effect, unless the Panel holds a rehearing on the matter and issues a new order rescinding the temporary suspension.

§157.26. Unlicensed Activity.

If the Board receives information indicating that a person has violated Chapter 1103 or 1104, Texas Occupations Code, or Board rules, the Board shall conduct an investigation to determine if such information is accurate. If the investigation produces evidence to indicate a probable violation of Chapter 1103 or Chapter 1104, Texas Occupations Code, or Board rules, the Board may, after notice and an opportunity for a hearing:
(1)impose an administrative penalty;
(2)issue an order to cease and desist; or
(3)take such other action as may be necessary and proper.

AGENDA ITEM 16(e)

Discussion and possible action to adopt amendments to 22 TAC §157.31, Investigative Conference.

SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to 22 TAC §157.31, Investigative Conference, as published in the September 4, 2015 issue of the *Texas Register* (40 TexReg 5684). The amendments implement statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature and clarify the requirements for receiving a copy of an investigative report.

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 §157.31, Investigative Conference, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes required for adoption.

ADOPTION RULE ACTION FROM

NOVEMBER 20, 2015 MEETING OF

THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

Chapter 157. Rules Relating to Practice and Procedure
Subchapter E. Alternative Dispute Resolution

22 TAC §157.31. Investigative Conference

§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 and~~] a Statement of Investigative Conference Procedures and Rights (IC Form) not later than three [~~(3)~~] days before [~~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)The Board will provide a copy of the investigative report to the respondent and respondent's representative(s), if any, not later than three days before the date of the investigative conference if respondent and respondent's representative(s), if any:
(1)Submit a written request for a copy of the investigative report not later than five days before the date of the investigative conference; and
(2)Sign the Board's confidentiality agreement prohibiting the re-release of the investigative report without written permission of the Board or a court order.
[~~(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)At the conclusion of the investigative conference, the Board staff may propose a settlement offer that can include administrative penalties and any other disciplinary action authorized by the Act or recommend that the complaint be dismissed.
(g)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)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.

AGENDA ITEM 17

Discussion and possible action to adopt repeal of 22 TAC §157.19, Prerequisite to Judicial Review.

SUMMARY

The Texas Appraiser Licensing and Certification Board (TALCB) adopts repeal of 22 TAC §157.19, Prerequisite to Judicial Review, as published in the September 4, 2015 issue of the *Texas Register* (40 TexReg 5682). The language in this rule is being moved to section 157.18, Motions for Rehearing.

COMMENTS

No comments were received on the repeal as proposed.

STAFF RECOMMENDATION

Adopt repeal as published.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption the repeal of 22 TAC §157.19, Prerequisite to Judicial Review, as published in the *Texas Register*.

ADOPTION RULE ACTION FROM

NOVEMBER 20, 2015 MEETING OF

THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

Chapter 157. Rules Relating to Practice and Procedure
Subchapter C. Post Hearing

22 TAC §157.19. Prerequisite to Judicial Review

~~***§157.19. Prerequisite to Judicial Review.***~~

~~Except in the case of an emergency decision or order, a motion for rehearing is a prerequisite to judicial review.~~

AGENDA ITEM 18

Discussion and possible action to propose new 22 TAC §153.22, Voluntary Appraiser Trainee Experience Reviews.

SUMMARY

The proposed rule establishes a voluntary program through which an appraiser trainee may receive feedback about their appraisal work product from the Board before submitting an application for licensure.

STAFF RECOMMENDATION

Propose the new rule as presented.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit new 22 TAC §153.22, Voluntary Appraiser Trainee Experience Reviews, 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

NOVEMBER 20, 2015 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 §153.22. Voluntary Appraiser Trainee Experience Reviews.

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes new §153.22, Voluntary Appraiser Trainee Experience Reviews. The proposed rule establishes a voluntary program through which an appraiser trainee may receive feedback about their appraisal work product from the Board before submitting an application for licensure.

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

Ms. Worman also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of implementing the section as proposed will be better communication and feedback for appraiser trainees and their supervisory appraisers who take advantage of the voluntary reviews.

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.

This rule is proposed under Texas Occupations Code, §1103.151, which authorizes 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 this proposed rule is Texas Occupations Code, Chapter 1103. No other statute, code or article is affected by the proposed rule.

§153.22. Voluntary Appraiser Trainee Experience Reviews.

(a) Before applying for a license, an appraiser trainee may request the Board to review the appraiser trainee's work product.
(b) An appraiser trainee may submit an application to the Board for review of the appraiser trainee's work product after:
(1) accumulating 500 hours of appraisal experience;
(2) accumulating 1,000 hours of appraisal experience; or
(3) both.
(c) Work product submitted for review must fall within one of the approved categories of experience credit described in section 153.15(e) and meet the definition of real estate appraisal experience in section 153.1.
(d) To begin the review process, an appraiser trainee must submit:

(1) a completed, Board-approved application requesting the Board to review the appraiser trainee's work product;
(2) payment of the $75 fee; and
(3) a completed appraisal report and corresponding work file from a time period during which the appraiser trainee had legal authority to perform the work.
(e) The application for review of an appraiser trainee's work product is not complete until the appraiser trainee submits all required documentation and pays the applicable fee.
(f) If an appraiser trainee provides inadequate documentation, the Board will contact the appraiser trainee in writing, identify any deficiencies and provide the appraiser trainee twenty days to cure the noted deficiencies. If the appraiser trainee fails to cure the deficiencies timely, the Board will terminate the appraiser trainee's application for work product review.
(g) The Board will provide the appraiser trainee with a written report identifying deficiencies in the appraiser trainee's work product after the application for review is complete.
(h) A review conducted under this provision:
(1) is for educational purposes only;
(2) does not constitute Board approval of the appraiser trainee's experience;
(3) does not preclude the Board from denying a license application submitted by the appraiser trainee in the future; and
(4) will not result in a complaint against the appraiser trainee unless review of the appraiser trainee's work product reveals:
(A) knowing or intentional misrepresentation, fraud or criminal conduct; or,
(B) serious deficiencies that constitute grossly negligent acts or omissions.

AGENDA ITEM 19(a)

Discussion and possible action to propose amendments to 22 TAC §153.18, Appraiser Continuing Education (ACE).

SUMMARY

The proposed amendments add additional opportunities for appraiser license holders to obtain continuing education credits consistent with criteria established by the Appraiser Qualifications Board and statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

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 §153.18, Appraiser Continuing Education Credit (ACE), 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

NOVEMBER 20, 2015 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 §153.18. Appraiser Continuing Education (ACE).

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to §153.18, Appraiser Continuing Education (ACE). The proposed amendments add additional opportunities for appraiser license holders to obtain continuing education credits consistent with criteria established by the Appraiser Qualifications Board and statutory changes to Chapter 1103, Texas Occupations Code, adopted by the 84th Legislature.

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

Ms. Worman also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections as proposed will be increased opportunities for license holders to interact with the Board and receive continuing education credit.

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 Appraiser Qualifications Board.

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

§153.18. 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) To renew a license, a license holder must successfully complete the equivalent of at least 28 classroom hours of ACE courses approved by the 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) of this section.
(c) The Board will base its review and approval of ACE courses upon the appraiser qualifications criteria of the AQB.
(d) The following types of courses may be accepted for ACE:

(1) A course that meets the requirements for licensing also may be accepted for ACE if:

(A) The course is devoted to one or more of the appraisal related topics of the appraiser qualifications criteria of the AQB for continuing education;

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

(C) the course is at least two hours in length.

(2) The Board will accept as ACE any continuing education course that has been approved by the AQB course approval process or by another state appraiser licensing and certification board.

(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.

(e) To satisfy the USPAP ACE requirement, a course must:

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

(2) use the current edition of the USPAP;

(3) provide each student with his or her own permanent copy of the current USPAP; and

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

(g) Up to one half of a license holder's ACE requirements 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 to be equivalent to obtaining 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.

(i) **ACE credit for attending a Board meeting.**

(1) The Board may award a minimum of two hours and up to a maximum of 4 hours of ACE credit to a current license holder for attending the Board meeting held in February of an even numbered year.

(2) The hours of ACE credit to be awarded will depend on the actual length of the Board meeting.

(3) ACE credit will only be awarded in whole hour increments. For example, if the Board meeting is 2 and one half hours long, only 2 hours of ACE credit will be awarded.

(4) To be eligible for ACE credit for attending a Board meeting, a license holder must:

(A) Attend the meeting in person;
(B) Attend the entire meeting, excluding breaks;
(C) Provide photo identification; and
(D) Sign in and out on the class attendance roster for the meeting.
(5) No ACE credit will be awarded to a license holder for partial attendance.
(j) ACE credit for attending presentations by current Board members or staff. As[~~Unless~~] authorized by law, [~~neither~~] current members of the Board **and**[~~nor those~~] Board staff **may**[~~engaged in the approval of courses or educational qualifications of applicants, certificate holders or licensees will be eligible to~~] teach or guest lecture as part of an approved ACE course. **To obtain ACE credit for attending a presentation by a current Board member or Board staff, the course provider must submit the applicable form and satisfy the requirements for ACE course approval in this section.**
(k)[~~(j)~~] If the Board determines that an ACE 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 disciplinary provisions for licenses.

AGENDA ITEM 19(b)

Discussion and possible action to propose amendments to 22 TAC §153.27, License by Reciprocity.

SUMMARY

The proposed amendments streamline the Board's process for verifying an applicant's licensure in another state and will lower the cost and simplify the application process for applicants who apply for a license under this section.

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 §153.27, License by Reciprocity, 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

NOVEMBER 20, 2015 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 §153.27. License by Reciprocity.

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to §153.27, License by Reciprocity. The proposed amendments streamline the Board's process for verifying an applicant's licensure in another state and will lower the cost and simplify the application process for applicants who apply for a license under this section.

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

Ms. Worman also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections as proposed will be increased efficiency for processing applications, as well as a simpler process and lower costs for applicants who apply for a license under this section.

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 Appraiser Qualifications Board.

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

§153.27. License by Reciprocity.

(a) A person who is licensed as an appraiser under the laws of a state whose appraiser program has not been disapproved by the ASC may apply for a Texas license at that same level by completing and submitting to the Board the application for or license by reciprocity and paying the appropriate fee to the Board.

(b) The Board shall **verify**[~~seek verification from an applicant's state of current licensure~~] that the applicant's license is valid and in good standing **by checking the National Appraiser Registry**. A reciprocal license may not be issued without the verification required by this subsection.

(c) Renewal of a license granted through reciprocity shall be in the same manner, and with the same requirements, term, and fees, as for the same classification of license as provided in §153.17 of

this title (relating to Renewal or Extension of License).

AGENDA ITEM 20

Discussion and possible action to propose amendments to 22 TAC §159.155, Periodic Review of Appraisals.

SUMMARY

The AMC Advisory Committee recommends certain amendments to 22 TAC §159.155. Staff disagrees with the amendments recommended by the AMC Advisory Committee and recommends alternative amendments. Both versions are included for consideration by the Board.

RECOMMENDED MOTION

MOVED, that staff is authorized, on behalf of this Board, to submit amendments to 22 TAC §159.155, Periodic Review of Appraisals, as recommended by _____ for publication and public comment to the *Texas Register*, along with any technical or non-substantive changes required for proposal.

TEXAS APPRAISER LICENSING & CERTIFICATION BOARD

DOUGLAS E. OLDMIXON, COMMISSIONER

PROPOSED RULE ACTION FROM

NOVEMBER 20, 2015 MEETING OF

THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

Chapter 159. Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act

22 TAC §159.155. Periodic Review of Appraisals.

§159.155. Periodic Review of Appraisals.

(a) A license holder 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 of:

(1) one of the first five appraisals performed for the license holder by each appraiser, prior to making a sixth assignment; and

(2) a total of 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 will be counted toward the 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, 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.~~]

(d)[~~(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.~~]

(e)[~~(g)~~] In order to satisfy the requirements of §1104.155 of the AMC Act, this rule and USPAP, **the review's Scope should be sufficient to ensure that methods, assumptions, data sources, and conclusions are reasonable and appropriate.** [~~a license holder 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;~~]

[~~(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 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;~~]

[~~(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.~~]

(f)[~~(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.

TEXAS APPRAISER LICENSING & CERTIFICATION BOARD

DOUGLAS E. OLDMIXON, COMMISSIONER

PROPOSED RULE ACTION FROM

NOVEMBER 20, 2015 MEETING OF

THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

Chapter 159. Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act

22 TAC §159.155. Periodic Review of Appraisals.

§159.155. Periodic Review of Appraisals.

(a) A license holder 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 of:

(1) one of the first five appraisals performed for the license holder by each appraiser, prior to making a sixth assignment; and

(2) a total of 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 will be counted toward the 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, to be registered with the Board.

(d) 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.

(e) In order to satisfy the requirements of §1104.155 of the AMC Act, this rule and USPAP, the review's Scope should be sufficient to ensure that methods, assumptions, data sources, and conclusions are reasonable and appropriate.

(f) 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.

TEXAS APPRAISER LICENSING & CERTIFICATION BOARD

DOUGLAS E. OLDMIXON, COMMISSIONER

PROPOSED RULE ACTION FROM

NOVEMBER 20, 2015 MEETING OF

THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

Chapter 159. Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act

22 TAC §159.155. Periodic Review of Appraisals.

§159.155. Periodic Review of Appraisals.

(a) A license holder must review the work of appraisers performing appraisal services on 1-4 family unit properties collateralizing mortgage obligations by performing **an appraisal**[~~a~~] review in accordance with Standard 3 of USPAP of:

(1) one of the first five appraisals performed for the license holder by each appraiser, prior to making a sixth assignment; and

(2) a total of 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) **Appraisal reviews**[~~Appraisals~~] performed pursuant to subsection (a)(1) of this section will be counted toward the calculation of five percent for the purposes of subsection (a)(2) of this section.

(c) **An appraisal**[~~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, 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.~~]

(d)[~~(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.~~]

(e)[~~(g) In order to satisfy the requirements of §1104.155 of the AMC Act, this rule and USPAP,~~] **To comply with this section,** a license holder performing **an appraisal**[~~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:

(1)[~~(A) the~~] multiple listing service(s)**, published and market cost data sources, comparable rental data, income and expense data and**[~~or~~] other recognized [~~methods, techniques and~~] data sources **(as applicable)** for the geographic area in which the appraisal under review was performed, [~~if the appraisal under review included a sales comparison approach~~]**and in accordance with recognized methods and techniques necessary to produce credible assignment results**; **and**

[~~(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~~]

(2)[~~(D)~~] the sales and[~~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 was listed for sale as of the effective date of the appraisal under review.[~~;~~

~~(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 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;~~

~~(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.~~]

(f)[~~(h)~~] While not required by §1104.155 of the AMC Act or this section[~~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.

TEXAS APPRAISER LICENSING & CERTIFICATION BOARD

DOUGLAS E. OLDMIXON, COMMISSIONER

PROPOSED RULE ACTION FROM

NOVEMBER 20, 2015 MEETING OF

THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

Chapter 159. Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act

22 TAC §159.155. Periodic Review of Appraisals.

§159.155. Periodic Review of Appraisals.

(a) A license holder must review the work of appraisers performing appraisal services on 1-4 family unit properties collateralizing mortgage obligations by performing an appraisal review in accordance with Standard 3 of USPAP of:

(1) one of the first five appraisals performed for the license holder by each appraiser, prior to making a sixth assignment; and

(2) a total of 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) Appraisal reviews performed pursuant to subsection (a)(1) of this section will be counted toward the calculation of five percent for the purposes of subsection (a)(2) of this section.

(c) An appraisal 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, to be registered with the Board.

(d) 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.

(e) To comply with this section, a license holder performing an appraisal review must 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:

(1) multiple listing service(s), published and market cost data sources, comparable rental data, income and expense data and other recognized data sources (as applicable) for the geographic area in which the appraisal under review was performed, and in accordance with recognized methods and techniques necessary to produce credible assignment results; and

(2) the sales and 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 was listed for sale as of the effective date of the appraisal under review.

(f) While not required by §1104.155 of the AMC Act or this section, 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.

TEXAS REGISTER

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Thomas Huizar

TRD-201205920
Kerri T. Galvin
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: December 4, 2012
Proposal publication date: September 7, 2012
For further information, please call: (512) 936-3576

CHAPTER 159. RULES RELATING TO THE PROVISIONS OF THE TEXAS APPRAISAL MANAGEMENT COMPANY REGISTRATION AND REGULATION ACT

22 TAC §159.155

The Texas Appraiser Licensing and Certification Board (TALCB) adopts amendments to §159.155, concerning Periodic Review of Appraisals. The amendments are adopted with changes to the proposed text as published in the September 7, 2012, issue of the *Texas Register* (37 TexReg 7040). Subsection (g)(1) was revised to clarify the purpose for researching and consulting appropriate data sources by adding the following phrase after "appraisal being reviewed": "to, at a minimum, validate the significant characteristics of the comparables and the essential elements of the transactions". Also, subsection (f) is revised to correct a mistake in the statutory cite.

The amendments were proposed at TALCB's August 17, 2012, meeting to clarify the timeframes for review and to provide the minimum standards that an Appraisal Management Company (AMC) must observe when reviewing the work of an appraiser that performs appraisal services for the AMC, for compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) and other standards prescribed by TALCB rules.

The reasoned justification for the amendments to §159.155 is conformity with statutory provisions and greater clarity and as further set out in explanations to comments received below.

Three comments were received by TALCB on the proposed amendments, two from AMCs and one from an attorney who represents AMCs. One commenter was concerned that the scope of the rule as amended applied the same criteria for review whether or not the reviewer reached an opinion of value and did not think this was intended by the Board. That commenter suggested that the Board revise subsection (g) of the proposed amendments to provide one set of criteria for all appraisal reviews and a second set applicable for reviews in which the reviewer chooses to include his or her own opinion of value. That commenter also thought that the reviewer had to be licensed or certified in Texas only when the reviewer reached an opinion of value.

Another commenter stated that a reviewer is not required to replicate the steps completed by the original appraiser under a Standard 3 review and felt that subsection (g)(1) would not allow the reviewer to use the extraordinary assumption permitted under USPAP and would create a significant cost burden on AMCs that was not commensurate with the additional consumer protection that would be provided. The commenter suggested that subsection (g)(1) be revised to add the following phrase to the end of that subsection, "to the extent there is evidence suggesting the data is not accurate." This commenter reasons that adding this phrase "to clarify that validation of underlying data is only necessary when a review reveals concerns with a report's opinions, analyses, and conclusions, helps preserve the use of the extraordinary assumption as permitted by USPAP, and also provides AMCs guidance on what types and sources of data must be consulted to the extent the reviewer identifies concerns." This commenter also requested that subsection (a) be revised to require an AMC to review one of the first five appraisals by a new panel member prior to making the tenth assignment instead of the sixth. The reasoning here was that in peak times, the AMC may not have the time and resources to complete a Standard 3 review of one of the appraisals before making a sixth assignment and might prevent timely valuation services from being provided to Texas consumers. This commenter also submitted supplemental comments which were presented at the Board meeting. The supplemental comments stressed that they feel the use of the extraordinary assumption permitted by USPAP for reviews is necessary to prevent the reviewer from having to "replace all of the information and analysis in the report."

The last commenter objected to having the review requirement at all and reiterated comments made when the rule was originally proposed last year. Since the rule was adopted already and this amendment concerns only a clarification of the scope of the review and not the existence of the review, those comments are not germane.

The Board respectfully disagrees with the commenters. The Board did intend for the standards of review in the amendment to apply to all appraisals reviewed, regardless of whether the reviewer reached an opinion of value. USPAP and the Texas Appraiser Licensing and Certification Act both permit TALCB to impose more restrictive standards than set out in USPAP. TALCB feels that proper consumer protection requires a thorough review of appraisals to ensure the integrity of valuation services managed by AMCs. For this same reason, TALCB also does not believe that the extraordinary assumption permitted under USPAP should be routinely invoked for appraisal reviews. The intention underlying subsection (g)(1) is to make sure that appropriate data sources are consulted so that, at a minimum, the reviewer can validate the significant characteristics of the comparables and the essential elements of the transactions. Subsection (g)(1) was not intended to require the reviewer to replicate all of the steps taken by the original appraiser. This validation process of the review should not significantly increase the costs to AMCs, especially since AMCs are only required to conduct these reviews on a total of 5% of Texas appraisals performed for the AMC in a twelve-month period. However, TALCB does agree that the language of subsection (g)(1) should be revised to clarify the intended scope and therefore changed the language from the text as proposed as noted in the first paragraph of this preamble. The supplemental comments do not change TALCB's position that subsection (g)(1) as revised does not require the review appraiser to in effect replace all information and analysis of the appraiser.

The Board also respectfully disagrees with the suggestion to change the required review of one of the first five appraisals of a new panelist from before making the sixth assignment to before making the tenth assignment. The public policy underlying the review of one of the first five appraisals of a new panelist is to ensure the competency of the appraiser before the AMC makes multiple assignments to that appraiser. Pushing that review off until even more appraisals are assigned and completed defeats the consumer protection intended by this policy.

Finally, there is a misunderstanding on the part of the first commenter that a reviewer has to be licensed or certified in Texas only if an opinion of value is given by the reviewer. Texas Occupations Code, §1104.153 states: "A person who performs an appraisal review for an appraisal management company must be licensed or certified under Chapter 1103 [the Texas Appraiser Licensing and Certification Act] with at least the same certification for the property type as the appraiser who completed the report being reviewed." This means that all reviewers have to be licensed or certified in Texas, regardless of whether the reviewer gives an opinion of value or not. Licensure or certification under Chapter 1103 of the Texas Appraiser Licensing and Certification Act would include certification by reciprocity but does not include registration as a temporary out-of-state appraiser. The changes made to the text of the rule do not require republication since they do not change the rule so much that it can be deemed a different rule, do not affect individuals who would not have been impacted by the rule as proposed and do not impose more stringent requirements for compliance than the proposed version. In fact, both provisions give respondents more rights than under the proposed version.

The amendments are adopted under Texas Occupations Code, §1104.051, which authorizes the TALCB to adopt rules necessary to establish and enforce standards related to appraisal management services.

The statute affected by the amendments is Texas Occupations Code, Chapter 1104. No other statute, code or article is affected by the amendments.

§159.155. Periodic Review of Appraisals.

(a) A registrant shall review the work of appraisers performing appraisal services by performing a review in accordance with Standard 3 of the Uniform Standards of Professional Appraisal Practice (USPAP) of:

(1) one of the first five appraisals performed for the registrant by each appraiser, prior to making a sixth assignment; and

(2) a total of 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 be counted toward the 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 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 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 Act and this rule must ensure compliance with the USPAP and with §1104.154 of the Act.

(g) In order to satisfy the requirements of §1104.155 of the Act, this rule and USPAP, a 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 commercial databases 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 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 Act and this rule, including ensuring that the appraisal under review complies with the edition of USPAP 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 Act, this rule and USPAP 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;

(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 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.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on November 14, 2012.

TRD-201205921
Kerri T. Galvin
General Counsel
Texas Appraiser Licensing and Certification Board
Effective date: December 4, 2012
Proposal publication date: September 7, 2012
For further information, please call: (512) 936-3576

PART 15. TEXAS STATE BOARD OF PHARMACY

CHAPTER 291. PHARMACIES
SUBCHAPTER A. ALL CLASSES OF PHARMACIES

22 TAC §291.17

The Texas State Board of Pharmacy adopts amendments to §291.17, concerning Inventory Requirements. The amendments are adopted with changes to the proposed text as published in September 21, 2012, issue of the *Texas Register* (37 TexReg 7435).

The amendments update and clarify the inventory requirements to be consistent and require all controlled substances to be inventoried on a change of pharmacist-in-charge inventory.

No comments were received.

The amendments are adopted under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 566 and 568 - 569, Texas Occupations Code). The Board interprets §551.002 as authorizing the agency to protect the public through the effective control and regulation of the practice of pharmacy. The Board interprets §554.051(a) as authorizing the agency to adopt rules for the proper administration and enforcement of the Act.

The statutes affected by these amendments: Texas Pharmacy Act, Chapters 551 - 566 and 568 - 569, Texas Occupations Code.

§291.17. Inventory Requirements.

(a) General requirements.

(1) The pharmacist-in-charge shall be responsible for taking all required inventories, but may delegate the performance of the inventory to another person(s).

(2) The inventory shall be maintained in a written, typewritten, or printed form. An inventory taken by use of an oral recording device must be promptly transcribed.

(3) The inventory shall be kept in the pharmacy and shall be available for inspection for two years.

(4) The inventory shall be filed separately from all other records.

(5) The inventory shall be in a written, typewritten, or printed form and include all stocks of the following drugs on hand on the date of the inventory (including any which are out-of-date):

(A) all controlled substances;

(B) all dosage forms containing nalbuphine (e.g., Nubain); and

(C) for any inventory taken after January 1, 2013, all dosage forms containing tramadol (e.g., Ultram).

(6) The inventory may be taken either as of the opening of business or as of the close of business on the inventory date.

(7) The inventory record shall indicate whether the inventory is taken as of the opening of business or as of the close of business on the inventory date. If the pharmacy is open 24 hours a day, the opening of business shall be 12:01 a.m. and the close of business shall be 12 midnight. The inventory shall indicate that it is a record of drugs on-hand as of the opening or closing of the business day.

(8) The person(s) taking the inventory shall make an exact count or measure of all substances listed in Schedule II.

(9) The person(s) taking the inventory shall make an estimated count or measure of all substances listed in Schedule III, IV, or V and dangerous drugs, unless the container holds more than 1,000 tablets or capsules in which case, an exact count of the contents must be made.

(10) The inventory of Schedule II controlled substances shall be listed separately from the inventory of Schedule III, IV, and V controlled substances which shall be listed separately from the inventory of dangerous drugs.

(11) If the pharmacy maintains a perpetual inventory of any of the drugs required to be inventoried, the perpetual inventory shall be reconciled on the date of the inventory.

(b) Initial inventory.

(1) A new Class A (Community) pharmacy, Class C (Institutional) pharmacy, or Class F (Free Standing Emergency Medical Care Center) pharmacy shall take an inventory on the opening day of business. Such inventory shall include all stocks (including any out-of-date drugs) of the drugs specified in subsection (a)(5) of this section.

(2) In the event the Class A, C, or F pharmacy commences business with none of the drugs specified in subsection (a)(5) of this section on hand, the pharmacy shall record this fact as the initial inventory.

(3) The initial inventory shall serve as the pharmacy's inventory until the next May 1, or until the pharmacy's regular general physical inventory date, at which time the Class A, C, or F pharmacy shall take an annual inventory as specified in subsection (c) of this section. Such inventory may be taken within four days of the specified inventory date and shall include all stocks (including out-of-date drugs).

AGENDA ITEM 21

Discussion and possible action regarding floor nominations to create a slate of candidates for the offices of Vice Chair and Secretary of the Board.

AGENDA ITEM 22

Discussion and possible action regarding continuing need for presence of OAG General Counsel at Board and Committee meetings.

AGENDA ITEM 23

Discussion and possible action regarding appointments to the Working Group for AQB Background Checks.

AGENDA ITEM 24

Discussion and possible action regarding approval of Reserve Fund Balance Policy.

TEXAS APPRAISER LICENSING & CERTIFICATION BOARD
RESERVE FUND BALANCE POLICY

Like all state agencies, TALCB's fiscal year is from 1 Sep to 31 Aug. The Administrator and agency staff are responsible for preparing a draft budget for the board's consideration each year, and after approval by the Board, to administer the budget within the parameters set by the Board.

The Board meets for regular quarterly sessions in February, May, August and November each year. The budget must be finalized each year at the Board's August meeting in order to be in effect for each new fiscal year commencing Sep 1. An integral part of the budget process is determining an appropriate level of fund balance reserves.

As part of the budget process, the budget Committee will review fund balances and recommend the level of reserves for each of the following:

1. Current Operations & Contingencies – 4 months of annual operating estimated expenditures
2. Educational Development – all Administrative Penalties collected
3. Long-Term Facilities Master Plan – Determined by Board after reviewing projected year end fund balance

On August 14, 2015, the Budget committee recommended, and the Board approved the current level of reserves:

Operating Reserve for Current Operations & Contingencies	$ 514,914
Educational Development	104,740
Long-Term Facilities Master Plan	420,000
Total Recommended Fund Balance Reserve	$1,039,654

Once the Recommended Reserve is achieved, if a specific revenue surplus (amount to be determined) is prudently accumulated, it is the Board's policy to prepare a proposed plan for the possibility of a fee reduction for licensees. Staff will make conservative recommendations for the specific conditions that would allow for any such fee reduction, the proposed category and amount, the appropriate time frame for its commencement and termination, and a forecast for the overall effect on the Board's revenue. The board will specifically approve each proposed fee reduction by the normal rule process.

(Proposed at the November 20, 2015 Board meeting)

DRAFT

AGENDA ITEM 25

Discussion and possible action on recommendations from Education Committee regarding approval of application forms for:

a. License Reinstatement
b. Voluntary Appraiser Trainee Experience Reviews

SUMMARY

These forms implement rules 22 TAC §153.16 and 22 TAC §153.22.

STAFF RECOMMENDATION

Approve the forms as presented.

RECOMMENDED MOTION

MOVED, that the Board approve the application forms for License Reinstatement and Voluntary Appraiser Trainee Experience Reviews as presented.

TEXAS APPRAISER LICENSING & CERTIFICATION BOARD

P.O. BOX 12188 • AUSTIN, TEXAS 78711-2188 • WWW.TALCB.TEXAS.GOV

APPLICATION FOR REINSTATEMENT (for certified or licensed appraisers expired more than 6 months)
Applicants expired more than 5 years who do not have work files may need to first apply as an Appraiser Trainee for the purpose of acquiring the required appraisal experience.

FEES	RECEIPT NUMBER	AMOUNT	MONEY TYPE	DATE RECEIVED
CERTIFIED GENERAL		$405.00		
CERTIFIED RESIDENTIAL		$355.00		
LICENSED RESIDENTIAL		$330.00		

DO NOT WRITE ABOVE THIS LINE

ALL INFORMATION MUST BE TYPED OR PRINTED IN INK. MAKE CHECKS OR MONEY ORDERS PAYABLE TO TALCB. APPLICANTS WILL BE REQUIRED TO PAY A NATIONAL REGISTRY FEE OF $80.00 AFTER ALL REQUIREMENTS ARE MET. FEES ARE NON-REFUNDABLE.

I certify that I previously held the following appraiser license issued by TALCB, and that I seek to reinstate that license. *(check only one)*

☐ CERTIFIED GENERAL Real Property Appraiser _____ Certification No. _____ Expiration Date

☐ CERTIFIED RESIDENTIAL Real Property Appraiser _____ Certification No. _____ Expiration Date

☐ LICENSED RESIDENTIAL Real Property Appraiser _____ License No. _____ Expiration Date

ALL REQUIREMENTS MUST BE SATISFIED WITHIN 12 MONTHS AFTER THE DATE THE APPLICATION IS RECEIVED BY TALCB OR THE APPLICATION WILL EXPIRE. THE BOARD *MAY* WAIVE THE EXAMINATION, PROOF OF QUALIFYING EDUCATION, AND THE COLLEGE EDUCATION OR DEGREE REQUIREMENT.

1. Full Legal Name: _____
Last First Middle

2. Social Security Number: _____ **3. Drivers License or State ID Number:** _____ State

4. Date of Birth: _____ **5. Gender:** ☐ Male ☐ Female

6. Ethnic Group: ☐ Black/African American ☐ Hispanic ☐ Decline to respond ☐ White ☐ Asian ☐ Other (specify): _____

7. Mailing Address and Contact Information: (Post Office Box may be used)

_____
Number, Street and Apt No.

City _____ State _____ Zip Code _____ Phone Number _____

Fax Number _____ E-mail Address _____

8. Place of Business Address: (Must be a fixed street address, not a Post Office Box)

Number, Street and Suite No.

City | State | Zip Code | Phone Number

9. List all names (maiden, aliases, nicknames, etc.) by which you have been known.

10. Provide the information indicated concerning each "professional or occupational license" that you currently hold, have held in the past five years, or for which you are currently applying. *As used herein, a "professional license" is any state or federal license, permit, registration, or certification that is required to engage in a regulated business or activity.*

License Type	License No.	Jurisdiction	Issue Date	Exp/Term Date	Status

11. Have you ever (1) had any professional or occupational license or certification suspended, canceled or revoked; (2) received a reprimand or disciplinary action; (3) surrendered a license or certification pending disciplinary action; or (4) had an application for such denied in Texas or any other state? ☐ Yes ☐ No
If YES, submit a complete written explanation and appropriate documentation such as final orders, etc.

12. Are there any pending complaints, investigations, or disciplinary hearings against any professional or occupational licenses or certifications you hold? ☐ Yes ☐ No
If YES, submit a complete written explanation and appropriate documentation such as final orders, etc.

13. Have you ever (1) been convicted of or pleaded *nolo contendere* to a criminal offense (Include **ALL** felonies and misdemeanors, including DWI and DUI. You do not have to include traffic tickets); (2) been placed on probation, community supervision, or deferred adjudication; or (3) are there any criminal charges pending against you? ☐ Yes ☐ No
If the answer to (1), (2), or (3) is YES, submit copies of all indictments, information, judgments, orders and charges, and a written explanation.

14. Have you ever had a civil judgment rendered against you, or are there any civil suits pending against you? ☐ Yes ☐ No
If YES, submit a complete written explanation and copies of all petitions and judgments.

15. Is education to meet TALCB's requirements being submitted at this time? ☐ Yes ☐ No
If YES, submit photocopies of transcripts and/or course completion certificates.

All applicants must complete 14 hrs of appraiser continuing education for each year since the last renewal of your previous license.

16. Do you wish to use experience previously submitted to TALCB in connection with another action?

☐ Yes ☐ No

If YES, provide the type of application and the approximate date it was submitted to TALCB:

_____

If NO, submit photocopies of your experience on TALCB's Appraisal Experience Log along with an Appraisal Experience Affidavit.

- **Certified General Appraiser applicants must complete a minimum of 10 non-residential appraisal reports or 300 hours of non-residential real estate appraisal experience, whichever is more.**
- **Certified Residential Appraiser applicants must complete a minimum of 10 residential appraisal reports or 250 hours of residential real estate appraisal experience, whichever is more.**
- **Licensed Residential Appraiser applicants must complete a minimum of 10 residential appraisal reports or 200 hours of residential real estate appraisal experience, whichever is more.**

You MUST be able to produce copies of the work files and an appraisal report for each appraisal assignment described in the experience log. Applicants expired more than 5 years who do not have work files may be required to apply as an Appraiser Trainee for the purpose of acquiring the required appraisal experience.

CERTIFICATION OF APPLICANT

I certify that I have read and understand this application and that the answers given herein are true, correct and complete. I will furnish all additional information or documentation requested by the Texas Appraiser Licensing and Certification Board (TALCB) for verification of the information given in this application. I understand that failing to provide information or providing information that is false, misleading or fraudulent is grounds for denial of this application or revocation of my license.

I authorize TALCB to conduct any investigations of me as authorized by law or TALCB rules. I understand that information revealed in an investigation may be cause for denial of the application even though other requirements for a license have been met and that if an investigation is necessary, it may not be conducted until I have passed the examination. I further understand that information submitted in conjunction with this application may be subject to public disclosure or inspection in accordance with the Public Information Act (Chapter 552, Government Code).

I certify that I will not perform any act that requires an appraiser license or certification until a license or certification has been issued to me by TALCB. If granted a license or certification, I will abide by the provisions of The Texas Appraiser Licensing and Certification Act (TEX OCC CODE Chapter 1103), TALCB Rules (22 TAC Chapters 153-157) and the Uniform Standards of Professional Appraisal Practice (USPAP).

_____

Applicant's Typed or Printed Name

_____ _____

Applicant's Signature **Date Signed**

NOTE: State law prohibits renewing a license after a license holder has defaulted on a student loan guaranteed by the Texas Guaranteed Student Loan Corporation (TG) unless the license holder has entered into a repayment agreement with TG. YOU should contact the TG BEFORE filing this application if you have defaulted on a student loan. A renewal may be rejected if this agency has received information from TG that the applicant has defaulted on a student loan. The Texas Guaranteed Student Loan Corporation can be contacted at: Texas Guaranteed Student Loan Corporation, P.O. Box 83100, Round Rock, TX 78683-3100. Phone: 1-800-252-9743.

PRIVACY NOTICE

In accordance with Chapter 559, Government Code, the following notice about certain information laws and practices is given.

(1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.

(2) Under Sections 552.021 and 552.023 of the Governmental Code, the individual is entitled to receive and review the information.

(3) Under Section 559.004 of the Governmental Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.

TEXAS APPRAISER LICENSING & CERTIFICATION BOARD

P.O. BOX 12188 • AUSTIN, TEXAS 78711-2188 • WWW.TALCB.TEXAS.GOV

APPLICATION FOR REVIEW OF TRAINEE WORK PRODUCT

FEES	RECEIPT NUMBER	AMOUNT	MONEY TYPE	DATE RECEIVED
WORK PRODUCT REVIEW		$75.00		

DO NOT WRITE ABOVE THIS LINE

ALL INFORMATION MUST BE TYPED OR PRINTED IN INK.
MAKE CHECKS OR MONEY ORDERS PAYABLE TO TALCB. FEES ARE NON-REFUNDABLE.

Be sure to include a completed appraisal report and corresponding work file. Documentation may be submitted via hard copy or electronically in PDF format. Do not send originals as your submission will not be returned.

1. Full Name: _____
Last First Middle

2. License Number: _____ **3. Expiration Date:** _____

4. Mailing Address and Contact Information: (Post Office Box may be used)

_____
Number, Street and Apt No.

_____ _____ _____ _____
City State Zip Code Phone Number

_____
E-mail Address

5. Appraisal Report Information:

_____ _____
Subject Location (address, city, state) Report Date

Indicate the portion(s) of the appraisal you performed:

- ☐ Site Inspection & Descriptions
- ☐ Building Inspection & Descriptions
- ☐ Neighborhood Description & Analysis
- ☐ Highest & Best Use Analysis
- ☐ Research of Comps-Sales
- ☐ Income Analysis
- ☐ Cost Analysis
- ☐ Sales Analysis
- ☐ Final Reconciliation
- ☐ Subject Listing/Sales Analysis
- ☐ Other: _____

Supervisory Appraiser Name: _____ **License Number:** _____
for the appraisal report being submitted

CERTIFICATION OF APPLICANT

I certify that the above information is true and correct and represents verifiable and acceptable experience for which I am responsible.

I have read and understand this application and that the answers given herein are true, correct and complete. I will furnish all additional information or documentation requested by the Texas Appraiser Licensing and Certification Board (TALCB) for verification of the information in this application. I understand that failing to provide information or providing information that is false, misleading or fraudulent is grounds for denial of this application or revocation of my license or other disciplinary action.

I understand that information submitted in conjunction with this application may be subject to public disclosure or inspection in accordance with the Public Information Act (Chapter 552, Government Code).

Applicant's Signature	Date Signed

ACKNOWLEDGMENT OF SUPERVISORY APPRAISER

I acknowledge that I am/was the supervisory appraiser for the Applicant and signed the report being submitted in conjunction with this application.

I have read and understand this application and acknowledge that the Applicant is requesting the Board review the Applicant's work product for compliance with the Uniform Standards of Professional Appraisal Practice ("USPAP").

Supervisory Appraiser's Signature	Date Signed

PRIVACY NOTICE

In accordance with Chapter 559, Government Code, the following notice about certain information laws and practices is given.

(1) With few exceptions, an individual is entitled on request to be informed about the information that a state governmental body collects about the individual.

(2) Under Sections 552.021 and 552.023 of the Governmental Code, the individual is entitled to receive and review the information.

(3) Under Section 559.004 of the Governmental Code, the individual is entitled to have the governmental body correct information about the individual that is incorrect.

AGENDA ITEM 26(a)

Discussion and possible action on recommendations from Enforcement Committee regarding approval of Confidentiality Agreement.

SUMMARY

This form is required under 22 TAC §157.31 as adopted by the Board. The Enforcement Committee has reviewed this form and recommends approval by the Board.

STAFF RECOMMENDATION

Approve the Confidentiality Agreement form as presented.

RECOMMENDED MOTION

MOVED, that the Board approve the Confidentiality Agreement form as presented.

TEXAS REAL ESTATE COMMISSION

APPRAISER LICENSING & CERTIFICATION BOARD

Confidentiality Agreement

Disclosing Party: _____

Receiving Party (or Parties):

It is understood and agreed to that under Sections 1101.2051 and 1103.460, Tex. Occ. Code, the Disclosing Party may disclose or provide certain information to the Receiving Party (or Parties) that is and must be kept confidential. To ensure the protection of such Confidential Information, it is agreed that:

1. The Confidential Information to be disclosed to the Receiving Party (or Parties) can be described as and includes:
2. The Receiving Party (or Parties) agree(s) not to disclose the Confidential Information obtained from the Disclosing Party to anyone without written permission of the Disclosing Party or a court order.
3. This Agreement states the entire agreement between the parties concerning the disclosure of Confidential Information. Any addition or modification to this Agreement must be made in writing and signed by the parties.
4. This Agreement is made and entered into in the State of Texas. All terms and provisions of this Agreement are governed by, and shall be interpreted and enforced in accordance with, the laws of the State of Texas. The receiving Party (or Parties) irrevocably and unconditionally consent(s) to exclusive jurisdiction and venue in the Texas state courts located in Travis County, Texas, and in the federal district court that includes Austin, Texas, for any actions, suits or proceedings arising out of or relating to this Agreement.
5. If any of the provisions of this Agreement are found to be unenforceable, the remainder shall be enforced as fully as possible.

WHEREFORE, the Receiving Party (or Parties), acknowledge(s) that they have read and understand this Agreement and voluntarily accept the duties and obligations set forth herein. The Receiving Party (or Parties) further acknowledge(s) that this is a legal, binding agreement and has (have) had the opportunity to consult with legal counsel of their own choosing before signing this Agreement.

If an individual Receiving Party is represented by legal counsel or advised by another licensed professional, BOTH the individual Receiving Party and their legal counsel or other professional advisor MUST sign this Agreement before any Confidential Information described herein will be disclosed.

Signature of Receiving Party	Signature of authorized representative or professional advisor
Name (Please Print)	Name (Please Print)
Date	Date

www.trec.texas.gov ● P.O. Box 12188 Austin, Texas 78711-2188 ● 512-936-3000 ● www.talcb.texas.gov CA-0 11/2015

AGENDA ITEM 26(b)

Discussion and possible action on recommendations from Enforcement Committee regarding recommendation for Board members to participate in investigative conferences

AGENDA ITEM 27

Request for potential future meeting agenda items.

AGENDA ITEM 28

Discussion and possible action to schedule future meeting dates.

AGENDA ITEM 29

Adjourn.

Texas Appraiser Licensing and Certification Board

November 20, 2015

November 2015						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

November

3 Election Day
11 Veteran's Day
20 TALCB Meeting
26 Thanksgiving

December 2015						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

December

25 Christmas Holiday
31 New Year's Eve

January 2016						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

January

1 New Year's Day
18 Martin Luther King Day

February 2016						
S	M	T	W	T	F	S
	1	2	3	4	5	9
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29					

February

15 Presidents' Day
19 TALCB Meeting

March 2016						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

March

25 Good Friday
27 Easter

April 2016						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

April

May 2016						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

May

8 Mothers' Day
20/21 UT Commencement
30 Memorial Day

June 2016						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

June

19 Fathers' Day

July 2016						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

July

4 Independence Day

August 2016						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August

September 2016						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

September

5 Labor Day

October 2016						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

October

10 Columbus Day