

# TEXAS APPRAISER LICENSING & CERTIFICATION BOARD



## BOARD MEETING

NOVEMBER 18, 2016



*Stephen F. Austin Building*

*Room 170*

*1700 N. Congress Ave*

*Austin, Texas*





### **MEETING AGENDA**

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

***Friday, November 18, 2016, 10:00 a.m.***

### **CALL TO ORDER**

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

### **PUBLIC COMMENTS**

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

### **EXECUTIVE SESSION**

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

### **CONSENT AGENDA**

6. Ratification of the official record of the August 19, 2016 Board meeting as approved for posting on the website by the Secretary of the Board
7. Approval of agreed final orders and surrenders in the matter of:
  - a. Complaint #15-198 & 15-263 (Earl Raphe Shipman, TX-1321505-R)
  - b. Complaint #16-074 (Don Carroll Box, TX-1322072-R)
  - c. Complaint #16-077 (John William Schuhmacher, TX-1338810-R)
  - d. Complaint #16-141 (Jill Davis Hoffman, TX-1337093-R)
  - e. Complaint #16-168 (Pamela McDaniel, Unlicensed)

- f. Complaint #15-361, 15-362, 15-363, 15-364 & 15-365 (Kristin C. Nielson, TX-1334664-R)
- g. Complaint #16-066 & 16-067 (Heath Dean Hanson, TX-1335186-R)

#### **MODIFICATIONS**

- 8. Discussion and possible action regarding request for modification of agreed order in the matter of Complaint #15-326, 15-327 & 16-190 (John C. Vinton, TX-1327349-R)

#### **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

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

- 13. Discussion and possible action to adopt amendments to 22 TAC §153.15, Experience Required for Licensing
- 14. Discussion and possible action to adopt amendments to 22 TAC, Chapter 159, Rules Relating to Provisions of the Texas Appraisal Management Company Registration and Regulation Act:
  - a. 22 TAC §159.52, Fees
  - b. 22 TAC §159.161, Appraiser Panel
  - c. 22 TAC §159.201, Guidelines for Revocation, Suspension, or Denial of a License

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

- 15. Discussion and possible action to propose amendments to 22 TAC, Chapter 153, Rules Relating to provisions of the Texas Appraiser Licensing and Certification Act:
  - a. 22 TAC §153.5, Fees
  - b. 22 TAC §153.19, Licensing for Persons with Criminal History

### **PENDING BUSINESS**

16. Update regarding Appraisal Subcommittee's proposed rule related to collection of AMC National Registry fees
17. Update regarding 2<sup>nd</sup> AQB Exposure Draft of Proposed Changes to the *Real Property Appraiser Qualification Criteria*

### **NEW BUSINESS**

18. Discussion and possible action on recommendations from Enforcement Committee regarding changes to experience log instructions.
19. Discussion and possible action regarding possible legislative changes for 2017
20. Discussion and possible action regarding floor nominations to create a slate of candidates for the offices of Vice Chair and Secretary of the Board

### **OTHER BUSINESS**

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

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

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





## **AGENDA ITEM 1**

Call to order and pledges of allegiance.

Texas Pledge

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

## **AGENDA ITEM 2**

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

### **RECOMMENDED MOTION**

MOVED, that the absence(s) of \_\_\_\_\_ for the November 18, 2016 Board meeting is/are hereby excused.

## **AGENDA ITEM 3**

Welcome new Board members and recognize outgoing Board members.

## **AGENDA ITEM 4**

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





## **AGENDA ITEM 5**

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

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

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

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

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





## **CONSENT AGENDA**

### **AGENDA ITEM 6**

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

#### **FOR REFERENCE:**

22 TAC §153.24. Complaint Processing.

### **AGENDA ITEMS 7(a)-(g)**

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

- a. Complaint #15-198 & 15-263 (Earl Raphe Shipman, TX-1321505-R)
- b. Complaint #16-074 (Don Carroll Box, TX-1322072-R)
- c. Complaint #16-077 (John William Schuhmacher, TX-1338810-R)
- d. Complaint #16-141 (Jill Davis Hoffman, TX-1337093-R)
- e. Complaint #16-168 (Pamela McDaniel, Unlicensed)
- f. Complaint #15-361, 15-362, 15-363, 15-364 & 15-365 (Kristin C. Nielson, TX-1334664-R)
- g. Complaint #16-066 & 16-067 (Heath Dean Hanson, TX-1335186-R)

*\*Items 7e-g will be provided as a supplement*

#### **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 19, 2016**

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

Note: While the written portion of the minutes below are published in agenda order, the 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. Jim Jeffries, Mr. Clayton Black, Mr. Walker Beard, Mr. Buster Renfrow, and Mr. Brian Padden.

**ACTION TAKEN:** Mr. Black moved to excuse the absences of Mr. Jesse Barba and Mr. Patrick Carlson. Ms. Fontana seconded the motion and the Board approved the motion unanimously.

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

No public 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 10:05am.

**The Chair reconvened the meeting at 11:06am.**

### **AGENDA ITEMS 5 & 6** - Consent Agenda

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

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

- a. Complaint #16-079 (Joe Jeffrey Roberts, Unlicensed)
- b. Complaint #15-262 (Judy Ward, TX-1324131-R)
- c. Complaint #15-303 (Jody Wayne Pickett, TX-1334212-L)
- d. Complaint #15-321 (James M. Davis, TX-1322767-R)

- e. Complaint #16-021 (James A. Dixon, TX-1332555-L)
- f. Complaint #16-036 & 16-139 (Benjamin Edward Harris, TX-1331585-R)
- g. Complaint #16-092 & 16-099 (Larry Earl Amyx, TX-1336583-R)
- h. Complaint #15-326, 15-327 & 16-190 (John C. Vinton, TX-1327349-R)
- i. Complaint #15-287 (James A. Magill, TX-1329715-R)
- j. Complaint #15-346 (Mark Bernard McKellar, TX-1338098-R)
- k. Complaint #15-310 & 16-057 (Adrian Charles Dean, TX-1321389-G)

ACTION TAKEN: Mr. Jeffries moved that the Board ratify and approve items 5 and 6b - 6i. Ms. Fontana seconded the motion, and the Board approved the motion unanimously.

Ms. Fontana moved to approve item 6a. Mr. Padden seconded the motion, and the motion was approved unanimously.

Mr. Beard moved to approve item 6j as presented. Ms. Fontana seconded the motion, and the motion was approved unanimously.

Mr. Jeffries moved to approve item 6k as presented. Mr. Black seconded the motion, and the motion was approved unanimously.

[AGENDA ITEM 7A](#) - Discussion and possible action regarding request for modification of agreed order in the matter of Complaint #14-111 (Russell Earl Milan, TX-1323544-R)

ACTION TAKEN: Ms. Fontana moved to grant the request for modification in part and extend the compliance deadlines as presented and recommended by staff. Mr. Black seconded the motion, and the motion was approved unanimously.

[AGENDA ITEM 7B](#) - Discussion and possible action regarding request for modification of agreed order in the matter of Complaint #05-089 & 07-030 (Joshua Stone Baugher, TX-1331720-L)

ACTION TAKEN: Mr. Renfrow moved to deny the request for modification. Mr. Beard seconded the motion, and the motion passed by a vote 6 to 1 with Mr. Jeffries voting Nay.

[AGENDA ITEM 7C](#) - Discussion and possible action regarding request for modification of agreed order in the matter of Complaint #15-124 & 15-173 (Rodger Thornton Williams, TX-1334530-R)

ACTION TAKEN: Mr. Beard moved to grant the request for modification in part and extend the compliance deadlines as presented and recommended by staff. Mr. Renfrow seconded the motion, and the motion was approved unanimously.

AGENDA ITEM 8 - Report by AMC Advisory Committee

Commissioner Douglas Oldmixon announced that Ms. Angelica Guerra and Mr. James "Tony" Pistilli were recently appointed by the Governor to serve on the AMC Advisory Committee for terms set to expire January 31, 2018. In addition, Ms. Sara Oates and Mr. Lawrence McNamara were reappointed for terms set to expire January 31, 2017.

AGENDA ITEM 9 - Report by Budget Committee

AGENDA ITEM 10 - Report by Executive Committee

AGENDA ITEM 11 - Staff reports on processes, monthly activities, and statistical data

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

AGENDA ITEM 12 - Discussion and possible action to adopt a new rule and amendments 22 TAC, Chapter 153, Rules Relating to Provisions of the Texas Appraiser Licensing and Certification Board:

- a. §153.15, Experience Required for Licensing
- b. §153.12, Criminal History Checks
- c. §153.5, Fees
- d. §153.9, Applications
- e. §153.16, License Reinstatement
- f. §153.17, Renewal or Extension of License
- g. §153.23, Inactive Status
- h. §153.25, Temporary Out-of-State Appraiser License
- i. §153.27, License by Reciprocity

ACTION TAKEN: Mr. Jeffries moved that item 12a be withdrawn and repropose for publication in the *Texas Register* for public comment as presented. Mr. Beard seconded the motion, and the Board approved the motion unanimously.

Ms. Fontana moved for the adoption of remaining items 12b - 12i as published with an effective date of January 1, 2017. Mr. Black seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 13A](#) - Discussion and possible action to propose amendments to 22 TAC §159.52, Fees

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

[AGENDA ITEM 13B](#) - Discussion and possible action to propose amendments to 22 TAC §159.161, Appraiser Panel

ACTION TAKEN: Mr. Jeffries 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 13C](#) - Discussion and possible action to propose amendments to 22 TAC §159.201, Guidelines for Revocation, Suspension, or Denial of a License

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

[AGENDA ITEM 14](#) - Update regarding comments submitted to the Appraisal Subcommittee on proposed rule for AMC registry fees

[AGENDA ITEM 15](#) - Update regarding comments submitted to the Appraisal Qualifications Board on First Exposure Draft of Proposed Changes to the Real Property Appraiser Qualification Criteria

[AGENDA ITEM 16](#) - Update on request submitted to AQB to reduce the required course length for continuing education courses from 2 hours to 1 hour

[AGENDA ITEM 17](#) - Discussion and possible action regarding approval of FY2017 TALCB Budget and budget related policies

ACTION TAKEN: Mr. Black moved to adopt the FY2017 TALCB Budget and the TALCB Education Reserve Fund Policy as presented. Ms. Fontana seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 18](#) - Update on long-term facilities plan

[AGENDA ITEM 19](#) - Discussion and possible action regarding planning workshop in November

ACTION TAKEN: Mr. Jeffries moved to refer this item to the Executive Committee for decision. Ms. Fontana seconded the motion, and the motion was approved unanimously.

[AGENDA ITEM 20](#) - Request for potential future meeting agenda items

Ms. Fontana requested that the Enforcement Committee review the Mentorship Guidelines for possible clarification regarding payment. In addition, she also asked that the committee explore possibilities for staff development.

[AGENDA ITEM 21](#) - Discussion and possible action to schedule future meeting dates

ACTION TAKEN: Mr. Jeffries moved to set future meeting dates for November 18, 2016 and February 9, 2017. Ms. Fontana seconded the motion, and the Board approved the motion unanimously.

[AGENDA ITEM 22](#) - The Chair adjourned the meeting at 1:40pm.



## FOR REFERENCE

### §153.24. Complaint Processing

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

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

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

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

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

(1) may be investigated covertly; and

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

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

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

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

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

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

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

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

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

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

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

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

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

## FOR REFERENCE

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

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

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

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

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

(1) For the purposes of these sanctions guidelines:

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

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

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

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

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

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

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

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

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

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

(B) Whether the Respondent has previously been disciplined;

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

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

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

## FOR REFERENCE

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

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

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

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

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

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

(ii)The Board;

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

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

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

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

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

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

(i)The level of appraisal credential Respondent held;

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

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

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

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

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

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

(i)Dismissal;

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

(iii)Contingent dismissal with remedial measures.

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

(i)Contingent dismissal with remedial measures; or

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

(I)Remedial measures;

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

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

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

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

## FOR REFERENCE

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

## FOR REFERENCE

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

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

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

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

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

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

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

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

- (i) A revocation; and

**FOR REFERENCE**

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

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

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

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

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

(C) requiring additional reporting requirements; and

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

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

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

EARL RAPHE SHIPMAN  
TX-1321505-R

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DOCKETED COMPLAINT NOS.  
15-198 & 15-263

**AGREED FINAL ORDER**

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

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

**FINDINGS OF FACT**

1. Respondent is a Texas state certified residential real estate appraiser who holds license number TX-1321505-R and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real properties located at 729 W. Sterrett Road, Waxahachie, Texas (Sterrett Property), on or about August 27, 2008 (for complaint no. 15-198) and 9605 Rodeo Drive, Terrell, Texas (Rodeo Drive Property), on or about January 27, 2009 (for complaint no. 15-263).
3. Thereafter, the complaints, numbered 15-198 and 15-263, were initiated by the Board on or about April 20, 2015 and June 8, 2015 respectively. They were based upon a referral from the Office of the Inspector General of the United States Department of Housing and Urban Development. The Board investigated the complaints to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).
4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about May 11, 2015 for complaint no. 15-198 and on or about June 22, 2015 for complaint no. 15-263. Respondent was afforded an opportunity to respond to the accusations in the complaints and was also requested to provide certain documentation to the Board.

Thereafter, the Respondent responded with documentation, on or about June 16, 2015 for complaint no. 15-198 and on or about July 31, 2015 for complaint no. 15-263.

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)(3); §153.20(a)(9) 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 Sterrett and Rodeo Drive properties as detailed below:

- a. USPAP Competency Rule – Respondent did not have the knowledge or experience necessary to complete the appraisals competently and did not do what was necessary to be competent;
- b. USPAP Scope of Rule, USPAP Standards 1-2(h) & 2-2(b)(vii) - Respondent failed to perform the scope of work necessary to develop credible assignment results and did not provide the supporting relevant evidence and logic required by USPAP;
- c. USPAP Standards 1-2(c) & 2-2(b)(v); 1-1(b) – Respondent failed to provide analysis and report on the large and unusual nature of the amount of seller concessions involved in the sale of both properties, which was significant and material information that should have been addressed;
- d. USPAP Standards 1-3(a) & 2-2(b)(viii) – Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply & demand, and market area trends. In particular, Respondent failed to address the high incidence of real estate owned (“REO”) property sales and foreclosures occurring in the market area of both the Rodeo Drive and the Sterrett properties. Respondent also misrepresented that both the Rodeo Drive and the Sterrett properties were zoned when in fact they had no zoning;
- e. USPAP Standards 1-4(b)(i) & 2-2(b)(viii); USPAP Standards 1-1(a) & 1-4(b) – Respondent failed to use an appropriate method or technique to determine his site value in his appraisal of the Sterrett Property. Respondent selected lots which were dissimilar from the Sterrett Property because two of the three he relied upon had deed restrictions which prohibited placing a manufactured home on the lots. As such, they should never have been used as comparable lots when determining the Sterrett Property's lot value;
- f. USPAP Standards 1-4(b)(ii) & 2-2(b)(viii); USPAP Standards 1-1(a) & 1-4(b) – Respondent failed to employ recognized methods and techniques in the cost approach correctly, did not collect, verify, analyze and reconcile the cost new of improvements adequately and did not provide his supporting reasoning for his determination of the cost new of improvements for both the Rodeo Drive and the Sterrett properties;
- g. USPAP Standards 1-4(a) & 2-2(b)(viii); USPAP Standards 1-1(a) & 1-4(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and did not employ recognized methods and techniques in his

appraisals of both the Rodeo Drive and Sterrett properties. Respondent also has not provided his reasoning and a summary of his analysis in his sales comparison approach. In addition, Respondent failed to provide his supporting rationale for his adjustments. In general, objective market data which should be reported and analyzed was overlooked by Respondent or incorrectly analyzed;

- h. USPAP Standards 1-5(a) & 2-2(b)(viii); USPAP Standards 1-5(b) & 2-2(b)(viii); 1-6(a) & (b) and 2-2(b)(viii) – Respondent failed to analyze all listings of the Rodeo Drive and Sterrett properties as of the effective date of each appraisal. Respondent failed to analyze the sales history of the Rodeo Drive and the Sterrett properties for the proceeding 3 years prior to the date of both of his appraisals. He did not explicate his reasoning on these topics in his appraisals. Respondent failed to analyze and explain in both appraisals why both properties were being listed, sold and valued (by him) for substantially more than they had sold for in recent history with nominal (if any) improvements to both properties and failed to reconcile this market data with his appraised values; and
- i. USPAP Standards 1-1(a), 1-1(b) and 2-1(a) – For the reasons detailed above, Respondent committed several substantial errors of omission and commission resulting in appraisal reports for the Rodeo Drive and the Sterrett properties that are not credible.

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

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

## **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to the Act.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and §155.1.
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(9) 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 license (TX-1321505-R) is hereby revoked for sixteen (16) months, with this revocation being fully probated under the following terms and conditions:

1. **MENTORSHIP.** On or before February 18, 2017, Respondent shall complete fourteen (14) hours of hours in-person or video conferenced mentorship conducted by a mentor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved mentor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
  - a. 4 hours of mentorship addressing the sales comparison approach;
  - b. 4 hours of mentorship addressing market analysis, including 2 hours focusing on analyzing and reporting on sales of real estate owned properties;
  - c. 4 hours of mentorship addressing analysis and reporting the analysis of a property's listing history and reconciling that history with the appraiser's other data in the appraisal; and,
  - d. 2 hours of mentorship addressing the cost approach, including analyzing, developing and supporting conclusions regarding lot value and the cost new of improvements.
2. **EXPERIENCE LOG.** On or before September 18, 2017, after completion of the mentorship, Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of six (6) months starting after the due dates for the mentorship (February 18, 2017 through August 18, 2017). The log shall detail **all** real estate appraisal activities Respondent has conducted during that six (6) month period. This log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and accurate. Upon request from the Board, Respondent shall provide copies of two appraisal reports and work files for any appraisal assignments Respondent performs during the course of this six (6) month period within twenty (20) days of receiving any such request.
3. **ADMINISTRATIVE PENALTY.** On or before December 8, 2016, Respondent shall pay to the Board an administrative penalty of two thousand dollars (\$2,000.00), by cashier's check or money order.

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

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

## **EXECUTION**

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

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

**RESPONDENT**

Signed this 29 day of September, 2016.

Earl Raphe Shipman  
EARL RAPHE SHIPMAN

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 29 day of September, 2016, by EARL RAPHE SHIPMAN, to certify which witness my hand and official seal.



Kristina Westbrook  
Notary Public's Signature

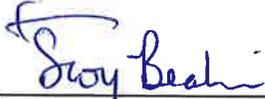
**RESPONDENT'S ATTORNEY**

Signed this 26<sup>th</sup> day of September, 2016.

Ted Whitmer  
Ted Whitmer, Respondent's Attorney

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

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



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

**COMMISSIONER**

Signed by the Commissioner this 4 day of Oct, 2016.



Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

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

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

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
16-074

DON CARROLL BOX  
TX -1322072-R

**AGREED FINAL ORDER**

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the license of Don Carroll Box (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 certified residential real estate appraiser who holds license number TX -1322072-R and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 1408 Olive Street, Georgetown, Texas, 78626 (Property), on or about October 22, 2014.
3. Thereafter, the complaint, numbered 16-074, was filed with the Board by a review appraiser, on or about October 30, 2015. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).
4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about November 12, 2015. Respondent was afforded an opportunity to address the accusations in the complaint and was also requested to provide certain documentation to the Board. The Respondent provided documentation on or about January 13, 2016.
5. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Property:

- a. USPAP Record Keeping Rule – Respondent failed to 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 2-2(a)(vii) – Respondent did not perform data research and analysis adequately, and did not support his adjustments with relevant evidence and logic;
  - c. USPAP Standards 2-2(a)(viii) – Respondent failed to summarize adequately the information analyzed, the methods and techniques employed, and the reasoning that supports the analyses, opinions and conclusions in the report;
  - d. USPAP Standards 2-2(a)(viii)– Respondent failed to report the sales/transfers of the subject property in the three years prior to the appraisal's effective date. Respondent failed to summarize his reconciliation of the data within the approaches used, including the applicability or suitability of the approaches;
  - e. USPAP Standards 2-1(a); For the reasons detailed above, Respondent set forth the appraisal in a manner that was misleading.
6. Respondent made material misrepresentations and omissions of material fact with respect to the appraisal of the Property as detailed above.
7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

### **CONCLUSIONS OF LAW**

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

## ORDER

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

1. **EDUCATION.** On or before **May 19, 2017**, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.
  - a. A minimum fifteen (15) hour classroom course in USPAP.
2. **MENTORSHIP.** On or before **February 17, 2017**, Respondent shall complete ten (10) hours of in-person or video conferenced mentorship conducted by a mentor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved mentor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
  - a. Four (4) hours concerning the Sales Comparison Approach;
  - b. Four (4) hours concerning USPAP's Scope of Work Rule;
  - c. One (1) hour concerning USPAP's Record-Keeping Rule; and
  - d. One (1) hour concerning USPAP Standards Rule 1-6 (Reconciliation).
3. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
4. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

## **ACKNOWLEDGMENT AND WAIVER**

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

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

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

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

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

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

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

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

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

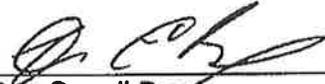
## **EXECUTION**

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

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

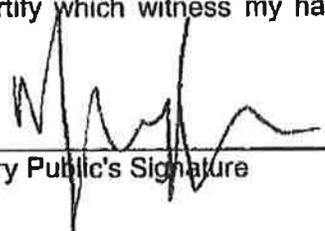
**RESPONDENT**

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

  
\_\_\_\_\_  
Don Carroll Box

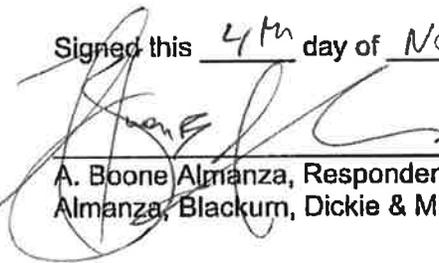
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 4 day of November, 2016, by Don Carroll Box, to certify which witness my hand and official seal.



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

**RESPONDENT'S ATTORNEY**

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

  
\_\_\_\_\_  
A. Boone Almanza, Respondent's Attorney  
Almanza, Blackum, Dickie & Mitchell, LLP

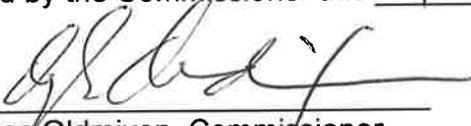
**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 7<sup>th</sup> day of November, 2016.

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

**COMMISSIONER**

Signed by the Commissioner this 7 day of Nov, 2016.

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

**CHAIRPERSON**

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

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



TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

JOHN WILLIAM SCHUHMACHER  
TX-1338810-R

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DOCKETED COMPLAINT NO.  
16-077

**AGREED FINAL ORDER**

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

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

**FINDINGS OF FACT**

1. Respondent is a Texas state certified residential real estate appraiser who holds license number TX-1338810-R and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 3307 Woods Edge Dr., Spring, Texas 77388 (Woods Property), on or about September 10, 2014.
3. Thereafter, the complaint, numbered 16-077, was filed with the Board by an appraisal management company, on or about November 9, 2015. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).
4. The Board, in accordance with the mandate of the Act and TEX. GOVT CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about November 12, 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 January 18, 2016.
5. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the

Agreed Final Order  
Page 1 of 7

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

- a. USPAP Record Keeping Rule – Respondent failed to include all documentation in his work file necessary to support his opinions and conclusions.
  - b. USPAP Standards 1-4(b)(i) & 2-2(a)(viii); 1-4(b)(ii) & 2-2(a)(viii); 1-4(b)(iii) & 2-2(a)(viii); 1-1(a) – Respondent failed to employ an appropriate method or technique to develop an opinion of the site value. Respondent failed to collect, verify and analyze comparable cost data to estimate cost new improvements. Respondent failed to collect, verify and analyze comparable data to estimate the difference between cost new and the present worth of the improvements. Respondent failed to employ recognized methods and techniques in the cost approach;
  - c. USPAP Standards 1-4(a) & 2-2(a)(viii); 1-1(a) – Respondent failed to collect, verify and analyze comparable sales data adequately. Respondent failed to employ recognized methods and techniques in the sales comparison approach; and,
  - d. 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 Woods Property that contained several substantial errors of omission or commission by not employing correct methods and techniques.
6. Respondent made material misrepresentations and omissions of material fact with respect to the appraisal of the Woods Property as detailed above.
7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

## **CONCLUSIONS OF LAW**

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

## **ORDER**

Agreed Final Order  
Page 2 of 7

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

1. **MENTORSHIP.** On or before February 16, 2017, Respondent shall complete ten (10) hours of in-person or video conferenced mentorship conducted by a mentor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved mentor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
  - a. One (1) hour of mentorship concerning the work file requirements under USPAP;
  - b. Two (2) hours of mentorship concerning the market trend analysis;
  - c. Five (5) hours of mentorship concerning the sales comparison approach, including selection of sales, accurate reporting and analysis of the characteristics of the comparable sales, and developing and supporting adjustments; and
  - d. Two (2) hours of mentorship concerning the cost approach including site value, cost new, and depreciation.
2. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
3. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

#### **ACKNOWLEDGMENT AND WAIVER**

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

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

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

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

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

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

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

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

## **EXECUTION**

Agreed Final Order  
Page 4 of 7

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

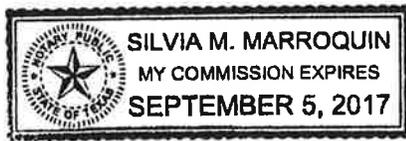
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

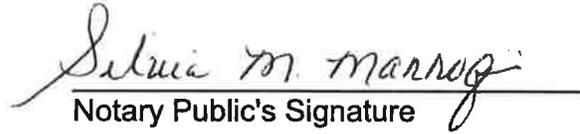
**RESPONDENT**

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

  
John William Schuhmacher

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 8<sup>th</sup> day of November, 2016, by John William Schuhmacher, to certify which witness my hand and official seal.



  
Notary Public's Signature

**RESPONDENT'S ATTORNEY**

Signed this 8th day of November, 2016

  
\_\_\_\_\_  
Ted Whitmer, Respondent's Attorney

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

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

  
\_\_\_\_\_

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

**COMMISSIONER**

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

  
\_\_\_\_\_

Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

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

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



TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

DOCKETED COMPLAINT NO.  
16-141

JILL D. HOFFMAN  
TX-1337093-R

**AGREED FINAL ORDER**

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

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

**FINDINGS OF FACT**

1. Respondent is a Texas state certified residential real estate appraiser who holds license number TX-1337093-R and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 20803 Kings Crown Court, Humble, Texas 77346 (Kings Crown Property), on or about May 29, 2015.
3. Thereafter, the complaint, numbered 16-141, was filed with the Board by a financial institution, on or about February 2, 2016. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).
4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about February 8, 2016. 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 documentation, on or about February 26, 2016.
5. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal of the Kings Crown Property:

Agreed Final Order  
Page 1 of 6

- a. USPAP Record Keeping Rule – Respondent failed to include all documentation in her work file necessary to support her opinions and conclusions, including support for significant adjustments in the sales comparison approach and support for opinions and conclusions in the cost approach. Respondent added data to the work file after being notified of the complaint.
  - b. USPAP Standards 1-2(e)(i) & 2-2(a)(iii); 1-3(a) & 2-2(a)(viii) – Respondent failed to identify and describe the site adequately. 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;
  - c. USPAP Standards 1-4(b)(ii) & 2-2(a)(viii); 1-4(b)(iii) & 2-2(a)(viii); 1-1(a) – Respondent failed to collect, verify and analyze comparable cost data to estimate cost new of improvements. Respondent failed to collect, verify and analyze accrued depreciation. Respondent also failed to employ recognized methods and techniques in the cost approach.
  - d. USPAP Standards 1-4(a) & 2-2(a)(viii); 1-1(a) – Respondent failed to collect, verify and analyze comparable sales data adequately. Respondent also failed to employ recognized methods and techniques in the sales comparison approach correctly;
  - e. USPAP Standards 1-5(a) & 2-2(a)(viii); 1-6(a), 1-6(b) & 2-2(a)(viii) – Respondent failed to analyze all listings of the subject property current as of the effective date of the appraisal and failed to summarize the analysis in the report. Respondent failed to reconcile the quality of the data within the sales comparison approach; and,
  - f. USPAP Standards 1-1(a), 1-1(b), 1-1(c), 2-1(a) – For reasons detailed above, Respondent committed several substantial errors resulting in an appraisal report that was not credible.
6. Respondent made material misrepresentations and omissions of material fact with respect to the appraisal of the Kings Crown Property as detailed above.
7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

## **CONCLUSIONS OF LAW**

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

Agreed Final Order  
Page 2 of 6

3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations omissions of material fact.
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

## **ORDER**

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

1. **MENTORSHIP.** On or before January 31, 2017, Respondent shall complete eight (8) hours of in-person or video conferenced mentorship conducted by a mentor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved mentor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.
  - a. Six (6) hours of mentorship in the sales comparison approach, including selection of sales and developing and supporting adjustments and reconciling the adjusted range of value for the comparable sales;
  - b. One (1) hour of mentorship in analyzing of the prior listing of the subject and reconciling the listing to the Respondent's stated opinion of value; and
  - c. One (1) hour of mentorship in developing and supporting the replacement cost new in the cost approach.
2. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and
3. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

## **ACKNOWLEDGMENT AND WAIVER**

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

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

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

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

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

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

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

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

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

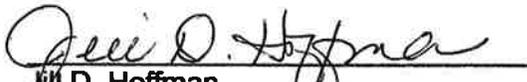
## EXECUTION

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

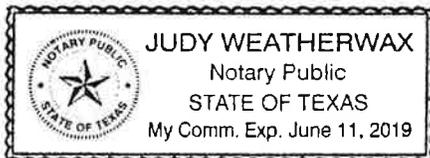
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

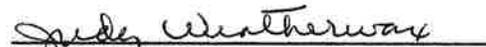
## RESPONDENT

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

  
Jill D. Hoffman

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 3<sup>rd</sup> day of November, 2016, by Jill D. Hoffman, to certify which witness my hand and official seal.



  
Notary Public's Signature

Agreed Final Order  
Page 5 of 6

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

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

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

**COMMISSIONER**

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

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

**CHAIRPERSON**

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

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



## **AGENDA ITEM 8**

Discussion and possible action regarding request for modification of agreed order in the matter of Complaint #15-326, 15-327 & 16-190 (John C. Vinton, TX-1327349-R)

### **SUMMARY**

The Board approved an Agreed Order signed by Mr. Vinton at its meeting on August 19, 2016. Under the terms of this Agreed Order, Mr. Vinton was required to take a 15-hour USPAP course in-person on or before February 15, 2017 and to complete 8 hours of mentorship on or before November 17, 2016. Due to medical difficulties, Mr. Vinton has been unable to complete the required USPAP course or mentorship hours. Mr. Vinton is seeking to modify the deadlines in the Agreed Order as follows:

- a) From February 15, 2017, to December 30, 2016, for completing the 15-hour, in-person, USPAP course; and
- b) From November 17, 2016, to March 17, 2017, for completing the required 8 hours of mentorship.

### **STAFF RECOMMENDATION**

Staff does not oppose the request for modification.

### **RECOMMENDED MOTION**

To grant:

MOVED, that the Board GRANTS the modification as requested.

To deny:

MOVED, that the Board DENIES the modification as requested.



RECEIVED  
TEXAS REAL ESTATE COMMISSION  
NOV 02 2016  
CASHIER'S SECTION  
OPERATOR 13

TALCB STANDARDS & ENFORCEMENT SERVICES

REGARDING COMPLAINT CASE # 15-326, 15-327 & 16-190

10/21/2016

On August 19, 2016 a final agreed order was approved and executed by the board requiring John Vinton to take 15 hours of USPAP and 8 hours of mentorship.

On August 26, 2016 John Vinton (appraiser) went in to Medical City Hospital, Dallas, Texas for a spine operation and stayed until 09/15/2016 (including re hab), came home for six days and went back into hospital at Baylor/Plano ( 4700 Alliance Blvd. Plano, Texas) for infection and was released on October 4, 2016, documentation for Medical City is included in this letter, a care coordination consult order from Baylor/Plano and a A Trinity Valley Home Health Care vital signs log also included with dates for further documentation.

This appraiser is under home re hab at present, has not completed any work since August 26, 2016 and unable to attend USPAP course at this time, therefore cannot comply with agreed order, I hope to be able to continue with my appraisal business sometime in early 2017 and request further instructions on keeping my appraisal license active.

Thank you for your consideration

John Vinton  
  
License # TX-1327349-R

903-603-8875

## Dione Frederick

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**From:** Sherry Gonzalez  
**Sent:** Friday, November 04, 2016 4:39 PM  
**To:** Dione Frederick  
**Subject:** RE: Request Received for Modification to Agreed Final Order for Complaints 15-326;15-327;16-190

**From:** John Vinton [<mailto:apprlsco1@gmail.com>]  
**Sent:** Friday, November 04, 2016 3:57 PM  
**To:** Sherry Gonzalez <[Sherry.Gonzalez@trec.texas.gov](mailto:Sherry.Gonzalez@trec.texas.gov)>  
**Subject:** RE: Request Received for Modification to Agreed Final Order for Complaints 15-326;15-327;16-190

Yes, these times are o k per school and Jim Pearson

On Nov 4, 2016 2:47 PM, "Sherry Gonzalez" <[Sherry.Gonzalez@trec.texas.gov](mailto:Sherry.Gonzalez@trec.texas.gov)> wrote:

Thank you Mr. Vinton for your hard work and dedication to clarifying that time line you need to remain in compliance with the Agreed Final Order. I am understanding that you can have your mentorship completed by March 1, 2017 and your 15 hour USPAP Course, which you have signed up for Dec 3<sup>rd</sup>-4<sup>th</sup>, 2016. Based upon the information you are providing, **please respond back to this email that dates can be suggested by the Director to the Board for extending the completion of your education requirement by 5:00pm on Friday, December 30, 2016 and for completing your mentorship requirement by 5:00pm on Friday, March 17, 2017.**

Thank you again for the committed groundwork you have done so we can present your request to the Board.

Respectfully,

**Sherry Gonzalez**

**From:** John Vinton [<mailto:apprlsco1@gmail.com>]  
**Sent:** Friday, November 04, 2016 2:29 PM  
**To:** Sherry Gonzalez <[Sherry.Gonzalez@trec.texas.gov](mailto:Sherry.Gonzalez@trec.texas.gov)>  
**Subject:** Re: Request Received for Modification to Agreed Final Order for Complaints 15-326;15-327;16-190

Sherry I have spoke with Jim Pearson @ [214-533-2787](tel:214-533-2787), we can complete mentorship by 03/01/2017 also I found a 15 hour USPAP course at Champions School of Real Estate in Plano, Texas which offers the course...I have signed up for the class on Dec. 3rd Dec 4th. I can complete all requirments by 03/01/2017

On Fri, Nov 4, 2016 at 1:46 PM, Sherry Gonzalez <[Sherry.Gonzalez@trec.texas.gov](mailto:Sherry.Gonzalez@trec.texas.gov)> wrote:

Here you go Mr. Vinton as requested. An entire list of approved USPAP Mentors. Let's stay working on this today and thank you for making it a priority as I have a deadline with my Director to meet as we try to assist you.

**From:** John Vinton [<mailto:apprlsco1@gmail.com>]  
**Sent:** Friday, November 04, 2016 1:40 PM  
**To:** Sherry Gonzalez <[Sherry.Gonzalez@trec.texas.gov](mailto:Sherry.Gonzalez@trec.texas.gov)>  
**Subject:** Re: Request Received for Modification to Agreed Final Order for Complaints 15-326;15-327;16-190

Sherry would you PLEASE send me a list of the recommended mentors as I have not been able to find any except mark loftus.

On Thu, Nov 3, 2016 at 2:02 PM, John Vinton <[apprlscol@gmail.com](mailto:apprlscol@gmail.com)> wrote:

Ms Gonzalez I have not completed any of the 15 hours of USPAP due to illness, the next 15 hour course in USPAP will be offered on 12/31/2017 per schedule on internet and I can register for class any time in next 45 days which is the time I expect to be walking again.

I have not completed any of the 8 hours of mentorship as I have not been able to accept new orders, also due to illness, due to the mentorship being a training course...if the board approves I could complete the mentorship by March 1st by submitting old orders to mentor, I would need an extension of at least 14 months to get UAPAP completed as next course in 12/13/2016.

Thank You

John Vinton

On Thu, Nov 3, 2016 at 12:55 PM, Sherry Gonzalez <[Sherry.Gonzalez@trec.texas.gov](mailto:Sherry.Gonzalez@trec.texas.gov)> wrote:

Mr. Vinton,

Thank you for your email and allowing me to speak to you by phone today. Your request for modification of the Board's order has been added to the agenda for the upcoming Board meeting on November 18, 2016. You do not need to appear in person at the meeting to present your request unless you choose to do so; however, some additional information is needed from you to convey to the Board members as they consider your request for a modification of the existing order.

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

- 1) Have you completed any of the 15 hours of the USPAP class required under the terms of the order?
  - 2) Have you registered for the required class? If not, do you know when the next class of the required course might be offered?
  - 3) Have you completed any of the required 8 mentorship hours?
  - 4) As I understand your email, you are requesting additional time to complete the required class and mentorship hours. How much additional time are you requesting? 3 months? 6 months? Longer? Please give me a date such as December 31, 2016, or July 15, 2017. Make sure to specify a date for the mentorship and a date for the completion of your class.

The more specific information you can provide to me, the more information can be conveyed to the Board about your request.

Respectfully,

**Sherry Gonzalez**

Legal Assistant

Texas Appraiser Licensing and Certification Board

1700 N. Congress, Suite 400

Austin, Texas 78701

Phone: (512) 936-3621

Fax No: (512) 936-3966

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**From:** Dione Frederick

**Sent:** Friday, November 04, 2016 4:23 PM

**To:** Troy Beaulieu <Troy.Beaulieu@trec.texas.gov>; Sherry Gonzalez <Sherry.Gonzalez@trec.texas.gov>

**Subject:** RE: Request Received for Modification to Agreed Final Order for Complaints 15-326;15-327;16-190

Perfect! Sherry, can you forward me the email chain without adding any comments up to his final confirmation @ 3:57pm? I need a clean version for the meeting materials.

Dione

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**From:** Troy Beaulieu

**Sent:** Friday, November 04, 2016 4:07 PM

**To:** Sherry Gonzalez <[Sherry.Gonzalez@trec.texas.gov](mailto:Sherry.Gonzalez@trec.texas.gov)>

**Cc:** Dione Frederick <[Dione.Frederick@trec.texas.gov](mailto:Dione.Frederick@trec.texas.gov)>

**Subject:** Re: Request Received for Modification to Agreed Final Order for Complaints 15-326;15-327;16-190

Excellent Sherry...Dione, please share with Kristen and let me know if anything further is needed.

Troy

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TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

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vs.

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

JOHN C. VINTON  
TX-1327349-R

**AGREED FINAL ORDER**

On the 19 day of August, 2016, the Texas Appraiser Licensing and Certification Board (Board) considered the matter of the license of John C. Vinton (Respondent).

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

**FINDINGS OF FACT**

1. Respondent is a Texas state certified residential real estate appraiser who holds license number TX-1327349-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real properties located at 25980 County Road 2450, Kemp, Henderson County, Texas 75143 (County Road Property), on or about January 9, 2015 (for complaint no. 15-326); 708 E. Royall Blvd, Malakoff, Henderson County, Texas 75148 (Royal Boulevard Property), on or about July 18, 2014 (for complaint no. 15-327); and 609 Bayview Drive, Kerens, Navarro County, Texas 75144 (Bayview Property), on or about March 22, 2016 (for complaint no.16-190).
3. Thereafter, the complaints, numbered 15-326 and 15-327, were filed with the Board by an appraisal management company, on or about July 27, 2015. Complaint 16-190 was also subsequently filed by the homeowner. The Board investigated the complaints to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CH. 1103 (Act) and 22 TEX. ADMIN. CODE CHS. 153 and 155 (Rules).
4. The Board, in accordance with the mandate of the Act and TEX. GOV'T CODE CH. 2001 (APA), notified Respondent of the nature of the accusations involved, on or about August 27, 2015 and March 30, 2016. Respondent was afforded an opportunity to respond to the accusations in the complaints and was also requested to provide certain

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

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

**Complaint No. 15-326:**

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

**Complaint No. 15-327:**

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

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

**Complaint No. 16-190:**

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

## CONCLUSIONS OF LAW

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

## ORDER

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

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

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

#### **ACKNOWLEDGMENT AND WAIVER**

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

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

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

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

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

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

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

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

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

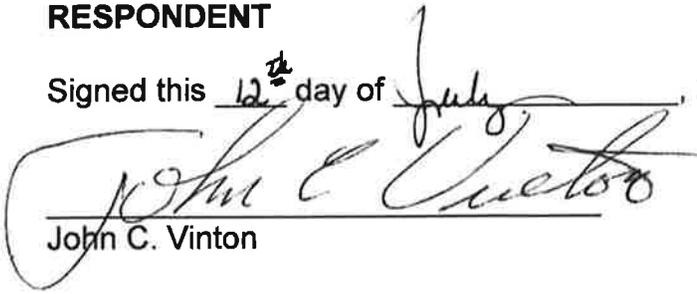
## **EXECUTION**

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

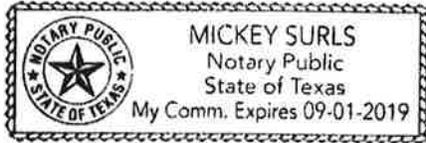
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

**RESPONDENT**

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

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

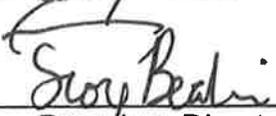
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 12<sup>th</sup> day of July, 2016, by John C. Vinton, to certify which witness my hand and official seal.



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

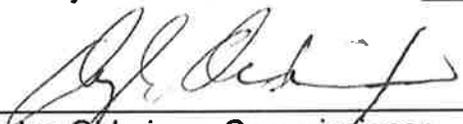
**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

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

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

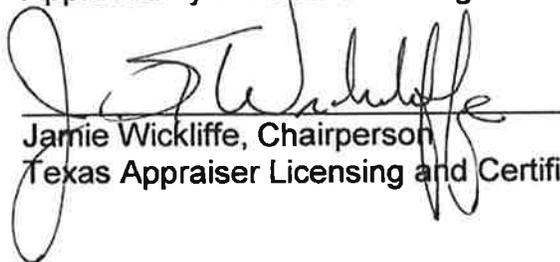
**COMMISSIONER**

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

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

**CHAIRPERSON**

Approved by the Board and Signed this 19 day of August, 2016.

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



## **AGENDA ITEM 9**

Report by AMC Advisory Committee.





## AMC Advisory Committee Report November 18, 2016

### TALCB Board Members

Jamie S. Wickliffe  
Chair

James J. Jeffries  
Vice Chair

Earl "Buster" Renfrow  
Secretary

Jesse Barba

Walker Beard

Clayton P. Black

Patrick M. Carlson

Laurie C. Fontana

Brian L. Padden

Douglas E. Oldmixon  
Commissioner

**Members: Jim Jeffries, Chair, Angelica Guerra, Lawrence McNamara, Sara Oates, and Tony Pistilli**

Since the August 19, 2016, Board meeting, the AMC Advisory Committee met on October 25, 2016, at 10:00am via teleconference.

### Meeting on October 25, 2016

**Committee Members in attendance:** Jim Jeffries, Chair, Angelica Guerra, Lawrence McNamara, and Sara Oates. Tony Pistilli joined the meeting at 11:15am.

**Other Board Members in attendance:** Laurie Fontana

**Staff in attendance:** Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Troy Beaulieu, Director-SES; Jeff Strawmeyer, Chief Investigator; Gwen Jackson, Director-ELS; Denise Sample, Licensing Manager; and Becky Jarmon, Licensing Specialist.

**Public in attendance:** Scott Dibiasio, Appraisal Institute; John Dingeman, National Association of Appraisers and Landmark Network, Inc.; Greg Stephens, President, FACT; and Joe Woller, FACT.

The Committee welcomed two new members, Angelica Guerra, Public Member, and Tony Pistilli, AMC Member. The governor appointed Ms. Guerra and Mr. Pistilli after the legislature expanded the Committee from three to five members in 2015.

The Committee considered several items, including public comments on AMC payment practices; public comments on proposed amendments to 22 TAC §§159.52, Fees, 159.161, Appraiser Panel, and 159.201, Guidelines for Revocation Suspension or Denial of a License; possible legislative changes to Chapter 1104, Texas Occupations Code; and the Appraisal Subcommittee's proposed rule on AMC National Registry Fees.

The Committee noted that the comments received on the proposed amendments to 22 TAC §§159.52 and 159.161 were in favor of the amendments, but that the comment received on 22 TAC §159.201 was not in favor of the amendment. After due consideration of all public comments received, the Committee recommends the Board adopt the proposed revisions to 22 TAC §§159.52, .161, and .201 as published without changes. The Committee also recommended the Board consider possible changes to Chapter 1104, Texas Occupations Code, as presented by staff.

The Committee did not schedule a future meeting.





## **AGENDA ITEM 10**

Report by Education Committee.





## Education Committee Report November 18, 2016

### TALCB Board Members

Jamie S. Wickliffe  
Chair

James J. Jeffries  
Vice Chair

Earl "Buster" Renfrow  
Secretary

Jesse Barba

Walker Beard

Clayton P. Black

Patrick M. Carlson

Laurie C. Fontana

Brian L. Padden

Douglas E. Oldmixon  
Commissioner

### **Members: Walker Beard, Chair, Jim Jeffries and Brian Padden**

Since the August 19, 2016, Board meeting, the Education Committee met on October 19, 2016, via teleconference.

### **Meeting on October 19, 2016**

**Committee Members in attendance:** Walker Beard, Jim Jeffries 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; Gwen Jackson, Director-ELS; Jennifer Wheeler, Education Manager; and Cristy Grimberg, Education Specialist.

**Public in attendance:** Joe Woller, FACT; and Ruth Kelton, Director–Region 8 (TX and NM), Appraisal Institute.

The Committee considered the development of rules for approval of appraiser continuing education providers and courses and possible amendments to 22 TAC §153.18, Appraiser Continuing Education, for awarding ACE credit for Board member/Staff presentations. The Committee decided to move forward with the development of rules for approval of appraiser continuing education providers and courses and directed staff to draft proposed revisions to 22 TAC §153.18 for the Committee to consider at the next Committee meeting. The Committee tabled the discussion of amendments to 22 TAC §153.18 for awarding ACE credit for Board member/staff presentations pending further consideration of draft rules to approve continuing education providers and courses.

The Committee scheduled a future meeting to be held via teleconference on December 6, 2016 at 2:00pm.





## **AGENDA ITEM 11**

Report by Enforcement Committee.





## Enforcement Committee Report November 18, 2016

### TALCB Board Members

**Members: Laurie Fontana, Chair, and Jesse Barba, Jr.**

Jamie S. Wickliffe  
Chair

Since the August 19, 2016, Board meeting, the Enforcement Committee met on October 14, 2016 via teleconference.

James J. Jeffries  
Vice Chair

### Meeting on October 14, 2016

Earl "Buster" Renfrow  
Secretary

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

Jesse Barba

**Other Board Members in attendance:** Jamie Wickliffe, TALCB Chair

Walker Beard

**Staff in attendance:** Douglas Oldmixon, Commissioner; Kristen Worman, General Counsel; Tony Slagle, Government Affairs; Dione Frederick, Recording Secretary; Troy Beaulieu, Director-SES; Mark Lee, Staff Attorney; and Jeff Strawmeyer, Chief Investigator.

Clayton P. Black

Patrick M. Carlson

**Public in attendance:** Joe Woller, FACT; and Ace Myrick, President, ATA.

Laurie C. Fontana

Brian L. Padden

The Committee considered several items, including a proposal to allow supervisory appraisers to supervise more than three appraiser trainees, mentor payment issues, appraiser course recommendations for staff, and clarification of experience log instructions. The Committee also considered proposed amendments to 22 TAC §153.5, Fees, and 22 TAC §153.19, Licensing for Persons with Criminal History, and revisions to the form for Moral Character Determinations.

Douglas E. Oldmixon  
Commissioner

The Committee tabled the discussion to allow supervisory appraisers to supervise more than three appraiser trainees and directed staff to draft proposed revisions to 22 TAC 153.21, Appraiser Trainees and Supervisory Appraisers, for the Committee to consider at a future meeting. The Committee recommends the Board publish the proposed amendments to 22 TAC §§153.5 and 153.19 for public comment in the Texas Register. The Committee also recommends the Board approve the revisions to the form for Moral Character Determinations if the Board, after publication and public comment, ultimately adopts the recommended amendments to TALCB Rules 153.5 and 153.19.

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-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	FYTD Total 2015
Local Lines	16,624	15,445	15,557	16,835	21,161	21,160	22,077	19,167	18,440	17,234	16,412	18,900	219,012	216,517
<b>TALCB LL</b>	<b>947</b>	<b>916</b>	<b>1,033</b>	<b>1,079</b>	<b>1,337</b>	<b>1,256</b>	<b>1,320</b>	<b>1,199</b>	<b>1,216</b>	<b>1,092</b>	<b>923</b>	<b>1,149</b>	<b>13,467</b>	<b>14,205</b>
<b>Total Calls</b>	<b>17,571</b>	<b>16,361</b>	<b>16,590</b>	<b>17,914</b>	<b>22,498</b>	<b>22,416</b>	<b>23,397</b>	<b>20,366</b>	<b>19,656</b>	<b>18,326</b>	<b>17,335</b>	<b>20,049</b>	<b>232,479</b>	<b>230,722</b>

### Walk Ins

	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	FYTD Total 2016	FYTD Total 2015
Licensing	131	108	145	154	176	205	140	108	131	127	108	112	1,645	2,086
Education	26	22	24	25	41	34	29	26	48	32	28	45	380	699
Inspector	3	17	10	10	11	9	11	11	18	17	14	17	148	134
Enforcement	6	3	4	10	10	14	12	9	15	29	11	9	132	165
<b>TALCB Lic</b>	<b>3</b>	<b>6</b>	<b>1</b>	<b>1</b>	<b>6</b>	<b>4</b>	<b>4</b>	<b>3</b>	<b>7</b>	<b>9</b>	<b>9</b>	<b>15</b>	<b>68</b>	<b>63</b>
<b>TALCB Enf</b>	<b>3</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>4</b>	<b>20</b>	<b>5</b>
<b>Total</b>	<b>172</b>	<b>159</b>	<b>186</b>	<b>201</b>	<b>245</b>	<b>267</b>	<b>197</b>	<b>158</b>	<b>219</b>	<b>217</b>	<b>170</b>	<b>202</b>	<b>2,393</b>	<b>3,152</b>

### Emails

	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	FYTD Total 2016	FYTD Total 2015
Licensing	5,023	4,113	4,058	5,227	6,091	5,193	5,650	5,440	5,021	5,027	4,889	6,193	61,925	58,730
Education	1,066	938	785	1,065	1,272	1,327	1,652	1,344	1,468	1,836	1,599	1,314	15,666	13,163
Inspector	84	50	39	38	17	24	43	36	21	49	50	61	512	1,090
Enforcement	117	108	125	128	135	155	177	132	146	158	110	120	1,611	1,029
<b>TALCB Lic</b>	<b>289</b>	<b>286</b>	<b>280</b>	<b>341</b>	<b>400</b>	<b>327</b>	<b>343</b>	<b>299</b>	<b>356</b>	<b>385</b>	<b>303</b>	<b>241</b>	<b>3,850</b>	<b>2,603</b>
<b>TALCB Enf</b>	<b>16</b>	<b>15</b>	<b>49</b>	<b>17</b>	<b>7</b>	<b>10</b>	<b>22</b>	<b>22</b>	<b>20</b>	<b>16</b>	<b>16</b>	<b>14</b>	<b>224</b>	<b>103</b>
<b>Total</b>	<b>6,595</b>	<b>5,510</b>	<b>5,336</b>	<b>6,816</b>	<b>7,922</b>	<b>7,036</b>	<b>7,887</b>	<b>7,273</b>	<b>7,032</b>	<b>7,471</b>	<b>6,967</b>	<b>7,943</b>	<b>83,788</b>	<b>76,718</b>

## Reception and Communication Services Division

### Incoming Calls

	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	FYTD Total 2017
Local Lines	16,980												16,980
TALCB LL	1,036												1,036
<b>Total Calls</b>	<b>18,016</b>												<b>18,016</b>

### Walk Ins

	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	FYTD Total 2017
Licensing	100												100
Education	34												34
Inspector	16												16
Enforcement	10												10
TALCB Lic	5												5
TALCB Enf	2												2
<b>Total</b>	<b>167</b>												<b>167</b>

### Emails

	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	FYTD Total 2017
Licensing	5,757												5,757
Education	1,228												1,228
Inspector	189												189
Enforcement	105												105
TALCB Lic	61												61
TALCB Enf	22												22
<b>Total</b>	<b>7,362</b>												<b>7,362</b>

C1 Report  
FY2017

### Customer Service Surveys

<b>FY2016</b>	<b>Surveys Received</b>	<b>Responded by Email</b>	<b>Responded by Phone</b>	<b>Anonymous (No Contact Info)</b>
<b>September</b>	14	10	1	3
<b>October</b>	17	9	1	7
<b>November</b>	15	7	3	5
<b>December</b>	21	9	3	9
<b>January</b>	46	14	11	21
<b>February</b>	35	17	2	16
<b>March</b>	41	18	1	18
<b>April</b>	33	10	4	19
<b>May</b>	23	8	7	8
<b>June</b>	26	10	0	16
<b>July</b>	28	10	2	16
<b>August</b>	20	12	0	8
<b>Grand Total</b>	<b>319</b>	<b>134</b>	<b>35</b>	<b>146</b>

C2 Report

### Customer Service Surveys

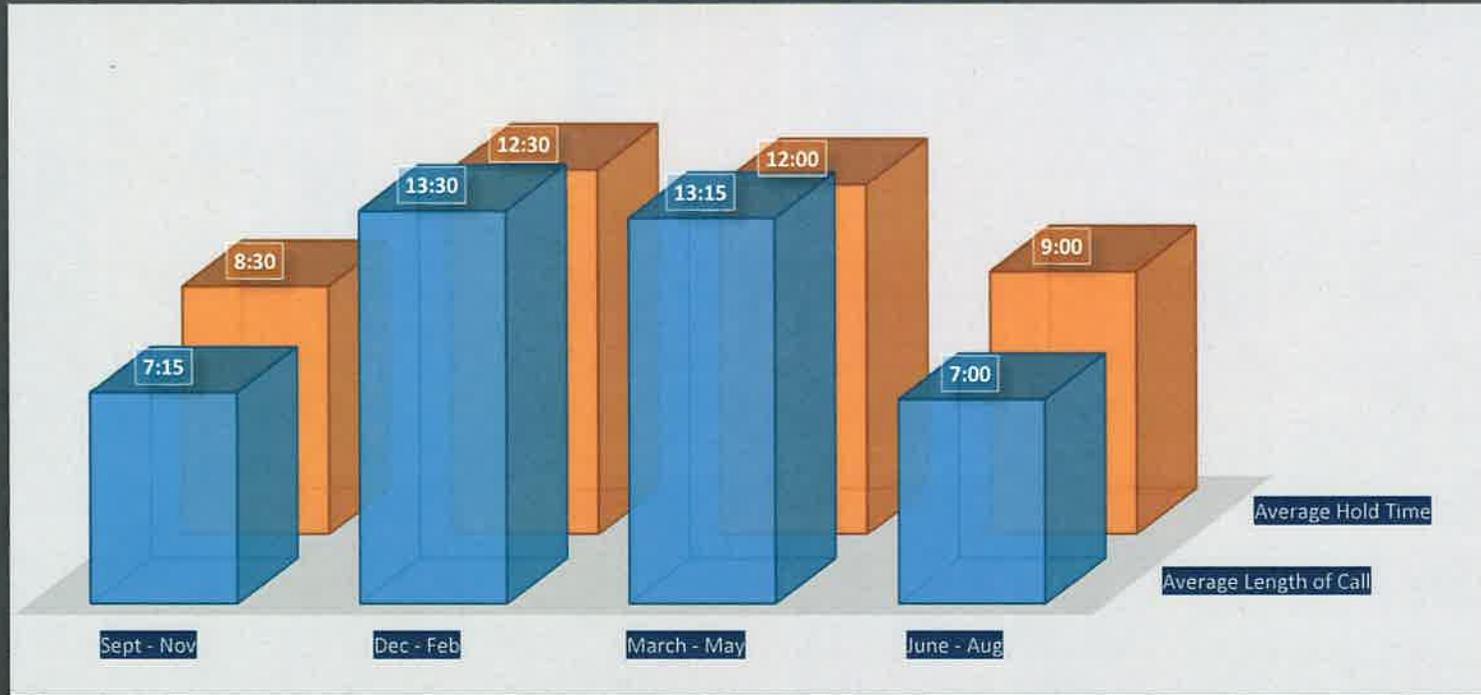
FY2017	Surveys Received	Responded by Email	Responded by Phone	Anonymous (No Contact Info)
September	24	11	1	12
October				
November				
December				
January				
February				
March				
April				
May				
June				
July				
August				
Grand Total				

C2 Report

# FY2016 CALL AVERAGES

MIN:SEC

■ Average Length of Call ■ Average Hold Time



C3 Report

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

<b>FISCAL YEAR</b>	<b>END OF MONTH</b>	<b>GENERAL</b>	<b>RESIDENTIAL</b>	<b>LICENSE</b>	<b>TOTAL G.R.L. &amp; P</b>	<b>G.R.L.&amp; P CHANGE</b>	<b>TRAINEE</b>	<b>TRAINEE CHANGE</b>	<b>TOTAL</b>	<b>TOTAL CHANGE</b>
<b>2013</b>	Aug13	2,367	2,371	470	5,208		724		5,932	
<b>2014</b>	Aug14	2,386	2,405	453	5,244	36	760	36	6,004	72
<b>2015</b>	Sep14	2,393	2,407	451	5,251	7	767	7	6,018	14
	Oct14	2,402	2,418	448	5,268	17	766	-1	6,034	16
	Nov14	2,407	2,415	440	5,262	-6	749	-17	6,011	-23
	Dec14	2,409	2,431	442	5,282	20	756	7	6,038	27
	Jan15	2,405	2,437	446	5,288	6	767	11	6,055	17
	Feb15	2,417	2,437	442	5,296	8	760	-7	6,056	1
	Mar15	2,423	2,445	444	5,312	16	761	1	6,073	17
	Apr15	2,408	2,451	442	5,301	-11	763	2	6,064	-9
	May15	2,404	2,444	436	5,284	-17	761	-2	6,045	-19
	Jun15	2,413	2,436	432	5,281	-3	773	12	6,054	9
Jul15	2,409	2,424	432	5,265	-16	774	1	6,039	-15	
Aug15	2,408	2,415	434	5,257	-8	779	5	6,036	-3	
<b>2016</b>	Sep15	2,406	2,417	428	5,251	-6	786	7	6,037	1
	Oct15	2,414	2,418	431	5,263	12	791	5	6,054	17
	Nov15	2,417	2,420	430	5,267	4	793	2	6,060	6
	Dec15	2,419	2,425	430	5,274	7	795	2	6,069	9
	Jan16	2,420	2,422	428	5,270	-4	794	-1	6,064	-5
	Feb16	2,418	2,418	427	5,263	-7	783	-11	6,046	-18
	Mar16	2,423	2,417	427	5,267	4	784	1	6,051	5
	Apr16	2,431	2,415	429	5,275	8	774	-10	6,049	-2
	May16	2,425	2,415	417	5,257	-18	773	-1	6,030	-19
	Jun16	2,425	2,422	416	5,263	6	784	11	6,047	17
	Jul16	2,425	2,423	417	5,265	2	774	-10	6,039	-8
	Aug16	2,426	2,425	416	5,267	2	789	15	6,056	17
<b>2017</b>	<b>Sep16</b>	<b>2,429</b>	<b>2,423</b>	<b>412</b>	<b>5,264</b>	<b>-3</b>	<b>784</b>	<b>-5</b>	<b>6,048</b>	<b>-8</b>

**(September 2016: Out-of-State Temporary Registrations = 1,200; Inactive Appraisers = 157)**



# Education & Licensing Services Division - TALCB

## Fiscal Year Comparison

### Fiscal Year - 2016

#### AUGUST

	This YTD 09/15 - 07/16	Last YTD 09/14 - 07/15	Count	Change Percent
<b><i>Original Applications Received</i></b>				
Certified General Applications	121	134	-13	-9.70%
Certified Residential Applications	111	162	-51	-31.48%
Licensed Residential Applications	64	65	-1	-1.54%
Appraiser Trainee Applications	307	235	72	30.64%
Non-Residential Temporary Applications	246	238	8	3.36%
<b>Total Original Applications</b>	<b>849</b>	<b>834</b>	<b>15</b>	<b>1.80%</b>
<b><i>Licenses Issued from Original Applications</i></b>				
Certified General Licenses	140	132	8	6.06%
Certified Residential Licenses	146	162	-16	-9.88%
Licensed Residential Licenses	57	71	-14	-19.72%
Appraiser Trainee Licenses	275	201	74	36.82%
Non-Residential Temporary Licenses	249	235	14	5.96%
<b>Total Licenses from Original Applications</b>	<b>867</b>	<b>801</b>	<b>66</b>	<b>8.24%</b>
<b><i>Licenses Issued from Renewal Applications</i></b>				
Certified General Renewals	1,110	1,366	-256	-18.74%
Certified Residential Renewals	1,251	1,252	-1	-0.08%
Licensed Residential Renewals	459	244	215	88.11%
Appraiser Trainee Renewals	379	438	-59	-13.47%
<b>Total Renewal Licenses Issued</b>	<b>3,199</b>	<b>3,300</b>	<b>-101</b>	<b>-3.06%</b>
<b><i>Licenses Issued from Late Renewal Applications</i></b>				
Certified General Late Renewals	7	17	-10	-58.82%
Certified Residential Late Renewals	9	11	-2	-18.18%
Licensed Residential Late Renewals	2	5	-3	-60.00%
Appraiser Trainee Late Renewals	15	13	2	15.38%
<b>Total Late Renewal Licenses Issued</b>	<b>33</b>	<b>46</b>	<b>-13</b>	<b>-28.26%</b>

# Education & Licensing Services Division - TALCB

## Fiscal Year Comparison

### Fiscal Year - 2017

#### SEPTEMBER

	This YTD 09/16 - 09/16	Last YTD 09/15 - 09/15	Count	Change Percent
<b><i>Original Applications Received</i></b>				
Certified General Applications	11	6	5	83.33%
Certified Residential Applications	7	6	1	16.67%
Licensed Residential Applications	4	8	-4	-50.00%
Appraiser Trainee Applications	29	21	8	38.10%
Non-Residential Temporary Applications	13	19	-6	-31.58%
<b>Total Original Applications</b>	<b>64</b>	<b>60</b>	<b>4</b>	<b>6.67%</b>
<b><i>Licenses Issued from Original Applications</i></b>				
Certified General Licenses	14	9	5	55.56%
Certified Residential Licenses	6	10	-4	-40.00%
Licensed Residential Licenses	3	1	2	200.00%
Appraiser Trainee Licenses	24	15	9	60.00%
Non-Residential Temporary Licenses	14	19	-5	-26.32%
<b>Total Licenses from Original Applications</b>	<b>61</b>	<b>54</b>	<b>7</b>	<b>12.96%</b>
<b><i>Licenses Issued from Renewal Applications</i></b>				
Certified General Renewals	97	46	51	110.87%
Certified Residential Renewals	89	69	20	28.99%
Licensed Residential Renewals	14	16	-2	-12.50%
Appraiser Trainee Renewals	38	17	21	123.53%
<b>Total Renewal Licenses Issued</b>	<b>238</b>	<b>148</b>	<b>90</b>	<b>60.81%</b>
<b><i>Licenses Issued from Late Renewal Applications</i></b>				
Certified General Late Renewals	1	0	1	N/A
Certified Residential Late Renewals	0	2	-2	-100.00%
Licensed Residential Late Renewals	0	0	0	0.00%
Appraiser Trainee Late Renewals	2	1	1	100.00%
<b>Total Late Renewal Licenses Issued</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>0.00%</b>

## Examination Activity - Fiscal Year 2015-2016

<b>YEAR-TO-DATE RESULTS:</b>	<b>September 2015 thru August 2016</b>			Overall Pass Rate
	<u>Licensed Residential</u>	<u>Certified Residential</u>	<u>Certified General</u>	
Examinations Passed	35	43	41	119
Examinations Failed	36	40	25	
<b>Examinations Taken</b>	<b>71</b>	<b>83</b>	<b>66</b>	<b>220</b>
Examination Pass Rate (%)	49.30%	51.81%	62.12%	54.09%

<b>All examination types</b>	
Total first time candidates:	126
Total repeat candidates:	94
Total pass:	119
Total fail:	101
Total examinations taken:	220

## Examination Activity - Fiscal Year 2015-2016

<b>MONTHLY RESULTS:</b>	<b>August 2016</b>			Overall Pass Rate
	<u>Licensed Residential</u>	<u>Certified Residential</u>	<u>Certified General</u>	
Examinations Passed	1	4	6	11
Examinations Failed	2	3	2	
<b>Examinations Taken</b>	<b>3</b>	<b>7</b>	<b>8</b>	<b>18</b>
Examination Pass Rate (%)	33.33%	57.14%	75.00%	61.11%

<b>All examination types</b>	
Total first time candidates:	14
Total repeat candidates:	4
Total pass:	11
Total fail:	7
Total examinations taken:	18

## Examination Activity - Fiscal Year 2016-2017

**YEAR-TO-DATE RESULTS:                      SEPTEMBER 2016**

	<u>Licensed Residential</u>	<u>Certified Residential</u>	<u>Certified General</u>	<u>Overall Pass Rate</u>
Examinations Passed	3	4	3	10
Examinations Failed	0	1	1	
<b><i>Examinations Taken</i></b>	3	5	4	12
Examination Pass Rate (%)	100.00%	80.00%	75.00%	83.33%

<b>All examination types</b>	
Total first time candidates:	9
Total repeat candidates:	3
Total pass:	10
Total fail:	2
Total examinations taken:	12

## EXAMINATION ACTIVITY

### FISCAL YEAR-TO-DATE COMPARISON AUGUST

	<u>2016</u> <u>Pass Rate</u>	<u>2015</u> <u>Pass Rate</u>
Certified General Appraiser	62.1%	61.0%
Certified Residential Appraiser	51.8%	57.1%
Licensed Residential Appraiser	49.3%	45.0%
<b>Overall Appraiser Pass Rate</b>	<b>54.0%</b>	<b>54.6%</b>

## EXAMINATION ACTIVITY

### FISCAL YEAR-TO-DATE COMPARISON SEPTEMBER

	<u>2016</u> <u>Pass Rate</u>	<u>2015</u> <u>Pass Rate</u>
Certified General Appraiser	75.0%	50.0%
Certified Residential Appraiser	80.0%	30.77%
Licensed Residential Appraiser	100.0%	60.0%
<b>Overall Appraiser Pass Rate</b>	<b>83.3%</b>	<b>40.0%</b>

## Information Technology Services Division Electronic Information Outlet Statistics

August 2016

Website	Current Month	FYTD Total	Prior FYTD Total
Total Pages Viewed	2,285,757	12,367,373	4,595,627
Total Monthly Unique Visitors	33,237	316,782	177,567

Online Transactions	Total	Online	Online Percent	FYTD Online Percent	Prior FYTD Percent
<b>Applications</b>	<b>57</b>	<b>34</b>	<b>59.6%</b>	<b>46.7%</b>	<b>40.3%</b>
AMC	0	0		27.3%	53.3%
Certified General Appraiser	10	1	10.0%	13.8%	15.4%
Certified Residential Appraiser	9	3	33.3%	20.8%	20.5%
State Licensed Appraiser	2	2	100.0%	51.3%	50.0%
Appraiser Trainee	36	28	77.8%	71.9%	66.8%
<b>Renewals</b>	<b>198</b>	<b>177</b>	<b>83.8%</b>	<b>89.7%</b>	<b>88.9%</b>
AMC	14	11	0.0%	79.7%	82.4%
Certified General Appraiser	68	63	92.6%	91.3%	88.1%
Certified Residential Appraiser	74	70	94.6%	94.3%	94.1%
State Licensed Appraiser	20	15	75.0%	82.2%	74.4%
Appraiser Trainee	22	18	81.8%	87.5%	79.9%
<b>AMC Panel Transactions</b>	<b>911</b>	<b>911</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>
Additions	777	777	100.0%	100.0%	100.0%
Removals	134	134	100.0%	100.0%	100.0%

## Information Technology Services Division

### Electronic Information Outlet Statistics

September 2016

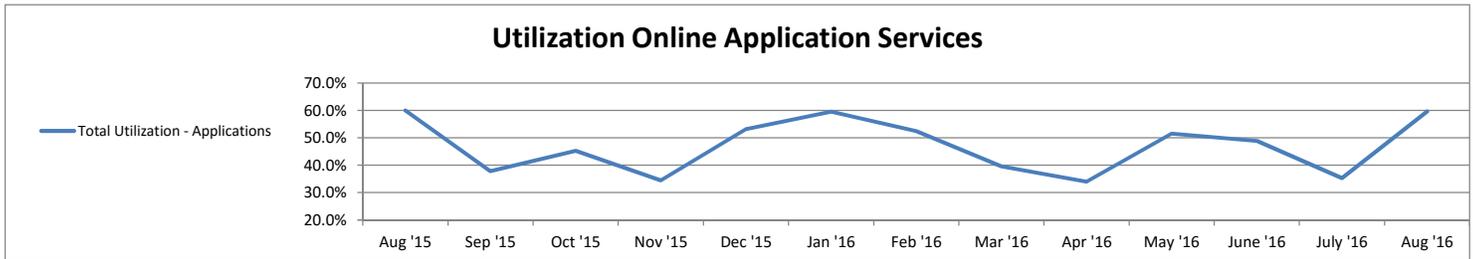
Website	Current Month	FYTD Total	Prior FYTD Total
Total Pages Viewed	625,914	625,914	897,358
Total Monthly Unique Visitors	29,768	29,768	27,757

Online Transactions	Total	Online	Online Percent	FYTD Online Percent	Prior FYTD Percent
<b>Applications</b>	<b>41</b>	<b>18</b>	<b>43.9%</b>	<b>43.9%</b>	<b>37.8%</b>
AMC	2	1	50.0%	50.0%	0.0%
Certified General Appraiser	13	2	15.4%	15.4%	0.0%
Certified Residential Appraiser	5	1	20.0%	20.0%	11.1%
State Licensed Appraiser	2	1	50.0%	50.0%	
Appraiser Trainee	19	13	68.4%	68.4%	65.0%
<b>Renewals</b>	<b>196</b>	<b>192</b>	<b>98.0%</b>	<b>98.0%</b>	<b>92.2%</b>
AMC	1	1	100.0%	100.0%	100.0%
Certified General Appraiser	84	81	96.4%	96.4%	87.9%
Certified Residential Appraiser	82	81	98.8%	98.8%	95.2%
State Licensed Appraiser	9	9	100.0%	100.0%	93.8%
Appraiser Trainee	20	20	100.0%	100.0%	85.7%
<b>AMC Panel Transactions</b>	<b>916</b>	<b>916</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>
Additions	897	897	100%	100%	100.0%
Removals	19	19	100%	100%	100.0%

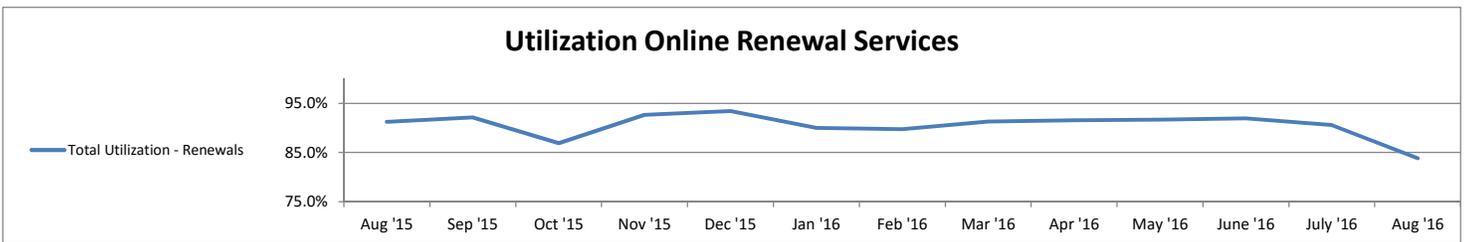
**Information Technology Services Division  
Electronic Information Outlet Statistics**

**August 2016**

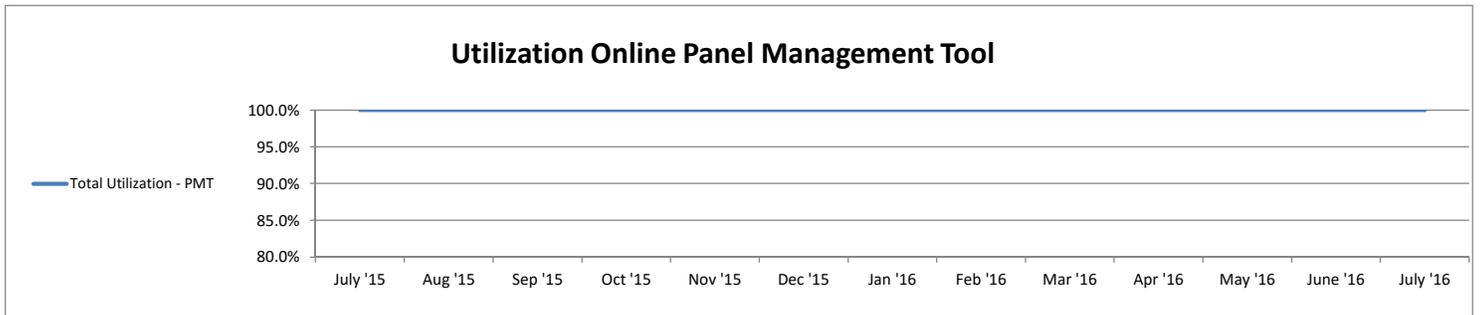
<b>Applications</b>	<b>Aug '15</b>	<b>Sep '15</b>	<b>Oct '15</b>	<b>Nov '15</b>	<b>Dec '15</b>	<b>Jan '16</b>	<b>Feb '16</b>	<b>Mar '16</b>	<b>Apr '16</b>	<b>May '16</b>	<b>June '16</b>	<b>July '16</b>	<b>Aug '16</b>
AMC	0.0%	0.0%	50.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	50.0%		
Certified General Appraiser	66.7%	0.0%	8.3%	14.3%	10.0%	46.2%	25.0%	8.3%	0.0%	0.0%	0.0%	40.0%	10.0%
Certified Residential Appraiser	0.0%	11.1%	40.0%	14.3%	25.0%	28.6%	20.0%	22.2%	0.0%	12.5%	30.0%	0.0%	33.3%
State Licensed Appraiser	71.4%		20.0%	0.0%	75.0%	40.0%	66.7%	20.0%	100.0%		66.7%	50.0%	100.0%
Appraiser Trainee	64.7%	65.0%	70.8%	66.7%	85.7%	90.0%	81.3%	65.4%	60.9%	78.9%	71.4%	44.4%	77.8%
<b>Total Utilization - Applications</b>	<b>60.0%</b>	<b>37.8%</b>	<b>45.3%</b>	<b>34.5%</b>	<b>53.2%</b>	<b>59.6%</b>	<b>52.5%</b>	<b>39.6%</b>	<b>34.0%</b>	<b>51.5%</b>	<b>48.8%</b>	<b>35.3%</b>	<b>59.6%</b>



<b>Renewals</b>	<b>Aug '15</b>	<b>Sep '15</b>	<b>Oct '15</b>	<b>Nov '15</b>	<b>Dec '15</b>	<b>Jan '16</b>	<b>Feb '16</b>	<b>Mar '16</b>	<b>Apr '16</b>	<b>May '16</b>	<b>June '16</b>	<b>July '16</b>	<b>Aug '16</b>
AMC	0.0%	100.0%	100.0%		0.0%	100.0%	100.0%	57.1%	100.0%	0.0%	72.2%	82.4%	0.0%
Certified General Appraiser	90.1%	87.9%	87.7%	93.0%	92.4%	84.3%	85.2%	92.8%	95.9%	91.2%	96.8%	94.1%	92.6%
Certified Residential Appraiser	93.2%	95.2%	86.6%	94.3%	94.7%	94.6%	97.0%	93.9%	91.9%	95.3%	98.9%	95.2%	94.6%
State Licensed Appraiser	90.0%	93.8%	75.0%	83.3%	92.0%	90.0%	50.0%	82.6%	71.4%	92.9%	73.3%	80.0%	75.0%
Appraiser Trainee	85.7%	85.7%	93.3%	83.3%	94.1%	90.9%	92.3%	91.3%	82.1%	87.5%	86.4%	83.3%	81.8%
<b>Total Utilization - Renewals</b>	<b>91.3%</b>	<b>92.2%</b>	<b>86.9%</b>	<b>92.7%</b>	<b>93.4%</b>	<b>90.0%</b>	<b>89.8%</b>	<b>91.3%</b>	<b>91.5%</b>	<b>91.7%</b>	<b>91.9%</b>	<b>90.6%</b>	<b>83.8%</b>



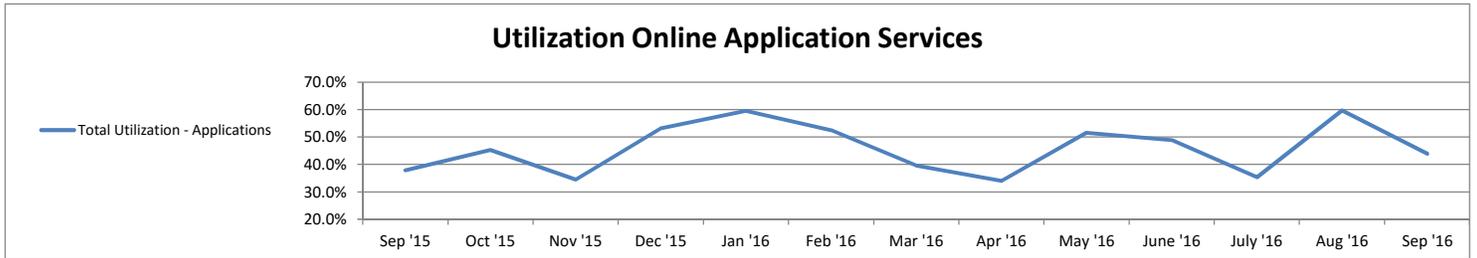
<b>PMT</b>	<b>Aug '15</b>	<b>Sep '15</b>	<b>Oct '15</b>	<b>Nov '15</b>	<b>Dec '15</b>	<b>Jan '16</b>	<b>Feb '16</b>	<b>Mar '16</b>	<b>Apr '16</b>	<b>May '16</b>	<b>June '16</b>	<b>July '16</b>	<b>Aug '16</b>
AMC Panel Invitations	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%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



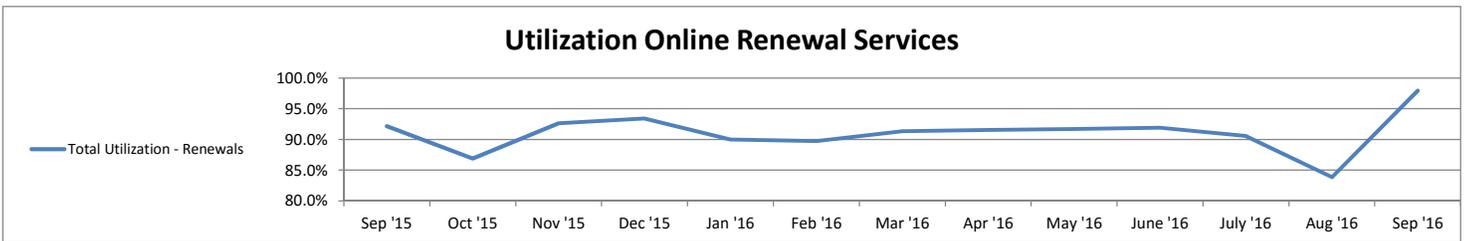
**Information Technology Services Division  
Electronic Information Outlet Statistics**

**September 2016**

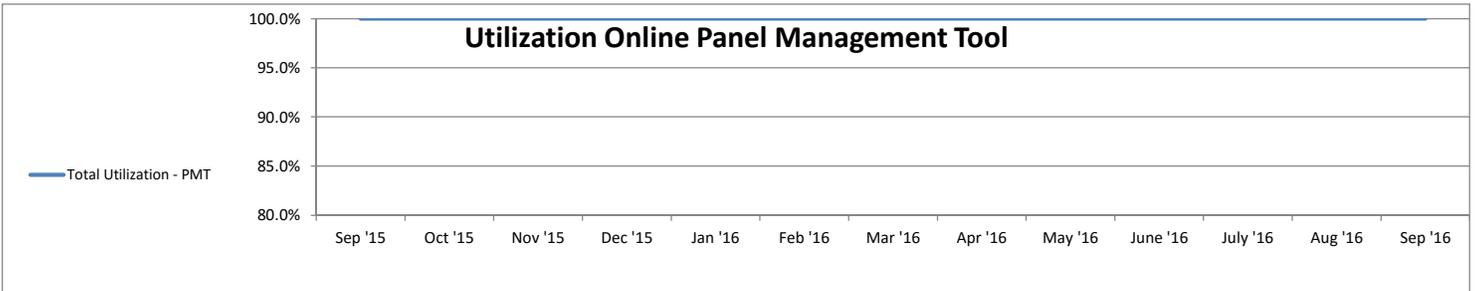
Applications	Sep '15	Oct '15	Nov '15	Dec '15	Jan '16	Feb '16	Mar '16	Apr '16	May '16	June '16	July '16	Aug '16	Sep '16
AMC	0.0%	50.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	50.0%			50.0%
Certified General Appraiser	0.0%	8.3%	14.3%	10.0%	46.2%	25.0%	8.3%	0.0%	0.0%	0.0%	40.0%	10.0%	15.4%
Certified Residential Appraiser	11.1%	40.0%	14.3%	25.0%	28.6%	20.0%	22.2%	0.0%	12.5%	30.0%	0.0%	33.3%	20.0%
State Licensed Appraiser		20.0%	0.0%	75.0%	40.0%	66.7%	20.0%	100.0%		66.7%	50.0%	100.0%	50.0%
Appraiser Trainee	65.0%	70.8%	66.7%	85.7%	90.0%	81.3%	65.4%	60.9%	78.9%	71.4%	44.4%	77.8%	68.4%
<b>Total Utilization - Applications</b>	<b>37.8%</b>	<b>45.3%</b>	<b>34.5%</b>	<b>53.2%</b>	<b>59.6%</b>	<b>52.5%</b>	<b>39.6%</b>	<b>34.0%</b>	<b>51.5%</b>	<b>48.8%</b>	<b>35.3%</b>	<b>59.6%</b>	<b>43.9%</b>



Renewals	Sep '15	Oct '15	Nov '15	Dec '15	Jan '16	Feb '16	Mar '16	Apr '16	May '16	June '16	July '16	Aug '16	Sep '16
AMC	100.0%	100.0%	0.0%	0.0%	100.0%	100.0%	57.1%	100.0%	0.0%	72.2%	82.4%	0.0%	100.0%
Certified General Appraiser	87.9%	87.7%	93.0%	92.4%	84.3%	85.2%	92.8%	95.9%	91.2%	96.8%	94.1%	92.6%	96.4%
Certified Residential Appraiser	95.2%	86.6%	94.3%	94.7%	94.6%	97.0%	93.9%	91.9%	95.3%	98.9%	95.2%	94.6%	98.8%
State Licensed Appraiser	93.8%	75.0%	83.3%	92.0%	90.0%	50.0%	82.6%	71.4%	92.9%	73.3%	80.0%	75.0%	100.0%
Appraiser Trainee	85.7%	93.3%	83.3%	94.1%	90.9%	92.3%	91.3%	82.1%	87.5%	86.4%	83.3%	81.8%	100.0%
<b>Total Utilization - Renewals</b>	<b>92.2%</b>	<b>86.9%</b>	<b>92.7%</b>	<b>93.4%</b>	<b>90.0%</b>	<b>89.8%</b>	<b>91.3%</b>	<b>91.5%</b>	<b>91.7%</b>	<b>91.9%</b>	<b>90.6%</b>	<b>83.8%</b>	<b>98.0%</b>



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



**Staff & Support Services Division**

**TALCB Budget Status Report**

**August 2016**

**0/12 = 0%**

<b>Expenditure Category</b>	<b>Budget FY2016</b>	<b>Actual Expenditures</b>	<b>Balance</b>	<b>Budget % Remaining</b>	<b>Comments</b>
Salaries & Wages	\$875,842	\$801,185	\$74,657	8.5%	
Employee Benefits	277,440	257,274	20,166	7.3%	
Retiree Insurance	39,600	32,633	6,967	17.6%	
Other Personnel Costs	25,220	25,636	(416)	-1.6%	Unemployment expenditures of \$9K exceeded budgeted amount
Professional Fees & Services	77,550	50,686	26,864	34.6%	Versa customization budget not expended as of report date; moved to FY 2017
Consumables	7,500	4,154	3,346	44.6%	Overbudgeted for FY16; FY17 budget reduced by \$1K
Utilities	1,740	1,882	(142)	-8.2%	
Travel	30,000	22,504	7,496	25.0%	Additional travel will be applied for August travel
Office Rent	37,625	26,748	10,877	28.9%	refunded \$8K from Texas Facilities Commission 12/16
Equipment Rental	14,138	9,239	4,899	34.6%	includes copiers and PC Refresh Lease; better pricing on copiers than expected
Registration & Membership	16,125	9,950	6,175	38.3%	Attorney CLE budget not expended as of report date
Maintenance & Repairs	12,267	13,162	(895)	-7.3%	Versa annual maintenance paid; DIR payments increased
Reproduction & Printing	1,600	202	1,398	87.4%	budget for envelopes not expended as of report date
Contract Services	29,540	6,296	23,244	78.7%	budget for court report, ERS and transcripts not expended as of report date
Postage	6,350	4,582	1,768	27.8%	agency consistently expends \$500 a month; it appears we overbudgeted for our Meter postage
Supplies & Equipment	6,500	1,637	4,863	74.8%	budget for computer software and computer hardware not expended as of report date
Communication Services	8,246	9,404	(1,158)	-14.0%	Video streaming of board meetings not budgeted
Other Operating Expenses	4,342	1,864	2,478	57.1%	budget for certified copies, witness fees, and appraiser registry not expended as of report date
<b>Subtotal -Operations Expenditures</b>	<b>1,471,625</b>	<b>1,279,037</b>	<b>192,588</b>	<b>13.1%</b>	
DPS Criminal History Background Checks	3,000	2,934	66	2.2%	Perform secure site name searches
Statewide Cost Allocation Plan (SWCAP)	45,000	41,034	3,966	8.8%	
Contribution to General Revenue	30,000	30,000	0	0.0%	% allocated monthly but pmt not due until 8/31/16
<b>Subtotal - Nonoperational Expenditures</b>	<b>78,000</b>	<b>73,968</b>	<b>4,032</b>	<b>5.2%</b>	
<b>Total Expenditures</b>	<b>\$1,549,625</b>	<b>\$1,353,005</b>	<b>\$196,620</b>	<b>12.7%</b>	

<b>Revenue</b>	<b>FY2016 Projected</b>	<b>Revenue Collected</b>	<b>Revenue Remaining to be Collected</b>	<b>Revenue % Remaining to be Collected</b>	<b>Comments</b>
License Fees	\$1,084,345	\$1,101,560	(\$17,215)	-1.6%	
AMCs	749,580	845,639	(\$96,059)	-12.8%	Majority of renewals occur in last fiscal quarter
Administrative Penalties	45,000	44,800	\$200	0.4%	
Other Miscellaneous Revenue	26,280	23,435	\$2,845	10.8%	Exam Admin Fees/NSF fees/Misc/Public Info fees less Administrative Penalties
<b>Total Revenue</b>	<b>\$1,905,205</b>	<b>\$2,015,434</b>	<b>(\$110,229)</b>	<b>-5.8%</b>	

	<b>FY16 Carry Forward</b>	<b>Allocated Amount</b>	<b>Remaining to be Allocated</b>	<b>Carry Forward % Remaining</b>	<b>This is estimated AMC revenues collected in FY16 that will be set aside for FY17 budget.</b>
<b>AMC Revenue Carry Forward from FY16</b>	<b>(\$290,054)</b>	<b>(\$290,054.00)</b>	<b>\$0</b>	<b>0.0%</b>	<b>Allocation complete</b>

<b>Revenue Over/(Under) Expenditures</b>	<b>\$65,526</b>	<b>\$372,374</b>	<b>\$306,848</b>		<b>Includes AMC Carry Forward</b>
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**Staff & Support Services Division**

**TALCB Budget Status Report**

**September 2016**

11/12 = 91.66%

Expenditure Category	Budget FY2017	Actual Expenditures	Balance	Budget % Remaining	Comments
Salaries & Wages	\$836,817	\$69,344	\$767,473	91.7%	
Employee Benefits	273,401	22,600	250,801	91.7%	
Retiree Insurance	56,305	0	56,305	100.0%	
Other Personnel Costs	33,210	980	32,230	97.0%	
Professional Fees & Services	85,750	10,525	75,225	87.7%	Expense incurred with State Office of Administrative Hearings
Consumables	6,500	0	6,500	100.0%	
Utilities	2,000	107	1,893	94.6%	
Travel	32,000	0	32,000	100.0%	
Office Rent	32,625	28,290	4,335	13.3%	Rent expense paid to Texas Facilities Commission
Equipment Rental	14,500	0	14,500	100.0%	
Registration & Membership	16,125	1,500	14,625	90.7%	Expense incurred for AARO Conference; allocated to Education Reserve account
Maintenance & Repairs	12,267	18,007	(5,740)	-46.8%	Expense incurred for Versa annual Maintenance contract
Reproduction & Printing	1,600	0	1,600	100.0%	
Contract Services	31,040	0	31,040	100.0%	
Postage	6,350	0	6,350	100.0%	
Supplies & Equipment	7,000	0	7,000	100.0%	
Communication Services	8,546	71	8,475	99.2%	
Other Operating Expenses	4,342	570	3,772	86.9%	Expense incurred to State Office of Risk Management assessments for Worker's Comp
<b>Subtotal - Operations Expenditures</b>	<b>1,460,378</b>	<b>151,994</b>	<b>1,308,384</b>	<b>89.6%</b>	
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 8/31/17
<b>Subtotal - Nonoperational Expenditures</b>	<b>78,000</b>	<b>2,500</b>	<b>75,500</b>	<b>96.8%</b>	
<b>Total Expenditures</b>	<b>\$1,538,378</b>	<b>\$154,494</b>	<b>\$1,383,884</b>	<b>90.0%</b>	
Revenue	FY2017 Projected	Revenue Collected	Revenue Remaining to be Collected	Revenue % Remaining to be Collected	Comments
License Fees	\$1,086,525	\$78,460	\$1,008,065	92.8%	
AMCs	155,208	24,360	\$130,848	84.3%	Majority of renewals occur in last fiscal quarter (June-August)
Administrative Penalties	38,400	1,250	\$37,150	96.7%	
Other Miscellaneous Revenue	20,465	1,655	\$18,810	91.9%	Exam Admin Fees/NSF fees/Misc/Public Info fees less Administrative Penalties
<b>Total Revenue</b>	<b>\$1,300,598</b>	<b>\$105,725</b>	<b>\$1,194,873</b>	<b>91.9%</b>	
	<b>FY17 Carry Forward</b>	<b>Allocated Amount</b>	<b>Remaining to be Allocated</b>	<b>Carry Forward % Remaining</b>	<b>This is estimated AMC revenues collected in FY17 that will be set aside for FY18 budget.</b>
<b>AMC Revenue Carry Forward from FY16</b>	<b>\$290,054</b>	<b>\$24,171.17</b>	<b>\$265,883</b>	<b>91.7%</b>	<b>Pro-rated thru September</b>
<b>Revenue Over/(Under) Expenditures &amp; Transfers</b>	<b>\$52,274</b>	<b>(\$24,598)</b>			<b>Includes AMC Carry Forward revenue recognition for FY17</b>

**Staff Services Division**

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

**September 2016**

Purchase Date	Par Value	Purchase Price	Beginning Market Value	Additions Changes	Ending Market Value	Accrued Interest	Description	Maturity Date
07/16/2015	100,000.00	100,839.34	100,023.00	(100,023.00)	0.00	0.00	U.S. T-Notes, 0.88%	09/15/2016
12/24/2015	150,000.00	149,911.72	150,105.00	1.50	150,106.50	276.64	U.S. T-Notes, 0.63%	12/15/2016
06/15/2016	99,300.00	99,980.31	99,485.69	3.97	99,489.66	256.39	U.S. T-Notes, 0.88%	06/15/2017
09/15/2016	149,000.00	149,470.44	0.00	149,460.41	149,460.41	65.86	U.S. T-Notes, 1.0%	09/15/2017
<b>Totals</b>	<b>\$ 498,300.00</b>	<b>\$ 500,201.81</b>	<b>\$ 349,613.69</b>	<b>\$ 49,442.88</b>	<b>\$ 399,056.57</b>	<b>\$ 598.89</b>		

**Receipts:**

Treasury Note Earnings

**Current Month**

437.50

**FY2017**

**Cumulative Total**

437.50

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



Priscilla Pipo, Investment Officer



Barbara Kolb, Alternate Investment Officer

# Staff Services Division

## Texas Appraiser and Licensing Board Reserves

Presented November 18, 2016

		Admin Penalties
Reserve for Educational Development	Approved 8/31/14	49,585
Reserve for Educational Development	Approved 8/31/15	44,355
Reserve for Educational Development	Approved 8/31/16	34,600
	Total	<u>128,540</u>
Reserve for Long-Term Facilities Master Plan	Approved 8/31/14	240,000
Reserve for Long-Term Facilities Master Plan	Approved 8/31/15	180,000
Reserve for Long-Term Facilities Master Plan	Approved 8/31/16	320,000
	Total	<u>740,000</u>

Source: 2017 TALCB Budget as Adopted August 2016 - updated with actual admin penalties as of 31 Aug 16

**TALCB Standards & Enforcement Services**  
**CASE STATUS REPORT as of SEPTEMBER 30, 2016**

**# of Cases Received**

Case Classification	FY2015	FY2016	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar	17-Apr	17-May	17-Jun	17-Jul	17-Aug	FYTD
<b>Complaint Category:</b>															
AMCs	1	13	0												0
Dodd Frank	22	16	0												0
Ethics	4	3	0												0
USPAP	149	139	7												7
Other	11	18	1												1
No Jurisdiction	4	9	0												0
	<b>191</b>	<b>198</b>	<b>8</b>											<b>SUB:</b>	<b>8</b>
<b>Experience Audits</b>	161	146	13												13
<b>RFAs &amp; Covert Complaints</b>	13	5	1												1
<b>MCD Inquiries</b>	3	7	1												1
	<b>177</b>	<b>158</b>	<b>15</b>											<b>SUB:</b>	<b>15</b>
<b>Opened During FY Year   Month</b>	<b>368</b>	<b>356</b>	<b>23</b>												<b>23</b>

**# of Cases Closed**

Case Disposition	FY2015	FY2016	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar	17-Apr	17-May	17-Jun	17-Jul	17-Aug	FYTD
Surrendered	5	7	0												0
Agreed Final Order / Final Order	42	54	0												0
Other Disciplinary Action	5	0	0												0
Insufficient Evidence	2	4	0												0
Dismissed	98	120	6												6
No Jurisdiction	5	9	0												0
	<b>157</b>	<b>194</b>	<b>6</b>											<b>SUB:</b>	<b>6</b>
<b>Experience Audits</b>	171	137	13												13
<b>RFAs</b>	10	8	0												0
<b>MCD Inquiries</b>	5	6	2												2
	<b>186</b>	<b>151</b>	<b>15</b>											<b>SUB:</b>	<b>15</b>
<b>Closed During FY Year   Month</b>	<b>343</b>	<b>345</b>	<b>21</b>												<b>21</b>

**Total Cases Open as of 9/30/16: 218**

## TALCB Standards & Enforcement Services

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

#### # of Cases Received

Case Classification	FY2015	FY2016	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar	17-Apr	17-May	17-Jun	17-Jul	17-Aug	FYTD
<b>Complaint Category:</b>															
AMC Compliance	0	1	0												0
Dodd Frank	0	0	0												0
Ethics	0	0	0												0
USPAP	7	3	0												0
Other	0	10	0												0
No Jurisdiction	1	3	0												0
	<b>8</b>	<b>17</b>	<b>0</b>												<b>0</b>
														<b>SUB:</b>	<b>0</b>
<b>RFAs &amp; Covert Complaints</b>	0	0	0												0
<b>Opened During FY Year   Month</b>	<b>8</b>	<b>17</b>	<b>0</b>												<b>0</b>

#### # of Cases Closed

Case Disposition	FY2015	FY2016	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar	17-Apr	17-May	17-Jun	17-Jul	17-Aug	FYTD
Surrendered	0	0	0												0
Agreed Final Order	0	0	0												0
Other Disciplinary Action	0	0	0												0
Insufficient Evidence	0	1	0												0
Dismissed	6	8	0												0
No Jurisdiction	1	2	0												0
	<b>7</b>	<b>11</b>	<b>0</b>												<b>0</b>
															<b>SUB:</b>
<b>RFAs &amp; Covert Complaints</b>	0	0	0												0
<b>Closed During FY Year   Month</b>	<b>7</b>	<b>11</b>	<b>0</b>												<b>0</b>

**Total Cases Open as of 9/30/16: 11**

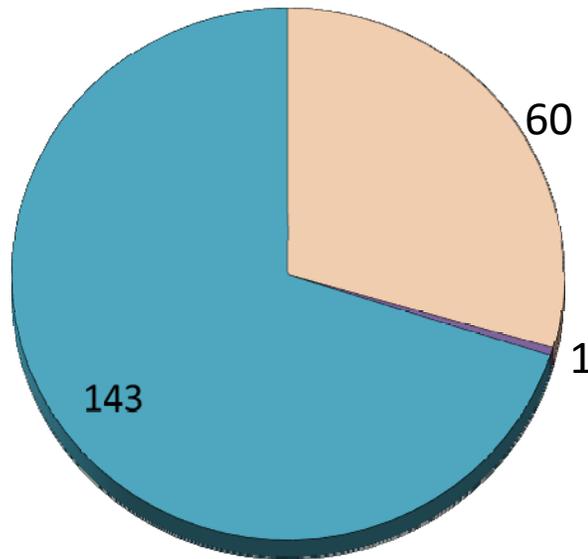
# TOTAL OPEN COMPLAINTS

<b>Fiscal Year</b>	<b>No. Pending (as of 07/13/2016)</b>	<b>No. Pending (as of 09/30/16)</b>	<b>IN REVIEW</b>	<b>INVEST COMPLETE</b>	<b>SOAH</b>	<b>AWAITING FINAL DISPOSITION</b>	<b>RFAs &amp; COVERT CASES</b>	<b>Percentage Change from Previous Reporting Period</b>
<b>2009</b>	1	1	—	—	—	—	1	0%
<b>2014</b>	2	1	—	—	—	—	1	(50%)
<b>2015</b>	34	18	—	—	1	9	8	(47.06%)
<b>2016</b>	136	144	104	5	—	34	1	5.88%
<b>2017</b>	—	10	9	—	—	—	1	—
<b>Total</b>	<b>173</b>	<b>174</b>	<b>113</b>	<b>5</b>	<b>1</b>	<b>43</b>	<b>12</b>	<b>.58%</b>
<b>Total 1 YR OLD</b>	19	25	2	1	1	11	10	31.58%

# COMPLAINT RESOLUTIONS - FY 2016

SEPTEMBER 1, 2015 – AUGUST 31, 2016

## 204 Total Complaints Resolved



- 60 (29.41%) Agreed Final Orders & Voluntary Surrenders
- 0 (0%) Litigated
- 1 (0.49%) NOAV / Default Final Order
- 143 (70.1%) Dismissals
  - 45 (31.469%) Dismissals
  - 50 (34.965%) Dismissals with Warning Letter
  - 34 (23.776%) Contingent Dismissals
  - 9 (6.294%) Non-Jurisdictional Dismissals
  - 5 (3.497%) Other

% of License Holders w/Disciplinary Actions			
<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
.8%	.6%	.7%	.5%

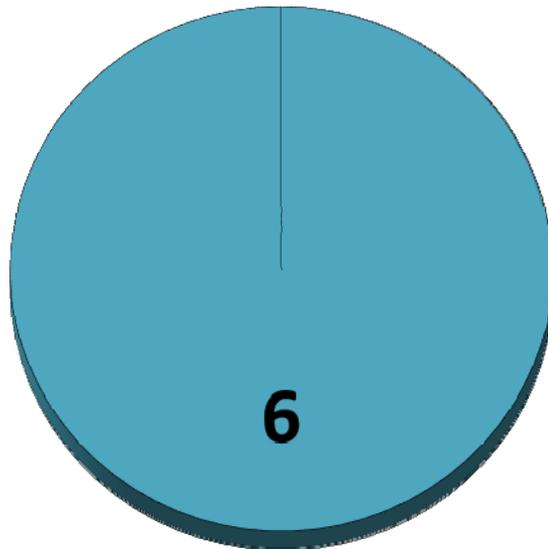
FY 2016 Recidivism Rate	
	32.4%

Total Number of Licensees (as of August 31, 2016): 7,391

# COMPLAINT RESOLUTIONS - FY 2017

SEPTEMBER 1, 2016 – SEPTEMBER 30, 2016

## 6 Total Complaints Resolved



- 0 (0%) Agreed Final Orders & Voluntary Surrenders
- 0 (0%) Litigated
- 0 (0%) NOAV / Default Final Order
- 6 (100%) Dismissals
  - 2 (33.33%) Dismissals
  - 2 (33.33%) Dismissals with Warning Letter
  - 2 (33.33%) Contingent Dismissals
  - 0 (0%) Non-Jurisdictional Dismissals
  - 0 (0%) Other

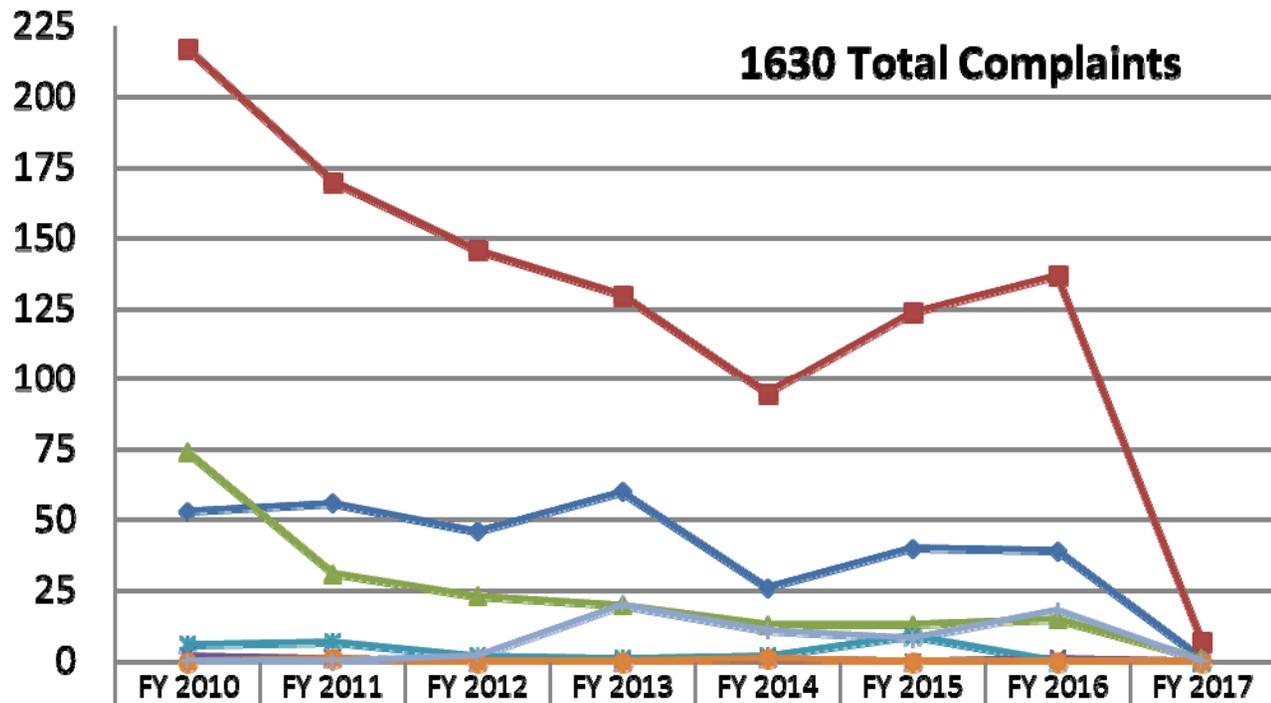
% of License Holders w/Disciplinary Actions				
<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
.8%	.6%	.7%	.5%	N/A

FY 2017 Recidivism Rate	
<u>FY 2016</u>	<u>FY 2017</u>
32.4%	N/A

Total Number of Licensees (as of September 30, 2016):  
7,405

# TOTAL # OF COMPLAINTS RECEIVED

## (PER LICENSE TYPE)

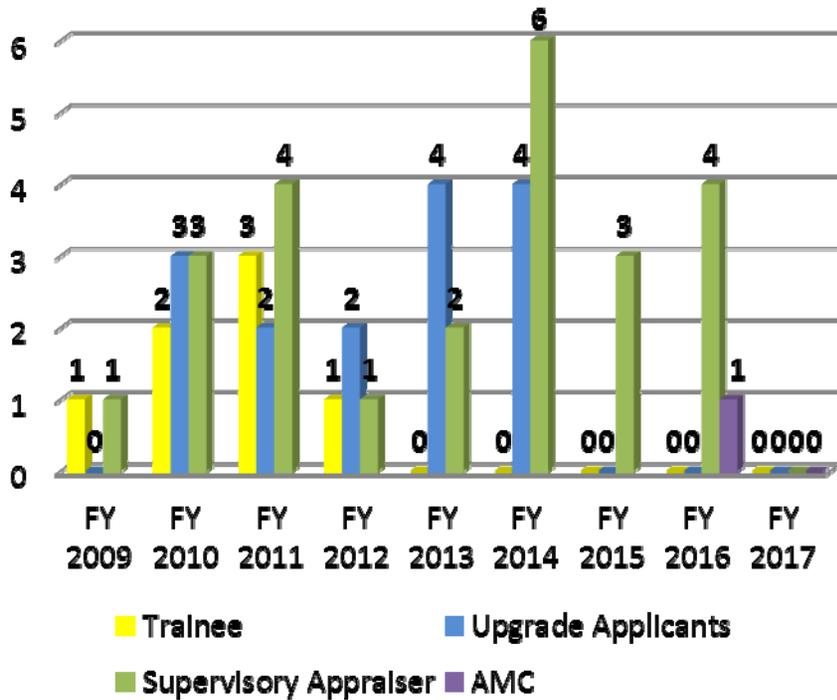


	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
◆ Certified General	53	56	46	60	26	40	39	1
■ Certified Residential	217	170	146	130	95	124	137	7
▲ State Licensed	74	31	23	20	13	13	15	1
✱ Provisional Licensed	2	1	0	0	1	0	1	0
✱ Appraiser Trainee	6	7	2	1	2	9	0	0
● Out-of-State Temporary Registrations	0	1	0	0	1	0	0	0
◆ AMCs	0	0	2	20	11	8	18	0

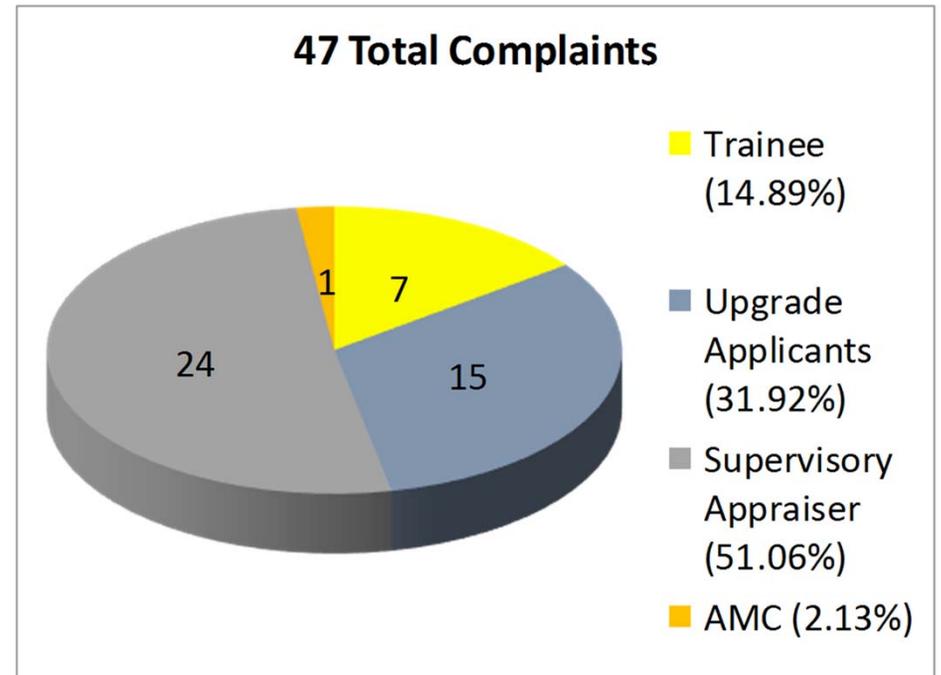
(as of 09/30/16)

# STAFF-INITIATED COMPLAINTS BASED ON EXPERIENCE AUDITS

# of Staff-Initiated Complaints from Audits per Fiscal Year



% of Staff-Initiated Complaints from Audits per Respondent Type



(as of 09/30/16)



## **AGENDA ITEM 13**

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

### **SUMMARY**

The amendments clarify the criteria required for awarding experience credit for applicants and license holders based on a revised interpretation of the Appraisal Subcommittee (ASC). The amendments also remove redundant language and reorganize this section to improve readability.

### **COMMENTS**

No comments were received on the amendments as proposed.

### **STAFF RECOMMENDATION**

Adopt amendments as published.

### **RECOMMENDED MOTION**

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption amendments to §153.15, Experience Required for Licensing, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes as required for adoption.





**Adopted Rule Action from November 18, 2016 Meeting  
of the Texas Appraiser Licensing and Certification  
Board**

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

**Rule 153.15. Experience Required for Licensing**

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

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

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

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

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

(e) The Board awards experience credit in accordance with current criteria established by the AQB and in accordance with the provisions

of the Act specifically relating to experience requirements. An hour of experience means 60 minutes expended in one or more of the acceptable appraisal experience areas. Calculation of the hours of experience is based solely on actual hours of experience. Hours may be treated as cumulative in order to achieve the necessary hours of appraisal experience. Any one or any combination of the following categories may be acceptable for satisfying the applicable experience requirement. Experience credit may be awarded for:

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

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

(A) conforms to USPAP Standard 6; and

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

~~[(3) Condemnation appraisal.]~~

~~(3) [(4) Appraisal [Technical] review [appraisal to the extent] that: [it]~~

(A) conforms to USPAP Standard 3; and

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

~~[(5) Appraisal analysis. A market analysis typically performed by a real estate broker or~~

~~salesperson may be awarded experience credit when the analysis is prepared in conformity with USPAP Standards 1 and 2.]~~

~~(4)(6) Appraisal [Real property appraisal]~~ consulting services, including market analysis, cash flow and/or investment analysis, highest and best use analysis, and feasibility analysis when it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under USPAP Standard 1 and performed in accordance with USPAP Standards 4 and 5.

(f) Experience credit may not be awarded for teaching appraisal courses.

(g) Recency of Experience.

(1) The Appraisal Experience Log submitted by an applicant must include a minimum of 10 appraisal reports representing at least 10 percent of the hours and property type of experience required for each license category and for which an applicant seeks experience credit that have been performed within 5 years before the date an application is accepted for filing by the Board.

(2) This requirement does not eliminate an applicant's responsibility to comply with the 5-year records retention requirement in USPAP.

(h) Experience credit for first-time applicants. Each applicant must submit a Board-approved Appraisal Experience Log and Appraisal Experience Affidavit listing each appraisal assignment or other work for which the applicant is seeking experience credit. The Board may grant experience credit for work listed on an applicant's Appraisal Experience Log that:

(1) complies with the USPAP edition in effect at the time of the appraisal;

(2) is verifiable and supported by:

(A) work files in which the applicant is identified as participating in the appraisal process; or

(B) appraisal reports that:

(i) name the applicant in the certification as providing significant real property appraisal assistance; or

(ii) the applicant has signed;

(3) was performed when the applicant had legal authority to do so; and

(4) complies with the acceptable categories of experience established by the AQB and stated in subsection (e) of this section.

(i) Experience credit for current licensed residential or certified residential license holders who seek to upgrade their license.

(1) Applicants who currently hold a licensed residential or certified residential appraiser license issued by the Board and want to upgrade this license must:

(A) submit an application on a Board-approved form;

(B) submit a Board-approved Appraisal Experience Log and Appraisal Experience Affidavit listing each appraisal assignment or other work for which the applicant is seeking experience credit for the full amount of experience hours required for the license sought;

(C) pay the appropriate application fee; and

(D) satisfy any other requirement for the license sought, including but not limited to:

(i) the incremental number of experience hours required;

(ii) the hours of experience required for each property type;

(iii) the minimum length of time over which the experience is claimed; and

(iv) the recency requirement in this section.

(2) Review of experience logs.

(A)An applicant who seeks to upgrade a current license issued by the Board must produce experience logs to document 100 percent of the experience hours required for the license sought.

(B)Upon review of an applicant's experience logs, the Board may, at its sole discretion, grant experience credit for the hours shown on the applicant's logs even if some work files have been destroyed because the 5-year records retention period in USPAP has passed.

(j)The Board may, at its sole discretion, accept evidence other than an applicant's Appraisal Experience Log and Appraisal Experience Affidavit to demonstrate experience claimed by an applicant.

(k)The Board must verify the experience claimed by each applicant generally complies with USPAP.

(1)Verification may be obtained by:

(A)requesting copies of appraisals and all supporting documentation, including the work files; and

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

(2)If the Board requests documentation from an applicant to verify experience claimed by an applicant, the applicant has 60 days to provide the requested documentation to the Board.

(3)Failure to comply with a request for documentation to verify experience, or submission of experience that is found not to comply with the requirements for experience credit, is a violation of these rules and may result in denial of a license application, and any disciplinary action up to and including revocation.

[(g)Experience claimed by an applicant must be submitted on an Appraisal Experience Log with an accompanying Appraisal Experience Affidavit.]

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

~~[(2)If the Board determines just cause exists for requiring further information, the Board may obtain additional information by:]~~

~~[(A)requiring the applicant to complete a form, approved by the Board, that includes detailed listings of appraisal experience showing, for each appraisal claimed by the applicant, the city or county where the appraisal was performed, the type and description of the building or property appraised, the approaches to value utilized in the appraisal, the actual number of hours expended on the appraisal, name of client, and other information determined to be appropriate by the Board; or]~~

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

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

~~[(A)requiring the applicant to complete a form, approved by the Board, that includes detailed listings of appraisal experience showing, for each appraisal claimed by the applicant, the city or county where the appraisal was performed, the type and description of the building or property appraised, the approaches to value utilized in the appraisal, the actual number of hours expended on the appraisal, name of client, and other information determined to be appropriate by the Board;]~~

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

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

~~[(4) Failure to comply with a request for verification of experience, or submission of experience that is found not to comply with the requirements for experience credit, is a violation of these rules and may result in denial of a license application, and any disciplinary action up to and including revocation.]~~

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

~~[(1) comply with the USPAP edition in effect at the time of the appraisal;]~~

~~[(2) are verifiable and supported by workfiles in which the applicant is identified as participating in the appraisal process;]~~

~~[(3) were performed when the applicant had legal authority; and]~~

~~[(4) comply with the acceptable categories of experience as per the AQB experience criteria and stated in subsection (e) of this section.]~~



## **AGENDA ITEM 14(a)**

Discussion and possible action to adopt amendments to 22 TAC §159.52, Fees.

### **SUMMARY**

The amendments reduce the renewal fee for appraisal management companies by \$300 per two-year license renewal period and reduce the fee to add or remove an appraiser from an AMC panel from \$10 to \$5.

### **COMMENTS**

One comment was received on the amendments as proposed. The commenter is an AMC trade association. The commenter supports the amendments. The AMC Advisory Committee considered the comment at its meeting on October 25, 2016, and recommends adopting the amendments as published.

### **STAFF RECOMMENDATION**

Adopt amendments as published.

### **RECOMMENDED MOTION**

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption amendments to §159.52, Fees, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes as required for adoption.





## Adopted Rule Action from November 18, 2016 Meeting of the Texas Appraiser Licensing and Certification Board

### Chapter 159. Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act

#### Rule 159.52. Fees

##### *159.52. Fees*

(a) The Board will charge and the Commissioner will collect the following fees:

- (1) a fee of \$3,300 for an application for a two-year registration;
- (2) a fee of \$3,000 [~~\$3,300~~] for a timely renewal of a two-year registration;
- (3) a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a registration within 90 days of expiration; a fee equal to two times the timely renewal fee for the late renewal of a registration more than 90 days but less than six months after expiration;
- (4) the national registry fee in the amount charged by the Appraisal Subcommittee for the AMC registry;
- (5) a fee of \$10 for each appraiser on a panel at the time of renewal of a registration;
- (6) a fee of \$5 [~~\$10~~] to add an appraiser to a panel in the Board's records;
- (7) a fee of \$5 [~~\$10~~] for the termination of an appraiser from a panel;
- (8) a fee of \$25 to request a registration be placed on inactive status;
- (9) a fee of \$50 to return to active status;
- (10) a fee of \$40 for preparing a certificate of licensure history or active licensure;
- (11) a fee for a returned check equal to that charged for a returned check by the Texas Real Estate Commission;
- (12) a fee of \$20 for filing any request to change an owner, primary contact, appraiser contact, registered business name or place of business;

(13) a fee of \$50 for evaluation of an owner or primary contact's background history not submitted with an original application or renewal;

(14) a fee of \$20 for filing any application, renewal, change request, or other record on paper when the person may otherwise file electronically by accessing the Board's website and entering the required information online; and

(15) any fee required by the Department of Information Resources for establishing and maintaining online applications.

(b) Fees must be submitted in U.S. funds payable to the order of the Texas Appraiser Licensing and Certification Board. Fees are not refundable once an application has been accepted for filing. Persons who have submitted a check which has been returned, and who have not made good on that check within 30 days, for whatever reason, must submit all future fees in the form of a cashier's check or money order.

(c) AMCs registered with the Board must pay any annual registry fee as required under federal law. All registry fees collected by the Board will be deposited in the Texas Treasury Safekeeping Trust Company to the credit of the appraiser registry fund. The Board will send the fees to the Appraisal Subcommittee as required by federal law.





## **AGENDA ITEM 14(b)**

Discussion and possible action to adopt amendments to 22 TAC §159.161, Appraiser Panel.

### **SUMMARY**

As recommended by the Appraisal Management Company (AMC) Advisory Committee, the amendments allow the Board to remove an appraiser from an AMC's panel without any charge to the AMC if the Board suspends or revokes the appraiser's license. The amendments also clarify when an appraiser will be removed from an AMC's panel after the appraiser's license expires.

### **COMMENTS**

One comment was received on the amendments as proposed. The commenter is an AMC trade association. The commenter supports the amendments. The AMC Advisory Committee considered the comment at its meeting on October 25, 2016, and recommends adopting the amendments as published.

### **STAFF RECOMMENDATION**

Adopt amendments as published.

### **RECOMMENDED MOTION**

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption amendments to §159.161, Appraiser Panel, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes as required for adoption.





**Adopted Rule Action from November 18, 2016 Meeting  
of the Texas Appraiser Licensing and Certification  
Board**

**Chapter 159. Rules Relating to the Provisions of the  
Texas Appraisal Management Company Registration  
and Regulation Act**

**Rule 159.161. Appraiser Panel**

***159.161. Appraiser Panel***

(a) If an appraiser is not employed by the AMC or already a member of the AMC's panel, an AMC must add the appraiser to the AMC's panel no later than the date on which the AMC makes an assignment to the appraiser.

(b) To add an appraiser to a panel, the AMC must:

(1) initiate the appropriate two-party transaction through the Board's online panel management system, including payment of any required fee(s); or

(2) submit a notice on a form approved by the Board for this purpose, including the signatures of the appraiser and the AMC's primary contact, and the appropriate fee(s).

(c) An appraiser or an AMC may terminate the appraiser's membership on a panel by:

(1) submitting a termination notice electronically through the Board's online panel management system, including payment of any required fee; or

(2) submitting a notice on a form approved by the Board for this purpose and the appropriate fee(s).

(d) If an appraiser terminates his or her membership on a panel, the appraiser must immediately notify the AMC of the termination. If an AMC terminates an appraiser's membership on a panel, the AMC must immediately notify the appraiser of the termination.

(e) If an appraiser's license [~~expires or~~ is suspended or revoked, the Board will remove the appraiser from any panels on

which the appraiser is listed with no fee charged to the AMC or [tø] the appraiser.

(f) If an appraiser's license expires, the Board will:

(1) change the appraiser's license status the month following expiration of the license; and

(2) remove the appraiser from any panels on which the appraiser is listed with no fee charged to the AMC or the appraiser once the license can no longer be renewed.





## **AGENDA ITEM 14(c)**

Discussion and possible action to adopt amendments to 22 TAC §159.201, Guidelines for Revocation, Suspension, or Denial of a License.

### **SUMMARY**

As recommended by the Working Group for AQB Criminal History Check Criteria and the Appraisal Management Company (AMC) Advisory Committee, the amendments allow an AMC to conduct additional criminal history checks beyond those required by the Board, so long as an AMC does not require an appraiser to pay for or reimburse an AMC for the additional criminal history checks.

### **COMMENTS**

One comment was received on the amendments as proposed. The commenter is an AMC trade association. The commenter opposes the amendments on the ground that the amendments interfere with an AMC's contractual relationships with the AMC's lender clients. The AMC Advisory Committee considered the comment at its meeting on October 25, 2016, and recommends adopting the amendments as published.

### **STAFF RECOMMENDATION**

Adopt amendments as published.

### **RECOMMENDED MOTION**

MOVED, that staff is authorized, on behalf of this Board, to submit for adoption amendments to §159.201, Guidelines for Revocation, Suspension, or Denial of a License, without changes to text as published in the *Texas Register*, along with any technical or non-substantive changes as required for adoption.





**Adopted Rule Action from November 18, 2016 Meeting  
of the Texas Appraiser Licensing and Certification  
Board**

**Chapter 159. Rules Relating to the Provisions of the  
Texas Appraisal Management Company Registration  
and Regulation Act**

**Rule 159.201. Guidelines for Revocation, Suspension, or  
Denial of a License**

***159.201. Guidelines for Revocation,  
Suspension, or Denial of a License***

(a)The Board may suspend or revoke a license issued under provisions of the AMC Act, or deny issuing a license to an applicant, any time it is determined that the person applying for or holding the license or the AMC's primary contact:

(1)disregards or violates a provision of the AMC Act or Board rules;

(2)is convicted of a felony;

(3)fails to notify the Board not later than the 30th day after the date of the final conviction if the person, in a court of this or another state or in a federal court, has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud or moral turpitude;

(4)fails to notify the Board not later than the 30th day after the date of incarceration if the person, in this or another state, has been incarcerated for a criminal offense involving fraud or moral turpitude;

(5)fails to notify the Board not later than the 30th day after the date disciplinary action becomes final against the person with regard to any occupational license the person holds in Texas or any other jurisdiction;

(6)fails to comply with the USPAP edition in effect at the time of the appraisal or appraisal practice;

(7)acts or holds any person out as a registered AMC under the AMC Act or another state's act when not so licensed or certified;

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

(9)refuses to refund payment received for appraisal management services when he or she has failed to deliver the appraiser service in the agreed upon manner;

(10)accepts payment for services contingent upon a minimum, maximum, or pre-agreed value estimate;

(11)offers to perform appraisal management services or agrees to perform such services when employment to perform such services is contingent upon a minimum, maximum, or pre-agreed value estimate;

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

(13)has had a registration as an AMC revoked, suspended, or otherwise acted against by any other jurisdiction for an act which is an offense under Texas law;

(14)procures a registration pursuant to the AMC Act by making false, misleading, or fraudulent representation;

(15)has had a final civil judgment entered against him or her on any one of the following grounds:

(A)fraud;

(B)intentional or knowing misrepresentation; or

(C)grossly negligent misrepresentation in the making of real estate appraiser services;

(16)fails to make good on a payment issued to the Board within 30 days after the Board has mailed a request for payment by

certified mail to the license holder's primary contact as reflected in the Board's records;

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

(18) uses any title, designation, initial or other insignia or identification that would mislead the public as to that person's credentials, qualifications, competency, or ability to provide appraisal management services;

(19) requires an appraiser to pay for or reimburse the AMC for a criminal history check;

(20) fails to comply with a final order of the Board; or

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

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

(c) The Board may probate a penalty or sanction, and may impose conditions of the probation, including, but not limited to:

(1) the type and scope of appraisal management practice;

(2) requirements for additional education by the AMC's controlling persons;

(3) monetary administrative penalties; and

(4) requirements for reporting appraisal management activity to the Board.

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

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

(f) The Board may not investigate under this section a complaint submitted either more than two years after the date of discovery or more than two years after the completion of any litigation involving the incident,

whichever event occurs later, involving the AMC that is the subject of the complaint.

(g) Except as provided by Texas Government Code §402.031(b) and Texas Penal Code §32.32(d), there will be no undercover or covert investigations conducted by authority of the AMC Act.



October 7, 2016

Commissioner Doug Oldmixon  
Texas Appraiser Licensing and Certification Board  
Stephen F. Austin Building  
1700 N. Congress Ave., Suite 400  
Austin, TX 78701

Dear Commissioner Oldmixon:

Please accept the following comments from the Real Estate Valuation Advocacy Association (REVA) in regard to [proposed rules relating to the Texas Appraisal Management Company Registration and Regulation Act](#). AMCs associated with REVA are licensees of the Texas Appraiser Licensing and Certification Board (TALCB).

We appreciate the efforts of TALCB and the AMC Work Group to engage REVA. As a co-licensee, AMCs seek balanced regulation in Texas and a chance to share their perspective on how items like these proposed rules directly impact their business. REVA shares TALCB's vision on the importance of collaboration to find solutions to common concerns and identify ways to leverage opportunities vital to the future of residential appraisals.

### **Comments Pertaining to §159.52 and §159.161**

REVA members appreciate TALCB's evaluation of current AMC fees in Texas and the associated adjustments proposed in [22 TAC §159.52](#) and [§159.161](#). We have no further comment on these proposed rule changes.

### **Comments Pertaining to §159.201(a)(19)**

REVA is deeply concerned about the proposed amendment to [22 TAC §159.201\(a\)\(19\)](#) – the proposal to make an AMC's collection of a fee for conducting a criminal history check on an appraiser a prohibited act. AMCs only conduct background checks to comply with the contractual requirements of their clients (lenders). The decision on whether to accept the State of Texas' background check as meeting this contractual requirement rests solely on the lender, not the AMC. Therefore, it goes without saying, that we encourage TALCB to further engage the lender community on this matter as their involvement is important.

The following are additional comments in regard to this proposed rule:

### ***§159.201(a)(19) Creates Contractual Interference Between AMCs and Lender Clients***

AMCs work on behalf of national and local lenders who require, by contract, that appraisers pass a background check to comply with the "good moral character" requirement in the Federal Deposit Insurance Corporation (FDIC) Policy for [Section 19 of the Federal Deposit Insurance Act](#) (FDI Act). These contracts may stipulate the specific types of background checks to be performed, the period to be assessed, the vendor to be utilized, etc. For that reason, a background check performed, previously for another AMC or for another purpose, may or may not meet applicable client contract requirements.

In some cases, a lender may review the Texas background check standard and agree that it does meet their needs. However, if lender clients still require AMCs to conduct a background check regardless of the state requirement then the AMC has no other option than to pay this cost despite the current practice by which appraisers pay for their own background check as a condition of joining an AMC panel.

As TALCB is aware, it is a time of immense change and financial uncertainty for AMCs, just as it is with appraisers and others within the residential mortgage and valuations industry. The cost of regulation, licensing and compliance continues to skyrocket, along with the significant impact of the upcoming federal AMC Registry Fee – based on the current proposal by the Appraisal Subcommittee, it is estimated by REVA that the cost per AMC providing services nationally could range from \$100,000-\$250,000 per year.

REVA members clearly understand the responsibilities that come with operating a business in a regulated environment and the associated costs that accompany such regulation. But, without acceptance by the lenders to adhere to Texas' background check provision, the TALCB is in effect, shifting the cost burden of procuring an acceptable background check in favor of one licensee (appraisers) to the detriment of another licensee (AMCs).

From REVA's perspective, this amounts to nothing more than government interference in commerce and the operation of private businesses. AMCs and independent fee appraisers are both private businesses that operate in a highly competitive marketplace. Both must manage their own revenue and expenses (e.g., E&O insurance, software upgrades, office costs, payroll, background checks, etc.). Neither AMCs nor appraisers should be afforded special status or consideration by TALCB, in particular at the expense of the other.

### ***The State and Lenders May Differ in Criteria that Could Disqualify an Appraiser***

Texas does have a background check program in place associated with appraiser licensing. But, there is a disparity between what may constitute as a negative background check violation in an appraiser's past that could exclude them from licensure with the state, and a violation that could exclude them from working on an assignment for an AMC whose client has a more rigid standard.

REVAAs interpret the Federal Deposit Insurance Corporation (FDIC) Policy for [Section 19 of the Federal Deposit Insurance Act](#) (FDI Act) to include a dotted line between an appraiser and to a lender requiring a background check of any independent contractor that could result in loss to insured lending institutions.

When AMCs conduct a private background check to determine the appraiser's eligibility to meet client requirements, they are able to obtain the information needed to ensure compliance with Section 19. However, under the state's proposal, the state's appraiser background check cannot be shared and is only valid for the single purpose of licensure.

This lack of transparency means a lender or AMC would not be able to identify any negative items on the background check that, while they may not disqualify the appraiser's credential status with the state, could conflict with client requirements and/or Section 19 as outlined below.

#### A. Scope of Section 19

*Section 19 covers institution-affiliated parties, as defined by [12 U.S.C. 1813\(u\)](#) and others who are participants in the conduct of the affairs of an insured institution. This Statement of Policy applies only to insured institutions, their institution-affiliated parties, and those participating in the affairs of an insured depository institution. Therefore, all employees of an insured institution fall within the scope of Section 19. In addition, those deemed to be de facto employees as determined by the FDIC based upon generally applicable standards of employment law, will also be subject to Section 19. Whether other persons who are not institution-affiliated parties are covered depends upon their degree of influence or control over the management or affairs of an insured institution. For example, Section 19 would not apply to persons who are merely employees of an insured institution's holding company, but would apply to its directors and officers to the extent that they have the power to define and direct the policies of the insured institution. Similarly, directors and officers of affiliates, subsidiaries or joint ventures of an insured institution or its holding company will be covered if they are in a position to influence or control the management or affairs of the insured institution. Those who exercise major policymaking functions of an insured institution would be deemed participants in the affairs of that institution and covered by section 19. Typically, an independent contractor does not have a relationship with the insured institution other than the activity for which the insured institution has contracted. Under 12 U.S.C. 1813(u), independent contractors are institution-affiliated parties if they knowingly or recklessly participate in violations, unsafe or unsound practices or breaches of fiduciary duty which are likely to cause significant loss to, or a significant adverse effect on, an insured institution. In terms of participation, an independent contractor who influences or controls the management or affairs of the insured institution, would be covered by Section 19. Further, "person" for purposes of Section 19 means an individual, and does not include a corporation, firm or other business entity*

Thank you for considering our comments. For the reasons outlined above, we respectfully request that TALCB strike out §159.201(a)(19).

REVAAs appreciate the opportunity to share this feedback with TALCB and look forward to working together in the future. Please do not hesitate to contact me with questions.

Respectfully,



Mark Schiffman  
Executive Director



## **AGENDA ITEM 15(a)**

Discussion and possible action to propose amendments to 22 TAC §153.5, Fees.

### **SUMMARY**

The proposed amendments change the reference in the rule from the fee for an evaluation of an applicant's criminal history to the fee for an evaluation of an applicant's moral character to align the rule with statutory requirements in Chapter 1103, Texas Occupations Code, and current Board practice. The Enforcement Committee considered the proposed amendments and recommends the Board publish the proposed amendments for public comment.

### **STAFF RECOMMENDATION**

Propose the amendments as presented.

### **RECOMMENDED MOTION**

MOVED, that staff is authorized, on behalf of this Board, to submit amendments to 22 TAC §159.5, Fees, as presented for publication and public comment to the *Texas Register*, along with any technical or non-substantive changes required for proposal.





## Proposed Rule Action from November 18, 2016 Meeting of the Texas Appraiser Licensing and Certification Board

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

#### Rule 153.5. Fees

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to §153.5, Fees. The proposed amendments change the reference in the rule from the fee for an evaluation of an applicant's criminal history to the fee for an evaluation of an applicant's moral character to align the rule with statutory requirements in Chapter 1103, Texas Occupations Code, and current Board practice.

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

Ms. Worman also has determined that for each year of the first five years the sections as proposed are in effect the public benefits anticipated as a result of enforcing the section as proposed will be clarity for applicants and a requirement that is easier to understand and consistent with state and federal law.

Comments on the proposal may be submitted to Kristen Worman, General Counsel, Texas

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

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

#### **153.5. Fees**

(a) The Board shall charge and the Commissioner shall collect the following fees:

- (1) a fee of \$400 for an application for a certified general appraiser license;
- (2) a fee of \$350 for an application for a certified residential appraiser license;
- (3) a fee of \$325 for an application for a licensed residential appraiser license;
- (4) a fee of \$300 for an application for an appraiser trainee license;
- (5) a fee of \$360 for a timely renewal of a certified general appraiser license;
- (6) a fee of \$310 for a timely renewal of a certified residential appraiser license;
- (7) a fee of \$290 for a timely renewal of a licensed residential appraiser license;

(8) a fee of \$250 for a timely renewal of an appraiser trainee license;

(9) a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a license within 90 days of expiration;

(10) a fee equal to two times the timely renewal fee for the late renewal of a license more than 90 days but less than six months after expiration;

(11) a fee of \$250 for nonresident license;

(12) the national registry fee in the amount charged by the Appraisal Subcommittee;

(13) an application fee for licensure by reciprocity in the same amount as the fee charged for a similar license issued to a Texas resident;

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

(15) a fee of \$20 for an addition or termination of sponsorship of an appraiser trainee;

(16) a fee of \$20 for replacing a lost or destroyed license;

(17) a fee for a returned check equal to that charged for a returned check by the Texas Real Estate Commission;

(18) a fee of \$200 for an extension of time to complete required continuing education;

(19) a fee of \$25 to request a license be placed on inactive status;

(20) a fee of \$50 to request a return to active status;

(21) a fee of \$50 for evaluation of an applicant's moral character [criminal history];

(22) an examination fee as provided in the Board's current examination administration agreement;

(23) a fee of \$20 per certification when providing certified copies of documents;

(24) a fee of \$75 to request a voluntary appraiser trainee experience review;

(25) the fee charged by the Federal Bureau of Investigation, the Texas Department of Public Safety or other authorized entity for fingerprinting or other service for a national or state criminal history check in connection with a license application or renewal;

(26) a fee of \$20 for filing any application, renewal, change request, or other record on paper when the person may otherwise file electronically by accessing the Board's website and entering the required information online; and

(27) 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(b)**

Discussion and possible action to propose amendments to 22 TAC §153.19, Licensing for Persons with Criminal History.

### **SUMMARY**

The proposed amendments add language to the caption of the rule and change the language in subsection (f) from criminal history evaluation to moral character determination to align the rule with statutory requirements in Chapter 1103, Texas Occupations Code, and current Board practice. The Enforcement Committee considered the proposed amendments and recommends the Board publish the proposed amendments for public comment.

### **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 §153.19, Licensing for Persons with Criminal History, 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 18, 2016 Meeting of the Texas Appraiser Licensing and Certification Board

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

#### Rule 153.19. Licensing for Persons with Criminal History

The Texas Appraiser Licensing and Certification Board (TALCB or Board) proposes amendments to §153.19, Licensing for Persons with Criminal History. The proposed amendments add language to the caption of the rule and change the language in subsection (f) from criminal history evaluation to moral character determination to align the rule with statutory requirements in Chapter 1103, Texas Occupations Code, and current Board practice.

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

Ms. Worman also has determined that for each year of the first five years the sections as proposed are in effect the public benefits anticipated as a result of enforcing the section as proposed will be clarity for applicants and a requirement that is easier to understand and consistent with state and federal law.

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

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

#### **153.19. Licensing for Persons with Criminal History and Moral Character Determination**

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

(b) The Board may suspend or revoke an existing valid license, disqualify an individual from receiving a license, deny to a person the opportunity to be examined for a license or deny any application for a license, if the person has been convicted of a felony,

had their felony probation revoked, had their parole revoked, or had their mandatory supervision revoked. Any such action shall be made after consideration of the factors detailed in Texas Occupations Code §53.022 and subsection (d) of this section.

(c) A license holder must conduct himself or herself with honesty, integrity, and trustworthiness. Thus, the Board has considered the factors in Texas Occupations Code §53.022 and deems the following crimes to be directly related to the occupation of appraiser or appraiser trainee:

(1) offenses involving fraud or misrepresentation;

(2) offenses against real or personal property belonging to another, if committed knowingly or intentionally;

(3) offenses against public administration;

(4) offenses involving the sale or other disposition of real or personal property belonging to another without authorization of law;

(5) offenses involving moral turpitude; and

(6) offenses of attempting or conspiring to commit any of the foregoing offenses.

(d) In determining 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.

(f) Moral Character Determination [~~Criminal History Evaluation~~]. Before applying for a license, a person [~~with a criminal history~~] may request the Board to determine if [~~evaluate~~] the prospective applicant's moral character [~~criminal history~~] satisfies the Board's requirements for licensing by submitting the request form approved by the Board and paying the required fee. Upon receiving such a request, the Board may request additional supporting materials. Requests will be processed under the same standards as applications for a license. [~~In responding to a request, the Board shall address each offense listed in the request.~~]



## **AGENDA ITEM 16**

Update regarding Appraisal Subcommittee's proposed rule related to collection of AMC National Registry Fees.





July 18, 2016

**TALCB Board Members**

Jamie S. Wickliffe  
Chair

James J. Jeffries  
Vice Chair

Earl "Buster" Renfrow  
Secretary

Jesse Barba

Walker Beard

Clayton P. Black

Patrick M. Carlson

Laurie C. Fontana

Brian L. Padden

Douglas E. Oldmixon  
Commissioner

James Park, Executive Director  
Appraisal Subcommittee  
1401 H St NW, Suite 760  
Washington DC 20005

RE: Docket AS16-06, *Appraisal Subcommittee; Notice of Proposed Rulemaking to implement Collection and Transmission of Annual AMC Registry Fees*

Mr. Park –

The Texas Appraiser Licensing & Certification Board (TALCB) submits these comments in response to the *Appraisal Subcommittee; Notice of Proposed Rulemaking to implement Collection and Transmission of Annual AMC Registry fees*.

The Appraisal Subcommittee (ASC) requested comments on the following questions. TALCB's comments will follow each question:

- **Question 1:** The ASC requests comments on all aspects of the proposed annual AMC registry fee.

***TALCB Comments in response to Question 1:***

*Section 1102.401(d) of the ASC's proposed rule would define the phrase "performance of an appraisal" to mean "the appraisal service requested of an appraiser by the AMC was provided to the AMC." This proposed definition creates unnecessary confusion because the proposed rule does not define the term "appraisal service." The Truth in Lending Act (TILA) defines "appraisal services" as "the services required to perform an appraisal, including defining scope of work, inspecting the property, reviewing necessary and appropriate public and private data sources (MLS, tax assessment records, public land records) developing and rendering an opinion of value and preparing and submitting the appraisal report." If the ASC intended the TILA definition of appraisal services to apply here, the ASC should clearly state so. If not, the ASC should include a proposed definition of the term "appraisal services" in the proposed rule.*

*Notwithstanding this omission, the term "appraisal service" even as defined in TILA does not address the issue of whether the service being provided to the AMC is related to a "covered transaction" as defined in Title XI, as amended by the Dodd-Frank Act.*

*The ASC should not create confusion by proposing a definition without clearly defining terms within the definition.*

- **Question 2:** The ASC requests comment on the ASC's interpretation of the phrase "working for or contracting with."

**TALCB Comments in response to Question 2:**

*Under the proposed rule, the ASC considered three possible interpretations of the phrase "working for or contracting with":*

*OPTION 1: The phrase "working for or contracting with" would be interpreted to include every appraiser on an AMC appraiser panel during the reporting period in a particular State. The multiplier in this option would include all appraisers on an AMC panel, including those appraisers accepted by the AMC for consideration for future appraisal assignments.*

*OPTION 2: The phrase "working for or contracting with" would be interpreted to include those appraisers engaged by the AMC to perform an appraisal on a covered transaction during the reporting period in a particular State. The appraiser would be considered in the calculation for the purpose of AMC Registry fees at the time an AMC engaged the appraiser to perform a particular appraisal assignment, regardless of whether the appraisal was fully performed during the reporting period.*

*OPTION 3 (Proposed by the ASC Rule): The phrase "working for or contracting with" would be interpreted to include appraisers that performed an appraisal for the AMC on a covered transaction during the reporting period in a particular State. This option would exclude appraisers accepted by the AMC for consideration for future appraisal assignments, as well as appraisers who performed appraisals in the past, but did not perform any appraisals in the reporting period.*

*The ASC chose the interpretation described under OPTION 3 because the ASC believes this option would result in the collection of the lowest aggregate fee allowed under the statute and, therefore, would impose the lowest financial burden on an AMC.*

*TALCB opposes the ASC's proposed interpretation of the phrase "working for or contracted with" because this interpretation would create an entirely new regulatory criteria for State appraiser regulatory agencies to implement and validate. Title XI, as amended by the Dodd-Frank Act, already requires State appraiser regulatory agencies who elect to register AMCs in their State to determine the number of appraisers on each AMC's panel. In fact, the number of appraisers on an AMC's panel is the criteria that determines whether an AMC must register in a particular State. Thus, the interpretation under OPTION 1 would be the easiest interpretation for State appraiser regulatory agencies to implement because the number of appraisers "working for or contracting with" an AMC in a particular State during the reporting period would already be known and reported to a State because that is the same criteria used to determine whether the AMC must register with the State in the first instance.*

*Under the ASC's proposed interpretation, States would be forced to rely on an AMC to identify and accurately self-report the number of appraisers falling within the proposed interpretation because nothing in Title XI, as amended by the Dodd-Frank Act, or the AMC Rules adopted by the Federal Financial Institutions Examination Council in 2015 utilizes the interpretation proposed by the ASC to*

define the phrase “working for or contracting with.” Nor does Title XI or the AMC Rules currently require State appraiser regulatory agencies to collect or track the information necessary to identify which appraisers on an AMC panel would fall within this proposed interpretation.

Accordingly, State appraiser regulatory agencies would be required to audit an AMC on a periodic basis to validate this data as self-reported by an AMC. To validate the data self-reported by an AMC, such an audit would need to look at more extensive information than simply the number of appraisers on an AMC panel during the reporting period. When one considers the potential costs of such additional audits to both State appraiser regulatory agencies and AMCs, there is no evidence that this interpretation would actually impose the lowest financial burden on an AMC.

Because Title XI, as amended by the Dodd-Frank Act, already requires both AMCs and State appraiser regulatory authorities to collect and track the number of appraisers on an AMC panel to determine whether an AMC must register with a State in the first instance, OPTION 1 would be a better interpretation for the ASC to use for the phrase “working for or contracting with.” This information is already known and tracked by AMCs and many State appraiser regulatory authorities who have already elected to register AMCs. Moreover, to the extent this information would require validation, an AMC could provide a simple report to State appraiser regulatory agencies identifying those appraisers on the AMC’s panel during the reporting period, thereby significantly reducing potential audit costs to an AMC and the State appraiser regulatory agency that would be required to validate this single data point.

Additionally, an AMC would be able to control and manage the financial burden of AMC Registry fees in the same manner that it controls and manages the number of appraisers on its panel.

For these reasons, TALCB urges the ASC to adopt the interpretation of “working for or contracting with” considered under OPTION 1.

- **Question 3:** The ASC requests comment on the second option’s interpretation of the phrase “working for or contracting with.” While the proposal defines “working for or contracting with” to include only those appraisers that performed an appraisal for the AMC during the reporting period, the second option would define “working for or contracting with” to mean the AMC engaged an appraiser to perform an appraisal, regardless of whether the appraiser completed the appraisal during the reporting period. The ASC is requesting comment on whether this would be an easier interpretation for the States to administer.

### **TALCB Comments in response to Question 3:**

The interpretation of the phrase “working for or contracting with” considered by the ASC under OPTION 2 as described above and in the commentary to the proposed rule would not be easier for TALCB or other State appraiser regulatory agencies to implement and administer. Like the interpretation chosen by the ASC under OPTION 3, the interpretation under OPTION 2 creates a new regulatory criteria for State appraiser regulatory areas to implement and validate. State appraiser regulatory agencies would again have to rely on AMC self-reporting to determine the appropriate of AMC registry fees to collect. And State appraiser regulatory agencies would be required to audit an AMC on a periodic basis to validate this data as self-reported by an AMC. Additionally, this interpretation would potentially require an AMC include an appraiser in the fee calculation even if the appraiser never delivered the appraisal to the AMC because this interpretation does not require the appraisal to be delivered during the reporting period. For this reason, this interpretation could potentially impose greater fees, and thus a greater financial burden on AMCs.

Thus, for similar reasons TALCB objects to the interpretation of the phrase “working for or contracting with” chosen by the ASC under OPTION 3, TALCB opposes the interpretation under OPTION 2.

- **Question 4:** The ASC requests comment on all aspects of propose collection and transmission of annual registry fees.

#### **TALCB Comments in response to Question 4:**

##### ASC Must Provide Flexibility

The proposed ASC rule would allow State appraiser regulatory agencies to align the one-year reporting period with any 12-month period, which may or may not be based on the calendar year, but the proposed rule would require State appraiser regulatory agencies to collect and transmit AMC registry fees to the ASC on an annual basis. While the proposed rule also allows State appraiser regulatory agencies to determine the registration cycle for AMCs, the ASC notes “that the statutory requirement in section 1109(a)(4) [12 U.S.C. §3338(a)(4)] requires States ... to submit AMC registry fees annually to the ASC.”

But the ASC’s proposed rule fails to consider and give voice to the statutory language in section 1109(a)(4) [12 U.S.C. §3338(a)(4)] requiring the ASC to “provide flexibility to the States for multi-year certifications, and licenses already in place.” The Texas Legislature adopted Chapter 1104, Texas Occupations Code, in 2011, which requires AMCs to register in Texas. See Tex. Occ. Code §1104.101 (requiring AMC registration). The Texas Legislature also authorized TALCB to adopt rules to administer Chapter 1104. See id. §1104.051. Rules adopted by TALCB require AMCs to renew their registration with TALCB every two years. See 22 Tex. Admin. Code §§159.52(a)(2) (required fees); 152.108 (registration renewal). Thus, TALCB has a multi-year registration program for AMCs already in place. Yet, there is no flexibility in the proposed rule to allow TALCB to collect and remit AMC Registry fees every two years or every other year.

TALCB therefore requests the ASC to amend the proposed rule to give TALCB, and other states with a multi-year registration program already in place, the regulatory flexibility required in §1109(a)(4)[12 U.S.C. §3338(a)(4)].

##### Reduce the Fee Amount

The plain language of Title XI, as amended by the Dodd-Frank Act, gives the ASC discretion to impose an AMC registry fee lower than \$25 per appraiser working for or contracting with the AMC. Specifically, section §1109(a)(4)(B)(i) [12 U.S.C. §3338(a)(4)(B)(i)] states:

*Each State with an appraiser certifying and licensing agency whose certifications and licenses comply with this title, shall [...] collect [...] from an appraisal management company [...] an annual registry fee of [...] \$25 multiplied by the number of appraisers working for or contracting with such company in such State during the previous year, but where such \$25 amount may be adjusted, up to a maximum of \$50, at the discretion of*

*the Appraisal Subcommittee, if necessary to carry out the Subcommittee's functions under this title.<sup>1</sup>*

*The statutory language provides that the "\$25 amount may be adjusted, up to a maximum of \$50, at the discretion of the [ASC], if necessary to carry out the [ASC]'s functions." The United States Supreme Court has explained, "Statutory Construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose." Engine Mfrs. Assn. v. South Coast Air Quality Management Dist., 541 U.S. 246, 252 (2004). Congress chose the word "adjust" not "increase." The word "adjust" means "to make correspondent or conformable" or "to bring the parts of to a true or more effective relative position." See Merriam Webster's Collegiate Dictionary, 10<sup>th</sup> ed. (1993). The statute further directs that any adjustment be made "at the discretion of the Appraisal Subcommittee." See §1109(a)(4)(B)(i) [12 U.S.C. §3338(a)(4)(B)(i)]. Thus, the plain language of §1109(a)(4)(B)(i) [12 U.S.C. §3338(a)(4)(B)(i)] gives ASC discretion to raise or lower the \$25 amount, as needed to support the ASC's functions under Title XI, as amended by the Dodd-Frank Act.*

*The ASC's discretion to impose an AMC registry fee of less than \$25 is further supported by the language in §1109(a)(4)(B)(ii) [12 U.S.C. §3338(a)(4)(B)(ii)], which directs the ASC impose an AMC registry fee of "\$25 multiplied by an appropriate number to be determined by the Appraisal Subcommittee" for those AMCs in existence for less than one year. See *id.* (emphasis added). This language clearly contemplates that the ASC could impose a fee of less than \$25 per appraiser working for or contracting with an AMC if the AMC has not been in existence for at least one year. Under this statutory language, the ASC may determine that the "appropriate number" to be multiplied with \$25 is the fractional portion of one year that an AMC has been in existence, e.g. one-twelfth for one month, one-half for six months, three-fourths for nine months, etc.*

*That the ASC has discretion to impose an AMC registry fee of less than \$25 is also supported by the potential outcome should the ASC choose not to reduce the \$25 fee. Consider the following hypothetical:*

*In Texas, there are approximately 5,000 certified appraisers and 200 AMCs. In addition, there are approximately 40,000 AMC panel members in Texas.*

*Dividing the number of certified appraisers in Texas into the number of AMC panel members, yields the result that, on average, each certified appraiser serves on 8 AMC panels. Thus, in Texas alone, the AMC registry fees would generate \$1,000,000, or an average of \$200 per certified appraiser, to be collected and paid to the ASC. This amount is in addition to the \$40 per year that the ASC already collects from each appraiser who is licensed or certified in a particular State. See §1109(a)(4)(A) [12 U.S.C. §3338(a)(4)(A)]. Under this hypothetical, the amount collected by the ASC for certified appraisers in Texas would more than quadruple – and this represents the potential outcome in just one state. There is no evidence that this extraordinary outcome was intended by Congress when the Dodd-Frank Act was passed. The plain language of the statutory provisions allowing the ASC to collect AMC registry fee makes clear that the purpose of this fee is to allow the ASC to carry out its functions under Title XI, as amended by the Dodd-Frank Act. Yet, the ASC has provided no rationale or justification that it will require quadrupling of its entire annual budget to support and carry out the ASC's functions under Title XI, as amended by the Dodd-Frank Act.*

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<sup>1</sup> The same language applying this \$25 amount to appraisal management companies in existence for less than a full year and giving the ASC discretion to adjust the \$25 amount appears in §1109(a)(4)(B)(ii) [12 U.S.C. §3338 (a)(4)(B)(ii)].

*Title XI, as amended by the Dodd-Frank Act, lists the ASC's functions in §1109(b) [12 U.S.C. §3338(b)]. These functions include maintaining a registry of individuals who are qualified and eligible to perform appraisals in connection with federally related transactions, supporting its activities under Title XI, reimbursing the general fund of the Treasury for amounts appropriated and expended during the 24-month ASC start-up period, making grants to the Appraisal Foundation to help defray costs of the Appraisal Standards Board and Appraiser Qualifications Board, making grants to State appraiser regulatory agencies to support the efforts of those agencies to comply with Title XI, and to report to all State appraiser regulatory agencies when a license or certification is surrendered, revoked or suspended. The stated purpose of the AMC registry fee is to allow the ASC to carry out these functions. But setting an AMC registry fee of \$25 per appraiser working for or contracting with an AMC, which would more than quadruple the \$40 amount already collected by the ASC each year from appraisers in Texas as noted in the above hypothetical, would be inconsistent with the statutory purpose of allowing the ASC to carry out its functions under Title XI, unless the ASC could justify the need for these additional funds. There has been no rationale or justification set forth by the ASC in the proposed rule or otherwise that would support such an enormous increase to the ASC's annual budget.*

*Moreover, to the extent the rule is adopted as proposed and this \$25 fee is imposed for each appraiser working for or contracting with an AMC during the reporting period, there is nothing in Title XI, as amended by the Dodd-Frank Act, or the proposed rule that would prevent an AMC from passing along the AMC registry fee to individual appraisers. Under the above hypothetical, if AMCs adopt such a pass through, each certified appraiser in Texas would, on average, pay \$240 per year to the ASC to support the ASC's functions under Title XI. Such a drastic fee increase would create a significant barrier to entry into the appraisal profession.*

*For these reasons, TALCB believes that ASC should exercise its statutory discretion to reduce the AMC registry fee significantly below the proposed \$25 per appraiser working for or contracting with an AMC during the reporting period until such time there is a demonstrated need for the ASC to collect additional funds to carry out its functions under Title XI.*

- **Question 5:** The ASC requests comment on Federally regulated AMCs operating in a State that does not elect to register and supervise AMCs. Should the ASC collect information and fees directly from Federally regulated AMCs that wish to appear on the AMC Registry but operate in States that do not elect to register and supervise AMCs?

**TALCB Comments in response to Question 5:**

*TALCB agrees that Federally regulated AMCs operating in a State that does not elect to register AMCs should report the required information and submit fees directly to the ASC if the Federally regulated AMC wants to appear on the AMC Registry for that State.*

- **Question 6:** What barriers, if any, exist that would make it difficult for a State to implement the collection and transmission of AMC registry fees?

**TALCB Comments in response to Question 6:**

*TALCB believes the following barriers exist, which make it difficult for State appraiser regulatory agencies to implement the collection and transmission of AMC registry fees:*

- 1) *Creating new definitions that are inconsistent with existing definitions in Title XI, as amended by the Dodd-Frank Act, or USPAP. See TALCB Comments in response to Question 1, supra;*
  - 2) *Creating an entirely new regulatory criteria and calculation for determining the fees a State appraiser regulatory agency must collect from an AMC who registers in a particular State and wants to be included on the AMC Registry and the inherent complexity of implementing and validating an entirely new regulatory standard. See TALCB Comments in response to Question 2, supra;*
  - 3) *Failing to provide the statutorily required regulatory flexibility to States with a multi-year AMC licensing and registration program in place when implementing a change to the registry fees. See TALCB Comments in response to Question 4, supra;*
  - 4) *Setting the minimum AMC registry fee at \$25 when the statutory language gives the ASC discretion to set a lower amount. See TALCB Comments in response to Question 4, supra;*
  - 5) *Creating a new barrier to entry into the appraisal profession by imposing a \$25 minimum AMC registry fee that could more than quadruple the amount of fees paid to the ASC by appraisers. See TALCB Comments in response to Question 4, supra;*
  - 6) *Increasing unnecessarily the costs to collect and remit AMC registry fees. See TALCB Comments in response to Question 7, infra.*
- **Question 7:** What costs (both direct in terms of fees and indirect in terms of administrative costs) would be associated with collection and transmission of AMC registry fees?

**TALCB Comments in response to Question 7:**

*TALCB will incur significant administrative costs to implement programming changes to its computer systems that would allow TALCB to collect and remit AMC registry fees to the ASC on an annual basis because TALCB has a two-year registration and renewal cycle for AMCs. Thus, TALCB only collects AMC registration fees every other year. If adopted as proposed, the ASC rule will require TALCB to change its registration and renewal cycle for AMCs or, in the alternative, require TALCB to adopt an entirely separate process for collecting and remitting AMC registry fees.*

*TALCB will also incur significant administrative costs if the ASC adopts the rule with the ASC's proposed interpretation of "working for or contracting with." The ASC's proposed interpretation of this phrase will require TALCB to incur significant administrative costs to audit and validate the number of appraisers reported by an AMC as falling within the proposed interpretation. AMCs too will incur significant administrative costs when responding to such audits to validate the information reported by the AMC to TALCB.*

*Requiring TALCB to collect and remit AMC registry fees for Federally regulated AMCs will further increase the administrative costs to implement the ASC rule as proposed. Title XI, as amended by the Dodd-Frank Act, exempts Federally regulated AMCs from the requirement to register with a particular State. Texas law is consistent with federal law on this point. Notwithstanding this exemption, TALCB (and other State appraiser regulatory agencies) will incur increased administrative costs to collect and remit AMC registry fees to the ASC for Federally regulated AMCs, as well as to change Texas law to allow for the collection and remission of AMC registry fees from Federally regulated AMCs even though neither federal nor Texas law requires these AMCs to register with TALCB.*

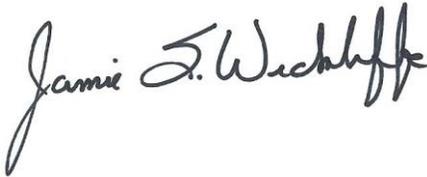
- **Question 8:** What aspects of the proposed rule, if any, would be challenging for States to implement? To the extent such challenges would exist, what alternative approaches do commenters suggest that would make implementation easier, while maintaining consistency with the statute?

**TALCB Comments in response to Question 8:**

See *TALCB Comments in response to Questions 1-7*, supra.

The TALCB appreciates the ASC's consideration of these comments and suggested changes to the proposed rule for AMC registry fees.

Sincerely,

A handwritten signature in black ink that reads "Jamie S. Wickliffe". The signature is written in a cursive style with a large initial "J" and "W".

Jamie Wickliffe, Chair  
Texas Appraiser Licensing & Certification Board

■ ■ ■ ■ ■ ■ ■

## Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

May 20, 2016

Dear State Appraiser Regulatory Official:

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC) today issued a proposed rule pursuant to authority granted in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that would implement collection and transmission of appraisal management company (AMC) annual registry fees by State appraiser certifying and licensing agencies that elect to register and supervise AMCs. The ASC requests comment on all aspects of this proposed rule. The Notice of Proposed Rulemaking has been published in the *Federal Register* and is available at <https://www.gpo.gov/fdsys/pkg/FR-2016-05-20/pdf/2016-11914.pdf>. A copy is attached for your convenience.

Section 1109 of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI), *Roster of State certified or licensed appraisers; authority to collect and transmit fees*, was amended by the Dodd-Frank Act to require States that elect to register and supervise AMCs to collect:

- (1) from AMCs that have been in existence for more than a year an annual registry fee of \$25 multiplied by the number of appraisers working for or contracting with such AMC in such State during the previous year; and
- (2) from AMCs that have not been in existence for more than a year, \$25 multiplied by an appropriate number to be determined by the ASC.

The \$25 may be adjusted, up to a maximum of \$50, at the discretion of the ASC, if necessary to carry out the ASC's Title XI functions.

The proposed rule would set the annual AMC registry fee that States would collect and transmit to the ASC if they elect to register and supervise AMCs. The proposed rule sets forth the ASC's interpretation of the phrase "working for or contracting with" as used in the calculation of annual AMC registry fees.

Section 1103 of Title XI, *Functions of Appraisal Subcommittee*, was amended by the Dodd-Frank Act to require the ASC to maintain the AMC Registry of AMCs that are either:

- (1) registered with and subject to supervision by a State that has elected to register and supervise AMCs; or
- (2) supervised by a Federal financial institutions regulator (Federally regulated AMCs).

It is anticipated that on or before the effective date of this rule, the ASC will issue an ASC Bulletin to States that will address the following:

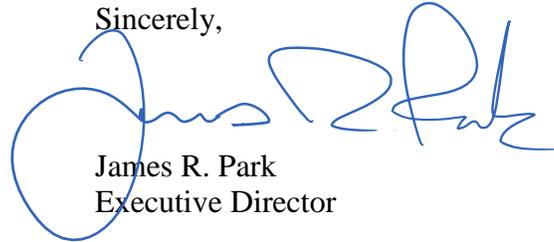
- (1) When the AMC Registry will be open for States; and
- (2) Reporting requirements (information required to be submitted by States in order to register AMCs on the AMC Registry).

Only those entities that meet the Federal definition of AMC will be eligible to be on the AMC Registry.

The Notice of Proposed Rulemaking is being published for a 60-day comment period with comments due on July 19<sup>th</sup>. Commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. Instructions for commenters, as well as alternate methods for submitting comments, are set forth in the Notice of Proposed Rulemaking.

Please contact your ASC Policy Manager with any questions or concerns.

Sincerely,



James R. Park  
Executive Director

Attachment

# Proposed Rules

Federal Register

Vol. 81, No. 98

Friday, May 20, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

### 12 CFR Part 1102

[Docket No. AS16–06]

#### Appraisal Subcommittee; Notice of Proposed Rulemaking To Implement Collection and Transmission of Annual AMC Registry Fees

**AGENCY:** Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC) is proposing a rule pursuant to authority granted in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) to implement collection and transmission of appraisal management company (AMC) annual registry fees by State appraiser certifying and licensing agencies that elect to register and supervise AMCs. The ASC requests comment on all aspects of this Notice.

**DATES:** Comments must be received on or before July 19, 2016.

**ADDRESSES:** Commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. You may submit comments, identified by Docket Number AS16–06, by any of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Click on the “Help” tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.

- **Email:** [webmaster@asc.gov](mailto:webmaster@asc.gov). Include the docket number in the subject line of the message.

- **Fax:** (202) 289–4101. Include docket number on fax cover sheet.

- **Mail:** Address to Appraisal Subcommittee, Attn: Lori Schuster, Management and Program Analyst, 1401

H Street NW., Suite 760, Washington, DC 20005.

- **Hand Delivery/Courier:** 1401 H Street NW., Suite 760, Washington, DC 20005.

In general, the ASC will enter all comments received into the docket and publish those comments on the *Regulations.gov* Web site without change, including any business or personal information that you provide, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. At the close of the comment period, all public comments will also be made available on the ASC’s Web site at <https://www.asc.gov> (follow link in “What’s New”) as submitted, unless modified for technical reasons.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- **Viewing Comments Electronically:** Go to <https://www.regulations.gov>. Enter “Docket ID AS16–06” in the Search box and click “Search.” Click on the “Help” tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.

- **Viewing Comments Personally:** You may personally inspect comments at the ASC office, 1401 H Street NW., Suite 760, Washington, DC 20005. To make an appointment, please call Lori Schuster at (202) 595–7578.

**FOR FURTHER INFORMATION CONTACT:** James R. Park, Executive Director, at (202) 595–7575, or Alice M. Ritter, General Counsel, at (202) 595–7577, Appraisal Subcommittee, 1401 H Street NW., Suite 760, Washington, DC 20005.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI),<sup>1</sup>

<sup>1</sup> Public Law 101–73, 103 Stat. 183; 12 U.S.C. 3331–3355.

established the ASC.<sup>2</sup> Title XI’s purpose is to “provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.”<sup>3</sup>

On July 21, 2010, the Dodd-Frank Act<sup>4</sup> was signed into law. Section 1473 of the Dodd-Frank Act included amendments to Title XI. Section 1117 of Title XI, *Establishment of State appraiser certifying and licensing agencies*, was amended by the Dodd-Frank Act to: (1) Authorize States,<sup>5</sup> if they so choose, to register and supervise AMCs; and (2) allow States to add information about AMCs in their State to the National Registry of AMCs (AMC Registry). States electing to register and supervise AMCs under Section 1117 must implement minimum requirements in accordance with the AMC Rule.<sup>6</sup>

Title XI as amended by the Dodd-Frank Act imposes a statutory restriction that applies 36 months from the effective date of the AMC Rule (Implementation Period).<sup>7</sup> In summary, beginning 36 months from the effective

<sup>2</sup> The ASC Board is comprised of seven members. Five members are designated by the heads of the FFIEC agencies (Board of Governors of the Federal Reserve System (Board), Consumer Financial Protection Bureau (CFPB), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), and National Credit Union Administration (NCUA)). The other two members are designated by the heads of the Department of Housing and Urban Development (HUD) and the Federal Housing Finance Agency (FHFA).

<sup>3</sup> Title XI § 1101, 12 U.S.C. 3331.

<sup>4</sup> Public Law 111–203, 124 Stat. 1376.

<sup>5</sup> As of January, 2016, the 50 States, the District of Columbia, and four Territories, which are the Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Guam, and United States Virgin Islands, had State appraiser certifying and licensing agencies.

<sup>6</sup> The Dodd-Frank Act added section 1124 to Title XI, *Appraisal Management Company Minimum Requirements*, which required the OCC, Board, FDIC, NCUA, CFPB, and FHFA to establish, by rule, minimum requirements for the registration and supervision of AMCs by States that elect to register and supervise AMCs pursuant to Title XI and the rules promulgated thereunder. The Agencies issued a final rule (AMC Rule) with an effective date of August 10, 2015. (80 *Federal Register* 32658, June 9, 2015).

<sup>7</sup> 12 U.S.C. 3353(f)(1).

date of the AMC Rule, an AMC, as defined by Title XI, may not provide services for a Federally related transaction in a State unless the AMC is registered with a State that has established a registration and supervision program under Section 1117, or is subject to oversight by a Federal financial institutions regulatory agency.

Section 1103 of Title XI, *Functions of Appraisal Subcommittee*, was amended by the Dodd-Frank Act to require the ASC to maintain the AMC Registry of AMCs that are either: (1) Registered with and subject to supervision by a State that has elected to register and supervise AMCs; or (2) supervised by a Federal financial institutions regulator (Federally regulated AMCs). It is anticipated that on or before the effective date of this rule, the ASC will issue an ASC Bulletin to States that will address:

1. When the AMC Registry will be open for States; and
2. Reporting requirements (information required to be submitted by States in order to register AMCs on the AMC Registry).

Only those companies that meet the Federal definition of AMC will be eligible to be on the AMC Registry.<sup>8</sup>

Section 1109 of Title XI, *Roster of State certified or licensed appraisers; authority to collect and transmit fees*, was amended by the Dodd-Frank Act to require States that elect to register and supervise AMCs to collect: (1) From AMCs that have been in existence for more than a year an annual registry fee of \$25 multiplied by the number of appraisers working for or contracting with such AMC in such State during the previous year; and (2) from AMCs that have not been in existence for more than a year, \$25 multiplied by an appropriate number to be determined by the ASC.<sup>9</sup> The \$25 may be adjusted, up to a maximum of \$50, at the discretion of the

<sup>8</sup> Title XI as amended by the Dodd-Frank Act defines "appraisal management company" to mean, in part, an external third party that oversees a network or panel of more than 15 appraisers (State certified or licensed) in a State, or 25 or more appraisers nationally (two or more States) within a given year. (12 U.S.C. 3350(11)). Title XI as amended by the Dodd-Frank Act also allows States to adopt requirements in addition to those in the AMC Rule. (12 U.S.C. 3353(b)). For example, States may decide to supervise entities that provide appraisal management services, but do not meet the size thresholds of the Title XI definition of AMC. If a State has a more expansive regulatory framework that covers entities that provide appraisal management services but do not meet the Title XI definition of AMC, the State should only submit information regarding AMCs meeting the Title XI definition to the AMC Registry.

<sup>9</sup> 12 U.S.C. 3338(a)(4)(B).

ASC, if necessary to carry out the ASC's Title XI functions.<sup>10</sup>

This proposed rule would set the annual AMC registry fee that States would collect and transmit to the ASC if they elect to register and supervise AMCs. This proposed rule sets forth the ASC's interpretation of the phrase "working for or contracting with" as used in the calculation of annual AMC registry fees.

The ASC recognizes that the time required for notice and comment rulemaking for AMC registry fees could impede States' ability to implement the fees within the Implementation Period. However, the restriction on performance of services for Federally related transactions applies to AMCs that are not registered with the State or subject to oversight by a Federal financial institutions regulatory agency. Therefore, it is the ASC's understanding that the failure of a State to collect the fees under this rule within the Implementation Period would not subject otherwise properly registered and supervised AMCs in that State to the ban on providing services for Federally related transactions in that State.

## II. The Proposed Rule

The ASC is issuing this proposal to implement Section 1109 of Title XI for collection and transmission of AMC registry fees by those States electing to register and supervise AMCs.<sup>11</sup> The proposed rule would establish the annual AMC registry fee and interpret the phrase "working for or contracting with" in accordance with section 1109 as amended by the Dodd-Frank Act. As with appraisers, an AMC operating in more than one State that elects to register and supervise AMCs would be required to pay a registry fee in each State in order to be on the AMC Registry for each of those States.

### Definitions

**AMC Registry.** Proposed § 1102.401(a) proposes to define *AMC Registry* as the national registry maintained by the ASC of those AMCs that meet the Federal definition of AMC, as defined in 12 U.S.C. 3350(11), are registered by a State or are Federally regulated, and have paid the annual AMC registry fee.

**AMC Rule.** Proposed § 1102.401(b) proposes to define *AMC Rule* as the interagency final rule on minimum requirements for AMCs, 12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; CFR 1222.20–1222.26 (2015).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

**ASC.** Proposed § 1102.401(c) proposes to define *ASC* as the Appraisal Subcommittee of the Federal Financial Institutions Examination Council established under section 1102 (12 U.S.C. 3310) as it amended the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 *et seq.*) by adding section 1011.

**Performance of an appraisal.** Proposed § 1102.401(d) proposes to define *performance of an appraisal* to mean the appraisal service requested of an appraiser by the AMC was provided to the AMC.

**State.** Proposed § 1102.401(e) proposes to define *State* as any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the United States Virgin Islands, and American Samoa.

**Terms incorporated by reference.** Proposed § 1102.401(f) states that the definitions of: *Appraisal management company (AMC); appraisal management services; appraiser panel; consumer credit; covered transaction; dwelling; Federally regulated AMC* are incorporated from the AMC Rule by reference because the proposed rule is closely related to the AMC Rule.

### Establishing the Annual AMC Registry Fee

Proposed § 1102.402 would establish the annual AMC registry fee for States that elect to register and supervise AMCs as follows: (1) In the case of an AMC that has been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction in such State during the previous year; and (2) in the case of an AMC that has not been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction in such State since the AMC commenced doing business. Performance of an appraisal means the appraisal service requested of an appraiser by the AMC was provided to the AMC.

For AMCs that have been in existence for more than a year, Section 1109 of Title XI provides that the annual AMC registry fee is based on the number of appraisers "working for or contracting with" an AMC in a State during a 12-month period multiplied by \$25, up to a maximum of \$50.<sup>12</sup> The proposed rule adopts the minimum fee of \$25 as set by statute and interprets the phrase "working for or contracting with" to mean those appraisers on an AMC

<sup>12</sup> Title XI § 1109(a)(4)(B), 12 U.S.C. 3338(a)(4)(B).

appraiser panel that performed an appraisal for the AMC on a covered transaction<sup>13</sup> during the previous year in a particular State. The annual AMC registry fee for AMCs that have not been in existence for more than a year requires a determination by the ASC of an appropriate multiplier. The ASC proposes to use the same factors of \$25 multiplied by the number of appraisers that performed an appraisal for the AMC on a covered transaction, but the fee would be based on the actual period of time since the AMC commenced doing business rather than 12 months.

The ASC considered three options with respect to interpreting the phrase “working for or contracting with.” Under the first option, the phrase “working for or contracting with” would have been interpreted to include every appraiser on an AMC appraiser panel during the reporting period<sup>14</sup> in a particular State. The multiplier in this option would have included all appraisers on an AMC’s appraiser panel in a particular State, including appraisers accepted by the AMC for consideration for future appraisal assignments.

Under the second option, the phrase “working for or contracting with” would have been interpreted to include those appraisers engaged by the AMC to perform an appraisal on a covered transaction during the reporting period in a particular State. The time the appraiser would be considered in the calculation is at the point of engagement to perform a particular appraisal, regardless of whether the appraisal was fully performed during the reporting period. The ASC seeks comment in Question 3 below on whether this interpretation would be preferable for States to administer over the third option, which is set forth in the proposed rule.

Under the third option, which is set forth in the proposed rule, the phrase “working for or contracting with” would include appraisers that performed an appraisal for the AMC on a covered transaction during the reporting period in a particular State. This option would exclude appraisers accepted by the AMC for consideration for future appraisal assignments as well as appraisers who performed appraisals

<sup>13</sup> Consistent with the AMC Rule, the proposed determination of performing an appraisal is proposed to be based on “covered transactions” rather than “Federally related transactions.”

<sup>14</sup> In the case of AMCs that have been in existence for more than a year, the reporting period would be 12 months. In the case of an AMC that has not been in existence for more than a year, the reporting period would be since the AMC commenced doing business.

in the past, but did not perform any appraisals in the reporting period. The AMC registry fee is not intended to result in duplicate fees for the same appraisal, even if there are multiple drafts of an appraisal. Therefore, the AMC registry fee is to be calculated based on an appraisal one time only.

The ASC believes the third option imposes the minimum fee allowed under the statutory provisions of section 1109 and therefore imposes the least burden on AMCs. Based on the ASC’s anticipated costs of overseeing States that elect to register and supervise AMCs, as well as the ASC’s anticipated costs of maintaining the AMC Registry, the ASC believes the proposed annual AMC registry fee would adequately cover those costs while supporting other Title XI functions of the ASC as mandated by Congress, including further development of its grant programs, particularly for States.

#### *Collection and Transmission of Annual AMC Registry Fees*

Proposed § 1102.403 would implement collection and transmission of annual AMC registry fees for States that elect to register and supervise AMCs following the statutory scheme set forth in section 1117 and section 1109 as amended by the Dodd-Frank Act. The proposed rule would require AMC registry fees to be collected and transmitted to the ASC on an annual basis by States that elect to register and supervise AMCs. Only those AMCs whose registry fees have been transmitted to the ASC would be eligible to be on the AMC Registry for the 12-month period following the payment of the fee.

Under the proposed rule, States would have the flexibility to align a one-year period with any 12-month period, which may or may not be based on the calendar year. Just as many States do not use a calendar year for their existing appraiser credentialing process, the ASC believes that allowing States to set the 12-month period provides appropriate flexibility and will help States comply with the collection and transmission of AMC fees and reduce regulatory burden for State governments. States may choose to do this as they currently do for their appraisers, meaning some States have a date certain every year. Other States use, for example, the appraiser’s date of birth (States could use AMC registration date similarly). The registration cycle would be left to the individual States to determine, but note that the statutory requirement in section 1109(a)(4) requires States that elect to register and supervise AMCs to

submit AMC registry fees to the ASC annually.

According to the AMC Rule, Federally regulated AMCs must report to the State or States in which they operate that have elected to register and supervise AMCs the information required to be submitted by the State pursuant to the ASC’s policies, including: (i) Information regarding the determination of the AMC registry fee; and (ii) information required by the AMC Rule.<sup>15</sup>

### **III. Request for Comment**

The ASC requests comment on all aspects of this proposed rule, including specific requests for comment that appear throughout the Supplementary Information above. In addition, the ASC requests comments on the following questions:

*Question 1.* The ASC requests comment on all aspects of the proposed annual AMC registry fee.

*Question 2.* The ASC requests comment on the ASC’s interpretation of the phrase “working for or contracting with.”

*Question 3.* The ASC requests comment on the second option’s interpretation of the phrase “working for or contracting with.” While the proposal defines “working for or contracting with” to include only those appraisers that performed an appraisal for the AMC during the reporting period, the second option would define “working for or contracting with” to mean “the AMC engaged an appraiser to perform an appraisal, regardless of whether the appraiser completed the appraisal during the reporting period.” The ASC is requesting comment on whether this would be an easier interpretation for the States to administer.

*Question 4.* The ASC requests comment on all aspects of proposed collection and transmission of annual AMC registry fees.

*Question 5.* The ASC requests comment on Federally regulated AMCs operating in a State that does not elect

<sup>15</sup> According to the AMC Rule, States are not required to identify Federally regulated AMCs operating in their States; nor are they responsible for supervising or enforcing a Federally regulated AMC’s compliance with information submission requirements. A State is also not required to assess whether any licensing issues exist in that State concerning an owner of a Federally regulated AMC that may disqualify the AMC from being on the National Registry of AMCs. Rather, Federally regulated AMCs are subject to oversight by the Federal financial institutions regulators that supervise the financial institutions that own and control AMCs. The AMC Rule does not bar a State from collecting a fee from Federally regulated AMCs to offset the cost of collecting the AMC registry fee and the information related to the fee.

to register and supervise AMCs. Should the ASC collect information and fees directly from Federally regulated AMCs that wish to appear on the AMC Registry but operate in States that do not elect to register and supervise AMCs?

*Question 6.* What barriers, if any, exist that would make it difficult for a State to implement the collection and transmission of AMC registry fees?

*Question 7.* What costs (both direct in terms of fees and indirect in terms of administrative costs) would be associated with collection and transmission of AMC registry fees?

*Question 8.* What aspects of the proposed rule, if any, would be challenging for States to implement? To the extent such challenges would exist, what alternative approaches do commenters suggest that would make implementation easier, while maintaining consistency with the statute?

#### IV. Regulatory Analysis

##### *Paperwork Reduction Act*

Certain provisions of the proposed rule contain “information collection” requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Under the PRA, the ASC may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to, an information collection unless the information collection displays a valid Office of Management and Budget (OMB) control number. The information collection requirements contained in this proposed rule are being submitted to OMB for review and approval at the proposed rule stage by the ASC pursuant to section 3506 of the PRA and section 1320.11 of the OMB’s implementing regulations (5 CFR part 1320). The collection of information requirements in the proposed rule are found in §§ 1102.400–1102.403. This information is required to implement section 1473 of the Dodd-Frank Act.

*Title of Information Collection:* Collection and Transmission of Annual AMC Registry Fees.

*OMB Control Nos.:* The ASC will be seeking new control numbers for these collections.

*Frequency of Response:* Event generated.

*Affected Public:* States; businesses or other for-profit and not-for-profit organizations.

##### Abstract

##### State Recordkeeping Requirements

States that elect to register and supervise AMCs would be required to

collect and transmit annual AMC registry fees to the ASC. Section 1102.402 would establish the annual AMC registry fee for States that elect to register and supervise AMCs as follows:

(1) In the case of an AMC that has been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction in such State during the previous year; and (2) in the case of an AMC that has not been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction in such State since the AMC commenced doing business. Performance of an appraisal means the appraisal service requested of an appraiser by the AMC was provided to the AMC.

Section 1102.403 would require AMC registry fees to be collected and transmitted to the ASC on an annual basis by States that elect to register and supervise AMCs. Only those AMCs whose registry fees have been transmitted to the ASC would be eligible to be on the AMC Registry for the 12-month period following the payment of the fee. Section 1102.403 clarifies that States may align a one-year period with any 12-month period, which may, or may not, be based on the calendar year. The registration cycle is left to the individual States to determine.

##### State Reporting Burden

Section 1103 of Title XI, *Functions of Appraisal Subcommittee*, was amended by the Dodd-Frank Act to require the ASC to maintain a registry of AMCs that are either: (1) Registered with and subject to supervision by a State; or (2) Federally regulated AMCs. It is anticipated that on or before the effective date of this rule, the ASC will issue an ASC Bulletin to States that will address:

1. When the AMC Registry will be open for States; and

2. Reporting requirements (information required to be submitted by States in order to register AMCs on the AMC Registry).

*Burden Estimates:*

*Total Number of Respondents:* 500 AMCs, 55 States.

*Burden Total:* 500 hours.

The ASC has a continuing interest in public opinion regarding the ASC’s collection of information. Comments regarding the questions set forth below may be sent to the OMB desk officer for the ASC by mail to U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, Washington DC 20503, or by the

Internet to [aira\\_submission@omb.eop.gov](mailto:aira_submission@omb.eop.gov), with copies to the ASC at the address listed in the **ADDRESSES** section of this **SUPPLEMENTARY INFORMATION**.

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) The accuracy of the agency’s estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology.

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the proposed rule on small entities. However, the regulatory flexibility analysis otherwise required under the RFA is not required if an agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a brief explanatory statement in the **Federal Register** together with the proposed rule. Based on its analysis, and for the reasons stated below, the ASC believes that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Section 1109 of Title XI provides that State appraiser certifying and licensing agencies that elect to register and supervise AMCs shall collect (1) from AMCs that have been in existence for more than a year, annual AMC registry fees in the amount of \$25 (up to a maximum of \$50) multiplied by the number of appraisers “working for or contracting with” an AMC in a State during the previous year; and (2) from AMCs that have not been in existence for more than a year, annual AMC registry fees in the amount of \$25 (up to a maximum of \$50) multiplied by an appropriate number to be determined by the ASC.<sup>16</sup> The purpose of the statutory fee is to support the ASC’s functions under Title XI. Because the ASC believes the minimum fee required by the statute would be adequate to support its functions, the proposed rule

<sup>16</sup> 12 U.S.C. 3338(a)(4)(B).

would adopt the minimum fee of \$25 as set by statute. The proposed rule would also interpret the phrase “working for or contracting with” to mean those appraisers that performed an appraisal for the AMC on a covered transaction during the reporting period. For AMCs that have existed for more than a year, the formula would be \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC on a covered transaction during the previous year. For AMCs that have not existed for more than a year, the \$25 fee would be multiplied by the number of appraisers that performed an appraisal for the AMC on a covered transaction, since the AMC commenced doing business.

Regarding the proposed fee for AMCs that have been in existence for more than a year, the ASC believes the proposed rule would impose the minimum fee allowed under the statutory provisions of section 1109. The ASC proposal would not exercise statutory discretion granted to the ASC to increase the fee above \$25. Further, the ASC would interpret “working for or contracting with” to mean only those appraisers who actually performed an appraisal for the AMC, as opposed to all appraisers on the AMC’s panel or all appraisers engaged, regardless of whether the assignment was performed. The ASC believes this formula would result in the lowest fee allowed by the statute and the ASC would be choosing not to exercise its authority to increase this minimum fee. Therefore, any burden produced is the result of statutory and not regulatory requirements.

The ASC has also decided to propose the statutory minimum fee of \$25 for AMCs that have not existed for a year. As required by statute, the ASC is proposing an appropriate number against which to multiply the \$25 fee. The ASC is proposing to use the same multiple as used for AMCs that have existed for more than a year (*i.e.*, the number of appraisers that have performed appraisal assignments for the AMC). It is possible that the ASC may have been able to propose a multiple that would result in a lower fee and would still be deemed appropriate. In this regard, the rule may create burden for AMCs that have not existed for more than a year, beyond the burden created by the statutory requirements alone.

While some burden beyond the statutory requirements may result from the rule for AMCs that have not existed for more than a year, the ASC does not believe the rule will have a significant economic impact on a substantial number of small entities. There are only

approximately 500 AMCs operating in the United States. The annual regulatory burden will only apply to new AMCs that have not existed for more than a year. Given the small number of AMCs currently in operation, it is unlikely that there will be a substantial number of AMCs that commence doing business in any given year. Further, the ASC is proposing the lowest possible fee of \$25. Therefore, the ASC does not believe that the exercise of its discretion in setting the fee formula for such AMCs will have a significant economic impact on a substantial number of small entities.

The collection and transmission to the ASC of AMC registry fees by the States would create some recordkeeping, reporting and compliance requirements. However, these collection and transmission requirements are imposed by the statute, not the proposed rule. Further, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts when the agency’s rule directly regulates the small entities.<sup>17</sup>

Based on its analysis, and for the reasons stated above, the ASC believes that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, the ASC certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis is not required. The ASC requests comment on all aspects of this analysis.

#### *Unfunded Mandates Reform Act of 1995 Determination*

The ASC has analyzed the proposed rule under the factors in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the ASC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of

<sup>17</sup> For purposes of assessing the impacts of the proposed rule on small entities, “small entities” is defined in the RFA to include small businesses, small not-for-profit organizations, and small government jurisdictions. 5 U.S.C. 601(6). A “small business” is determined by application of SBA regulations and reference to the North American Industry Classification System (NAICS) classifications and size standards. 5 U.S.C. 601(3). A “small organization” is any “not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” 5 U.S.C. 601(4). A “small governmental jurisdiction” is the government of a city, county, town, township, village, school district, or special district with a population of less than 50,000. 5 U.S.C. 601(5). Given these definitions, States that elect to establish licensing and certification authorities are not small entities and the burden on them is not relevant to this analysis.

\$100 million or more in any one year (adjusted annually for inflation). For the following reasons, the ASC finds that the proposed rule does not trigger the \$100 million UMRA threshold. First, the mandates in the proposed rule apply only to those States that choose to establish an AMC registration and supervision system. Second, the costs specifically related to requirements set forth in statute are excluded from expenditures under the UMRA. Given that the proposed rule reflects requirements that arise from section 1473 of the Dodd-Frank Act, the UMRA cost estimate for the proposed rule is zero. For this reason, and for the other reasons cited above, the ASC has determined that this proposed rule will not result in expenditures by State, local, and tribal governments, or the private sector, of \$100 million or more in any one year. Accordingly, this proposed rule is not subject to section 202 of the UMRA.

#### **List of Subjects in 12 CFR Part 1102**

Administrative practice and procedure, Appraisers, Banks, Banking, Freedom of information, Mortgages, Reporting and recordkeeping requirements.

#### **Authority and Issuance**

For the reasons set forth in the preamble, the ASC proposes to amend 12 CFR part 1102 as follows:

#### **PART 1102—APPRAISER REGULATION**

- 1. The authority citation for part 1102 is revised to read as follows:

**Authority:** 12 U.S.C. 3348(a), 3332, 3335, 3338 (a)(4)(B), 3348(c), 5 U.S.C. 552a, 553(e); Executive Order 12600, 52 FR 23781 (3 CFR, 1987 Comp., p. 235).

- 2. Subpart E to part 1102 is added to read as follows:

#### **Subpart E—Collection and Transmission of Appraisal Management Company (AMC) Registry Fees**

##### **Registry Fees**

Sec.

1102.400 Authority, purpose, and scope.

1102.401 Definitions.

1102.402 Establishing the Annual AMC Registry Fee.

1102.403 Collection and Transmission of Annual AMC Registry Fees.

#### **§ 1102.400 Authority, purpose, and scope.**

(a) *Authority.* This subpart is issued by the Appraisal Subcommittee (ASC) under sections 1106 and 1109 (a)(4)(B) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI), as amended by the

Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Pub. L. 111–203, 124 Stat. 1376 (2010)), 12 U.S.C. 3335, 3338 (a)(4)(B)).

(b) *Purpose.* The purpose of this subpart is to implement section 1109 (a)(4)(B) of Title XI, 12 U.S.C. 3338.

(c) *Scope.* This subpart applies to States that elect to register and supervise appraisal management companies pursuant to 12 U.S.C. 3353 and the regulations promulgated thereunder.

#### § 1102.401 Definitions.

For purposes of this subpart:

(a) *AMC Registry* means the national registry maintained by the ASC of those AMCs that meet the Federal definition of AMC, as defined in 12 U.S.C. 3350(11), are registered by a State or are Federally regulated, and have paid the annual AMC registry fee.

(b) *AMC Rule* means the interagency final rule on minimum requirements for AMCs, 12 CFR 34.210–34.216; 12 CFR 225.190–225.196; 12 CFR 323.8–323.14; 12 CFR 1222.20–1222.26 (2015).

(c) *ASC* means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council established under section 1102 (12 U.S.C. 3310) as it amended the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 *et seq.*) by adding section 1011.

(d) *Performance of an appraisal* means the appraisal service requested of an appraiser by the AMC was provided to the AMC.

(e) *State* means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the United States Virgin Islands, and American Samoa.

(f) *Terms incorporated by reference.* Definitions of: Appraisal management company (AMC); appraisal management services; appraisal panel; consumer credit; covered transaction; dwelling; Federally regulated AMC are incorporated from the AMC Rule by reference.

#### § 1102.402 Annual AMC registry fee.

The annual AMC registry fee to be applied by States that elect to register and supervise AMCs is established as follows:

(a) In the case of an AMC that has been in existence for more than a year, \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction in such State during the previous year; and

(b) In the case of an AMC that has not been in existence for more than a year,

\$25 multiplied by the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction in such State since the AMC commenced doing business.

#### § 1102.403 Collection and transmission of annual AMC registry fees.

(a) *Collection of annual AMC registry fees.* States that elect to register and supervise AMCs pursuant to the AMC Rule shall collect an annual registry fee as established in § 1102.402 (a) from AMCs eligible to be on the AMC Registry.

(b) *Transmission of annual AMC registry fee.* States that elect to register and supervise AMCs pursuant to the AMC Rule shall transmit AMC registry fees as established in § 1102.402 (a) to the ASC on an annual basis. Only those AMCs whose registry fees have been transmitted to the ASC will be eligible to be on the AMC Registry for the 12-month period subsequent to payment of the fee.

By the Appraisal Subcommittee.

Dated: May 16, 2016.

**James R. Park,**

*Executive Director.*

[FR Doc. 2016–11914 Filed 5–19–16; 8:45 am]

**BILLING CODE P**

## TENNESSEE VALLEY AUTHORITY

### 18 CFR Part 1312

#### Protection of Archaeological Resources

**AGENCY:** Tennessee Valley Authority.

**ACTION:** Proposed rule.

**SUMMARY:** The Tennessee Valley Authority (TVA) proposes to amend its regulations for the protection of archaeological resources by providing for the issuance of petty offense citations for violations of the Archaeological Resources Protection Act (ARPA) and the Antiquities Act of 1906 (AA). Amending the regulations such that TVA law enforcement agents are authorized to issue citations will help prevent loss and destruction of these resources resulting from unlawful excavations and pillage.

**DATES:** Written comments must be received on or before June 20, 2016.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Mail/Hand Delivery:* Ralph E.

Majors, Supervisor, Investigation Unit, TVA Police & Emergency Management, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 2D–K, Knoxville, Tennessee 37902–1401.

- *Email:* [remajors@tva.gov](mailto:remajors@tva.gov).

#### FOR FURTHER INFORMATION CONTACT:

Ralph E. Majors, 865–632–4176.

#### SUPPLEMENTARY INFORMATION:

##### I. Legal Authority

These proposed amendments are promulgated under the authority of the TVA Act, as amended, 16 U.S.C. 831–831ee, the Archaeological Resources Protection Act, 16 U.S.C. 470aa–470mm, and the Antiquities Act of 1906, 16 U.S.C. 431, 432 & 433.

##### II. Background and Proposed Amendments

This proposed rule amends TVA's regulations implementing the Archaeological Resources Protection Act of 1979 (Pub. L. 96–95, as amended by Pub. L. 100–555, Pub. L. 100–588; 93 Stat. 721; 102 Stat. 2983; 16 U.S.C. 470aa–mm) to provide for the issuance of petty offense citations by TVA's law enforcement agents for violations of ARPA or AA.

Section 10(a) of ARPA requires the Departments of Interior, Agriculture and Defense and the Tennessee Valley Authority to promulgate such uniform rules and regulations as may be necessary to carry out the purposes of ARPA. The first purpose of ARPA is “to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands.” 16 U.S.C. 470aa(b). The uniform regulations for ARPA originally were published on January 6, 1984 to implement the Act of 1979. The uniform regulations were then revised on January 26, 1995 to incorporate the amendments to ARPA promulgated by Congress in 1988.

Section 10(b) of ARPA requires each Federal land manager (FLM) to promulgate such regulations, consistent with the uniform regulations under Section 10(a), as may be appropriate for the carrying out of the FLM's functions and authorities under the Act. Thus, Section 10(b) allows individual Federal agencies to tailor the uniform regulations to suit their own particular needs with a view to effectively implementing the authorities under the Act. TVA has adopted the uniform regulations as its own. *See* 18 CFR part 1312 (1984 and 1995). This proposed rule amends TVA's ARPA regulations by enabling TVA's law enforcement agents to issue petty offense citations for



## **AGENDA ITEM 17**

Update regarding 2<sup>nd</sup> AQB Exposure Draft of Proposed Changes to the *Real Property Appraiser Qualification Criteria*.





October 31, 2016

**TALCB Board Members**

Jamie S. Wickliffe  
Chair

James J. Jeffries  
Vice Chair

Earl "Buster" Renfrow  
Secretary

Jesse Barba

Walker Beard

Clayton P. Black

Patrick M. Carlson

Laurie C. Fontana

Brian L. Padden

Douglas E. Oldmixon  
Commissioner

Mr. Joseph C. Traynor, Chair  
Appraiser Qualifications Board  
1155 15<sup>th</sup> St NW, Suite 1111  
Washington DC 20005

**via email: [aqbcomments@appraisal foundation.org](mailto:aqbcomments@appraisal foundation.org)**

RE: Second Exposure Draft of ***Potential Changes to the Real Property Appraiser Qualification Criteria***

Mr. Traynor,

The Texas Appraiser Licensing & Certification Board (TALCB) submits these comments in response to the Second Exposure Draft of ***Potential Changes to the Real Property Appraiser Qualification Criteria*** and the three major areas under consideration. Thank you for taking the time to consider these important matters.

**1) Licensed Residential and Certified Residential College-Level Education Requirements**

**Summary of Proposed Changes – Licensed Residential Appraisers**

The Second Exposure Draft proposes new education criteria for Licensed Residential appraisers of 150 core curriculum hours, including successful completion of the 15 hour National USPAP Course, and successfully passing the examination. The Second Exposure Draft would eliminate the college-level education requirement for becoming a Licensed Residential appraiser.

**TALCB Comments**

TALCB believes this is a positive step towards reducing the barriers to entry into the appraisal profession without sacrificing the integrity of the educational requirements for licensure. TALCB supports this proposed change to the criteria.

**Summary of Proposed Changes – Certified Residential Appraisers**

The Second Exposure Draft proposes changing the Bachelor's degree requirement for obtaining a Certified Residential credential to an Associate's degree. The Second Exposure Draft also proposes two alternative methods to

demonstrate academic proficiency for obtaining a Certified Residential credential. As proposed in the Second Exposure Draft, the methods to demonstrate academic proficiency for obtaining a Certified Residential credential would include:

- 1) Option 1: Holding an associate's degree or higher from an accredited college or university;
- 2) Option 2: Successful completion of CLEP examinations equivalent to a minimum of 21 semester credit hours in specified subject matter areas;
- 3) Option 3: Successful completion of courses in specified subject matters from an accredited college, junior college, community college, or university; and
- 4) Option 4: Any combination of Option 2 and 3, provided that all specified topics are covered.

### TALCB Comments

Like the proposed changes to the educational criteria for obtaining a Licensed Residential Appraiser credential, TALCB believes that the proposed changes to the educational criteria for obtaining a Certified Residential Appraiser credential are a positive step towards reducing the barriers to entry into the appraisal profession without sacrificing the educational requirements for licensure. TALCB appreciates the additional guidance provided by the AQB in the "Equivalency Table" included at page 11 of the Second Exposure Draft. TALCB supports this proposed change to the criteria.

## **2) Practical Applications of Real Estate Appraisal**

### Summary of proposed changes

The Second Exposure Draft notes that the formulation of the *Practical Applications of Real Estate Appraisal* will require a significant revision and rewrite of the existing GN-4 and, therefore, will not be included in this exposure draft, but will be developed and exposed in a separate draft.

### TALCB Comments

TALCB looks forward to the opportunity to review and comment on any future exposure draft regarding the *Practical Applications of Real Estate Appraisal*.

## **3) Experience Requirements**

### Summary of Proposed Changes

The Second Exposure Draft proposes eliminating the time requirement to obtain experience hours and reducing the required number of experience hours to obtain an appraiser credential as follows:

- Licensed Residential appraiser – from 2,000 to 1,000 hours (w/no minimum time frame)
- Certified Residential appraiser – from 2,500 to 1,500 hours (w/no minimum time frame)
- Certified General appraiser – from 3,000 to 2,000 hours, with 1,000 hours of non-residential work (w/no minimum time frame)

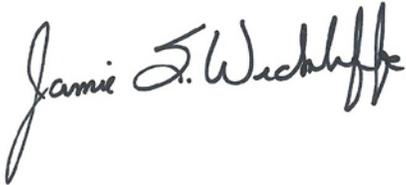
The Second Exposure Draft notes that the AQB has chosen to discontinue the examination of whether experience obtained in other professions should qualify towards a real property appraiser credential.

TALCB Comments

TALCB believes that eliminating the time requirement and reducing the number of hours required to obtain an appraiser credential are positive steps toward reducing the barriers to entry into the appraisal profession without sacrificing the experience requirements for licensure.

TALCB appreciates the opportunity to provide the AQB with comments on these matters.

Sincerely,

A handwritten signature in black ink that reads "Jamie S. Wickliffe". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Jamie Wickliffe, Chair  
Texas Appraiser Licensing & Certification Board



TO: All Interested Parties

FROM: Joseph C. Traynor, Chair  
Appraiser Qualifications Board

RE: Second Exposure Draft of **Proposed Changes to the *Real Property Appraiser Qualification Criteria***

DATE: September 15, 2016

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On January 1, 2015, changes to the *Real Property Appraiser Qualification Criteria (Criteria)* became effective. These changes were adopted by the Appraiser Qualifications Board (AQB) in December 2011, following an 18-month period in which five exposure drafts were issued for public comment.

In response to recent concerns voiced by stakeholders over changes in the real property appraiser marketplace, the AQB has been examining potential areas of change to the *Criteria*. This examination commenced in earnest with a Concept Paper that was issued in July 2015, followed by a Public Hearing in Washington, DC in October 2015.

On February 11, 2016, the AQB issued a Discussion Draft – Potential Areas of Change to the *Real Property Appraiser Qualification Criteria*. In response to the Discussion Draft, the AQB received over 270 written comments, as well as a number of verbal comments at a public meeting held in Phoenix, Arizona on April 8, 2016.

The AQB subsequently issued the First Exposure Draft of Proposed Changes to the *Criteria* on May 18, 2016, which took into consideration all comments received up to that time, and which focused on five major topic areas:

- Alternative Track for Licensed Residential to Certified Residential
- Enhanced Practicum Curriculum
- Documenting Alternative Experience
- “Trainee” Nomenclature
- Three-Year Supervisory Residency Requirement

After considering all of the feedback received from the First Exposure Draft, as well as that from its prior outreach efforts, the AQB is addressing the topics contained in the First Exposure Draft as follows:

- **Alternative Track for Licensed Residential to Certified Residential:** Section 1 of this document addresses the college-level education requirements that were related to this topic. The remaining issues involving this topic will be addressed in an upcoming Concept Paper.
- **Enhanced Practicum Curriculum:** Section 2 of this document concerns developing future specific course guidelines for the *Practical Applications of Real Estate*, including proposing changes to Guide Note 4 (GN-4) of the *Criteria*. The courses would be designed for use by colleges and universities, professional organizations, and proprietary schools.
- **Documenting Alternative Experience:** Section 3 of this document addresses the portion of this topic related to the number of hours of experience required for the Licensed Residential, Certified Residential, and Certified General classifications. The Board has concluded its consideration of allowing experience from alternative professions and will not be moving forward with proposals related to that portion of this topic.
- **“Trainee” Nomenclature:** The *Criteria* already includes a provision for the use of alternative terms; therefore, the Board will not be pursuing *Criteria* changes related to this topic. The Board intends to issue one or more Q&As on this topic for clarification.
- **Three-Year Supervisory Residency Requirement:** At its public meeting on June 24, 2016, the Board adopted the proposed revisions contained in the First Exposure Draft, effective July 1, 2016.

**All interested parties are encouraged to comment in writing to the AQB before November 4, 2016. The AQB will also accept verbal comments at its public meeting in St. Louis, Missouri on Friday, November 18, 2016.** Respondents should be assured that each member of the AQB will thoroughly read and consider all comments.

Written comments on this exposure draft can be submitted by mail, email and facsimile.

Mail: Appraiser Qualifications Board  
The Appraisal Foundation  
1155 15<sup>th</sup> Street, NW, Suite 1111  
Washington, DC 20005

Email: [aqbcomments@appraisalfoundation.org](mailto:aqbcomments@appraisalfoundation.org)

Facsimile: (202) 347-7727

**IMPORTANT NOTE: All written comments will be posted for public viewing, exactly as submitted, on the website of The Appraisal Foundation. Names may be redacted upon request.**

**The Appraisal Foundation reserves the right not to post written comments that contain offensive or inappropriate statements.**

If you have any questions regarding the attached exposure draft, please contact Magdalene Vasquez, Qualifications Administrator at The Appraisal Foundation, via e-mail at [magdalene@appraisalfoundation.org](mailto:magdalene@appraisalfoundation.org) or by calling (202) 624-3074.

## **Second Exposure Draft of Proposed Changes to the *Real Property Appraiser Qualification Criteria (Criteria)***

**Issued: September 15, 2016  
Comment Deadline: November 4, 2016**

Each section of this exposure draft begins with a rationale for the proposed changes. The rationale is identified as such and does not have line numbering. Where proposed changes to the *Criteria* are noted, the exposure draft contains line numbers. This difference is intended to distinguish for the reader those parts that explain the changes from the proposed changes themselves.

When commenting on the exposure draft, it is very helpful to reference the line numbers, fully explain the reasons for concern or support, provide examples or illustrations, and suggest any alternatives or additional issues the AQB should consider.

Where text is to be deleted from what currently appears in the *Real Property Appraiser Qualification Criteria*, that text is shown as ~~strikeout~~. For example: ~~This is strikeout text proposed for deletion.~~ Text added to what currently appears in the *Real Property Appraiser Qualification Criteria* is underlined. For example: This is text proposed for insertion.

The primary mission of the AQB is to protect public trust in the appraisal profession. As such, the Board anticipates multiple exposure drafts to adequately vet the significant issues contained in this document. Depending on the feedback received and timing of any subsequent exposure drafts, the AQB anticipates that any changes, if adopted, will go into effect no sooner than January 1, 2018.

**Second Exposure Draft:  
Potential Changes to the  
*Real Property Appraiser Qualification Criteria***

**Issued: September 15, 2016  
Comment Deadline: November 4, 2016**

Each section of this document identifies the area(s) of the *Criteria* being considered for potential changes.

When commenting on various aspects of the discussion paper, it is very helpful to fully explain the reasons for concern or support, provide examples or illustrations, and suggest any alternatives or additional issues that the AQB should consider.

For ease in identifying the various issues being addressed, this exposure draft is presented in sections.

**TABLE OF CONTENTS**

<b>Section</b>	<b>Issue</b>	<b>Page</b>
1	Licensed Residential and Certified Residential College-Level Education Requirements	6
2	Practical Applications of Real Estate Appraisal	12
3	Experience Requirements	13

## Section 1: Licensed Residential and Certified Residential College-Level Education Requirements

### Rationale

As indicated in the First Exposure Draft, the AQB has heard concerns that the college-level education required for the Licensed Residential credential and Bachelor's degree required for the Certified Residential credential as of January 1, 2015, may not be necessary qualifications to maintain and promote public trust in the appraisal profession. Although there have been few exceptions, most respondents feel a Bachelor's degree is an appropriate requirement for the Certified General credential. As stated in the First Exposure Draft, the AQB recognizes there may be other avenues for individuals to demonstrate the academic ability required for Licensed Residential and Certified Residential appraisers.

After considering the comments received in response to the First Exposure Draft and prior outreach efforts, the AQB is proposing removing the college-level education requirement for the Licensed Residential credential in its entirety. In addition, the AQB is proposing changing the Bachelor's degree requirement for the Certified Residential credential to an Associate's degree. The AQB is also proposing allowing two alternative methods to demonstrate academic proficiency for the Certified Residential credential.

A detailed job analysis survey conducted by the AQB in 2014 identified many specific skills required for residential appraisal, including analytical, mathematical, and written communication skills. While an individual with an Associate's degree (or higher) has demonstrated proficiency in these academic areas by virtue of the degree, the AQB believes sufficient equivalent proficiency can be demonstrated by other means.

For the Certified Residential classification, the AQB is proposing three options for an individual to demonstrate specific college-level equivalency. The first option is the attainment of an Associate's degree or higher. The second option is to pass<sup>1</sup> College-Level Examination Program (CLEP) exams equivalent to a minimum of 21 semester credit hours in specified subject matter areas. CLEP is a well-recognized testing program accepted by 2,900 colleges and universities.<sup>2</sup> The specific subject areas necessary to protect the public trust include:

- College Algebra
- College Composition
- College Composition Modular
- College Mathematics
- Principles of Macroeconomics
- Principles of Microeconomics
- Introductory Business Law

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<sup>1</sup> CLEP exams involve "scaled scoring" without a pass/fail result. Applicants would be required to achieve exam scores that meet the minimums required to grant college credit at duly accredited colleges and universities.

<sup>2</sup> [www.collegeboard.org](http://www.collegeboard.org)

These specific CLEP exams are available at many testing centers across the country and will serve to demonstrate an individual possesses the academic skills required to preserve and maintain public trust in the appraisal profession.

A third option in lieu of an Associate's degree would allow an applicant seeking the Certified Residential credential to document successful completion of 21 semester hours of specific collegiate courses from an accredited college, junior college, community college, or university. The specific subject matters proposed are:

- English Composition (6 semester hours)
- Economics or Finance (6 semester hours)
- Algebra, Geometry, Statistics, or higher mathematics (6 semester hours)
- Business Law or Real Estate Law (3 semester hours)

Any combination of CLEP tests and college semester hours would satisfy the requirement, provided all of the topics were covered.

The intent of the proposed revisions would also permit a mixture of traditional college courses, as outlined above, and the equivalent CLEP exam(s) for the specific subject matter. For example, an individual would receive the same credit for the 3 semester hours of Algebra, Geometry, Statistics, or higher mathematics by either taking a traditional college course or successfully completing the College Algebra CLEP exam.

## LICENSED RESIDENTIAL REAL PROPERTY APPRAISER

### III. Qualifying Education

1 ~~A. Applicants for the Licensed Residential credential shall successfully complete 30~~  
2 ~~semester hours of college-level education from an accredited college, junior~~  
3 ~~college, community college, or university. The college or university must be a~~  
4 ~~degree-granting institution accredited by the Commission on Colleges, a regional~~  
5 ~~or national accreditation association, or by an accrediting agency that is~~  
6 ~~recognized by the U.S. Secretary of Education. If an accredited college or~~  
7 ~~university accepts the College Level Examination Program® (CLEP) and~~  
8 ~~examination(s) and issues a transcript for the exam, showing its approval, it will be~~  
9 ~~considered as credit for the college course.~~

10 ~~Applicants holding an Associate degree, or higher, from an accredited college,~~  
11 ~~junior college, community college, or university satisfy the 30-hour college-level~~  
12 ~~education requirement.~~

13 ~~Applicants with a college degree from a foreign country may have their education~~  
14 ~~evaluated for “equivalency” by one of the following:~~

- 15 ~~• An accredited, degree-granting domestic college or university;~~
- 16 ~~• The American Association of Collegiate Registrars and Admissions Officers~~  
17 ~~(AACRAO);~~
- 18 ~~• A foreign degree credential evaluation service company that is a member of~~  
19 ~~the National Association of Credential Evaluation Services (NACES); or~~
- 20 ~~• A foreign degree credential evaluation service company that provides~~  
21 ~~equivalency evaluation reports accepted by an accredited degree-granting~~  
22 ~~domestic college or university or by a state licensing board that issues~~  
23 ~~credentials in another discipline.~~

24 ~~BA.~~ The Licensed Residential Real Property Appraiser classification requires  
25 completion of one hundred fifty (150) creditable class hours as specified in the  
26 *Required Core Curriculum*. As part of the 150 required hours, the applicant shall  
27 successfully complete the *15-Hour National USPAP Course*, or its AQB-approved  
28 equivalent, and successfully pass the examination. There is no alternative to  
29 successful completion of the USPAP Course and examination.

30 ~~C. For college-level courses taken in a quarterly system versus a semester system,~~  
31 ~~one quarter hour credit is equivalent to .67 semester credit hours. Conversely, one~~  
32 ~~semester credit hour is equivalent to 1.5 quarter credit hours. For example, to~~  
33 ~~satisfy the 30-semester credit hour requirement for the Licensed Residential Real~~  
34 ~~Property Appraiser classification, an applicant needs to successfully pass those~~  
35 ~~applicable courses that generate 45 quarter credit hours, (i.e. 30 semester credit~~  
36 ~~hours x 1.5 conversion factor).~~

37 ~~D~~B.Appraisers holding a valid **Trainee Appraiser** credential may satisfy the  
38 educational requirements for the Licensed Residential Real Property Appraiser  
39 credential by completing the following additional educational hours:

40	1. Residential Market Analysis and Highest and Best Use	15 Hours
41	2. Residential Appraiser Site Valuation and Cost Approach	15 Hours
42	3. Residential Sales Comparison and Income Approaches	30 Hours
43	4. Residential Report Writing and Case Studies	<u>15 Hours</u>
44		<b>TOTAL 75 Hours</b>

45 ~~E. **Trainee Appraisers** wishing to change to the Licensed Residential Real Property~~  
46 ~~Appraiser classification must also satisfy the college level education requirements~~  
47 ~~as specified in III.A.~~

48 ~~F~~C.Appraisers holding a valid **Certified Residential Real Property Appraiser**  
49 credential satisfy the educational requirements for the Licensed Residential Real  
50 Property Appraiser credential.

51 ~~G~~D.Appraisers holding a valid **Certified General Real Property Appraiser** credential  
52 satisfy the educational requirements for the Licensed Residential Real Property  
53 Appraiser credential.

# CERTIFIED RESIDENTIAL REAL PROPERTY APPRAISER

## III. Qualifying Education

54 A. Applicants for the Certified Residential credential must hold a Bachelor's  
55 degree, or higher, from an accredited college or university. The college or  
56 university must be a degree-granting institution accredited by the Commission  
57 on Colleges, a national or regional accreditation association, or by an  
58 accrediting agency that is recognized by the U.S. Secretary of Education.  
59 satisfy at least one of the following four options (III.A.1, III.A.2, III.A.3, or III.A.4):

60 1. Hold an Associate's degree, or higher, from an accredited college or  
61 university. The college or university must be a degree-granting institution  
62 accredited by the Commission on Colleges, a national or regional  
63 accreditation association, or by an accrediting agency that is recognized by  
64 the U.S. Secretary of Education.

65 Applicants with a college degree from a foreign country may have their  
66 education evaluated for "equivalency" by one of the following:

- 67 • An accredited, degree-granting domestic college or university;
- 68 • The American Association of Collegiate Registrars and Admissions  
69 Officers (AACRAO);
- 70 • A foreign degree credential evaluation service company that is a  
71 member of the National Association of Credential Evaluation Services  
72 (NACES); or
- 73 • A foreign degree credential evaluation service company that provides  
74 equivalency evaluation reports accepted by an accredited degree-  
75 granting domestic college or university or by a state licensing board that  
76 issues credentials in another discipline.

77 2. Successful completion of at least 21 hours of College Level Examination  
78 Program® (CLEP®) examinations from the following subject matter areas:

- 79 A. College Algebra
- 80 B. College Composition
- 81 C. College Composition Modular
- 82 D. College Mathematics
- 83 E. Principles of Macroeconomics
- 84 F. Principles of Microeconomics
- 85 G. Introductory Business Law

86 3. Successful completion of all courses in specific topic areas listed below from  
87 an accredited college, junior college, community college, or university:

- 88 A. English Composition (6 semester hours)
- 89 B. Economics or Finance (6 semester hours)
- 90 C. Algebra, Geometry, or higher mathematics (6 semester hours)
- 91 D. Business or Real Estate Law (3 semester hours)

4. Any combination of III.A.2 and III.A.3 above that includes all of the topics identified.

<b>Degree, CLEP or in Lieu Requirements</b>		
<b>Associate's Degree OR At least 21 semester hours in any combination of:</b>		
<p><b>CLEP Exams in the following topics/hours:</b></p> <ul style="list-style-type: none"> <li>• College Algebra (3 semester hours)</li> <li>• College Composition (6 semester hours)</li> <li>• College Composition Modular (3 semester hours)</li> <li>• College Mathematics (6 semester hours)</li> <li>• Principles of Macroeconomics (3 semester hours)</li> <li>• Principles of Microeconomics (3 semester hours)</li> <li>• Introductory Business Law (3 semester hours)</li> </ul>	<p><b>College Education in the following topics/hours:</b></p> <ul style="list-style-type: none"> <li>• English Composition (6 semester hours)</li> <li>• Economics or Finance (6 semester hours)</li> <li>• Algebra, Geometry, Statistics, or higher mathematics (6 semester hours)</li> <li>• Business Law or Real Estate Law (3 semester hours)</li> </ul> <p>*A combination of CLEP and college courses can be taken provided all college topics are successfully completed either via a college course or CLEP exam.</p>	
<b>Equivalency Table</b>		
<b>CLEP Exams</b>	<b>CLEP Exam Semester Hours</b>	<b>Applicable College Courses</b>
College Algebra	3	Algebra, Geometry, Statistics, or higher mathematics
College Composition	6	English Composition
College Composition Modular	3	English Composition
College Mathematics	6	Algebra, Geometry, Statistics, or higher mathematics
Principles of Macroeconomics	3	Economics or Finance
Principles of Microeconomics	3	Economics or Finance
Introductory Business Law	3	Business Law or Real Estate Law

## Section 2: Practical Applications of Real Estate Appraisal

Responses to the *Practical Applications of Real Estate Appraisal*, previously titled as “Enhanced Practicum Curriculum” in the First Exposure Draft, were moderate and varied. Respondents were mixed in their support or non-support for this alternative type of experience. As discussed in the First Exposure Draft, a practical applications course would involve classroom hours in a traditional semester format utilizing case studies as a means of gaining necessary experience. There would likely be a series of courses appraisers can take to obtain experience for the Licensed Residential classification, as well as a series for both the Certified Residential and Certified General classifications.

The courses would ideally be taken in conjunction with an internship involving a practicing appraiser. Applicants would be eligible for these course offerings after completion of all of the qualifying education required for the respective classification level they would be seeking. The classes would encompass the methodology and theory learned in the previously completed qualifying education.

Those in support of this alternative path to experience believed in the concept because it could afford an experience quota in a profession where gaining experience with supervisory appraisers has become increasingly difficult. In addition, it would provide a consistent form of instruction. Those with misgivings regarding this concept questioned the economic viability for both course providers and students. Many viewed this as non-real world experience and objected to its accounting for the entire experience level. Based on the feedback received and consistent with current *Criteria* requirements, this form of alternative experience would be eligible for no more than 50% of the total experience requirement.

After review of the various responses and feedback from public meetings, the AQB has determined that specific course guidelines for the *Practical Applications of Real Estate* should be further evaluated. Guide Note 4 (GN-4) of the *Criteria* discusses practicum education requirements that can account for up to 50% of the experience requirement. Many respondents voiced their opinion that GN-4 was too restrictive and difficult to comply with. To further develop the *Practical Applications of Real Estate Appraisal* courses, proposed changes to GN-4 will be exposed, including detailed course outlines establishing all course requirements and a structured course outline. There will be prescribed syllabi for the courses. The courses will be designed for use by colleges and universities, professional organizations, and proprietary schools. Several respondents volunteered to assist in developing the practical applications coursework. As the Board proceeds with the rewrite of GN-4, it is likely a panel will be selected to work with the AQB in this endeavor.

Because this venture entails a significant revision and rewrite of the existing GN-4, the formulation of the *Practical Applications of Real Estate Appraisal* will not be included in this exposure draft. It will be developed and exposed in a separate draft.

## Section 3: Experience Requirements

### Rationale

As indicated in the First Exposure Draft, the role experience plays in determining an individual's eligibility for a real estate appraiser credential has been an item of substantial debate. The model that's been in place since the inception of state licensing and certification in the early 1990's, whereby applicants must document completion of education, experience, and an examination, is familiar and seems "natural" to many. The AQB adopted this model because it was, in essence, what was used by professional appraiser organizations for decades beforehand. As a result, whether it's reducing the number of hours of experience needed for a credential or doing away with the experience requirement altogether, there are many who consider such concepts as unacceptable.

Nevertheless, the AQB's charge is to maintain and promote public trust in the appraisal profession by establishing the *minimum* qualifications necessary to obtain a credential. In that regard, the experience requirements in the *Criteria* have not increased since January 1, 1998. However, since that time:

- The number of hours of qualifying education required for a credential has increased dramatically;
- Qualifying education must now follow a specified Required Core Curriculum, including completion of case study and report writing courses;
- Successful completion of each qualifying education course requires a candidate to pass a closed-book, proctored, final examination;
- College-level education is now required;
- Applicants must pass the practice-based *National Uniform Licensing and Certification* examinations, which are far more robust and challenging than the pre-2008 exams were;
- A comprehensive program for instruction related to the *Uniform Standards of Professional Appraisal Practice* (USPAP) has been implemented; and
- There are qualification requirements for supervisory appraisers.

With these enhancements to the education and examination components of the *Criteria*, the AQB believes it is appropriate to consider offering a more balanced approach to the qualifications needed for a credential by reducing the number of hours of experience required. Therefore, the AQB is proposing revising the experience hours required as follows:

- Licensed Residential: 1,000 hours of experience (no minimum time frame)
- Certified Residential: 1,500 hours of experience (no minimum time frame)
- Certified General: 2,000 hours of experience, with at least 1,000 hours in non-residential appraisal (no minimum time frame)

As stated previously in this document, the AQB has elected to discontinue the examination of whether experience obtained in other professions should qualify towards a real property appraiser credential. While the AQB believes some professions may offer experience that would benefit an appraiser, quantifying and reconciling such experience, as it relates to appraising, would be tremendously difficult.

## LICENSED RESIDENTIAL REAL PROPERTY APPRAISER

### IV. Experience

94 ~~Two thousand (2,000)~~ One thousand (1,000) hours of experience are required to  
95 ~~be obtained in no fewer than 12 months.~~

## CERTIFIED RESIDENTIAL REAL PROPERTY APPRAISER

### IV. Experience

96 ~~Two thousand five hundred (2,500)~~ One thousand five hundred (1,500) hours of  
97 ~~experience obtained during no fewer than twenty-four (24) months is~~ are required.  
98 ~~While the hours may be cumulative, the required number of months must accrue~~  
99 ~~before an individual can be certified.~~

## CERTIFIED GENERAL REAL PROPERTY APPRAISER

### IV. Experience

100 ~~Three thousand (3,000)~~ Two thousand (2,000) hours of experience ~~obtained during~~  
101 ~~no fewer than thirty (30) months is~~ are required, of which ~~one thousand five~~  
102 ~~hundred (1,500)~~ one thousand (1,000) hours must be in non-residential appraisal  
103 ~~work. While the hours may be cumulative, the required number of months must~~  
104 ~~accrue before an individual can be certified.~~



## **AGENDA ITEM 18**

Discussion and possible action on recommendations from Enforcement Committee regarding changes to experience log instructions.

### **SUMMARY**

The Enforcement Committee considered changes to the experience log instructions to provide better clarity to license holders for completing the experience log and recommends the Board adopt the proposed changes.

### **STAFF RECOMMENDATION**

Adopt the changes as presented.

### **RECOMMENDED MOTION**

MOVED, that the Board adopt changes to the experience log instructions as presented.





# APPRAISAL EXPERIENCE LOG INSTRUCTIONS

All experience claimed by an applicant **MUST** be submitted on the Appraisal Experience Log form prescribed by the Board. This form should **NOT** be altered in any manner.

- ◆ **Applicant Name and Number:** Your name and the license number under which the experience was performed.
- ◆ **Sponsor/Supervisor Supervisory Appraiser Name and Number:** The name and the certification number for the **sponsor/supervisor supervisory appraiser** under whose supervision the experience was performed.
- ◆ **Report Date:** The completion date of the appraisal assignment.
- ◆ **Subject Location:** The physical address or legal description of the assignment property.
- ◆ **Report Type:** Use the report type codes below.

Prior to 2014

Restricted Use = R, Summary = S, Self-Contained = SC

2014 - current

**Appraisal Report = A, Restricted Appraisal Report = RA**

- ◆ **Type of Property:** Use the property type codes below.

Residential

Non-Residential

Single-family residential.....	<b>1</b>	Other living units such as apartment/condominium projects, etc.....	<b>A</b>
Duplex.....	<b>2</b>	Commercial.....	<b>C</b>
Tri-plex.....	<b>3</b>	Industrial.....	<b>I</b>
Four-plex.....	<b>4</b>	Office.....	<b>O</b>
Unimproved residential site.....	<b>UR</b>	Farm or Ranch.....	<b>FR</b>
		Unimproved/undeveloped acreage not FR.....	<b>U</b>

- ◆ **Actual Applicant Hours:** An hour of experience is 60 minutes of verifiable time expended in one or more areas of acceptable experience.
- ◆ **A/S/R Check Boxes:** ~~Indicate the portions of appraisal practice performed by the applicant (A) and scope of the review (R) —and supervision of the supervising appraiser (S):~~

Applicant

Check "A" to indicate the portions of the appraisal process performed by the applicant; OR

Check "R" to indicate the portions of the appraisal process reviewed by the applicant as part of an appraisal review assignment

Supervisory Appraiser

Check "S" to indicate the portions of the appraisal process performed by the supervisory appraiser

*Note: A supervisory appraiser who merely reviews work performed by an applicant should check ONLY the box on line "S" in column XII to indicate the applicant's work has been reviewed.*

**Before you submit your experience, be certain that :**

- \* the log is complete - incomplete logs cannot be processed
- \* a separate log is submitted for experience performed under each **sponsor/supervisor supervisory appraiser**
- \* every page is signed and dated by both you and your **sponsor/supervisor supervisory appraiser**
- \* all entries are in chronological order by report date
- \* an Appraisal Experience Affidavit accompanies your Appraisal Experience Log(s)

**ACCEPTABLE EXPERIENCE MUST:**

1. Comply with USPAP;
2. Be verifiable and be supported by adequate written reports or file memoranda;
3. Have been performed when the applicant had legal authority; and
4. Comply with the acceptable categories of experience as per the AQB experience criteria.





## **AGENDA ITEM 19**

Discussion and possible action regarding possible legislative changes for 2017.

### **SUMMARY**

To facilitate discussions with stakeholders, staff, and members of the Legislature regarding proposed legislative changes for 2017, the Board has previously appointed a Board member to serve as the contact person for proposed legislative changes. The contact person may be called upon to meet with stakeholders, staff, or members of the Legislature or to testify before legislative committees. The Board appointed the Chair to serve in this role in 2015.

### **STAFF RECOMMENDATION**

Appoint a Board member to serve as the contact person for proposed legislative changes.

### **RECOMMENDED MOTION**

MOVED, that the Board appoints \_\_\_\_\_ as the contact person for proposed legislative changes.





## **AGENDA ITEM 20**

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



TALCB Board Members

Jamie S. Wickliffe  
Chair

Laurie C. Fontana  
Vice Chair

Mark A. McAnally  
Secretary

Jesse Barba, Jr.

Walker Beard

Clayton P. Black

Patrick M. Carlson

Luis F. De La Garza, Jr.

Brian L. Padden

Douglas E. Oldmixon  
Commissioner

**BOARD MEMORANDUM**

**Date:** May 9, 2014

**RE:** Leadership Transition

This memorandum is to confirm that the Texas Appraiser Licensing and Certification Board (Board) approved the following practice regarding leadership transition:

At the last Board meeting of the calendar year, the Board will include the following items on the agenda:

Floor Nominations to create a slate of officers.

The Board will elect officers at the Board meeting held in February of the next calendar year.

Approved by the Board and signed this 9<sup>th</sup> day of May, 2014.

Jamie Wickliffe, Chair  
Texas Appraiser Licensing and Certification Board





### **AGENDA ITEM 21**

Request for potential future meeting agenda items.

### **AGENDA ITEM 22**

Discussion and possible action to schedule future meeting dates.

### **AGENDA ITEM 23**

Adjourn.



# Texas Appraiser Licensing and Certification Board

## November 18, 2016

November 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			

December 2016						
S	M	T	W	T	F	S
				1	2	3
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

January 2017						
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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February 2017						
S	M	T	W	T	F	S
			1	2	3	4
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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

### November

8 Election Day  
 11 Veteran's Day  
 18 TALCB Meeting  
 24 Thanksgiving

### December

25 Christmas Holiday  
 31 New Year's Eve

### January

1 New Year's Day  
 16 Martin Luther King Day

### February

9 TALCB Meeting  
 20 Presidents' Day

March 2017						
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	

April 2017						
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16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

May 2017						
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14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

June 2017						
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

### March

### April

14 Good Friday  
 16 Easter

### May

14 Mothers' Day  
 19/20 UT Commencement  
 29 Memorial Day

### June

18 Fathers' Day

July 2017						
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 2017						
S	M	T	W	T	F	S
		1	2	3	4	5
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13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

September 2017						
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					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

October 2017						
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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

### September

4 Labor Day

### October

9 Columbus Day