

***What To
Know About
TALCB
Enforcement***



Presentation to:
North Texas Chapter of the Appraisal Institute
Tuesday, September 12, 2017

Introduction

Texas Appraiser Licensing and Certification Board

The Texas Legislature established the Texas Appraiser Licensing & Certification Board (TALCB) in order to safeguard consumers in matters of real property appraisal services

Introduction

TALCB Standards and Enforcement Services (SES)

Administers the TALCB's enforcement program. The division ensures compliance with federal law under FIRREA as amended by the Dodd-Frank and also enforces state law and investigates violations

Introduction

Texas Appraiser Licensing and Certification Board Staff

Mark Lee

***Staff Attorney, Standards & Enforcement
Services Division***

Jim Jacobs

***Investigator, Standards & Enforcement Services
Division***

***Appraiser since 1972, AQB USPAP Instructor, SRA, AI-
RRS, DAC designations***

General Sources

***Texas Occupation Code
Chapter 1103 (Appraisers)
Chapter 1104 (AMC's)***

***Texas Administrative Code-Title 22, Part 8
(Board Rules)
Chapters 153, 155, 157, and 159***

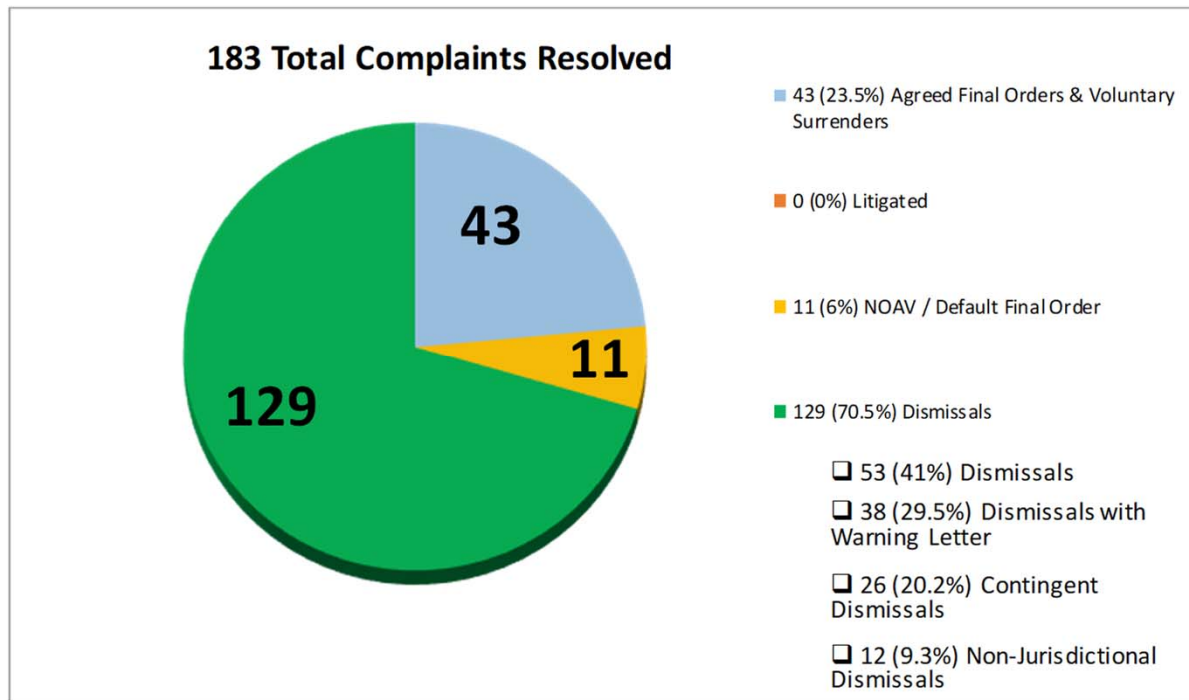
Topics

- ***Who We Are***
- ***Case Resolution Statistics***
- ***Processes For Complaints & Audits***
- ***Sanctions***
- ***Common USPAP Violations***
- ***New Developments***
- ***Questions and Answers***

Case Resolution Statistics

COMPLAINT RESOLUTIONS - FY 2017

SEPTEMBER 1, 2016 – AUGUST 31, 2017



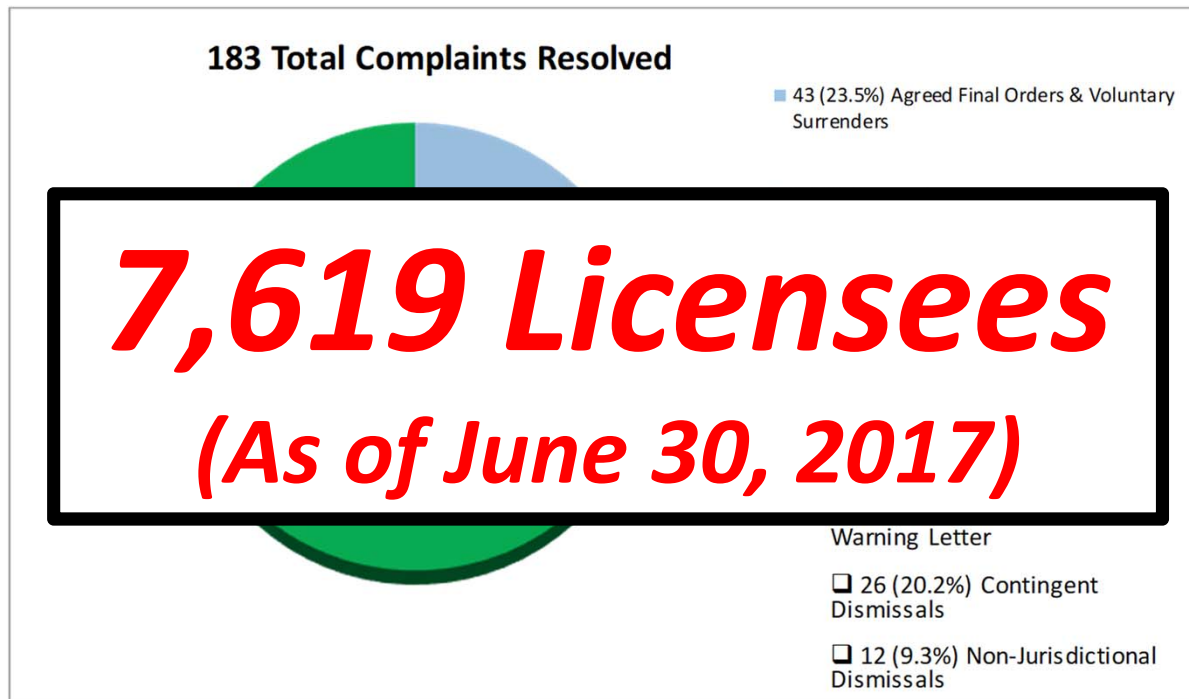
% of License Holders w/Disciplinary Actions				
<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
.8%	.6%	.7%	.5%	.4%

FY 2017 Recidivism Rate	
<u>FY 2017</u>	
13.8%	

Total Number of Licensees (as of June 30, 2017): 7,619

COMPLAINT RESOLUTIONS - FY 2017

SEPTEMBER 1, 2016 – AUGUST 31, 2017



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TALCB Standards & Enforcement Services

CASE STATUS REPORT as of AUGUST 30, 2017

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
Complaint Category:															
AMCs	1	12	0	0	0	0	0	0	0	0	0	0	0	0	0
Dodd Frank	22	18	0	5	2	0	0	1	0	1	1	0	0	0	10
Ethics	4	4	0	1	0	1	1	0	0	0	0	2	1	1	7
USPAP	139	131	7	8	7	5	7	15	13	5	8	9	8	13	105
Other	21	37	1	2	5	7	0	0	24	0	0	1	1	1	42
No Jurisdiction	4	9	0	1	0	0	2	1	2	0	3	0	0	0	9
	191	211	8	17	14	13	10	17	39	6	12	12	10	15	SUB: 173
Experience Audits	161	146	13	13	7	11	12	6	16	8	12	11	14	16	139
RFAs & Covert Complaints	13	5	1	0	0	0	0	0	0	0	0	0	0	0	1
MCD Inquiries	3	8	1	0	1	0	0	2	1	2	0	0	2	0	9
	177	158	15	13	8	11	12	8	17	10	12	11	16	16	SUB: 149
Opened During FY Year Month	368	356	23	30	22	24	22	25	56	16	24	23	26	31	322

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	0	0	0	0	0	0	3	0	0	0	0	0	0	3
Agreed Final Order / Final Order	42	11	0	0	10	0	0	10	0	0	14	0	0	7	41
Other Disciplinary Action	5	1	0	0	1	0	0	0	0	0	0	0	0	0	1
Insufficient Evidence	2	5	0	1	0	0	0	0	0	0	0	0	1	2	4
Dismissed	98	73	6	3	13	12	7	12	6	4	9	5	13	9	99
No Jurisdiction	5	7	0	0	0	2	2	1	2	0	2	3	0	0	12
	157	97	6	4	24	14	9	26	8	4	25	8	14	18	SUB: 160
Experience Audits	171	140	13	14	12	14	5	13	6	3	7	11	6	8	112
RFAs	10	4	0	0	0	0	0	0	0	7	0	1	1	0	9
MCD Inquiries	5	6	2	1	1	0	0	0	3	1	0	1	2	1	12
	186	151	15	15	13	14	5	13	9	11	7	13	9	9	SUB: 133
Closed During FY Year Month	343	345	21	19	37	28	14	39	17	15	32	21	23	27	293

Total Cases Open as of 8/30/17:

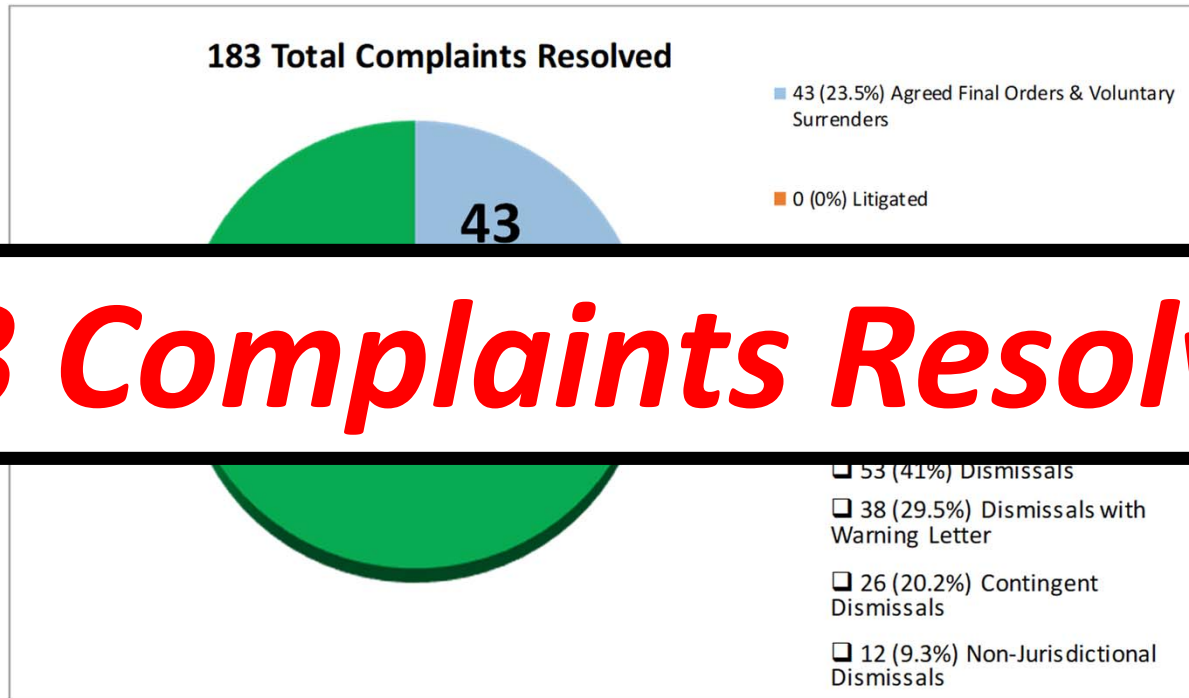
231

AMC CASE STATUS REPORT as of AUGUST 30, 2017

Total Cases Open as of 8/30/17:

COMPLAINT RESOLUTIONS - FY 2017

SEPTEMBER 1, 2016 – AUGUST 31, 2017



183 Complaints Resolved

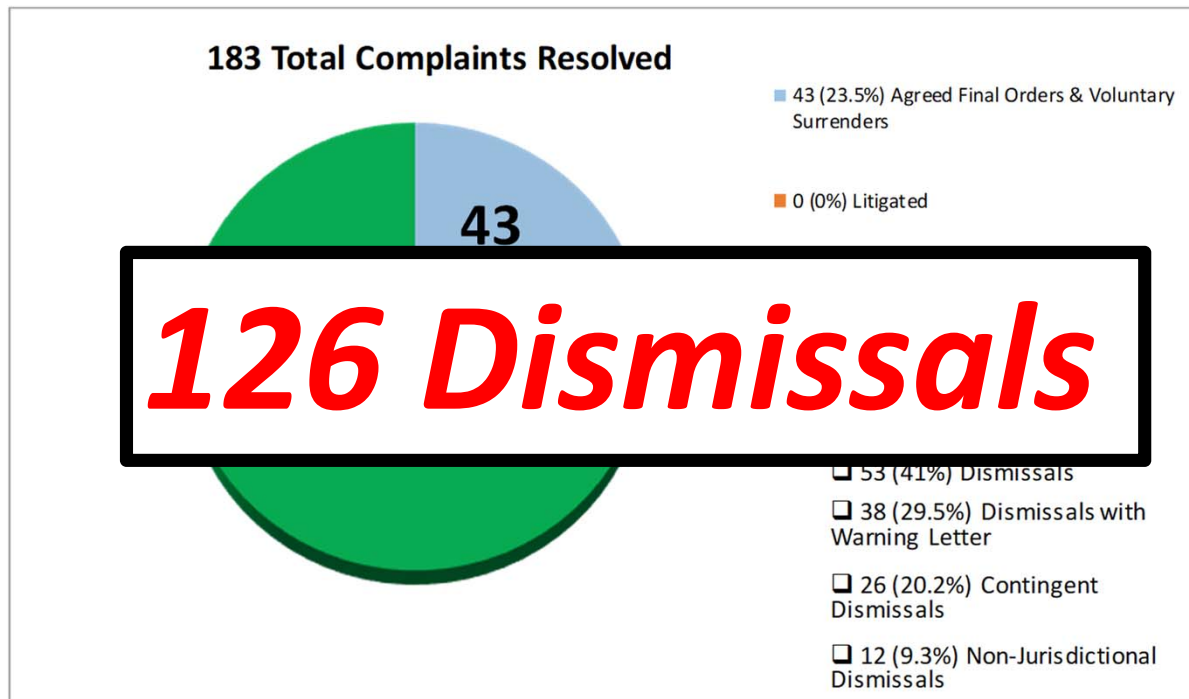
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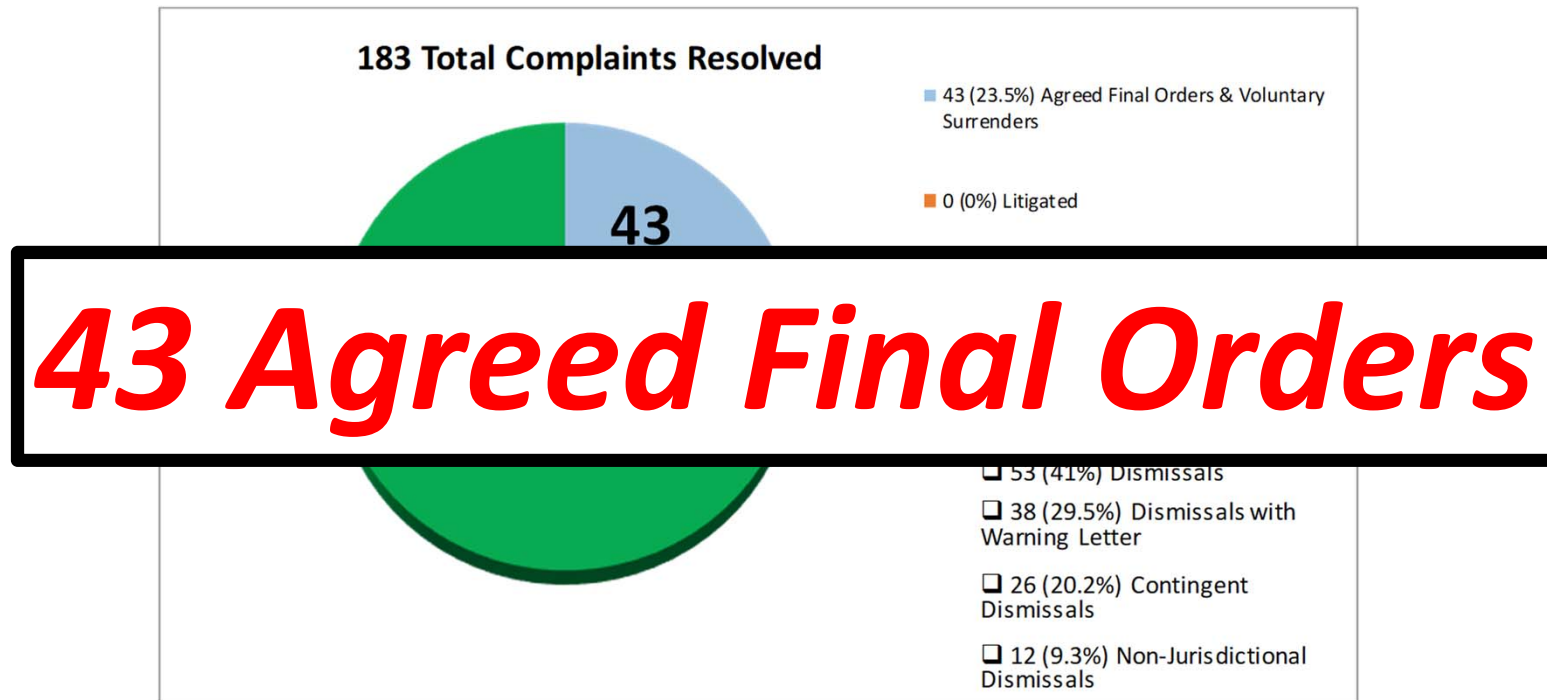
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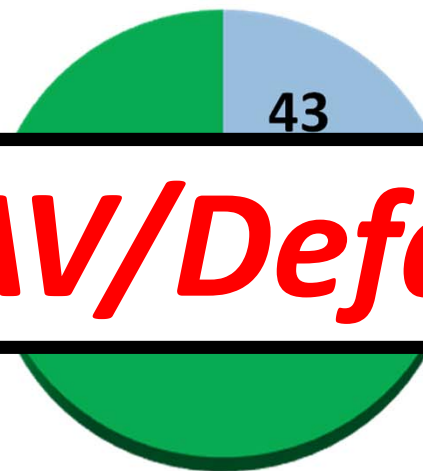
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COMPLAINT RESOLUTIONS - FY 2017

SEPTEMBER 1, 2016 – AUGUST 31, 2017

183 Total Complaints Resolved



■ 43 (23.5%) Agreed Final Orders & Voluntary Surrenders

■ 0 (0%) Litigated

10 NOAV/Default Final Order

■ 53 (41%) Dismissals

■ 38 (29.5%) Dismissals with Warning Letter

■ 26 (20.2%) Contingent Dismissals

■ 12 (9.3%) Non-Jurisdictional Dismissals

% of License Holders w/Disciplinary Actions

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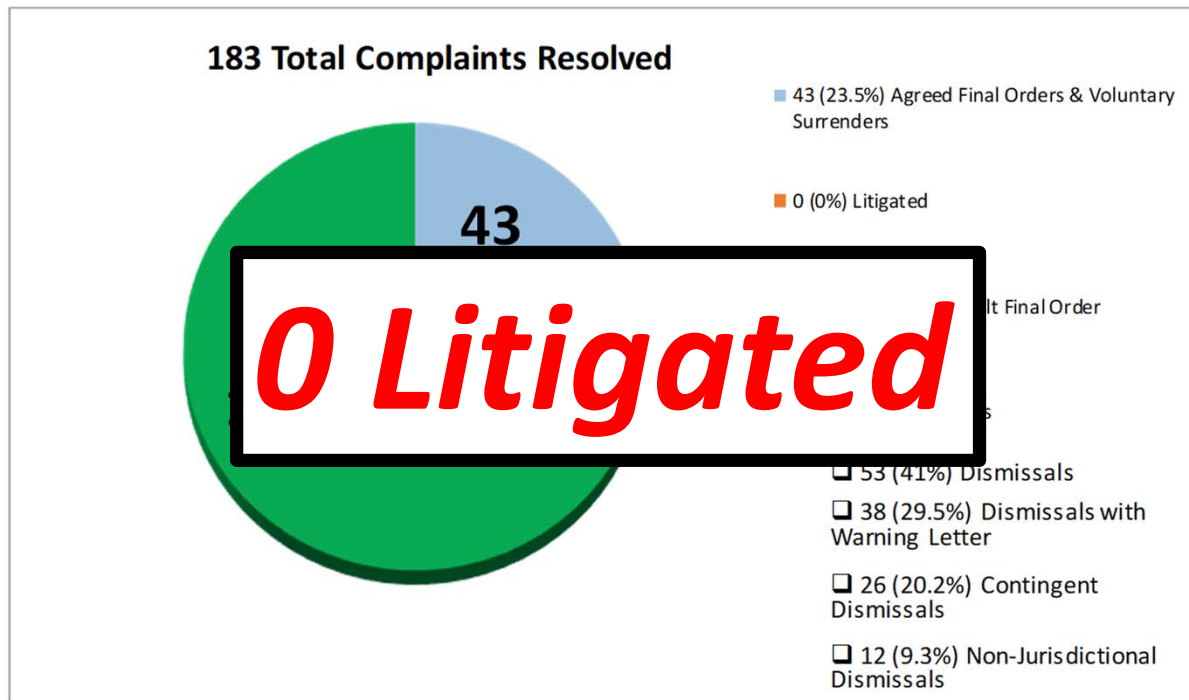
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Surrenders

***Percent of License Holders
w/Disciplinary Actions***

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Dismissals

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Dismissals

% of License Holders w/Disciplinary Actions

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Surrenders

*Less than ½ of One Percent
(0.4%)*

□ 26 (20.2%) Contingent
Dismissals

□ 12 (9.3%) Non-Jurisdictional
Dismissals

% 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>
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WHO WE ARE

Ten Staff Members

1 Division Director (lawyer)

1 Agency Attorney (lawyer)

5 Investigators (all appraisers)

3 Support Staff (2 legal assistants; 1 legal secretary)

WHO WE ARE

***At TALCB we've been given the task of:
Protecting the public from improper appraisal
practices***

***Protecting the financial sector from
unwarranted risk***

Protecting appraisers from unfair competition

WHO WE ARE

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WHO WE ARE

STANDARDS ENFORCEMENT SERVICES

Violations of USPAP

Violations of State Law

Violations of Board Regulations (Rules)

WHO WE ARE

REGULATE REAL ESTATE APPRAISERS

- ***Complaints***
- ***Experience Audits***
- ***Background Checks***
- ***Voluntary Trainee Reviews***
- ***Assistance to Law Enforcement (RFAs)***

WHO WE ARE

REGULATE APPRAISAL MANAGEMENT COMPANIES

- ***Complaints***
- ***Audits (in the future)***

TALCB COMPLAINT PROCESS OVERVIEW

WHO CAN FILE A COMPLAINT IN TEXAS?

TALCB COMPLAINT PROCESS OVERVIEW

*WHO CAN FILE A
COMPLAINT IN TEXAS?*

Anyone may file a complaint

TALCB COMPLAINT PROCESS OVERVIEW

*WHO CAN FILE A
COMPLAINT IN TEXAS?*

For any reason

TALCB COMPLAINT PROCESS OVERVIEW

WHO CAN FILE A COMPLAINT IN TEXAS? *Complaint Intake Form*



The image shows the 'COMPLAINT INTAKE FORM' from the Texas Appraiser Licensing and Certification Board (TALCB). The form includes the TALCB logo and contact information for Standards & Enforcement Services. It contains several sections for the complainant to provide information, including contact details and details about the complaint. The form is titled 'COMPLAINT INTAKE FORM' and has a page number 'Page 1 of 1' at the bottom right.

TALCB
Texas Appraiser Licensing and Certification Board
Standards & Enforcement Services
P.O. Box 10088
Austin, TX 78713-0088
512-656-8611 Fax: 512-656-2885
www.talcb.org

COMPLAINT INTAKE FORM

NOTE: (1) Fill this form online or print it out and fill it out by hand. (2) This form is for use only by those who are able to print and save the form as a PDF. (3) TALCB does not receive disputes solely about appraisal value.

ALL INFORMATION MUST BE TYPED OR PRINTED IN BLUE OR BLACK INK

Upon receipt of this complaint intake form, a preliminary investigation review will be conducted to determine if TALCB has jurisdiction over the matter forming the basis of the complaint. If the matter is not within TALCB's jurisdiction, you will be notified. If TALCB has jurisdiction, TALCB will evaluate the complaint to determine whether sufficient evidence of a violation of TALCB's statutes or rules, or the Uniform Standards of Professional Appraisal Practice (USPAP), exists to pursue disciplinary action. If additional information is necessary, TALCB staff will contact you. You will be informed of the final resolution of the complaint.

1. I WISH TO FILE A COMPLAINT AGAINST (choose only one)

☐ Appraiser ☐ Appraisal Management Company (AMC) ☐ Other

2. MY CONTACT INFORMATION:

Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Email Address: _____
Telephone Number(s): _____ Fax Number: _____

3. INFORMATION CONCERNING THE PERSON OR COMPANY YOU ARE COMPLAINTING ABOUT:

Person's Name: _____
Company Name: _____
Physical Address: _____
City: _____ State: _____ Zip: _____
Telephone Number(s): _____
TALCB license number or Registration Number (if known): _____

4. DOES THIS COMPLAINT INVOLVE AN APPRAISAL? ☐ Yes ☐ No

If yes, please attach a copy of the appraisal report.

Address of property appraised: _____
Date of Appraisal: _____ Date you first became aware of the issue described in the complaint: _____

TALCB Complaint Form - 01/2016 (Revised 06/2016) Page 1 of 1

TALCB COMPLAINT PROCESS OVERVIEW

Complaint Intake Form

***Must be signed by Complainant
(No anonymous complaints)***

TALCB COMPLAINT PROCESS OVERVIEW

***WHAT HAPPENS WHEN A
COMPLAINT IS FILED?***

TALCB COMPLAINT PROCESS OVERVIEW

***WHEN A COMPLAINT IS RECEIVED:
Assigned a Case Number***

TALCB COMPLAINT PROCESS OVERVIEW

WHEN A COMPLAINT IS RECEIVED:

***Acknowledgement of receipt
Sent to Complainant***

TALCB COMPLAINT PROCESS OVERVIEW

WHEN A COMPLAINT IS RECEIVED:

***Reviewed for:
Jurisdiction***

TALCB COMPLAINT PROCESS OVERVIEW

WHEN A COMPLAINT IS RECEIVED:

***Reviewed for:
Whether Violation Exists***

TALCB COMPLAINT PROCESS OVERVIEW

WHEN A COMPLAINT IS RECEIVED:

***Complaint Intake Form &
All Supporting Documents
Sent to Respondent***

TALCB COMPLAINT PROCESS OVERVIEW

WHEN A COMPLAINT IS RECEIVED:

***Appraiser has 20 days
to respond***

TALCB COMPLAINT PROCESS OVERVIEW

WHEN A COMPLAINT IS RECEIVED:

***May Be Extended For
Good Cause***

TALCB COMPLAINT PROCESS OVERVIEW

WHEN A COMPLAINT IS RECEIVED:

***Response to include:
Copy Of Appraisal Report***

TALCB COMPLAINT PROCESS OVERVIEW

WHEN A COMPLAINT IS RECEIVED:

Response to include:

Copy of Work File

TALCB COMPLAINT PROCESS OVERVIEW

WHEN A COMPLAINT IS RECEIVED:

Response to include:

Narrative Response

TALCB COMPLAINT PROCESS OVERVIEW

WHEN A COMPLAINT IS RECEIVED:

Response to include:

***List of Persons with Knowledge
of Case***

TALCB COMPLAINT PROCESS OVERVIEW

WHEN A COMPLAINT IS RECEIVED:

Response to include:

Completed Questionnaire

TALCB COMPLAINT PROCESS OVERVIEW

WHEN A COMPLAINT IS RECEIVED:

Response **may** include:

***Any non-work file documentation
(Labeled as not part of original work file)***

TALCB COMPLAINT PROCESS OVERVIEW

***WHEN THE RESPONSE
IS RECEIVED:
Reviewed for:
Sufficient evidence***

TALCB COMPLAINT PROCESS OVERVIEW

*WHEN THE RESPONSE
IS RECEIVED:*

***Reviewed for:
Potential USPAP violations***

TALCB COMPLAINT PROCESS OVERVIEW

WHEN THE RESPONSE IS RECEIVED:

Assigned to Investigator

TALCB COMPLAINT PROCESS OVERVIEW

INVESTIGATORS

***All Investigators are state-certified
appraisers***

TALCB COMPLAINT PROCESS OVERVIEW

INVESTIGATORS

***All have extensive and varied residential
and commercial appraisal experience***

TALCB COMPLAINT PROCESS OVERVIEW

***DETERMINATION IS MADE:
Informal vs Formal
Complaint***

TALCB COMPLAINT PROCESS OVERVIEW

DETERMINATION IS MADE:

Informal Complaint
may be dismissed

TALCB COMPLAINT PROCESS OVERVIEW

DETERMINATION IS MADE:

***Formal complaint
Investigation process begins***

TALCB COMPLAINT PROCESS OVERVIEW

INVESTIGATOR WILL:
Read all documents

TALCB COMPLAINT PROCESS OVERVIEW

INVESTIGATOR WILL:
Review all documents

TALCB COMPLAINT PROCESS OVERVIEW

INVESTIGATOR WILL:
***Research the **facts** related
to the case***

TALCB COMPLAINT PROCESS OVERVIEW

INVESTIGATOR WILL:
***Research the **data** related
to the case***

TALCB COMPLAINT PROCESS OVERVIEW

INVESTIGATOR WILL:

***Conduct necessary research and analysis
to produce credible determination
(Standard 3)***

TALCB COMPLAINT PROCESS OVERVIEW

NOTE:

***Under Appraisal Subcommittee Policy
Statement 7***

TALCB COMPLAINT PROCESS OVERVIEW

NOTE:

*The Board must
consider **all** USPAP violations*

TALCB COMPLAINT PROCESS OVERVIEW

NOTE:

***Whether or not basis
of complaint***

TALCB COMPLAINT PROCESS OVERVIEW

***UPON COMPLETION OF
THE INVESTIGATION PROCESS***

TALCB COMPLAINT PROCESS OVERVIEW

***INVESTIGATOR WILL:
Prepare Investigation
Report detailing the
findings
(Standard 3)***

TEXAS APPRAISER LICENSING & CERTIFICATION BOARD
DELLA L. OLIVER, COMMISSIONER

Date: _____
To: TALCB Director of Standards & Enforcement Services
From: _____ Appraiser-Investigator
Re: An investigation of an appraisal report dated to value the fee simple interest in _____
Appraiser: _____
TALCB Case #: _____

I have performed an investigation of the appraisal report that _____ (the "Respondent") completed for the property located at _____, for _____, the effective date of the value opinion is _____, and the date of the appraisal report is _____ The date of my investigation is _____

The purpose of this investigation is to determine if the appraisal report complies with the Uniform Standards of Professional Appraisal Practice (USPAP), the Rules ("Rules") of the Texas Appraiser Licensing and Certification Board (TALCB), and the Texas Appraiser Licensing and Certification Act ("Act") as of the effective date of the appraisal report. The intended users of the investigation are the TALCB Standards & Enforcement division staff, appraisers and the board members of the TALCB. The intended use of this investigation result is to provide staff and board members the investigative results to facilitate the disposition of the above-referenced complaint made to the TALCB.

This appraiser-investigator is not familiar with the subject property or the surrounding neighborhood or market area as of the date of the investigation, but was asked to conduct the investigation of the appraisal report for compliance with the aforementioned requirements. The appraiser-investigator's scope of work included investigating and analyzing the Respondent's appraisal report and working with the subject submitter to the Complainant, other data submitted by the Respondent and those materials collected during the appraiser-investigator's own research. The appraiser-investigator did not personally inspect the subject property, the comparable nor the described neighborhood used in the appraisal report. The appraiser-investigator has reviewed certain data in the appraisal report, searched and reviewed data from the County appraisal district, and the Multiple Listing Service (MLS) as well as made contacts and inquiries deemed necessary to verify and assess the appraisal report's content. The scope of this investigation is relative to compliance with USPAP and the capability of Respondent's value conclusion only. This investigation does not develop an opinion of value. The appraiser-investigator has articulated the extraordinary assumption that information provided in the appraisal report and working, which could not be specifically verified by the information currently available to the appraiser-investigator, is true and accurate. Use of this extraordinary assumption may have affected investigative assignment results. If exceptional conditions were necessary to complete this investigation.

It is the appraiser-investigator's opinion that the appraisal report (USPAP) did comply with USPAP practice with the Act and Rules. The attached investigation report details the reasoning behind this conclusion.

If you have questions after reviewing this investigative report, please do not hesitate to contact me.

P.O. Box 12188 Austin, Texas 78712-0188 • 512-465-5555 • www.talcb.texas.gov

TALCB COMPLAINT PROCESS OVERVIEW

INVESTIGATOR WILL:
Prepare Disposition Factor Analysis Worksheet (DFAW)

Complaint Case: _____
Respondent: _____

DISPOSITION FACTOR ANALYSIS WORKSHEET

Item	Question	Yes	No	N/A	Comment
1.	Are the violation(s) found in this complaint(s) a result of (provide basis for opinion in Comment)?				
40	Negligence?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
41	Gross Negligence?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
42	Knowingly or Intentionally?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2.	Do the violations found in this complaint(s) include:				
43	A single appraisal instance of misconduct?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
44	Multiple appraisal instances of misconduct?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3.	Does the appraisal report(s) or the instance of misconduct directed at:				
45	A financial institution or their agent contemplating a lending decision based in part, on the appraisal report(s) or conduct at issue?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
46	The Texas Appraiser Licensing and Certification Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Disposition Factor Analysis Worksheet
Page 1 of 6

TALCB COMPLAINT PROCESS OVERVIEW

INVESTIGATOR WILL:

***Forward Investigation Report and DFAW
to Agency Attorney***

COMPLAINT CASE RESOLUTION

***WHAT HAPPENS AFTER THE
INVESTIGATION IS COMPLETE?***

COMPLAINT CASE RESOLUTION

When a complaint has been completely investigated, 3 different outcomes are possible:



Dismissal of the complaint case



Resolution by agreed discipline



Resolution through a disciplinary hearing

COMPLAINT CASE RESOLUTION



With a **Contingent Dismissal** the complaint is deferred during a prescribed time period in which courses, mentorship or other requirements are completed

COMPLAINT CASE RESOLUTION



*With a Contingent Dismissal
if all conditions of the
“contingent dismissal”
agreement are met, the case
is **dismissed** with a **non-
disciplinary** warning letter*

COMPLAINT CASE RESOLUTION



A Contingent Dismissal is usually done by e-mail, not published on website, and **not considered** a discipline

COMPLAINT CASE RESOLUTION



***Approximately **70%** of
formal complaints are
resolved with a dismissal or
Contingent Dismissal***

COMPLAINT CASE RESOLUTION



*Approximately 70% of
formal complaints are
resolved with a dismissal or
Contingent Dismissal*

COMPLAINT CASE RESOLUTION

POINTS TO REMEMBER:

CONTINGENT DISMISSAL: Dismissal of a complaint case may occur after successful completion of “contingent dismissal” requirements

COMPLAINT CASE RESOLUTION

POINTS TO REMEMBER:

Prosecution of the complaint is deferred during a prescribed time period in which courses, mentorship or other requirements are completed

COMPLAINT CASE RESOLUTION

POINTS TO REMEMBER:

If all conditions of the “contingent dismissal” agreement are met, the case is dismissed with a non-disciplinary warning letter

COMPLAINT CASE RESOLUTION



*Agreed
Discipline*

Agreed Final Order occurs
***after consultation
between TALCB
Attorney and appraiser
and/or his/her attorney***

COMPLAINT CASE RESOLUTION



*Agreed
Discipline*

*Agreed Final Order contains
“Findings of Fact” and
“Conclusions of Law”
specifying the deficiencies
found, signed and notarized
by the appraiser*

COMPLAINT CASE RESOLUTION



*Agreed
Discipline*

*Agreed Final Order
requires courses,
mentorship, and/or
monitoring*

COMPLAINT CASE RESOLUTION



*Agreed
Discipline*

*Agreed Final Order
possibly imposes
administrative penalties,
probated suspension or
probated revocation*

COMPLAINT CASE RESOLUTION



*Agreed
Discipline*

*If the **terms are not met**
an Agreed Final Order
automatically imposes
suspension and **\$1,000**
administrative penalty*

COMPLAINT CASE RESOLUTION



*Agreed
Discipline*

An Agreed Final Order is a formal written document, published on website, and considered a discipline

COMPLAINT CASE RESOLUTION



*Disciplinary
Hearing Process*

***State Office of
Administrative Hearing
("SOAH") is a
Semi-formal process***

COMPLAINT CASE RESOLUTION



*Disciplinary
Hearing Process*

*In an Administrative Hearing
("SOAH") an Administrative
Law Judge runs hearing,
takes testimonial/evidence,
and*

COMPLAINT CASE RESOLUTION



*Disciplinary
Hearing Process*

*In an Administrative
Hearing (“SOAH”)
makes a written Proposal
for Decision (“PFD”) within
60 days.*

COMPLAINT CASE RESOLUTION

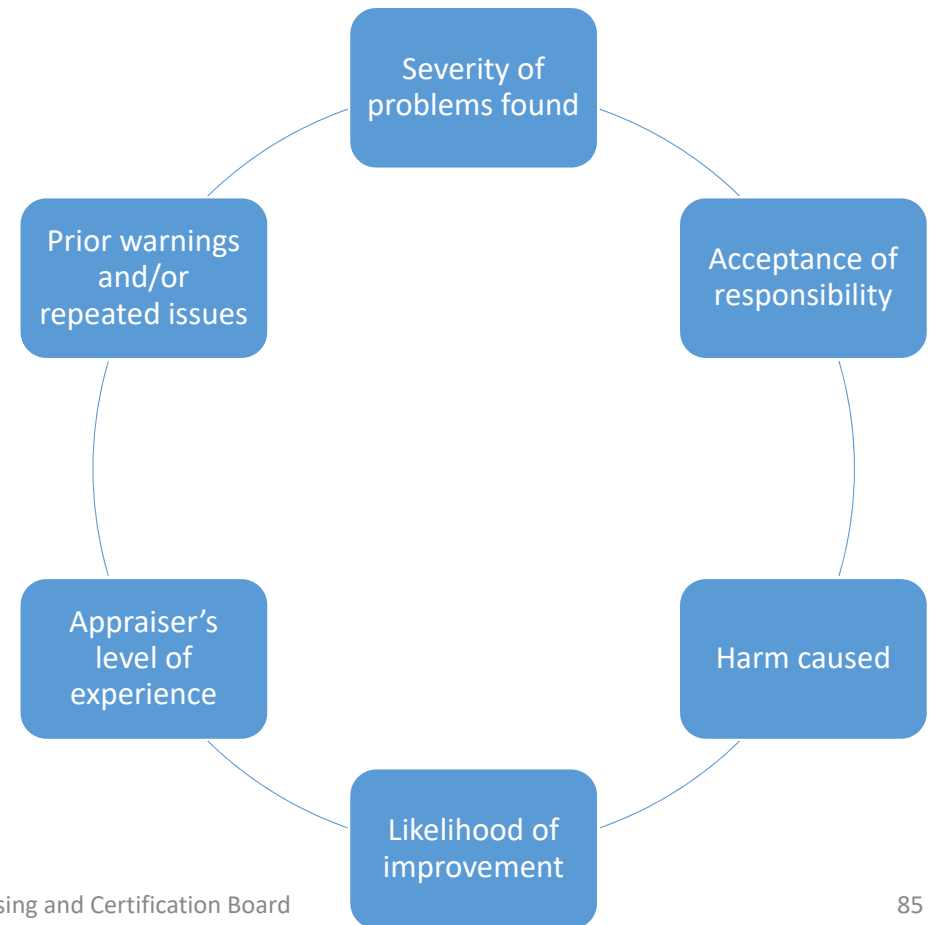


*Disciplinary
Hearing Process*

*In an Administrative
Hearing (“SOAH”) the
Board will issue **“Final
Order”** at their quarterly
meeting*

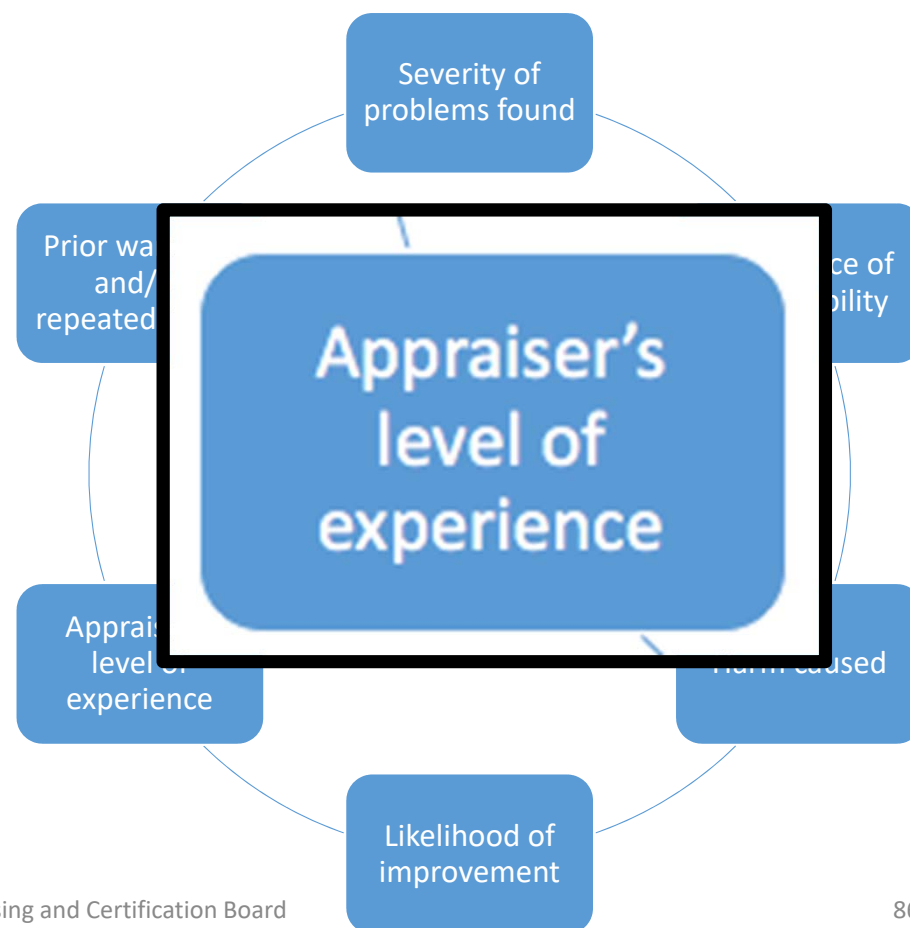
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Based upon statute and Board's penalty matrix [Rule 153.24(k)(2)] and affected by



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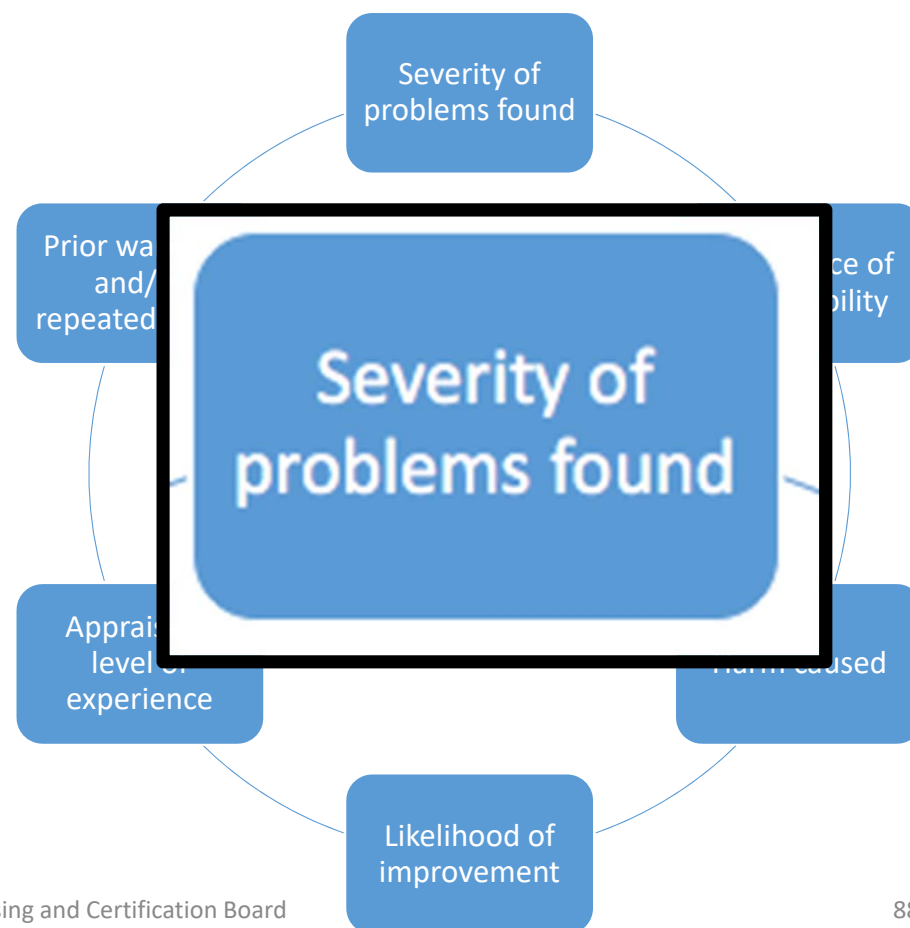
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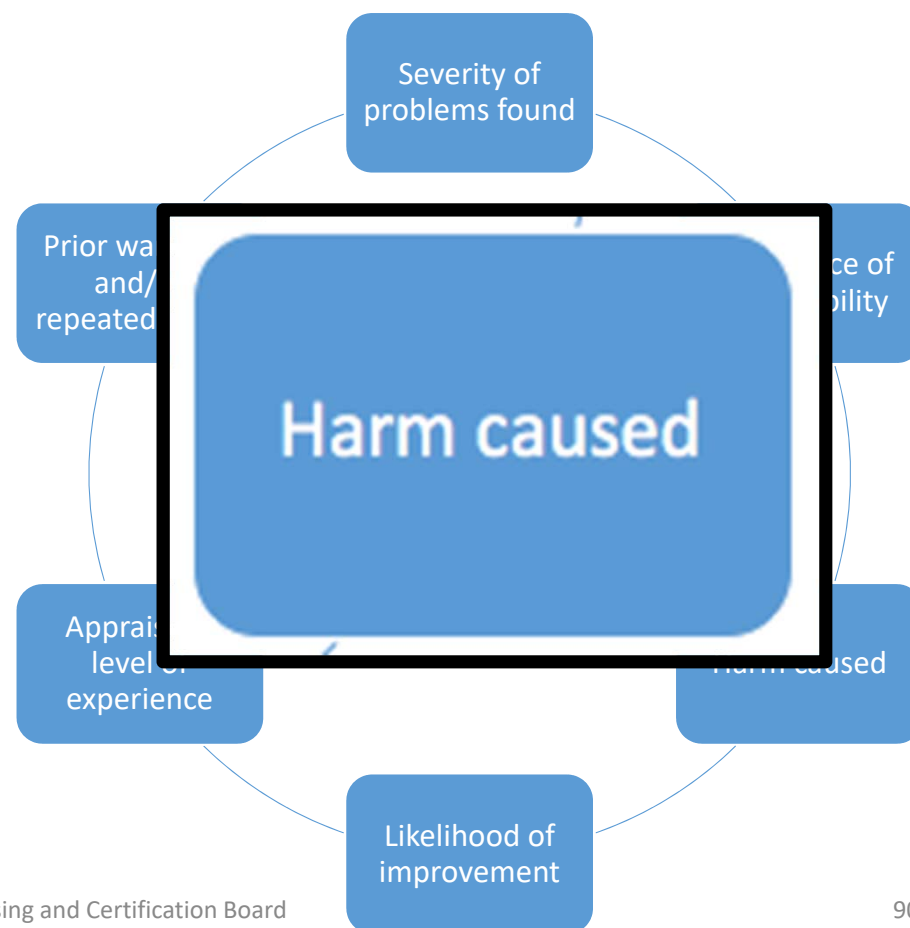
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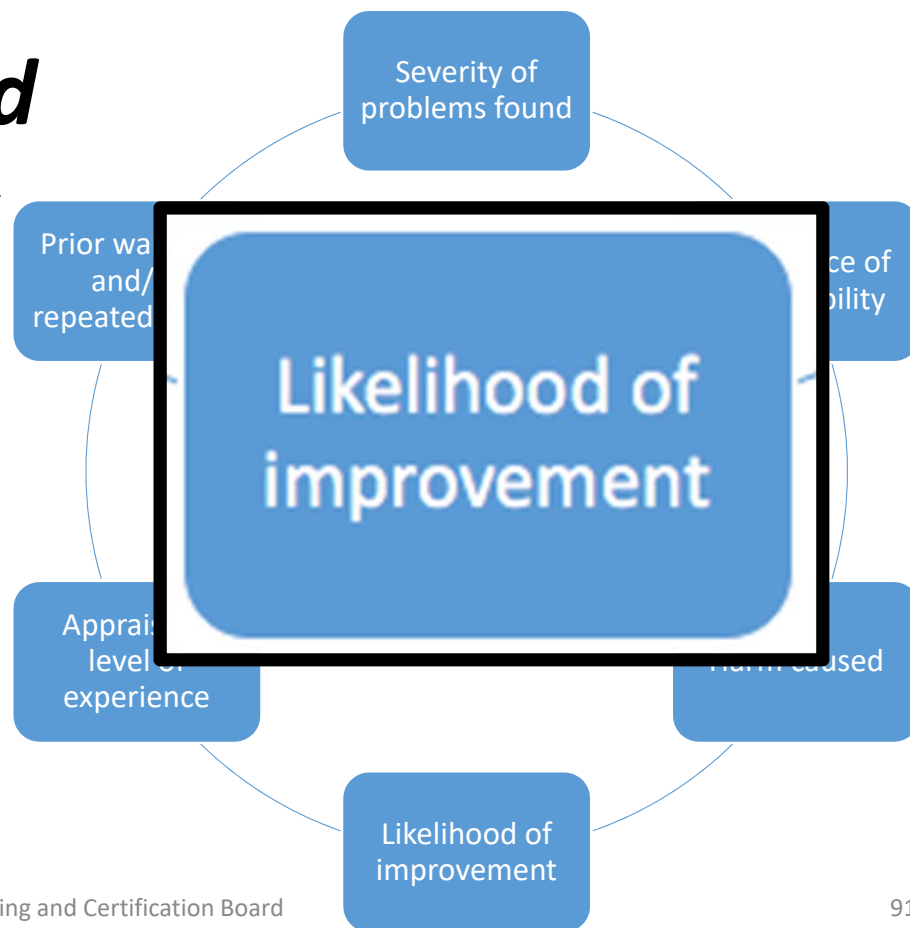
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DISCIPLINARY SANCTIONS

Disciplinary Sanctions Can Include:

Public reprimand

Administrative penalties

Remedial Education

DISCIPLINARY SANCTIONS

Disciplinary Sanctions Can Include:

***Mandatory Mentorship – with
Board approved mentor***

Re-examination – retake the exam

***Experience Logs – submission & evaluation of work
product***

DISCIPLINARY SANCTIONS

DISCIPLINARY SANCTIONS CAN INCLUDE:

Suspension – period of time during which license or certification is suspended and appraiser cannot practice

Revocation – license or certification is revoked by the Board and appraiser can no longer practice

COMPLAINT CASE RESOLUTION

VOLUNTARY SURRENDER - *In cases involving serious violations that warrant revocation, an appraiser may be offered the opportunity to **voluntarily surrender** their license / certification in lieu of proceeding further with the complaint*

COMPLAINT CASE RESOLUTION

VOLUNTARY SURRENDER

***Voluntary surrender affidavit is signed /
notarized by the appraiser***

***Board accepts the surrender and enters a final
order***

COMPLAINT CASE RESOLUTION

VOLUNTARY SURRENDER

Affidavit **does not** contain factual findings or legal conclusions related to the complaint allegations

COMPLAINT CASE RESOLUTION

PROBATION – *all or a portion of a sanction* can be *probated* with or without terms and conditions, including:

Requiring appraiser to not supervise trainees
Submission of quarterly experience logs and affidavits

COMPLAINT CASE RESOLUTION

PROBATION – *all or a portion of a sanction can be probated with or without terms and conditions, including:*

Submission of written reports after attending remedial education

Mandatory mentorship

Instituting office policies or procedures

COMPLAINTS

***DETAILS
and
OTHER
STUFF***



INVESTIGATIVE CONFERENCES

Conference between TALCB Staff and appraiser to foster resolution:

*Statement of Investigative Conference
Procedures and Rights provided
Attending an investigative conference is
VOLUNTARY*

INVESTIGATIVE CONFERENCES

Conference between TALCB Staff and appraiser to foster resolution:

The appraiser can **decline to answer** questions posed by Staff

Appraiser may **request a copy** of the investigative report in advance of the conference

INVESTIGATIVE CONFERENCES

Conference between TALCB Staff and appraiser to foster resolution:

Specific statements made during the informal conference **cannot** be introduced as evidence at a trial

INVESTIGATIVE CONFERENCES

Conference between TALCB Staff and appraiser to foster resolution:

The responding appraiser may bring **legal counsel** or an advocate, etc.

The conference **can be terminated** at any time

MENTORING

What is a Mentor?

A mentor is an appraiser who has applied to and been approved by the Board to act as a mentor

MENTORING

What is a Mentor?

Mentoring arrangements represent a private agreement between the appraiser and the mentor. Negotiated items include:

Fees – Location - Timing

MENTORING

Requirements to become a mentor:

***10+ years as a certified residential or
certified general appraiser***

***In good standing in Texas and other
state(s) of licensure/certification, with no
disciplinary history***

MENTORING

Requirements to become a mentor:

***Either an AQB-Certified USPAP Instructor,
or hold a recognized appraiser
designation and be approved to instruct
courses to obtain that designation***

MENTORING

What is a Mentor?

A list of approved mentors is provided to the appraiser

MENTORING

Requirements to become a mentor:

***Be in good standing, with
no formal disciplines***

PEER INVESTIGATIVE COMMITTEE

WHAT IS THE PEER INVESTIGATIVE COMMITTEE (PIC)?

A committee of appraisers organized to assist the TALCB in reviewing appraisal reports

PICs are chaired by a Board member

PEER INVESTIGATIVE COMMITTEE

WHO ARE PIC MEMBERS?

PIC members are appraisers who agrees to serve for a two-year period (individuals may be reappointed) and

PEER INVESTIGATIVE COMMITTEE

WHO ARE PIC MEMBERS?

are asked to assist TALCB in performing **appraisal reviews** as part of a **complaint** investigation or an application for review of **trainee work product**

PEER INVESTIGATIVE COMMITTEE

WHO ARE PIC MEMBERS?

***All committee members are
AQB-Certified USPAP Instructors***

DISCIPLINARY HEARING PROCESS

***WHAT IF MY CASE HAS TO
GO TO TRIAL?***

DISCIPLINARY HEARING PROCESS

WHERE DO UNRESOLVED CASES GO?

***State Office of Administrative Hearings
("SOAH") – hears all complaint cases that are
not resolved***

***Composed of administrative law judges
("ALJ") (lawyers)***

DISCIPLINARY HEARING PROCESS

WHERE DO UNRESOLVED CASES GO?

*State Office of Administrative Hearings
("SOAH") –*

Acts as judge to address legal issues
Acts as fact finder to resolve disputed issues

DISCIPLINARY HEARING PROCESS

HOW DOES THE HEARING PROCESS GET STARTED?

***Statement of Charges (“SOC”) filed and served
Outlines the legal and factual allegations TALCB
is making against the appraiser (board rules,
USPAP provisions, provisions of statute etc.)***

DISCIPLINARY HEARING PROCESS

HOW DOES THE HEARING PROCESS GET STARTED?

***Notice of Hearing (“NOH”) filed and served
Outlines the time, place and location of the
hearing, the legal authority for it and
incorporates the SOC into it***

DISCIPLINARY HEARING PROCESS

HOW DOES THE HEARING PROCESS GET STARTED?

After getting notice of the disciplinary charges the appraiser files an Answer to charges

Discovery Process: Exchange of information about the case between the lawyers / parties

DISCIPLINARY HEARING PROCESS

HOW DOES IT WORK?

Rules of procedure and evidence apply

We make our case -- testimony and documents

Record of testimony and evidence is kept

DISCIPLINARY HEARING PROCESS

HOW DOES IT WORK?

***Appraiser makes their case the same way
Oral arguments (Opening / Closing
Statements) are made***

DISCIPLINARY HEARING PROCESS

HOW DOES IT WORK?

Depositions – take a witness’s testimony under oath before a court reporter who records everything

Written Discovery

DISCIPLINARY HEARING PROCESS

HOW DOES IT WORK?

ALJ has 60 days to make a written decision

Factual Findings – what are the facts

Legal Conclusions – what are the legal results

DISCIPLINARY HEARING PROCESS

WHAT HAPPENS AFTER THE HEARING?

***Judge's decision is sent to all parties
Opportunity to file responses to the judge's
decision and request modifications***

DISCIPLINARY HEARING PROCESS

WHAT HAPPENS AFTER THE HEARING?

Exceptions / Replies

Judge will rule on the exceptions

***Judge's final decision is sent to Board for
action***

DISCIPLINARY HEARING PROCESS

WHAT DOES THE BOARD DO?

Board will enter a Final Order based on the judge's proposal for decision ("PFD")

DISCIPLINARY HEARING PROCESS

WHAT DOES THE BOARD DO?

***Oral presentation made by both sides to Board.
Only the evidentiary record from SOAH***

DISCIPLINARY HEARING PROCESS

WHAT HAPPENS AFTER THE BOARD SIGNS A FINAL ORDER?

Final Order takes effect UNLESS Appraiser Appeals via proper process...

DISCIPLINARY HEARING PROCESS

Appraiser must file motion for rehearing within 20/25 days of receiving the final order

Board rules on whether a new hearing is needed so that justice is served

Very narrow grounds for giving a new trial

DISCIPLINARY HEARING PROCESS

***After exhaustion of Board remedies, appraiser
must file lawsuit within 30 days in Travis
County District Court***

Heightened standard of review

COMMON USPAP VIOLATIONS

***What are some of the USPAP violations
Board Staff sees frequently?***

COMMON USPAP VIOLATIONS DEVELOPMENT

*Credible assignment results **require support** by **relevant evidence and logic**. The credibility of assignment results is always measured in the context of the intended use.*

Source: 2016-2017 USPAP – SCOPE OF WORK RULE

COMMON USPAP VIOLATIONS DEVELOPMENT

In developing a real property appraisal, an appraiser must:

(a) be **aware of, understand, and correctly employ** those **recognized methods and techniques** that are necessary to produce a credible appraisal;

Source: 2016-2017 USPAP – Standards Rule 1-1

COMMON USPAP VIOLATIONS DEVELOPMENT

COMMON DEVELOPMENT VIOLATIONS:

Highest and best use analysis (lack of)

COMMON USPAP VIOLATIONS DEVELOPMENT

COMMON DEVELOPMENT VIOLATIONS:

Not selecting most similar sales without explanation

COMMON USPAP VIOLATIONS DEVELOPMENT

COMMON DEVELOPMENT VIOLATIONS:

Making adjustments in the sales comparison approach without market-related analysis

COMMON USPAP VIOLATIONS DEVELOPMENT

COMMON DEVELOPMENT VIOLATIONS:

Not employing recognized methods and techniques in estimating site value

Not basing estimates of effective age or accrued depreciation evidence and logic

COMMON USPAP VIOLATIONS DEVELOPMENT

COMMON DEVELOPMENT VIOLATIONS:

*Making extraordinary assumptions which
do not produce credible results*

COMMON USPAP VIOLATIONS DEVELOPMENT

COMMON DEVELOPMENT VIOLATIONS:

Not selecting most similar rental comparables without explanation

COMMON USPAP VIOLATIONS DEVELOPMENT

COMMON DEVELOPMENT VIOLATIONS:

Making adjustments in the Income approach without market-related analysis

COMMON USPAP VIOLATIONS DEVELOPMENT

COMMON REPORTING VIOLATIONS:

Producing a misleading appraisal report

COMMON USPAP VIOLATIONS DEVELOPMENT

COMMON REPORTING VIOLATIONS:

***Not providing sufficient information to
allow intended user(s) to properly
understand the report properly***

COMMON USPAP VIOLATIONS

Failing to maintain an adequate work file

Failure to summarize supporting reasoning

Failure to report and/or address zoning, easements, deed restrictions, flood plain or other issues that may impact highest and best use

COMMON USPAP VIOLATIONS

Failure to disclose prior sales and/or listing history of the subject

Failure to accurately report “economic supply and demand” and “market area trends”

COMMON USPAP VIOLATIONS

WOULD A PROSPECTIVE BUYER WANT TO KNOW?



COMMON USPAP VIOLATIONS

Misrepresentations about the inspection

Failure to address seller concessions

Misrepresentations about the scope of work

COMMON USPAP VIOLATIONS

Where Does Little Johnny Want to Live?

COMMON USPAP VIOLATIONS

SUBJECT PROPERTY



COMPARABLE



COMMON USPAP VIOLATIONS

SUBJECT PROPERTY



9/12/17

COMPARABLE



Texas Appraiser Licensing and Certification Board

150

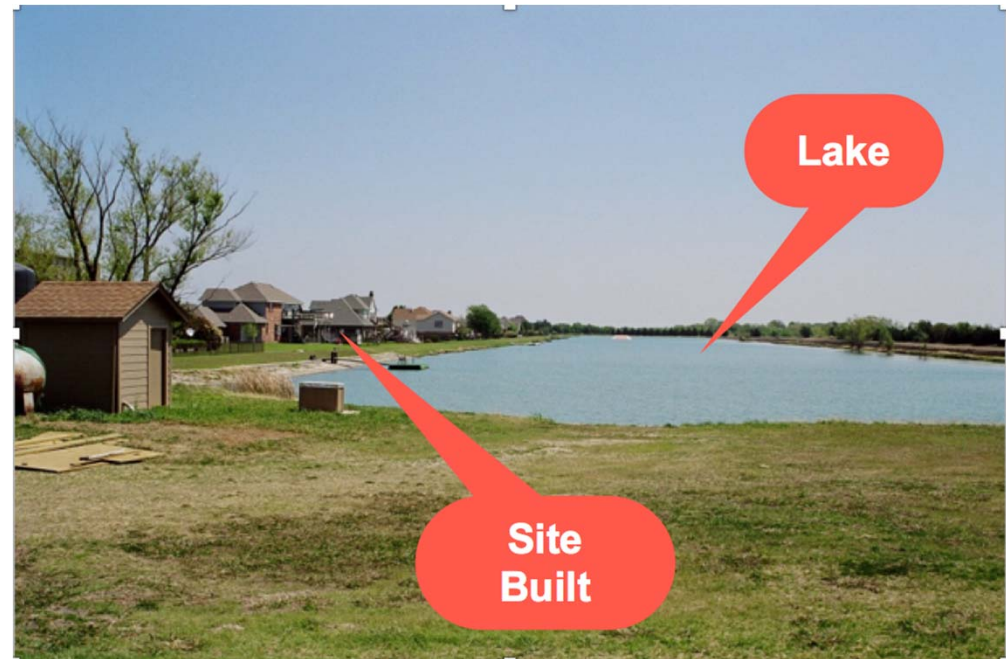
COMMON USPAP VIOLATIONS

SUBJECT PROPERTY



9/12/17

COMPARABLE



Texas Appraiser Licensing and Certification Board

151

COMMON USPAP VIOLATIONS

SUBJECT PROPERTY



\$796,300 MEAN
\$765,000 MEDIAN

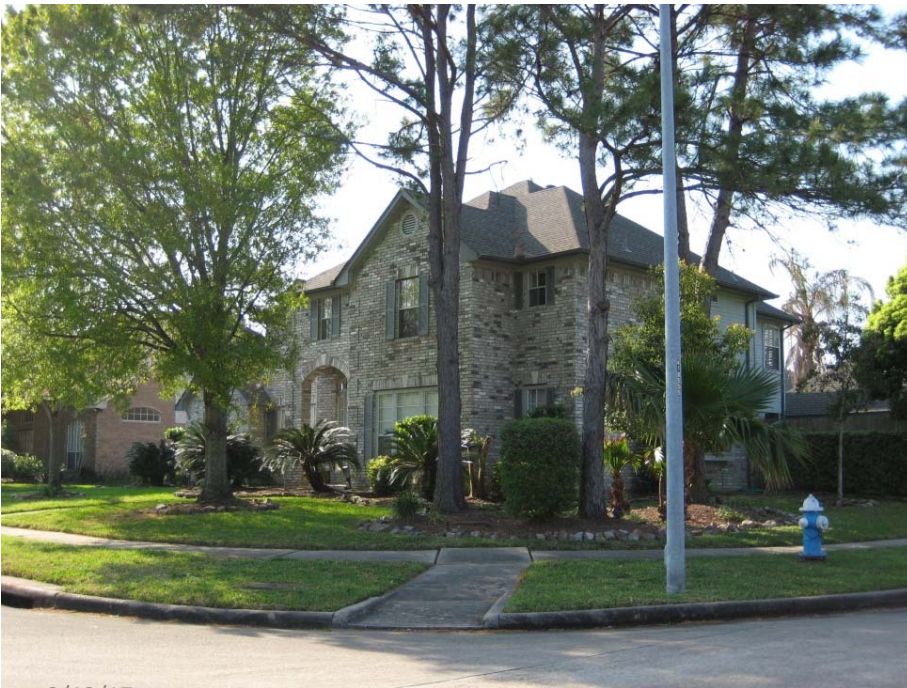
COMPARABLE



\$1,430,916 MEAN
\$1,519,000 MEDIAN

COMMON USPAP VIOLATIONS

RESIDENTIAL SUBDIVISION



9/12/17

Texas Appraiser Licensing and Certification Board

ADJACENT TO BEACH



153

COMMON USPAP VIOLATIONS

PHOTOGRAPH OF COMPARABLE



ACTUAL COMPARABLE PROPERTY



OTHER COMMON COMPLAINT ISSUES

Please don't ignore us!

Pick up any mail we send you. If there is a issue, ignoring it will not make it go away



OTHER COMMON COMPLAINT ISSUES

Please don't ignore us!

Make timely responses, or if you have good reason ask for an extension

If you don't respond in a timely fashion we may have only an incomplete picture

OTHER COMMON COMPLAINT ISSUES

Please don't ignore us! - Open your mail- Actual case



OTHER COMMON COMPLAINT ISSUES

Please don't ignore us! - Open your mail- Actual case

FOUR TIMES !!!!!

Unopened

Certified
Mail

OTHER COMMON COMPLAINT ISSUES

Not being forthright

*If there are errors or oversights **recognizing** (and admitting) to them is important*

*Let's us know you're **willing** to learn and change incorrect or insufficient processes*

OTHER COMMON COMPLAINT ISSUES

Not being forthright

*Give us a comfort level that we're dealing with
a **solvable problem***

If you lie to us (Ethics), all bets are off

OTHER COMMON COMPLAINT ISSUES

When submitting your work file don't create new documents or pictures!

We look at dates and check sources

If your workfile is deficient, that alone rarely results in **significant** disciplinary action

OTHER COMMON COMPLAINT ISSUES

When submitting your work file don't create new documents or pictures!

Padding the file after the fact **creates** more questions and suspicions

OTHER COMMON COMPLAINT ISSUES

When submitting your work file don't create new documents or pictures!

You **can** supplement your work file to support your reasoning **if you properly disclose** that the supplement wasn't originally in your work file

OTHER COMMON COMPLAINT ISSUES

Complainant asserts over or undervaluation
Is this alone actionable?

OTHER COMMON COMPLAINT ISSUES

NO – Value opinion is a matter of professional judgment

However, USPAP requires it is supported by relevant evidence and logic

OTHER COMMON COMPLAINT ISSUES

Complainant asserts over or undervaluation

Is this alone actionable?

***Does the investigation sometimes reveal
OTHER problems which are actionable?***

OTHER COMMON COMPLAINT ISSUES

*Does the investigation sometimes reveal
OTHER problems which are actionable?*

YES – Remember ASC Policy Statement 7

***Once it becomes a formal complaint we
must look beyond the allegations.***

OTHER COMMON COMPLAINT ISSUES

Complainant asserts over or undervaluation

Is this alone actionable?

***Even if it doesn't, who wants to spend time
responding to a complaint due to careless
mistakes or omissions***

OTHER COMMON COMPLAINT ISSUES

Careless reporting of facts

*Small things **do** matter*

*Finding factual inaccuracies Clients **begin to question** the appraisal*

*They **wonder** if your value opinion is **credible***

OTHER COMMON COMPLAINT ISSUES

Careless Reporting of Facts

What has shown up in complaints?

- ***Incorrect zoning***
- ***Inaccurate measurement of site or improvements (GLA)***
- ***Incorrect description of actual age, bedrooms, baths, fireplaces, etc.***

OTHER COMMON COMPLAINT ISSUES

Careless Reporting of Facts

What has shown up in complaints filed?

- ***Undocumented outbuildings***
- ***Missing pools***
- ***Errant garages***
- ***Omitted identification of externalities -
Power lines/Greenbelt/Lakes/Gas
Wells/Commercial***

OTHER COMMON COMPLAINT ISSUES

Don't try to baffle us with industry jargon

***Unlike some states, our investigators are
all state certified appraisers with
extensive and varied commercial and
residential backgrounds***

Each has over 20+ years in appraising

OTHER COMMON COMPLAINT ISSUES

Don't try to baffle us with industry jargon

Investigators are full-time employees who only do TALCB investigations (or teach)

They can usually identify when things don't look right or make sense

(Think recognized methods and techniques and USPAP)

OTHER COMMON COMPLAINT ISSUES

*Don't try to baffle
us with industry
jargon*

***Your complaint is
not our first
rodeo!***



OTHER COMMON COMPLAINT ISSUES

IT MAY BE BIGGER THAN JUST THE TALCB

URAR Certification # 25

Any intentional or negligent misrepresentation(s) contained in this appraisal report may result in civil liability and/or criminal penalties



OTHER COMMON COMPLAINT ISSUES

IT MAY BE BIGGER THAN JUST THE TALCB

URAR Certification # 25

***including, but not limited to, fine
or imprisonment or both under
the provisions of Title 18, United
States Code, Section 1001,
et seq., or similar state laws.***



EXPERIENCE AUDITS

EXPERIENCE AUDITS

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

EXPERIENCE AUDITS

EXPERIENCE AUDITS-WHAT QUALIFIES:

***Appraisals in compliance with
STANDARDS 1 & 2***

EXPERIENCE AUDITS

EXPERIENCE AUDITS-WHAT QUALIFIES:

***Mass Appraisal in compliance with
STANDARD 6***

&

***Demonstrates proficiency of skills under
STANDARD 1***

EXPERIENCE AUDITS

EXPERIENCE AUDITS-WHAT QUALIFIES:

***Appraisal Reviews in compliance with
STANDARD 3***

&

***Demonstrates proficiency of skills under
STANDARD 1***

EXPERIENCE AUDITS

EXPERIENCE AUDITS-WHAT QUALIFIES:

***Appraisal Consulting in compliance with
STANDARDS 4 & 5***

&

***Demonstrates proficiency of skills under
STANDARD 1***

EXPERIENCE AUDITS

EXPERIENCE AUDITS-WHAT QUALIFIES:

***Complies with the USPAP edition in effect
at the time of the appraisal***

EXPERIENCE AUDITS

EXPERIENCE AUDITS-WHAT QUALIFIES:

Is **verifiable** and **supported** by **work files** in which the applicant is identified as participating in the appraisal process

EXPERIENCE AUDITS

EXPERIENCE AUDITS-WHAT QUALIFIES:

***Appraisal report in which the Applicant is
named in the certification as providing
significant real property appraisal
assistance; or***

EXPERIENCE AUDITS

EXPERIENCE AUDITS-WHAT QUALIFIES:

***The Applicant has signed the
appraisal report***

EXPERIENCE AUDITS

EXPERIENCE AUDITS-WHAT QUALIFIES:

***Was performed when the applicant had
legal authority to do so***

EXPERIENCE AUDITS

EXPERIENCE AUDITS-WHAT QUALIFIES:

Complies with the **acceptable categories** of **experience** established by the **AQB** and stated in the **TALCB Rules**

EXPERIENCE AUDITS

EXPERIENCE AUDITS-WHAT QUALIFIES:

***Experience credit may **NOT** be awarded
for teaching appraisal courses.***

EXPERIENCE AUDITS

EXPERIENCE AUDITS-PROCESS:

***Applicant submits
Appraisal Experience Log
and Appraisal Experience
Affidavit listing every
assignment***



The image shows a form titled "APPRAISAL EXPERIENCE LOG" from the Texas Appraiser Licensing and Certification Board (TALCB). The form includes a header with the TALCB logo and contact information. Below the header, there are fields for "Applicant Name", "Certification, License or Texas Authorization Number", "Supervising Appraiser Name", and "Supervising Appraiser Certification Number". The main body of the form is a table with columns for "Report Date", "Subject Location (address, city, state)", "Report Type", "Type of Property", "Report Appraisal Method", "Date", and "Name". The table has multiple rows for data entry. To the right of the table, there is a vertical column of checkboxes for various appraisal methods and standards. At the bottom of the form, there are signature lines for the "Supervising Appraiser" and "Applicant", along with dates. A "TOTALS" section is also present at the bottom left of the table area.

EXPERIENCE AUDITS

EXPERIENCE AUDITS-PROCESS:

Board will request a minimum of two sample files selected from the Appraisal Experience Log

EXPERIENCE AUDITS

EXPERIENCE AUDITS-PROCESS:

Applicant has 60 days to supply appraisal reports and related workfiles

EXPERIENCE AUDITS

EXPERIENCE AUDITS-PROCESS:

Failure to comply with a request for documentation may result in denial of a license application

EXPERIENCE AUDITS

EXPERIENCE AUDITS-PROCESS:

Investigator reviews appraisal reports and workfiles for **general compliance** with USPAP, the Act, and Board Rules

EXPERIENCE AUDITS

EXPERIENCE AUDITS-PROCESS:

If some issues found, but can be corrected through more experience/education a Contingent Approval is possible

EXPERIENCE AUDITS

***SUPERVISORY APPRAISERS AND TRAINEES:
WHAT TO BE CAREFUL ABOUT?***

EXPERIENCE AUDITS

*Serving as a supervisory appraiser is a **VOLUNTARY, legal obligation** – 22 TEX. ADMIN. CODE §§ 153.20(a)(15) and 153.21(e)*

*Obligation of supervisory appraiser is to: “**diligently supervise the appraiser trainee**” under his or her supervision*

EXPERIENCE AUDITS

Direct supervision and training as necessary

***Ongoing training and supervision as necessary
after the supervisory appraiser determines that
the trainee no longer requires direct supervision***

EXPERIENCE AUDITS

***Note: These requirements also extends to:
“any person not licensed or certified under the
Act who assists the license holder in performing
real estate appraiser services”***

22 Tex. Admin. Code § 153.20(a)(15)

EXPERIENCE AUDITS

Communication with and accessibility to the trainee

Review and quality control of the trainee's work

EXPERIENCE AUDITS

Note: The Supervisory Appraiser is **affirming** information to the Board when he/she signs the **Appraisal Experience Log**

NEW DEVELOPMENTS

WHAT'S NEW AT TALCB THAT IMPACTS APPRAISERS?

VOLUNTARY TRAINEE REVIEWS

Voluntary Trainee Reviews

Trainee may apply for PLC review of work product prior to experience audit

Up to two reviews allowed

After 500 and 1,000 hours

VOLUNTARY TRAINEE REVIEWS

Voluntary Trainee Reviews

***Trainee must submit form
(Application for Review of Trainee Work Product)***

Pay \$75 fee

Send in appraisal report and work file

VOLUNTARY TRAINEE REVIEWS

Voluntary Trainee Reviews

***PIC will review and staff will notify
Trainee in writing of findings***

VOLUNTARY TRAINEE REVIEWS

Voluntary Trainee Reviews

Note: Should there be **material issues Trainee** will have **immunity** if mere negligence

No one has immunity for gross negligence or intentional bad conduct

REINSTATEMENT OF LICENSE

Reinstatement of License Requirements

***Rules have been changed to facilitate appraisers
who's license expired***

The steps are:

REINSTATEMENT OF LICENSE

Reinstatement of License Requirements

Pay the applicable **fee**

Satisfy Board as to **honesty, trustworthiness, and integrity**

REINSTATEMENT OF LICENSE

Reinstatement of License Requirements

Satisfy **experience** requirements

Satisfy **fingerprint and criminal history check**

REINSTATEMENT OF LICENSE

Reinstatement of License Requirements

Provides for recognition of previous experience by requiring **experience verification** of the greater of ten reports or 10% of applicable hours (depending on license)

REINSTATEMENT OF LICENSE

Reinstatement of License Requirements

***Demonstrate completion of **14 hours** of
appraiser continuing education for **each year**
since the last renewal of previously held license***

REINSTATEMENT OF LICENSE

Reinstatement of License Requirements

***Following applies only to applications for
reinstatement of a previously held license that
has expired less than five years and has
workfiles***

Submit an application for reinstatement

REINSTATEMENT OF LICENSE

Reinstatement of License Requirements

Satisfy **experience** requirements

Satisfy **fingerprint** and **criminal history** check

REINSTATEMENT OF LICENSE

Reinstatement of License Requirements

Still requires passing new experience audit

REINSTATEMENT OF LICENSE

Reinstatement of License Requirements

At the Board's discretion may waive

Proof of **qualifying education**

College **education or degree requirement**

REINSTATEMENT OF LICENSE

Reinstatement of License Requirements

At the Board's discretion may waive

Examination for persons whose appraiser license has been expired for less than five years

REINSTATEMENT OF LICENSE

Reinstatement of License Requirements

***Following applies only to applications for
reinstatement of a previously held license that has
expired more than five years or does not have
workfiles***

Apply for Trainee status

REINSTATEMENT OF LICENSE

Reinstatement of License Requirements

Gain required experience (as detailed above)

***Apply for **same** level of appraiser
license as previously held***

REINSTATEMENT OF LICENSE

Reinstatement of License Requirements

The Board may:

Reinstate the applicant's previous appraiser license;
Reinstate upon completion of additional education,
experience or mentorship; or
Deny the application.

IDENTITY THEFT

Identity Theft

Rule created to address ID theft issues

***Requires notice to TALCB within 90 days by
filing a complaint***

Receive new license issued at no cost to you

IDENTITY THEFT

Identity Theft

Engaging in **identity theft** in order to perform appraisals by a person is not legally permitted to perform **constitutes a violation**

May also be **referred** to the appropriate **law enforcement agency** for criminal prosecution

Q & A SESSION

Ask the Attorney?

Ask the Investigator?

REMINDER

***IF YOU HAVE ANY
QUESTIONS OR CONCERNS
IN THE FUTURE***

***CALL / E-MAIL US **FIRST** TO
DISCUSS THINGS***



CONTACT INFORMATION

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 - E-mail: mark.lee@talcb.texas.gov
- James E. Jacobs (Investigator)
 - Phone: (903) 893-2795
 - E-mail: jim.jacobs@talcb.texas.gov

ADDRESS: 1700 N. Congress, Austin, Texas (Stephen F. Austin state building)