



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-1166
615-741-1831

October 14th, 2013
Minutes
First Floor Conference Room (1-A)
Davy Crockett Tower

The Tennessee Real Estate Appraiser Commission met on October 14th, 2013 in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Chairman Green called the meeting to order at 10:05 a.m. and the following business was transacted.

COMMISSION MEMBERS PRESENT

Michael Green
Mark Johnstone
Norman Hall
Rosemarie Johnson
Nancy Point
Timothy Walton
Eric Collinsworth
Gary Standifer

COMMISSION MEMBERS ABSENT

Dr. Edward A. Barylka

STAFF MEMBERS PRESENT

Nikole Avers, Keeling Baird, Dennis O'Brien

ADOPT AGENDA

The Board adopted the agenda as written and Mr. Green read the public meeting statement into the record which indicated the agenda was posted to the Tennessee Real Estate Appraiser Commission website on September 25th, 2013.

MINUTES

The September 16th, 2013 minutes were reviewed. Mr. Hall made the motion to accept the minutes as written. It was seconded by Ms. Johnson. The motion carried unopposed.

OCTOBER 2013 - EDUCATION COMMITTEE REPORT

Dr. Barylka reviewed the submissions for course approval and communicated his recommendations by email to the Real Estate Appraiser Commission. Director Avers read them into the record, as below:

| Course Provider | Course Number | Course Name | Instructors | Hours Requested by Provider | Type | Rec. |
|-----------------|---------------|-------------------------------------|---|-----------------------------|------|------|
| NBI, Inc. | 1692 | Eminent Domain From Start to Finish | Jamison W. Allen, Bruce D. Brooke, R. Porter Field, John K. Walsh, Richard L. Winchester Jr., | 7 | CE | for |

| | | | | | | |
|-------------------------------|------|--|-------------------|---|----|-----|
| Georgia Appraiser School, LLC | 1693 | 2014-2015 7-Hour National USPAP Update | John P. Smithmyer | 7 | CE | for |
| NAIFA | 1694 | Residential Narrative Report Writing | Michael Orman | 7 | CE | for |

Individual Course Approval Requests

| Licensee | Course Provider | Course Name | Hours | Type | Rec. |
|-------------------------|--|-----------------------------------|-------|------|------|
| David C. Horner (4242) | IAAO (International Association of Assessing officers) | 102. Income Approach to Valuation | 34 | CE | for |
| Glen L. McDonald (4559) | University of Memphis | Real Estate Appraisal: Procedures | 30 | QE | |

Mr. Green clarified that the recommendation was to approve all the courses approved by Dr. Baryla, except the individual course submitted by Mr. McDonald at this time, since it had not been reviewed as yet. Mr. Hall made a motion to accept the recommendation. This was seconded by Mr. Walton. The motion carried unopposed.

LEGAL REPORT

1. 2013008241

This complaint was filed by a consumer and alleged that Respondent under-valued a residential property and stated that the foundation of the Complainant's home was not set up correctly, causing Complainant to lose the loan. Complainant alleged that since 2009, he has upgraded the home with hardwood floors, ceramic tile, cabinets, etc., all of which was overlooked by Respondent during the appraisal.

Respondent provided a response to the complaint, stating that this was a VA appraisal request and was completed following VA guidelines and procedures. Respondent believes that the complaint boils down to a disagreement as to the value of the property. Respondent stated that the subject property was listed 15 months after his appraisal date for \$160,000 (Respondent's appraisal value) for 198 days before the listing expired, and the property did not sell.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- **Contract:** The appraiser did not analyze the sales contract, but stated "the sales contract appears to be a typical real estate contract." There was an addendum #1 that was signed on 4/8/2011 and a counter offer #1 rental agreement that was not analyzed along with the terms of the contract. [SR 1-5(a); SR 2-2(b)(viii)]
- **Listing/Sales History:** The appraiser did not discuss the offering price(s) and dates as required on the appraisal. The subject was listed on 10/4/2010 for \$189,900, then reduced to \$179,900 on 11/29/2010. [SR 1-5(a); SR 2-2(b)(viii)]
- **Neighborhood:** The appraiser provided no supporting data regarding market trends: property values, demand/supply, and marketing time. [SR 1-1(a)(c); SR 1-2(e)(i); SR 1-3(a); SR 2-2(b)(iii)]
- **Site:** No analysis of the highest and best use was discussed; the appraiser only used the check box on page 1 of 7. The appraiser did not address the "Property Disclosure Report" that stated the subject was located in the flood zone, that there were grading problems and required flood insurance. [SR 1-2(g); SR 1-3(a)(b)]
- **Description of Improvements:** The appraiser states on page 2 of 7 that "several cracks and voids were observed in the skirting (see attached pictures)", but under the section asking for any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property, the appraiser checked "no". He was provided a prior structural engineers' report but did not reference the existing report or call for a new structural engineers report. Since structural repairs are outside the scope of work, the appraisal should call for a new structural engineers report and not hold them out to have specific knowledge. In the

reconciliation section, the appraiser did base this on a hypothetical condition. [SR 1-2(g); SR 2-1(c); SR 2-2(b)(vii)&(viii)]

- Sales Comparison Approach: The adjustments for age difference were not applied or explained in the appraisal. Sale #1 was built in 1999, which is the same year as the subject. Sale #2 was built in 1995 and had no adjustments or explanation. Sale #3 was a newer dwelling built in 2006 and adjusted at \$356.14/year difference, with no explanation provided. [SR 2-1(b); SR 2-2(b)(iii)]
- Reconciliation: The three approaches to value were not reconciled in the reconciliation section; only the sales comparison approach was addressed. [SR 1-6 (a); SR 2-2 (b) (viii)]

Respondent’s Response to Reviewer’s Conclusions:

With regard to identification of the subject property, Respondent stated that the HUD handbook provides specific instructions on completing the URAR from under Map Reference. It states, “Enter location map reference, page number, and coordinates, from sources used. This reference should relate to the location map most commonly used in the locale.” Respondent stated he has always used the MLS map reference because this is one of the most commonly used identifying map references for their location. With regard to the contract, the sales contract was provided through the VA portal and included the contract, counter offer #1, and addendum #1. These were the documents that were reviewed and were reported as being “typical” real estate documents. With regard to listing/sales history, Respondent stated that all the listings were reviewed, and it was an oversight on his part to not report that the list price had been reduced to \$179,900 from the \$189,900 original list price. With regard to the neighborhood, this information was reported in the MC addendum-Market Condition addendum to the report. Because of the limited sales data available for the type structure (manufactured house) being appraised, market trends would not be considered reliable. With regard to site, Respondent stated he realized that additional information should be provided. Respondent stated he has attended several seminars this year, which have stressed the importance of being more complete and detailed in report writing, and he now knows to be more thorough and provide more analysis since that time. With regard to the flood statement, the FEMA flood maps were reviewed as part of Respondent’s research in this assignment, and the subject property is not identified as being in a flood area per FEMA flood map dated 8/2/2007. With regard to description of improvements, Respondent stated that he did not imply that he was an expert on structural issues and made that clear in the report. He reported what he found and provided several pictures to the lender which he believes to be sufficient for the lender to decide on a course of action. His report was made subject to repairs being made in a satisfactory manner. With regard to the sales comparison approach, it is Respondent’s opinion that age and condition adjustments are closely related. After reviewing the information that was available, he was of the opinion that no adjustments would be necessary or justified for the age/condition of sales #1 and #2, due to being in similar condition to the subject. Sale #3 was a newer unit, and the adjustment was based on observed condition after reviewing information that was available. With regard to reconciliation, Respondent stated the approaches were reconciled, according to VA guidelines and requirements.

License History: Certified Residential 11/27/1991-Present

Prior Complaint/ Disciplinary History: 201003711-Dismissed

Reasoning and Recommendation: The reviewer found several USPAP violations within the appraisal. Respondent has been a certified residential appraiser for almost twenty-two (22) years with no prior discipline. As such, Counsel recommends closure of the matter with a **Letter of Warning** addressing the reporting deficiencies identified by the reviewer.

Vote: Ms. Point made the motion to accept counsel’s recommendation as presented. This was seconded by Mr. Standifer. The motion carried unanimously.

2. 2013007651

This complaint was filed by a homeowner, who was attempting to refinance a home, and alleged that Respondent performed an inaccurate appraisal report that contained numerous errors and omissions. In

addition, the complaint alleged that the report demonstrated gross incompetence and possible negligence in its preparation.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- The original report was dated and submitted to the client on February 10, 2013. There were at least 6 subsequent revisions due to errors and mistakes in property and neighborhood description, errors in properly identifying the client, and additional addenda required by the client. The final revision was dated March 13, 2013. In the final revision submitted to the client, with a report date of March 13, 2013, the inaccurate neighborhood description and inaccurate flood plain description were not corrected. [SR 1-1(b); SR 1-1(c); SR 2-2(b)(iii)]
- The appraisal report does not have an opinion of exposure time. [SR 1-2(c), line 506; SR 2-2(b), line 766-767]
- An opinion of site value is provided in the cost approach. The following statement is provided in support of the site value opinion: “The subject site value is based on research via county auditors, public data sources and appraisal data, including, but not limited to sales and or active/pending offerings. When sales of vacant land are not available, the appraiser employs the extraction method...” Having said this, there are no vacant land sales, no analysis of any market data, and no analysis of extraction provided in the appraisal report or in the workfile. There is no specific market support of any kind for the subject’s site value opinion. Since an opinion of site value is, by definition, an appraisal, all applicable standards rules in Standard 1 and 2 are required of the appraiser. [SR 2-2(b)(viii)]; SR 1-4, line 560-561; SR 1-6(a); SR 2-1(b); Record Keeping Rule, line 299-301]
- The subject has 3.85 acres of land; all comparable sales have 1 acre or less. No adjustment is made for the substantial difference in size and no explanation is provided to support that no adjustment is needed. Comparable sales 1, 3, and 5 have in-ground pools, yet no adjustments are made and no explanation is provided to support that no adjustment is needed. No support is provided for any of the adjustments made. [SR 2-2(b)(viii)]
- The only support for market analysis trend conclusions is provided in the 1004 MC. The appraiser indicates that only 3 sales have occurred in the last 12 months and that there are currently 4 properties listed on the market. This calculates to an absorption rate of over 1 year, yet the indicated marketing time is less than 90 days. The data provided on the 1004MC is inconsistent and insufficient to develop a credible trend analysis. [SR 1-3(a), line 554-555]
- There is no statement, in the certification, that the appraiser has or has not performed any services on the subject property within the past 3-year period. [SR 2-3, line 877-879 and explained in FAQ #18]

Respondent’s Response to Reviewer’s Conclusions:

Respondent stated the flood plain description indicated as Zone X is correct. However, the Map # was not correct, as the report did indicate “area not mapped” and should have been corrected to “47187C0335F”. The neighborhood description given in the report states the neighborhood bounds as Respondent opined the area within the stated bounds to be similar in land use, within reasonable proximity to the subject, a fair mix of similar developments comparable in age and quality, and all within the high school district as the subject. The bounds described are reasonable, according to Respondent. With regard to exposure time, Respondent stated that the opinion of the reviewer was not accurate. The opinion of exposure time was developed in accordance with Standard Rule 1.2(c) and reported in accordance with Standard 2-2(b)(v) and is stated on page 12 of 29 in the sixth paragraph. Respondent stated that she had chosen three land sales within close proximity to the subject that ranged from 1.01 acres to 5 acres. She gridded these sales out by hand on the back of the order, neglected its inclusion with her submitted work file, but would be happy to forward them to our office. Respondent stated that the reviewer’s opinion on failure to provide an explanation for the lack of adjustments for site size is also inaccurate. Respondent indicated that she stated in the report that no site adjustments were deemed necessary for comparable sales 1-3 and 5, as the values were equal to or similar to that of the subject. The amenities line on the SCA grid lists the subject’s FP, fence, and storm shelter. The amenities listed for comparable sales 1, 3, and 5 included pools. The adjustment for these differences were zeroed out as to indicate they were considered to be of equal or similar market value as the amenities listed for the subject.

The data entered in the 1004MC form was taken from the comparable sales and listings found via the search perimeters as described on the form and noted at the top of the URAR. The indicated marketing time estimated at 90 days was supported by the comparable sales and listings found and utilized.

License History: Registered Trainee 10/9/1998-2/15/20003
Certified Residential 12/16/2003-Present

Prior Complaint/ Disciplinary History: 200315690-Closed with Letter of Instruction

Reasoning and Recommendation: The reviewer found several USPAP violations within the appraisal. Respondent has been a certified residential appraiser for almost ten (10) years with no prior discipline. As such, Counsel recommends Closure of this matter with a **Letter of Warning** addressing the reporting deficiencies identified by the reviewer pertaining to summarizing support for the site value opinion and adjustments in the sales comparison approach [SR 2-2 (b)], as well as the certification requirement [SR 2-3, line 877-879].

Vote: Mr. Walton made the motion to accept counsel's recommendation as presented. This was seconded by Ms. Johnson. The motion carried unanimously.

3. 2013003111, 2013003112

This complaint was filed by a consumer/property owner (who had purchased the property for the purpose of development) and alleged unprofessional conduct, bias, failure to analyze highest and best use, failure to summarize information about the comparable sales, failure to summarize relevant property characteristics, and under-valuing a 6 acre property. This is a non-residential property/right-of-way matter.

Respondent sent a response stating that all of the allegations made by Complainant are denied. As of the date of the appraisal, the property was zoned Residential R-15. The planning director indicated no approved residential plat was on file.

REVEIWER CONCLUSIONS:

After researching the information contained in the appraisal, plat maps, and physical inspection of the property, it is the reviewer's opinion that an adequate analysis of highest and best use has been determined. The final plat clearly indicates and states, "The County Regional Planning Commission granted a variance on May 13, 2002 to allow this property to be designated as a non-buildable lot. No buildable permits will be issued until this lot meets all subdivision regulations." The plat also stated, "All shaded areas are to be reserved for subsurface" and "No house structures or driveways are to be in shaded areas." Therefore, as of the date of the appraisal, it supports the opinion of highest and best use in that it is not "legally permissible" to build on this lot. The changes to the appraisal, eluded to in the complaint, do not affect the value and no value change was made in the appraisal. In summary, no USPAP violations were observed based on the reports, work files, and information provided.

Licensing History for 2013003111: Certified Residential 10/11/1991-Present

Licensing History for 2013003112: Registered Trainee 3/17/2010-Present

Disciplinary History: (2013005831-Closed)

Reasoning and Recommendation: No violations of USPAP were observed by the reviewer. As such, Counsel recommends that these matters be **closed with no further action**.

Vote: Mr. Hall made the motion to accept counsel's recommendation as presented. This was seconded by Mr. Collinsworth. The motion carried unanimously.

4. 2013005831, 2013005832

This complaint was filed by a consumer and alleged unprofessional conduct, bias, and failure to properly analyze highest and best use on the part of Respondent. Complainant also alleged that Respondent tampered with and changed the appraisal and did not give proper value to the improvements, such as the bridge crossing the river on the property, as well as a historic stone wall and other special features. Complainant alleged that when they purchased the property, it was overgrown and had not been maintained, and that \$10,000 was spent hiring a land clearing machine, which came through and turned it into a park-like setting along the river. Complainant alleged that the property is worth significantly more than the value assigned by Respondent. Complainant alleged that Respondent appears to be working directly for the City and not as an independent appraiser. In Complainant’s opinion, by offering a token amount for land owner’s property, the City is essentially using eminent domain as their primary means of land acquisition on this project, and Respondent is making this possible.

Respondent stated in his response that according to the recorded plat and the county planning commission zoning ordinance, this property cannot be improved with a residential structure as, periodically, it is under water.

Licensing History for 2013005831: Certified General 10/11/1991-Present

Licensing History for 2013005832: Registered Trainee 3/17/2010-Present

Disciplinary History: (201300311-pending)

REVEIWER CONCLUSIONS:

After researching the information contained in the appraisal, plat maps, and physical inspection of the property, it is the reviewer’s opinion that an adequate analysis of highest and best use has been determined. The final plat clearly indicates and states, “The County Regional Planning Commission granted a variance on May 13, 2002 to allow this property to be designated as a non-buildable lot. No buildable permits will be issued until this lot meets all subdivision regulations.” The plat also stated, “All shaded areas are to be reserved for subsurface” and “No house structures or driveways are to be in shaded areas.” Therefore, as of the date of the appraisal, it supports the opinion of highest and best use in that it is not “legally permissible” to build on this lot. The changes to the appraisal, eluded to in the complaint, do not affect the value and no value change was made in the appraisal. In summary, no USPAP violations were observed based on the reports, work files, and information provided.

Reasoning and Recommendation: No violations of USPAP were observed by the reviewer. As such, Counsel recommends that these matters be **closed with no further action.**

Vote: Mr. Walton made the motion to accept counsel’s recommendation as presented. This was seconded by Ms. Johnson. The motion carried unanimously.

5. 2013013371

This complaint was filed by a consumer/homeowner and alleged the under-valuing of a residential property by misreporting the number of square feet of the subject property, which caused the Complainant to lose the refinance and low rate. Complainant had the home appraised in May 2013 and alleged that Respondent decided to use the same measurements that were done back in 2006 when she bought the property, failing to take into account the three hundred (300) foot addition that was made to the house in 2008.

Respondent sent a response to the complaint, stating that she acknowledges that on the original appraisal dated May 2013, there was an error in the total heated/cooled square footage of the subject property. However, Complainant’s assertion that she used the same measurements that were done in 2006 is without merit. Respondent stated that she did have an older measurement taken in 2006 from a previous company that she worked for; however, she did measure the entire subject property from wall to wall on the observation date of the appraisal of May 2013. Her error was in the submission of the report with the old sketch included, rather than her new sketch and GLA calculations. Respondent states that this was an

honest oversight. Respondent stated that when the mistake was brought to her attention, she corrected the report and resubmitted it.

Licensing History: Certified Residential 7/2/2010-Present

Disciplinary History: None.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- **Description of Improvements:** Relevant physical characteristics are not properly identified in the original report, with regard to reported square footage/building size. The Respondent's original report included a sketch indicating the square footage of the subject property to be 2723 square feet. A revised report included a sketch indicating the square footage of the subject property to be 2997 square feet. [SR 1-2(e); SR 2-2(b)(iii)]
- **Sales Comparison Approach:** The bathroom count for Sale #3 in the revised report was not correctly reported. The revised report indicates that sale #3 has three (3) baths. Based on the information source identified in the report, this property has three and one half (3 ½) baths. The difference in bath count would change the mathematical analysis of this sale and the indicated value. [SR 1-1(b); SR 2-1(b)]
- **Site Value/Cost Approach:** Site value was not supported in the original or revised reports. A \$40,000 site value was noted in the cost approach section of the original and revised reports. The original and revised reports state, "*The subject market area is fully developed with no vacant land sales available to determine lot value, as a result the land value was estimated by utilizing a combination of both the allocation and extraction methods and the appraiser's knowledge of the area*". No supporting information showing the use of allocation and/or extraction was found in either the original or revised reports. [SR 1-4(b)(i)]
- **Income Approach:** The reported Gross Rent Multiplier in the original and revised reports has not been properly supported. There were no comments provided discussing the development of the GRM. Researching the work file, no information could be located that would support the GRM used in the report. [SR 1-1(a); SR 1-4(c)(iii); SR 2-2(b)(viii)]
- **Reconciliation:** The applicability and suitability of the approaches to value have not been adequately reconciled in the original or revised reports. The original and revised reports included the income approach and the property was rented as of the effective date. This would indicate that the income approach was applicable and should have been reconciled in the final reconciliation. [SR 1-6(b); SR 2-2(b)(viii)]

In a letter to counsel, dated October 3rd, 2013, the respondent replied:

"Thank you for the opportunity to respond to the reviewer's findings in my report.

To begin, I would like to say that this experience with this complaint has been a learning opportunity for me. I have adjusted several methods in my appraisal reporting since this complaint. I have begun to educate myself further on specific areas, such as site value and final reconciliation, and have developed more detailed methods/comments in my report writing. I have also, since this complaint, taken a report writing class and a work file class to gain a better understanding of, and to improve certain areas, in the overall appraisal process to which it has come to my attention that I may have been somewhat deficient.

In regards to the reviewer's findings:

In the description of improvements, I did report a lower square footage on the original appraisal based on an older sketch of the subject property. I addressed this in my original response to the state. I corrected this oversight immediately upon learning of it, and subsequently submitted the revised corrected report to my employer .

In the sales comparison approach, I did fail to report the number of baths correctly for comparable sale #3. I assure you this was an oversight and was not meant to mislead the intended user(s) of the report in any way.

In the site/value section I did not complete the allocation method for obtaining land value correctly. I have since begun to educate myself further in the use of the allocation method for obtaining land value, and realize that I was not using the correct values for this method. I have changed the way I

report my land value since this report, and feel that I now have a much better understanding of this method.

In the income approach and final reconciliation, I realized that I was lacking in a better explanation as to how I reached my final value conclusion. In the report writing class, I learned valuable techniques to help me better explain and describe the methodology and analyses used in developing the appraisal. These tools and techniques will allow the intended user(s) of the report to better understand the methodology and conclusions contained within the appraisal report, including my analysis of the three approaches to value common to the majority of appraisals that I perform.

I realize that my report writing had some shortcomings, but I assure that I have done my due diligence since these issues were brought to my attention to ensure that these same mistakes will no longer occur, resulting in a more complete, concise, and efficient report. I also have recently completed a work file course since this complaint, which taught me further skills necessary to document my file sufficiently.

Finally, I would also like to note that both the work file and report class were classroom courses with a live instructor. From this point forward, I truly want to write my appraisals to the best of my ability. I have taken this complaint very seriously and hope that since this happened, I have become a better appraiser as a result. Thank you for your consideration in this matter.”

Discussion and Vote: The Board gave consideration to the respondent’s written response. Based on the information provided by the respondent, Mr. Johnstone made a motion to close the case with a **Letter of Caution**. This was seconded by Mr. Collinsworth. The motion carried unanimously.

6. 2013007061

This complaint was filed by a consumer and alleged that Respondent misreported property characteristics and used inappropriate comparable sales, which resulted in an unreliable opinion of value. Complainant alleged that this low value cost Complainant money, as well as the opportunity to refinance the home.

Respondent sent a response to the complaint, stating that he did submit the initial report with an incorrect sketch, and that the person who was responsible for delivering reports at the time is no longer employed. Respondent stated that when it was pointed out, he immediately sent the correct sketch. Respondent also stated that there were very few land sales in the area, but the closest one was given most weight. Respondent stated that he could find no evidence that the park enhanced or increased land value. This is a very rural area situated a long way from such things as shopping, medical treatment, restaurants, etc., and he does not typically put a value on timber, which is a natural resource. Respondent also stated that the barn/stable was not in use and not in the best condition. More importantly, there were no recent similar sales with a barn that would indicate or support a higher value. Respondent stated the single biggest issue was how the second floor was treated. The heating source for the home is a gas wall heater. The second floor per the borrower did not have a heat source, and it was not really needed for their purposes, and the only way to get to the second floor was to go through the two back rooms to the utility room in the back of the garage and up a staircase. Based on this information, it was Respondent’s opinion that this area could not be included in the gross living area (GLA). Had it been included, the value would have been closer to what the borrower was expecting.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- Neighborhood: There is no support or breakdown of market activity for the conclusions as stated on page 1 in the Neighborhood section under Market Conditions. The report stated that homes have a marketing time of beyond six (6) months but has checked 3-6 month. This is a contradiction with no explanation. The neighborhood section of the report does not mention that the subject backs up to a State Park, nor does it mention the economic impact the park has on the community or the surrounding market communities. No support for the market conditions was provided. [SR 1-3(a); SR 2-1(a)(b); SR 2-2(b)(iii); SR 2-2(b)(viii)]

- Site: The site section of the original or revised report does not mention that the subject backs up to a State Park, nor does it mention the economic impact the park has on the subject's site value. [SR 1-3(a)(b); SR 1-6(a); SR 2-2(b)(viii)]
- Description of Improvements: The original appraisal addressed the bonus/rec room in the report, only referencing it in the improvements section under "Describe the Condition," stating "an addition of a garage and rec room". There was no sketch or description regarding the lack of carpeting or other floor cover. The revised appraisal addressed the bonus/rec room in the report by referencing it on a supplement addendum page, stating "the addition over the garage was not treated as heated square footage since was of lesser quality (finish) and had no permanent heat source." There was no description regarding the lack of carpeting or other floor cover. The reason for omitting the bonus/rec room as usable livable or contributory square footage is not consistent with appraisal standards. It warranted further an explanation and detailed reasoning, along with pictures depicting the opinion of inferior quality, etc. The kitchen has not been updated or remodeled as indicated in the original or revised appraisal. [SR 1-1(a)(b)(c); SR 1-2(g); SR 2-2(b)(iii)(viii)]
- Sales Comparison Approach: Comparable sale #1 was an REO sale and as reported in tax records sold for \$62,000, not \$60,000 as shown in the appraisal. Site adjustments in the original report were applied on sale #2 and listing #4. No adjustments were applied on sales #1, #3, and listing #5. All sales and listings had various lot sizes with the only explanation given being, "adjustments were based on size as well as location (desirability)". Sale #2 was a 16,117 square foot loft and adjusted plus \$2,000 and listing #4 was a 1.02 acre site and adjusted plus \$2,000. The other sales and listings ranged from 9,975 square feet (C1), 39,600 square feet (C3), and 21,780 square feet (C5) with no adjustments or further explanation. Sale #2 and listing #4 were REO properties; no discussion regarding their condition was provided or explained.
The report shows a 1 car garage when the pictures clearly indicate 2 cars in the garage area. Therefore, the adjustments are not correctly applied.
Neither the original or revised appraisal mentioned the barn or included it in either the sketches to show size/square footage. [SR 1-1(b)(c); SR 1-2(g)(h); SR 1-5(b); SR 2-2(a)(b); SR 2-2(b)(viii)]
- Listing/Sales History of the comparable sales and listings: Respondent failed to analyze the sales history of the comparable sales, which was an assignment condition. [SR 1-1(a)(b)(c)]
- Cost Approach: The cost approach did not provide support for the opinion of value. The report did not provide sales or statistics information as to the subject's land/lot value. The report does not include or value the 650 square foot recreation room above the garage or the 3 to 4 stall horse barn. [SR 1-2(g); SR 1-4(b)(i); SR 1-6(a); SR 2-2(b)(viii)]
- Addendum Pages: The original sketch was not the subject property. In the revised report, the appraiser still addresses the 2 car attached garage as a 1 car and did not include the 650 square foot recreation room. [SR 1-1(a)(b)(c)]

| | | |
|---------------------------|-----------------------|----------------------|
| Licensing History: | Registered Trainee | 12/14/2001-4/19/2004 |
| | Certified Residential | 4/20/2004-Present |

Disciplinary History: 20081541-Closed with a Letter of Warning

In a letter to counsel, dated 9/27/2013, the respondent replied:

"The following is a response to the review that was received on 09/27/2013.

Neighborhood:

The statement is that some homes have a marketing time beyond six months. Not all homes are selling in the 3 to 6 month timeframe. This would not appear to be a contradiction.

Neighborhood/Site:

The home does back up to the State Park. It is located on the east side of the park which is a very rural area consisting of rolling hills and is only suitable for scattered residential and outdoor activities such as hunting or hiking. There would be little reason for park visitors to venture in this direction since most of the property is privately owned and there is absolutely no commercial activity such as restaurants,

shopping, medical services, or recreation. This area is difficult to access since the park covers a very large area. Driving through the park takes quite some time since the speed limits are lower and the roads meander through the park. The other best way is to go around the park south or north and work your way back. There would appear to be no real economic impact to this area.

Most people that visit the park are there to get away from the hustle and bustle of normal life. They typically buy gas and groceries before they leave home. They spend the majority of their time in the park. The biggest expense that most park visitors incur is the food and gas they buy before leaving and the park fees. If they do venture out of the park, it is to the west where the most accessible I-40 exchange is located.

The park business plan does discuss an economic impact from the park expanding which appears to take into account that most of the visitors are from the general area and do spend a lot of their money before leaving home. It does not mention any impact to real estate values.

Since there was no market data to indicate otherwise, it was believed that the park had very little impact on the subject property.

Description of Improvements:

ANSI standards define a finished area as "an enclosed area in a house suitable for year-round use, embodying walls, floors, and ceilings that are similar to the rest of the house." Because of the unusual access, quality of materials, and lack of a permanent heat source, it became a judgment call that was difficult to make. It was certainly not suitable for year round use without some changes. Additional pictures and more discussion would have been appropriate and provided better support for the decision that was made.

Sales Comparison Approach:

Comparable sale #1 shows as being sold for \$60,000 in CRS and for \$62,000 in the Tennessee Real Estate Assessment Data. Both sales show selling on 08/21/2012. It did not sell through the local MLS. The TREA data also shows this to be a (Q) qualified sale. The more conservative number was used. The previous sale on 04/11 was a financial institution sale.

Site adjustment values were determined by considering both the location (i.e. proximity to amenities, demand for the particular area, and neighboring home values.) as well as site size. More explanation for adjustments would have provided better support but would have been difficult to explain in any way other than general terms. The decision was made based on knowledge and understanding of the market and as always has some subjectivity - (i.e. a property on the west side of the park generally has a higher market value than one on the east side).

Comparable sale #2 shows as being sold for \$53,000 in both CRS and TREA data on 06/08/2012. It did not sell through the local MLS. The TREA data also shows this to be a (Q) qualified sale.

Listing #4 shows being sold on 05/07/12 for \$46,000 in what appears to be a forced sale on 05/25/2012 for \$30,399 in what appears to be a financial institution sale. The buyer appeared to be an investor. It was currently listed for \$74,900. Based on the listing data and the list price it was apparent the buyer had put the property in typical average condition.

The subject does have a 2 car garage. This was clearly an error.

The barn was included in the improvements section and the sales comparison grid. A picture was also included. Due to the condition of the barn as well as the lack of comparable properties with a similar barn, it was difficult to determine and support any significant contributory value. Structures such as this are often used as storage. The site size does not support the presence of very much livestock and none were present.

Listing and Sales History of the comparable sales and listings and found no activity in the previous 36 months for the subject or previous 12 months for the camps.

Cost Approach:

Due to the age of the subject improvements the cost approach is not a reliable indicator of value nor is it necessary for development of a credible appraisal. This approach was included at request of client. Due to this, most emphasis was given to the sales comparison approach with very little consideration given to the cost approach. Land sales were in the work file provided. Some value could have been given to the

second floor even though a decision was made to not include in the hsf. The barn could have been given some amount of value but it would have been minor based on observed condition and lack of use.

Addendum Pages:

The garage should have been revised to a 2 car garage. The second floor was not included in the gla/hsf because it had no permanent heat source and it could only be accessed by going through a utility room which was disproportionately large for the size of the subject and also had no heat source, then up a staircase behind the garage.

Ethics Violation - Conduct:

During the clerical processing of the appraisal, a regrettable and unintended mistake was made. A second report was sent immediately after notification of mistake.”

Discussion and Vote: Mr. Hall noted that due to the rural nature of the area and under development of the surrounding area, the data to be properly analyzed was probably very limited. He made the motion to close the case with a **Letter of Caution**. This was seconded by Ms. Point. The motion carried unanimously.

7. 2010021181

The Respondent in this complaint was required by final order to complete a fifteen (15) hour USPAP course and a fifteen (15) hour Residential Case Studies course, as well as complete an eighteen (18) month probationary period which included submitting experience logs and appraisals for review. There was also a required payment of investigative hearing costs in the amount of two thousand nine hundred thirty-five dollars (\$2,935). Completion of the terms of the final order was due on August 27, 2013. The final order indicates that if the Respondent fails to complete the terms of the order his credential shall be suspended until the terms are met. The Respondent had completed the fifteen hour USPAP and the experience log requirements of probation, but after a request was sent to his office as a reminder of the requirements TREAC staff was notified that the Respondent was in the hospital. Ms. Avers granted an initial extension of thirty-one (31) days to complete the terms of the order, and then a second extension to October 14, 2013, which is twenty-four (24) additional days. On October 8, 2013, his office staff and the Respondent’s wife provided a doctor’s note indicating he has been hospitalized since August 16, 2013 and due to his condition a discharge date has not yet been set.

The director has never granted an extension of this type to a Respondent for an extended period of time and has requested the matter be presented to the Board for a recommendation on how to proceed. The extenuating circumstances of the Respondent’s serious medical condition warranted an unprecedented delay in implementing the suspension of his credential.

Reasoning and Recommendation: The director and counsel recommends that the Commission authorize the Respondent’s wife be allowed to submit an application on his behalf to place the credential into inactive status (\$25 application fee) and the terms of the Respondent’s final order be extended until such time as he applies to place his credential into “active” status. If the Respondent’s wife places the credential into inactive status by October 31, 2013 then the suspension shall not be applied. Approval of this request would require an extension of the terms until at least October 31, 2013. His credential does not expire until September 30, 2014 so the Respondent would have more than a year since his prior deadline date of August 27, 2013 to take one (1) more fifteen (15) hour course and pay the costs identified in the final order.

Discussion and Vote: Mr. Green recommended the respondent be allowed to submit an inactive status application and if his health allowed, sign the inactive affidavit himself. If he could not, his wife should be allowed to sign on his behalf in the presence of a notary. Mr. Johnstone made a motion to accept this recommendation. This was seconded by Mr. Standifer. The motion carried unanimously.

8. 2013018321 There was no reviewer in this matter.

This complaint was filed by a consumer and alleged that Respondent charged the Complainant \$100 (an additional fee) for re-inspection, in order to inflate Complainant's fee. Subsequently, the \$100 fee was refunded to Complainant.

Respondent sent a response to the complaint, stating that she did appraise the property owned by Complainant and that her client in the transaction was a regional bank. At the time of the appraisal, there were questions concerning the roof, HVAC, and a non-working toilet. Respondent stated it is the job of the appraiser to alert the client if there is anything that would impair the safety, structure, soundness, livability, etc. of the property. After the repairs are made, it is customary for the bank to ask the appraiser to go back out to the property to verify the repairs have been made. The cost of this final inspection is \$100, which is a customary fee for this area. It is the responsibility of the bank/mortgage company to let their client know the fee is involved in financing a property, referred to as a good faith estimate. The bank knows exactly what the appraiser charges. It was the bank's choice to refund Complainant's \$100. The bank paid Respondent her \$100 fee.

Licensing History: Certified Residential 4/29/1998-Present

Disciplinary History: 200500456-Dismissed

Reasoning and Recommendation: Respondent has been licensed as a certified residential appraiser for more than 15 years with no prior disciplinary action. In addition, Complainant's money was refunded, and there appear to be no violations on the part of Respondent. As such, Counsel recommends that this matter be **closed with no further action.**

Vote: Mr. Johnstone made the motion to dismiss the complaint since the allegation appeared to be around the payment of fees. This was seconded by Ms. Point. The motion carried unanimously.

9. 2013015371 There was no reviewer in this matter.

This complaint was filed by the administrative staff of the Tennessee Real Estate Appraiser Commission for violation of 62-39-425(3), procuring a license by fraud, misrepresentation, or deceit. When submitting the initial application for Respondent Appraisal Management Company, Respondent answered "No" to character question number 3, which asks if the controlling person has ever been convicted of, pled guilty, or pled no contest to any criminal offense, or if there is any criminal (felony or misdemeanor) charge now pending against the person. Subsequently, based on the information in the application, Respondent AMC license was granted on July 5, 2013.

Approximately 3 weeks after the license was granted, Respondent sent a letter to this office, along with an amended application, stating that it wished to amend the license application because question 3 was not answered correctly on the previously-filed application. At the time the application was filed, Respondent controlling person claimed she was not aware that an incident she was involved in in the past resulted in a guilty plea to a charge of domestic violence. Respondent controlling person claimed she mistakenly presumed the matter had been dropped. Respondent attached a letter, which more fully explained the situation. The contents of the letter suggested that a few weeks after receiving the AMC license, Respondent received a copy of the controlling person's background check, which revealed a guilty plea to a misdemeanor charge of domestic violence, resulting from an incident that occurred in July 2012 in another state. In an effort to provide full disclosure to the State of Tennessee regarding the information provided in Respondent's initial license application, on August 1, 2013, Respondent filed an amended AMC application. Respondent stated that at no time, did it attempt to procure the license by fraud, misrepresentation, or deceit. Respondent claimed that as soon as it was aware of the information, it promptly notified the State of Tennessee, in good faith. Failure to disclose the information on the initial license application was purely a misunderstanding on the part of the controlling person.

Licensing History: Appraisal Management Co. 7/5/2013-Present

Disciplinary History: None.

Reasoning and Recommendation: Since Respondent did make a good faith effort to notify this office of the misunderstanding regarding the record of its controlling person once the information was brought to Respondent's attention, it does not appear that Respondent was attempting to procure the AMC license by way of fraud or deceit. Thus, it appears that there was no violation of TCA 62-39-425(3). As such, Counsel recommends that this matter be **closed with no further action**, and Respondent's AMC license will remain active.

Vote: Ms. Johnson made the motion to accept counsel's recommendation. This was seconded by Mr. Hall. The motion carried unanimously.

REPORT OF EXPERIENCE INTERVIEWS

Benjamin R. Sellers made an application to upgrade from a registered trainee to a State Certified General Real Estate Appraiser. Mr. Johnstone who was the reviewer recommended that he electronically submit supplemental data/reports as discussed during the interview, after which Mr. Johnstone would get back to Director Avers with his recommendation. Mr. Walton made the motion to accept this recommendation. Mr. Hall seconded the motion. The motion carried unopposed.

Steve Carey Gregory made an application to upgrade from a State Licensed Appraiser to a Certified Residential Real Estate Appraiser. Mr. Collinsworth was the reviewer and made a motion to have him turn in three additional appraisals with an effective date after October 14th, 2013. Once the appraisals were submitted, a second experience interview could be scheduled. Mr. Hall seconded the motion. The motion carried unopposed.

George Wesley Thomas made requested an experience interview having completed 500 hours of appraisal experience. After reviewing his appraisals, Chairman Green placed on record that both Mr. Thomas and his mentor were doing an excellent job, and suggested that all trainees should be encouraged to attend a 500 hour experience interview.

DIRECTOR'S REPORT

Ms. Avers stated that that the Association of Appraiser Regulatory Officials (AARO) conference would be held in Washington, D.C., on October 19 – 22, 2013. Travel approvals had been granted for Ms. Avers, Mr. Green and Ms. Baird.

Several applicants submitted applications to upgrade their licensure, with Qualifying Education (QE) taken before 2008, which did not meet the current qualifying education requirements to upgrade. They had to be informed that those old courses did not meet the new qualifying education requirements. Qualifying education has to meet a specific education matrix. The application process difficult for seasoned course providers to prepare; applicants requesting individual course approvals for their older qualifying education. This process of applicants requesting approval for old qualifying courses through the individual course approval process has become burdensome for applicants, administrative staff and education reviewer, Dr. Baryla. This was likely to be a growing problem in the future.

Ms. Avers also indicated that Commission rules be revised to allow on-line qualifying education and remove the limitation of continuing education hours. Information was included in the director's report as to the number of States that currently allow online qualifying education.

Vote: Mr. Johnstone made a motion to hold any further discussion until after the AARO conference at which Ms. Avers and Mr. Green could discuss the matter with other attendees. This was seconded by Mr. Collinsworth. The motion carried unopposed.

Mr. Hall voiced a concern that on-line courses caused attendees to lose out on the advantages of a combined learning experience and the shared knowledge of both the instructor and other appraisers taking the course in a classroom together. Ms. Point and Mr. Green also weighed in with their personal experiences with on-line education that was very positive.

Vote: Mr. Collinsworth then made a motion that the rules for on-line qualifying and continuing education with a summary on IDECC qualifications be presented it at the next meeting in December. This was seconded by Mr. Walton. The vote passed unanimously.

APPLICATION REVIEW – Character Questions

Application Review – Gary Lee Beaver

Ms. Avers informed the Board that Mr. Beaver had withdrawn his application and requested that the license fees paid be refunded.

LETTERS TO THE COMMISSION

On-line Qualifying Education - Glen McDonald

Mr. McDonald requested the Board approve on-line qualifying education. He indicated that on-line education gave students more time to look over materials and learn at a pace that was best for them, rather than be rushed through a course in a classroom. He said that on-line education was already an accepted method for several reciprocal states and added that the cost of attending a class, in a location that required travel and an overnight hotel stay was cost prohibitive for many Tennessee residents. He requested that the Board approve on-line education

Vote: Mr. Johnstone made a motion to approve Mr. McDonald's trainee registration application contingent on the individual qualifying education course request being approved by Dr. Baryla. This was seconded by Mr. Walton. The vote passed by majority, with Mr. Green in opposition.

Having no further business, meeting was adjourned t at 2:50 p.m.