



**REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-1831**

**Board Meeting Minutes for November 14, 2016
First Floor Conference Room 1-B
Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met on November 14, 2016 in the first floor conference room 1-A of Davy Crockett Tower in Nashville, Tennessee. The following business was transacted:

BOARD MEMBERS PRESENT: Dr. Warren F. Mackara, Michael Tankersley, Randall Thomas, Mark G. Johnstone, Rex Garrison, Eric Collinsworth.

BOARD MEMBERS ABSENT: Timothy Walton, Rosemarie Johnson, Norman Hall.

STAFF MEMBERS PRESENT: Roxana Gumucio, Sarah Mathews, Cody Kemmer.

ROLL CALL/NOTICE OF MEETING

Mr. Thomas, serving as chair in Mr. Walton's absence, called the meeting to order at 10:01 am. Director Roxana Gumucio read notice of the meeting into the record, as follows: "Notice of the November 14, 2016 meeting of the Real Estate Appraiser Commission was posted to the Real Estate Appraiser Commission's website on November 9, 2016."

AGENDA

Mr. Thomas motioned to adopt the day's agenda as written. This was seconded by Dr. Mackara. The motion carried by unanimous vote.

MINUTES

Mr. Garrison made a motion to adopt the minutes from the September 12, 2016 meeting as written, which Mr. Collinsworth seconded. The motion carried by unanimous vote.

NEW BUSINESS

Director Gumucio made the recommendation to move new business to the top of the agenda with the arrival of Mr. S. Todd Rogers, government relations chair at Appraisal Institute, and Mr. Creighton Cross, vice president of the Tennessee Appraiser Coalition, who wished to address a possible issue between the amount of time an appraiser is required to keep their records and the amount of time under which an appraiser can be subject to a complaint. The fear would be that though appraisers are only required to keep their work file for five years, a complaint can still be filed after the point at which an appraiser would have divested themselves of documents essential to the case, and could create the potential for a "frivolous" lawsuit. Ms. Mathews suggested a proposed rule-making to address the issue.

EXPERIENCE INTERVIEWS

Mr. Collinsworth relayed to the Commission his morning interview with Christopher Richard Benton, a trainee seeking their 500 hour affidavit to begin solo supervised appraisal work. The meeting was arranged at the suggestion of the trainee's sponsor to ensure the candidate was ready to meet the responsibility. Mr. Collinsworth approved of the candidate's experience up until that point, and no vote was required for his endorsement.

Mr. Garrison interviewed Ms. Brittnee Clair Belton-Netherland, a trainee seeking an upgrade to Certified Residential status. Mr. Garrison was pleased with her work and noted that she had already successfully passed the exam. Mr. Johnstone made a motion to approve Ms. Belton-Netherland for licensure, which Mr. Tankersley seconded. The motion passed unanimously, and Ms. Belton-Netherland was approved. Mr. Tankersley interviewed Ms. Elizabeth Jordan Peacock, a trainee seeking upgrade to Certified General. Overall Mr. Tankersley was impressed with Ms. Peacock's log and her responses to his questions, and recommended her for the upgrade. Mr. Collinsworth made a motion to accept Mr. Tankersley's recommendation, and Mr. Garrison seconded. The motion passed unanimously, and Ms. Peacock was approved.

Lastly Mr. Thomas interviewed Mr. Timothy Alvin Waldrop, a trainee seeking upgrade to Certified Residential. Mr. Thomas thought the interview went well, but expressed a concern that Mr. Waldrop was lacking recent appraisal work as part of his submissions for the audit. Mr. Waldrop agreed to provide an appraisal from sometime within the last twelve months. Mr. Thomas suggested it may be best to hold his approval until a more recent example of Mr. Waldrop's appraisal work could be provided. Mr. Collinsworth agreed, and made a motion to table Mr. Waldrop's approval until such time. Mr. Garrison seconded, and the motion passed unanimously.

EDUCATION REVIEW

The Commission then reviewed Dr. Mackara's latest recommendations for course approvals. Mr. Garrison made a motion to accept Dr. Mackara's recommendations, which Mr. Johnstone seconded. The motion passed unanimously. There were no individual course approvals at this meeting.

DIRECTOR'S REPORT

Director Gumucio brought the latest expenditures and projected budget information before the Commission for review. Then she gave a brief recap of her trip to AARO's annual conference in Washington, DC. Finally she provided the Commission with a list of total license counts from the new CORE licensing system.

LEGAL REPORT

1. 2016029301 - RE-PRESENT

Licensing History: Certified Residential Appraiser 04/20/2003-12/31/2017
Disciplinary History: 2010014062 Closed with Letter of Warning

This is a re-presentation from the September 2016 meeting:

This complainant was filed by a consumer and alleged that the Respondent stated in his report that there were plumbing repairs, and Respondent did not provide proof of such repairs. Complainant states she found rust spots and was told that the plumbing was not replaced. Complainant alleges that the original appraisal had multiple gross errors. Specifically, the in the "improvements" section, which listed that the subject property had

new light and bath fixtures, a new hot water heater, new hardware and new HVAC system. Complainant alleges this is not true and she notified her lending agent of the errors. Two days later, a revised appraisal was published and the revised version noted "newer" light fixtures, "newer" faucets in the kitchen and bath and all new plumbing under the home to the street in the past year. Complainant at this time asked the listing agent to provide proof of the extensive plumbing repairs and after multiple requests was given none. Complainant called the Respondent to discuss the findings and was told that she was not his client and that no one in Respondent's office could talk to Complainant. A few months later, when Complainant began noticing rust spots on her clothing she hired a contractor to go under her house and look at the plumbing. The contractor determined that the plumbing had not been replaced.

Respondent stated in response on March 6, 2015, he performed an appraisal on the subject property and no agents or current owners were present. The real estate agent provided the information concerning updates to the subject property, since no one was present upon inspection. Between email and phone conversations, the original appraisal report included the following specific updates: new light and bath fixtures, hot water heater, hardware and HVAC system. This report was dated March 10, 2015. The Respondent was reengaged on March 12, 2015, stating that the borrower had concerns regarding the updates included on the original report. At this time, the Respondent called the real estate agent back to confirm the updates she had originally provided to him. Upon reviewing the work file and confirming with the seller, the realtor informed the Respondent that the HVAC unit and hot water heater were not new, but recently repaired. Additionally, the realtor mentioned a few items that were not included on the original appraisal including the fact that all plumbing under the home to the street was replaced in the past year. Respondent corrected and updated his report and submitted a new appraisal on March 12, 2015. Respondent states that due to the fact that no one was at the original inspection with him, he called the agent to gather information on recent upgrades to the property and that the Respondent was never made aware that the plumbing information provided by the realtor was false or inaccurate. Respondent states that inspecting pipes of a house, especially the underground pipes that connect to the street, are outside the scope of work.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- *Reviewer made a few notes in regards to the appraisal:
 - (1) Appraiser did note that the appraiser did not include, in the certification, a statement regarding any previous performance of services related to the subject within the previous 3 years as required. **[Ethics Rule, Lines 254-259; SR2-3, Line 822].**
 - (2) Appraiser mentioned in the report that another appraiser had "contributed to the report" but did not summarize the extent of this assistance or stated the name of the personal. **[SR 2-2, Lines 722-725].***
- *Based on the reviewer's analysis of the original appraisal report and the revised appraisal reports, as specifically related to USPAP compliance and as described within the body of this report, based on a review and analysis of the appraiser's work file as submitted to the review appraiser, and based on the reviewer's research and analysis of pertinent supporting documentation, the review appraiser concludes that the quality of the appraiser's work under review is generally in compliance with the Uniform Standards of Professional Appraisal Practice.*

Reasoning and Recommendation: *Counsel recommends the authorization of a **Letter of Instruction** regarding the above referenced USPAP violations.*

DECISION: *The Commission voted to accept the recommendation of legal counsel.*

New Information: After receiving the Letter of Instruction, the Respondent reached out to Counsel and said that he could explain what we had cited in the letter. After speaking with the Respondent, Counsel realized that the Respondent never received a "Notice of Violations" letter which would allow him the opportunity to respond to the expert reviewer's findings.

At this time Counsel sent the Respondent a Notice of Violations letter and received the following responses from the Respondent in regards to the Reviewer's findings:

- (1) Appraiser did note that the appraiser did not include, in the certification, a statement regarding any previous performance of services related to the subject within the previous 3 years as required. **[Ethics Rule, Lines 254-259; SR2-3, Line 822].**
 - ***Respondent stated that this statement is found in two places within the report. On page 3 of 6, it is the last sentence of the first paragraph and on page 6, it is the sentence below #25 in the Appraiser's Certification. Counsel has reviewed the report and confirms that the statement is in fact included in the report.***
- (2) Appraiser mentioned in the report that another appraiser had "contributed to the report" but did not summarize the extent of this assistance or stated the name of the personal. **[SR 2-2, Lines 722-725].**
 - ***Respondent supplied the name and license number of the appraiser that contributed to the report. Respondent states that he contributed significantly to the report in assisting to identify comparable properties and data, the cost approach and imputing data. Respondent apologizes that this is not included in the report and states that he will make this change to all reports moving forward.***

Reasoning and Recommendation: Counsel recommends this matter be **dismissed**.

DECISION: The Commission voted to accept the recommendation of legal counsel.

2. **2016043471**

Licensing History: Certified Residential Appraiser **06/18/2015 – 06/30/2017**
Disciplinary History: None.

This complaint was filed by a consumer and alleged that the Respondent undervalued a residential property. Complainant alleges that the Respondent only credited the house as being 3700 square feet instead of the actual 5800 square feet. Complainant states that no credit given for approximately 1900 square feet of which included a finished, heated and cooled basement with full finished drywall walls and ceiling, full bath, bar with dishwasher, sink, disposal, refrigerator, granite countertops, stained and scored concrete floors and a bedroom. In addition, Complainant alleges the Respondent gave no credit for an in-ground fiberglass pool and spa spill over hot tub, stating that because the community has a pool there is no value for a home pool. Complainant alleges that the buyer had to change lenders due to the poor appraisal and that the second appraisal came back very near the sale price.

Respondent stated this complaint accuses the Respondent of not meeting the purchase price of said property due to the below grade living area not being combined with the overall GLA and that the Respondent did not account for the pool area/spa, which is described within the sales analysis. Respondent stated that appraisers are to appraise property based on market data not based on the sales prices provided by the homeowners and real estate agents. Respondent cited the Fannie Mae Selling Guide (page 636), July 26, 2016:

Fannie Mae considers a level to be below-grade if any portion of it is below-grade, regardless of the quality of its finish or the window area of any room. Therefore, a walk-out basement with finished rooms would not be included in the above-grade room count.

However, the appraiser may deviate from this approach if the style of the subject property or any of the comparables does not lend itself to such comparisons. In such instance, the appraiser must explain the reason for the deviation and clearly describe the comparisons that were made.

Respondent states that she gathered all of the available sales and analyzed the MLS documents as well as county tax records in order to determine the flow/function of the below grade areas and how the market accepted the deviation. Respondent's analysis concluded that the real estate agents are breaking down each level and separating the below grade areas and describing them as basement level rather than terrace levels or heated living areas. The tax assessor's department is also breaking down the finished and unfinished basement areas within their reports. Respondent states there is no documentation that states that the market is accepting "terrace level" properties or that they are selling as such. Respondent followed up with a Senior Staff Appraiser in a Review Department and he explained that if the appraiser were to deviate from the Fannie guidelines, the appraiser should indicate how the deviation occurred and what market evidence was used to determine the deviation. Respondent states that she explained to the Senior Appraiser that she believed the sales price of the property was being inflated due to a non-informed buyer and that the subject property was never listed on the open market for sale by the sellers, until the property went under contract. Respondent states that the seller is using the below grade area and amenities as a tactic to gain momentum and justification for the appraisal not making value and the trouble of obtaining a new lender and the money required for a new appraisal.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- The form indicates the cost approach is not required for a fair demand appraisal. Strict adherence to standards would require a comment to say that the cost approach was not used even if it were or were not applicable to value determination. The exclusion of the income approach was explained however the exclusion of the cost approach was not explained. **[SR 2-2(a)(viii)]**.

Reasoning and Recommendation: Counsel recommends this matter be **dismissed**.

DECISION: The Commission voted to accept the recommendation of legal counsel.

3. 2016048091

Licensing History: **Certified Residential Appraiser** **12/13/2007 – 12/31/2017**
Disciplinary History: **None.**

This complaint was filed by a consumer and alleged that the Respondent under-valued a residential property by using inappropriate comparable sales data.

Complainant alleges that the appraisal report included numerous errors and missed facts, in addition to the following issues. Respondent's answers are in italics below, as well.

- **Square Footage Error** – The appraisal indicated that the home was smaller on the first floor and larger on the second floor.
 - *Respondent stated that the left side of the home was a 3'x7' chase that encounters the main and upper levels. The main level uses this area for a vent less fireplace and the upper level uses it for a tub. As per the sketch, the difference in square footage is 21', which is equal to the 3'x7' chase.*

- **Excluded Amenities** – Complainant states that many upscale amenities that would have been used in pricing were left out of the appraisal.
 - *Respondent states that the Complainant is correct that the home has many amenities, however they are common for the development and are found to be equal to the ones possessed by the comparable sales used in this report.*
- **Comparable Sales** - The most recent sales (within walking distance) of extremely comparable homes were not cited in the appraisal.
 - *Respondent stated as noted in the report, comparable sales in the subject's market area were very limited. The best comparable sales available were used. At the time of inspection as well as after the report was submitted, Respondent was given comparable sales to consider from the real estate agent. The suggested comparables were reviewed but not found to be as comparable as the ones used in the report. The comparable sales available do not support the contract price at this time, which is the actual basis of the Complainant's complaint. Respondent feels strongly that a review of this report will come to the conclusion that the comparable sales in the market support the opinion of value stated in the report and not the contract price.*
- **Appraised Value** - Complainant alleges that the appraisal came in at a number that was very far off. The Complainant was the buyer and was in a time crunch, when they brought the issues to the Respondent's office attention they were told the Respondent would contact them. Complainant states that the Respondent did not contact them and this appraisal cost them the purchase of the home.
 - *Respondent stated that he and his staff were made very aware of the time crunch by the Complainant. Due to this time issue, the Respondent moved the inspection date from July 11th to July 4th, as he had no other open appointments that would accommodate the Complainant's schedule. Respondent provided documentation that the Complainant called while the Respondent was out of the office and when told the Respondent would call her back, she said she didn't want to talk to the appraiser. Respondent states that he had numerous conversations with the Complainant and her realtor during the entire process, both before and after the submission of the report.*

REVIEWER CONCLUSIONS [alleged violations included within brackets]: *In addition, the Respondent's responses to the reviewer's conclusions are in italics below.*

Site Value:

- An opinion of site value was provided in the cost approach. There was no land sales or extraction/allocation techniques provided in the report or in the workfile to support a site value opinion. There is no summary of support and no reconciliation of data to support any site value at all. **[SR 2-1(b); SR 2-2(a)(viii); Record Keeping Rule, Line 321].**
 - *No land sales or extraction/allocation techniques were provided. Respondent stated that it has been a common practice to include recent land sales in the subject market when acreage is involved. Respondent stated that if and when the Extraction Method is used it would be included. The only comment in the report was "Land values of comparables used in this report are in similar market areas where competing properties exist." This comment is to be revised to be more detailed to include more support and reconciliation of data and/or description of sales.*

Sales Comparison Approach:

- Adjustments were made in the sales grid for GLA, sales concessions, porches and baths. No support is found for these adjustments in the report or in the workfile. **[SR 2-2(a)(viii); Record Keeping Rule, Line 321].**

- *Respondent stated that the reported adjustments to the comparable sales reflect the markets historical reaction to the differences between the subject property and the comparable sales. This type of statement was omitted from the report. Moving forward, comments and/or other supporting data for adjustments are to be included in all reports.*

Reconciliation:

- There were four (4) sales used in the analysis with an adjusted value range of \$204,000 - \$237,000, and two (2) listings are included with an adjusted range of \$252,000 - \$262,000. There is no attempt to reconcile this wide range of data to explain how the appraiser arrived at the final opinion of \$228,000. **[SR 1-6(a) & (b); SR 2-2(a)(viii), Line 734-736].**

- *Comparables in the subject property's development were very limited, and due to its rural setting no competing developments exist in the area. The adjusted value range of sales (Comp#1 - \$208,360, Comp#2 - \$228,400, Comp#3 - \$237,230 and Comp#4 - \$224,000) is due in part to this lack of sales. The report was deficient of a statement explaining that comparables 2,3 and 4 were given the most consideration with #2 given the most weight due to its similarities, market appeal and its power of substitution in the market. Per the Real Estate Agent, the seller of comparable#1 was highly motivated. This condition may have influenced the sale price. The listings lack similarities, market appeal and strong power of substitution and are included due to their location (in the subjects development) to show a range of values and due to Lender Requirements.*

Market Analysis:

- The appraisal report indicates the following market analysis conclusions: property values are stable, supply and demand is in balance, and marketing time is 3 – 6 months. There is no support for these conclusions in the report or in the workfile. **[SR 2-2(a)(viii); Record Keeping Rule, Line 321].**

- *The sales comparables used and the lack of sale comparables over all reveal a small niche market for the subjects development located in this rural area. There are still vacant lots in the development, which indicates a desire to balance supply and demand, keep values stable and market times desirable. This type of support was lacking from the report, will be analyzed and included in subsequent reports.*

Highest & Best Use:

- Appraisal report states that the highest and best use is the current use of the property, but there is no summary of the support and rationale for this opinion. **[SR 2-2(a), Line 745-746].**

- Opinion of site value is provided in the cost approach of the report, but there is no opinion given for highest and best use of the site as-vacant. The opinion of site value is an opinion of market value which requires an opinion of highest and best use. **[SR 1-3(b)].**

- *The subject is a single family residence in a residential development. Per local zoning it is legally permissible. The land is level and suitable for building and most profitable as a residence. This type of support for the subject highest and best use was omitted in the report. This omission will be corrected in future appraisals to help fortify the credibility of conclusions.*

Reviewer's Conclusions:

- Based on the reviewer's analysis of the original appraisal report, the review appraiser concludes that the quality of the appraisers work under review is deficient in its compliance with USPAP and

therefore the credibility of the assignments results is impaired due to the type and extent of non-compliance.

- Additional support and explanation of the non-compliance items would strengthen the credibility of the conclusions.

Reasoning and Recommendation: Counsel recommends the authorization of a **Letter of Warning** regarding the above referenced USPAP violations.

DECISION: The Commission voted to accept the recommendation of legal counsel.

4. **2016043261**

Licensing History:

Disciplinary History: **2015004771 Closed with Consent Order (\$2500 Civil Penalty, 15 hr. USPAP and 30 hr. Basic Appraisal)**
2013017581 Closed with Consent Order (\$1000 Civil Penalty, Education Courses)

This complaint was filed by a real estate agent and alleged that the Respondent undervalued a new construction house by using inappropriate comparable sales data. Complainant alleges that he approached a bank to attain a construction loan for three (3) new homes in Nashville and Respondent was asked by the bank to do the appraisal for the new homes to be constructed. Respondent appraised the three (3) new homes at a value of \$350,000. Complainant felt the appraisal was fifteen (15%) percent low and asked the bank to contact the Respondent. Complainant alleges that Respondent sent the following response to the bank:

"This has been complete for over a month, if there were specific comps anyone involved wanted considered – they should have been provided prior to completion of report. With acquisition at \$300k & 3 builds at \$615k collectively, this is worst case to leave the builder \$153k profit – it seems a bit greedy to ask for more on first transaction. Sell one at \$350k, and then get an appraisal on next one for what the sales price of first one is for most specific results. I don't plan to grid or consider further comps, I'm familiar with the area & the similar rehabs going on – in this square footage range being proposed, \$350k seems generous. Can't wait to see 3 houses on this single lot, hope the neighbors like each other. Please clear this & have anyone providing comps that is not an appraiser to provide them on the front side of the deal prior to completion."

Complainant alleges that based on this response to the bank, he believes the Respondent has allowed his personal beliefs and assumptions to affect this appraisal. Complainant states he looked up comparable sales and found over seventeen (17) new houses that have sold in the past six (6) months and over thirty (30) that have closed in the past year that are closer to the subject property than any of sales used by Respondent in his appraisal. Complainant sent those comparables to the bank. Complainant believes that Respondent passed over numerous comparable homes while appraising the property and allowed his personal feelings towards residential developers to cloud his judgment.

REVIEWER CONCLUSIONS [alleged violations included within brackets]. *Respondent's responses are in italics.*

Site Value:

- An opinion of site value was provided in the cost approach. However, there are no land sales or extraction/allocation techniques provided in the report or in the workfile to support the site value opinion of \$60,000. There is no summary of support and no reconciliation of data to support any site value at all. **[SR 2-1(b); SR 2-2(a)(viii); Record Keeping Rule, Line 321].**

- Respondent's opinion of site value \$60,000 or 1/3 of site value present overall where 3 HPR structures were to be erected. Site sale stated \$160,000 for a smaller lot, therefore reasonable to make the connection that our subject site value would be 1/3 value of site sale and was slightly higher since subject site was larger than sale provided. **Respondent states that although it was not explained directly, it is reasonable to assume this conclusion could easily be drawn from site value provided within report at time of submission.**

Sales Comparison Approach:

- Adjustments were made in the sales grid for GLA, bath count, fence and porches. No adjustments were made for market conditions (time), but the report indicates that property values are increasing. Some type of explanation is required for not making the adjustment. No support was found in the report or workfile for these adjustments. **[SR 2-2(a)(viii); Record Keeping Rule, Line 321].**
 - Respondent stated that adjustments provided, although had minimal impact on report overall - the following statement was taken from under 2nd page of comparables:
 - PAIRED SALES ANALYSIS AND MARKET EXTRACTION METHOD WERE USED TO FORM AN OPINION OF ADJUSTMENTS WITHIN THE REPORT AS INDICATED BY THE MARKET. SQUARE FOOTAGE ADJUSTMENT MADE AT \$75 PER FOOT, GARAGE ADJUSTMENT MADE AT \$5000 PER BAY, BATHROOM ADJUSTMENT MADE AT \$2500 PER HALF BATH DIFFERENCE, PORCH/FIREPLACE/BALCONY ADJUSTMENTS MADE AT \$1500 PER, DECK/PATIO/STORAGE BUILDINGS/FENCE/IRRIGATION ADJUSTMENTS MADE AT \$1000 PER, SECURITY SYSTEM/CENTRAL VAC/STOOP ADJUSTED AT \$500.
 - Adjustment for square footage was adjusted at roughly half of average sale per foot. The rest of adjustments taken from market extraction and again had very little impact overall on assignment due to very similar property types within close proximity to subject. Time adjustments were not applicable as all market data provided had sold within 90 days from date of appraisal - page 1 marked as increasing as sales have been trending upwards in the area for well over a year by time of appraisal perhaps as long as 2.

Reconciliation:

- There were four (4) sales and two (2) listings used in the analysis with a wide range of adjusted values (\$349,000-\$387,000), with the final value opinion at the low end at \$350,000. There was no explanation provided as to why the property was appraised for this value. **[SR 1-6(a) & (b); SR 2-2(a)(viii), Line 734-736].**
 - Respondent states that on the 2nd page of comparables there was a paragraph that was not complete, but would have stated that comparables 1-2 were shown the most weight since they were the most similar in location, square footage, amenities, etc. Respondent states this is pretty clear upon review of report that 3-4 had to be adjusted much more since more difference in square footage and amenities.
 - Respondent's opinion of value is on the lower side of range is just that - appraiser's OPINION just like the reviewer's opinion was that this was on the low side of the range.
 - Respondent agrees this was on the low side of the range and should have been addressed and described better at time of submission, although due to comp distances not being much closer it is also pretty clear this property was being purchased in the middle of an area that has had this type of tear down & rebuild of multiple units but not within the immediate 0.5 miles which would have given appraiser a more clear direction on what the property may bring once complete. There is a better marketing area just over the interstate & some of this property changes acquired within the subject subdivision although nothing in the immediate vicinity to indicate that the value would be any higher than Comps 1-2 and since there was no

precedence within this immediate area it is safe to assume this price may not even be able to be obtained once 6 months transpires between evacuating tenants, tearing down existing home, and erecting even 1 of the properties which in appraiser's opinion had minimal amenities and minimal use of yard - although most likely maximally productive financially considering other areas moving this way - no one had yet to move to this area and do this which was the appraiser's point and why the value opinion was where it was.

Market Analysis:

- The appraisal report indicates the following market analysis conclusions: property values are stable, supply and demand is in balance, and marketing time is 3 – 6 months. There is no support for these conclusions in the report or in the workfile. **[SR 2-2(a)(viii); Record Keeping Rule, Line 321].**
 - *“REASONABLE EXPOSURE TIME FOR THE SUBJECT IS ESTIMATED AT 140 DAYS BASED ON THE MOST RECENT SALES AND THE CURRENT APPLICABLE LISTINGS AVAILABLE AT TIME OF APPRAISAL.”*
 - *Respondent states this explanation was taken from middle of page 3 and was the appraiser's opinion of reasonable exposure time. Respondent was not aware that further explanation was needed to be explained or further supported, but all market data within report sold from 15-193 days and was reasonable to appraiser that this property type being readily available within other areas of this market are either selling very quickly or selling in at or just over 6 months, which based on location was appraiser's opinion concerning this matter.*

Highest & Best Use:

- Opinion of site value is provided in the cost approach of the report, but there is no opinion given for highest and best use of the site as-vacant. The opinion of site value is an opinion of market value which requires an opinion of highest and best use. **[SR 1-3(b)].**
 - *Respondent stated that while a specific comment or commentary was not included within the report, on a speculative proposed type construction transaction it is in appraiser's opinion it is assumed the highest & best use would be the new use or else the assignment would be declined or marked as different from proposed highest & best use, either way the file would have been done at that point with the lender.*
 - *This was a speculation loan, in appraiser's opinion, highest & best use it the use being changed to or else no point in the assignment.*
 - *Appraiser does have this comment which is typically provided in all reports but not sure it would have been on this one given all the speculation: Relevant legal, physical, and economic factors were analyzed to the extent necessary and resulted in a conclusion that the current use of the subject property is the highest and best use [USPAP – Standards Rule 2-2(b)(x)]. - appraiser doesn't feel this comment would have been applicable on this file in particular since proposed....*

Comparable Sales:

- The reviewer did a search for comparable sales in the subject's market area and found the following sales occurred within six (6) months of the appraiser's effective appraisal date. These comparables were between 1950 and 2300 sq. ft., and were new homes similar to the subject. One sold for \$315,000, another for \$345,000 and 14 sold between \$365,000 and \$420,000. The three (3) closest in proximity to the subject sold for \$370,000, \$415,000 and \$416,553, respectively.
- Based on the above research, it is the reviewer's opinion that at a minimum the appraiser should have made a greater effort to explain the rationale for his comparable selection and why sales closer in proximity to the subject were not used. **[SR 1-4(a); SR 1-6(a); SR 2-2(a), Line 728-733].**

- Respondent provided an opinion of value, lender closed said loan with no stipulation, borrower upset they had to bring an additional amount of money to the table - everyone is an expert at picking comparables after the fact. If there were closer comps not used, they were less applicable as having GARAGE, superior location, or superior amenities and still doesn't change appraiser's opinion of value even if review doesn't feel it was correct - that is only the reviewer's opinion as well.

Reviewer's Conclusions:

- Based on the reviewer's analysis of the original appraisal report and the revised appraisal reports, the review appraiser concludes that the quality of the appraisers work under review is deficient in its compliance with USPAP and therefore the credibility of the assignments results is impaired due to the type and extent of non-compliance.

Reasoning and Recommendation: Counsel recommends the authorization of a civil penalty in the amount of **One Thousand Dollars (\$1,000)** to be satisfied within thirty (30) days of execution of the Consent Order and **thirty (30) hours of coursework**, courses to be decided by the Commission, such courses must be completed within one hundred eighty (180) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

DECISION: The Commission voted to postpone making a decision until an informal conference with the Respondent has been conducted.

5. **2016043281**

Licensing History: **Certified Residential Appraiser** **05/20/2010 – 05/31/2018**
Disciplinary History: **2011021771 Closed with Consent Order (14 hrs corrective education)**

This complaint was filed by a consumer and alleged that the Respondent undervalued a residential property. Complainant alleges the following:

- Respondent was hired by the mortgage lender to do the appraisal of Complainant's home and property.
- Complainant was concerned if Respondent would know the market because Respondent was from outside Davidson County.
- Respondent's appraisal came in twenty percent (20%) lower than an appraisal Complainant had completed. Complainant had an appraisal done one (1) month prior to the Respondents and that appraiser had ample comparables within the area that had all been remodeled.
- Respondent was in and out of the home within about five (5) minutes.
- Respondent stated that he wasn't sure how he could find comparables because Complainant had a few renovations to finish in the home.
- Complainant has called and text Respondent regarding the appraisal, but Respondent has not responded
- Complainant alleges the following items are incorrect in the appraisal report:
 - Home has a full basement, not a crawl space;
 - The "as-is value of site improvements" should be \$80,000, not \$10,000;
 - Many vacant lots around property for sale and Respondent listed that there were none;
 - Respondent put us at a 4/2, when we currently have a 3/1.1;
 - Three (3) fireplaces are all functional, but listed as not working;
 - Respondent listed hardwood as "fair condition" but Complainant states it was just professionally redone and should be in excellent condition;

- Listed no energy efficient appliances;
- Supplemental URAR Overall Condition is incorrect. Complainant states that the appraisal report states drywall repair of \$10,000 is needed and this is incorrect because entire home, with exception of 300 square feet, as new drywall. In the 300 sq. ft. the drywall is in fine shape with brick wall purposefully exposed for look.
- Complainant believes the comparables used were not accurate.
 - Respondent did not take into account the lot size and used much smaller lots in his comparables.
 - Complainant had done \$80,000 in remodeling and the comparables used have no remodeling completed.

REVIEWER CONCLUSIONS [alleged violations included within brackets] and Respondent's responses are in italics:

- **State Effective Date of Value/Report Date:**
 - The appraiser has appropriately reported the effective date for the appraisal as the date of inspection on May 25, 2016. However, the report dates are inconsistent. In the appraisal reviewed, the report date on Form ID14 -Appraisal and Report Identification, following the cover page reflects the original report date on June 9, 2016. The report date on page 6 of 6 of Form 1004UAD reflects a report date as revised on July 5, 2016. **[SR 2-1(a); SR 2-2(a)(vi)]**.
 - *In reference to the minor clerical error regarding date of appraisal, Respondent stated in reviewing his notes, it is clear that the effective date of the appraisal was in fact May 25, 2016. Requested revisions came to me through the management company and after revisions were made, the date changes did not carry over into the documentation, specifically Form ID14, and the discrepancy in dates was created.*
- **Extraordinary Assumptions:**
 - An extraordinary assumption is made in the supplemental addendum of the revised report for functional utility of all three fireplaces. All extraordinary assumptions must be stated clearly and conspicuously. A statement must also be included state that "their use might have affected the assignment results." **[SR 2-2 (a) (xi)]**.
 - *Respondent states the first information he received during the physical inspection was that the fireplaces were non-functional. Respondent was later informed that they were functional and made an extraordinary adjustment which ultimately had no impact on value. Respondent recognizes the extraordinary assumption did not include the statement "their use might have affected the assignment results" but again, there was no affect. The extraordinary assumption was made clearly and conspicuously in the addendum.*
- **Sales Comparison Approach:**
 - Reviewer stated that "across the board adjustments" are made for heating and cooling with no source or explanation. Adjustments were made across the board for condition as well based on the estimate of cost to cure. The same adjustment is applied to each comparable when it is likely that a relative adjustment should be considered by more detailed comparison to each. The supporting data was not found in the work file indicating the analysis was not performed. **[SR 2-1 (b); SR 2-2 (a) (iii);SR 1-4 (a); Record Keeping Rule, Lines 319-321]**.
 - *Respondent states that within the report under "Sales Comparison Analysis – Summary of Sales Comparison Approach" that, and I quote: "Across-the-board adjustments have been made under Condition and Heating/Cooling but this was unavoidable and acceptable as*

there were no homes in similar condition as the subject at the time of the effective date of this appraisal as well as no recent, relevant sales without a central air and heating unit”.

- **Cost Approach – Site Value:**

- The value conclusion is within the range found from Reviewer’s research of lot sales since 01/01/15 with comparable zoning and after application of the abstraction method. However, the appraisal lacks support of value. **[Record Keeping Rule, page 11, lines 320-321].**
 - *While the reviewer recognizes that the cost approach/site value as represented in the report is within range, the reviewer’s assessment that the site value is not supported is a contradictory or subjective statement. Respondent indicated within the Cost Approach section that, “4 closed sales and 3 active listings of vacant lots with a similar Rs5 zoning like the subject were researched and found within a reasonable distance of the subject with sales ranging from \$32,000 to \$125,000 and active listings ranging from \$74,000 to \$124,999. The lower end of the lot size (value) was utilized for the subject due to its size and location siding a small commercial store”. In Respondent’s professional opinion, this information more than supports the opinion of the subject’s site value.*

- **Reviewer’s Conclusions:**

- After review of the report, it is the Reviewer’s opinion that the revised appraisal that is the subject of this review does not comply with USPAP requirements.
- Land value, effective age and the estimate of depreciation is not well supported in the cost approach. “Across the board adjustments” are made in the Sales Comparison Approach. No detailed source, cost estimates or analysis is provided for the adjustments or for the cost to cure used in both approaches to value. **[SR 2-1 (b); SR 2-2 (a) (iii)].** The supporting data was not found in the work file indicating the analysis was not performed. **[SR 1-4 (a) and the Record Keeping Rule (lines 319-321)].**
- In the reviewer’s opinion, the appraisal lacks quantitative analysis and detail. Sale 3 was emphasized most in the appraisal. If the condition of this property at the time of sale was not as reported by the appraiser, the adjustments may not be appropriately calculated and applied which may result in a value change. **[S.R.1-4 requires that the appraiser collect, verify and analyze all information for credible assignment; and S.R. 2-1(b) requires that appraisal report contain sufficient information to enable the intended users of the appraisal to understand the report properly].**
 - *Regarding Comparable 3, Respondent’s research and conversations with market participants in the subject’s immediate market area indicated this home was well kept at the time of sale including a new roof and newer HVAC. The previous owners had passed away and their son occupied the property during the listing process and was highly motivated to sell. At the time the son took over Comparable 3, it was in well maintained condition and featured glass paned cabinets, windows and doors throughout to maintain the historical charm. In this market, buyers value the maintenance and restoration of these features as much as renovations. Changing these desirable characteristics in this type of home can ultimately diminish the marketability of a home from this era. Although the subject is approximately the same age home, Comparable 3 was not in a semi-construction state. Per conversation with market participants in the immediate market area, condition adjustments were made based on obvious deferred maintenance and needed repairs of the subject which typically includes buyer’s reaction.*
- An appraiser must use sufficient care to avoid errors that would significantly affect his or her opinions and conclusions. Diligence is required to identify and analyze the factors,

conditions, data, and other information that would have a significant effect on the credibility of the assignment results. **[S.R. 1-1(b)]**

- Notwithstanding the issues described above, the comparable sales used appear to be reasonably similar to the subject in overall marketability. Reviewer's conclusion is based primarily on the lack of information, explanation and support provided in the report. **[SR2-1(b)]**.
- In the reviewer's opinion, the Scope of Work in the appraisal report is insufficient, to develop credible appraisal results. Supporting data and explanation for the type and extent of data researched and analysis applied are both lacking in this appraisal report. Additionally, the appraisal report contains minor clerical errors and omissions. **[SR1-1(c)]**.

Additionally, Respondent noted that his objective is to do the most thorough credible appraisal for every property. Respondent maintains up to date continuing education and certifications and remains teachable. Respondent states that he made the effort to include supporting statements of my findings in the addendum and as described above, would that supporting information has been overlooked.

Reasoning and Recommendation: Counsel recommends the authorization of **thirty (30) hours of coursework**, courses to be decided by the Commission, such courses must be completed within one hundred eighty (180) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

DECISION: The Commission authorized forty-five (45) hours of coursework, including a fifteen (15) hour Residential Report Writing & Case Studies course and thirty (30) hour Sales Comparison Approach course, such courses must be completed within one hundred eighty (180) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

6. 2016036221

Licensing History:

Certified General Appraiser

10/31/1991 – 10/31/2017

Disciplinary History: None.

This complaint was filed by a consumer and alleged that the Respondent undervalued his residential property. Complainant alleges that on March 12, 2015, the Respondent appraised his property for \$120,000 and Complainant was insulted, appalled and outraged by low appraisal value. Upon deciding to refinance his property in January 2016, the refinancing company had the property appraised and this appraisal stated the value of the property was \$220,000. Complainant also believes the Respondent over charged him for the appraisal.

Respondent stated that the homeowner never made contact with Respondent regarding dissatisfaction, an explanation of the process and resulting value, or to request a refund of the fee. The appraisal was performed for the purpose of releasing a portion of the property. The instructions were to appraise the remainder of the real estate to ensure it was greater in value than the current loan on the property, said loan amount was unknown to Respondent. All comparable sales used in the calculations were log homes from the same county are and appropriately applied. Respondent is satisfied he successfully completed the appraisal. Additionally, the Respondent suggest that the appraiser that performed an appraisal in 2016 may be unfamiliar with the subject area and that a review and comparison of the appraisals would be in order.

Complainant states that the Respondent was made aware that the Complainant was dissatisfied with the appraisal value and had asked the bank for a refund of the fee.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- Reviewer stated this appraisal was deemed satisfactory in that general appraisal practices and procedures were followed with some minor deviation, mostly of a subjective nature.
- Respondent included methodology utilized by most appraisers, their peer group, and met the expectations of the participants in the market.
- Reviewer stated the development and reporting of market value via the utilization of comparable sales appears to be reasonable and, for the most part, required adjustments for identified differences appear to be appropriate.
- Report complies with USPAP and its requirements, with one exception:
 - Reviewer states that the appraisal report indicates an option of highest and best use was developed by the appraiser; however, no discussion of the highest and best that adequately summarizes the support and rationale for the opinion is presented. The “yes” box on URAR is checked indicating that the present use as improved is the highest and best use; however, no statement or summary is given that summarizes the support, rationale or conclusion for the highest and best use as improved. No detail is given regarding the analysis, support or rationale for the highest and best use of the site as vacant or arriving at highest and best use as improved opinion. **[SR 2-2(a)(x)]**.

Respondent stated in response to the Reviewer’s conclusions:

- In preparing the appraisal, Respondent confirmed that the county had no zoning. Upon inspection of the immediate area, he developed an opinion that residential was the highest and best use for the subject property as vacant and as improved. Respondent checked the box on the appraisal form that the highest and best use as improved was the current use.
- Additionally Respondent noted that subsequent to completing the appraisal, Respondent completed a USPAP course and the instructor emphasized the need of additional comments on the 1004 form. Since completing that course, Respondent has included additional comments on highest and best use in all appraisal reports.

Reasoning and Recommendation: Counsel recommends the authorization of a **Letter of Instruction** regarding SR 2-2(a)(x).

DECISION: The Commission voted to dismiss.

7. 2016051461

Licensing History: **Certified General Appraiser** **01/08/1992 – 01/08/2018**
Disciplinary History: **None.**

This complaint was filed by a consumer and alleged that Complainant is unhappy with the appraisal value. Complainant’s rent the home from 4 siblings; upon the mother’s passing they discussed purchasing the home. This appraisal came about because one of the siblings did not want to sell. During the appraisal, Complainant alleges the Respondent did not ask or request any previous home inspections or ask any questions in regards to the home itself. Complainant states that upon receiving a copy of the appraisal report, she and her husband were stunned, not only were items listed that are not part of the property, but they belong to the Complainant’s (ex. Koi pond). Respondent appraised it as a home that has been updated which this one had not been. Complainant alleges that Respondent used comparable

properties that are a year or more old. Complainant states that this appraisal is not at all a true picture of the current market value of this home; there is too much work that needs to be done. Complainant believes that this Respondent was wrongfully influenced by the one who ordered the report.

Respondent stated that the heir who ordered the appraisal was not present at the inspection and he had no communication with her since their initial phone conversation pertaining to the appraisal assignment.

- Koi pond - Respondent stated that since the feature was dug into the yard he considered it to have some, but minimal contributory value.
- Comparables – Respondent stated that his selection of comparables sales used in the report, the age of the subdivision, a fully developed subdivision of 54 properties which dates back to the early 1950's, supported the consideration of examples from within the development. Respondent states that numerous sales were reviewed before concluding that the submitted examples were truly the most comparable examples available.
- Respondent states the Cost Approach was completed in order to reflect a reasonable replacement cost and has limited relevance to the value, but Respondent has found it to be beneficial to clients.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- The reviewer stated that the Respondent's report complies with USPAP.
- Respondent's appraisal and the supporting documentation (workfile) provided are exemplary of professional appraisal work.

Reasoning and Recommendation: Counsel recommends this matter be **dismissed**.

DECISION: The Commission voted to accept the recommendation of legal counsel.

8. 2016052661

Licensing History: Certified Residential Appraiser **03/20/2006 – 03/31/2018**
Disciplinary History: None.

This complaint was filed by a consumer and alleged that the Respondent undervalued a residential property. Complainant alleges that the Respondent was unhappy that he had to do the appraisal on a Saturday and was rude.

In response the Respondent submitted his entire workfile along with additional documents. Respondent states that he schedules his appointments to meet the needs of the homeowner and tries to schedule them at their convenience. Respondent states not only does he schedule appointments on Saturday's, but has also worked on Sundays and holidays to accommodate clients. Respondent stated that when he arrived at the house, the Complainant told him the value of the house and had a list of comparables he wanted the Respondent to use. Respondent stated that he had done his own research and had a list of potential comparables. Respondent believes he chose the best comparables that were available.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

Site Value:

- An opinion of site value was provided in the cost approach. A list of land sales is provided in the workfile, but there is no support for a land value in the report. **[SR 2-1(b); SR 2-2(a)(viii)]**.

Sales Comparison Approach:

- Adjustments were made in the sales grid for site, age, condition, baths, gross living area, basement, garage and exterior. No support is found for these adjustments in the report or in the workfile. **[SR 2-2(a)(viii); Record Keeping Rule, Line 321].**

Reconciliation:

- Three (3) sales were used in the analysis with an adjusted value range of \$198,000 - \$213,000. There is no attempt to reconcile this wide range of data to explain how the appraiser arrived at the final opinion of \$206,000. **[SR 1-6(a) & (b); SR 2-2(a)(viii), Line 734-736].**

Market Analysis:

- The appraisal report indicates the following market analysis conclusions: property values are stable, supply and demand is in balance, and marketing time is under 3 months. There is no support in the report or workfile for these conclusions. **[SR 2-2(a)(viii); Record Keeping Rule, Line 321].**

Highest & Best Use:

- Opinion of site value is provided in the cost approach of the report, but there is no opinion given for highest and best use of the site as-vacant. The opinion of site value is an opinion of market value which requires an opinion of highest and best use. **[SR 1-3(b)].**

Reviewer's Conclusions:

- Based on the reviewer's analysis of the original appraisal report, the reviewer concludes that the quality of the appraisers work under review is deficient in its compliance with USPAP and therefore the credibility of the assignments results is impaired due to the type and extent of non-compliance.
- Addition support and explanation of the non-compliant items in the report would have strengthened the credibility of the conclusions presented in the report.

Reasoning and Recommendation: Counsel recommends the authorization of a **Letter of Warning** regarding the above referenced USPAP violations.

DECISION: The Commission voted to accept the recommendation of legal counsel.

9. 201605293

Licensing History: Certified Residential Appraiser 10/09/2007 – 10/31/2017
Disciplinary History: 201402465 – Letter of Warning

This complaint was filed by a consumer and alleged that the Respondent was unprofessional and Complainant does not trust the appraisal report. Complainant alleges that she had an appraisal performed on August 3, 2016 and on the day of the inspection she emailed her bank voicing her concerns in regards to the inspection. Complainant alleges that the Respondent was rude to her during the scheduling of the appraisal. Complainant states that upon arriving at the property the Respondent asked if the garage was attached. Complainant alleges that the Respondent told her that it was only a garage and because it wasn't living space it wasn't worth as much. Complainant understands this, but her garage is not a typical garage, it has polished vinyl flooring, finished ceilings and walls, wood paneling around the wall, ceiling fans, a half bath, house quality insulation and central heat and air. Complainant alleges that at the end of the inspection, she informed Respondent about the quality of the back deck

(material), windows and wood paneling in the garage. Complainant alleges the following items were incorrect in the appraisal report:

- Fence was not noted in the report;
- \$40,000 worth of updates that were done four (4) years ago were not noted in the report (ex. Bathroom remodel and high quality of deck material);
- Report stated that the five (5) car bay garage was only cooled by ceiling fans, which is incorrect, it is heated and cooled by HVAC;
- IT was not noted in the report that the attached garage has three (3) turbine attic fans.

Respondent states that she stands by the original appraisal value provided. Respondent states that the report was based on good appraisal practices and fully compliant with USPAP. Respondent notes that the lender/client was satisfied with the product. Respondent states that the Complainant did not ask for Respondent to reconsider the value, ask for clarification, ask for a post complete revision request or appeal the appraisal.

- Garage – Respondent states that she never discusses values, as they have not yet been determined or the appraisal process with borrowers. Respondent states that the quality and condition of the garage was taken into consideration when completing the assignment.
- Additional Information – Respondent states that the information the Complainant provided her regarding the Pella windows and Trex decks is included in her workfile and also taken into consideration when assigning a quality rating to the property.
- Fence – Respondent states that the fence is a length of privacy fence panels between a portion of her yard and the neighbors. The yard is not enclosed by a fence and the Respondent felt it would be misleading to check the fence box.
- Updates – Respondent states that at no time during the inspection did the Complainant mention a complete remodel of the bathrooms and the deck was included in the report. Respondent contacted the city building department during the appraisal process and there were no permits issued for the remodel, but only for an enclosed garage connector.
- 5 car bay garage – Respondent states the information given by the Complainant regarding the garages is noted in the appraisal report in the improvements section.
- Turbine Fans – Respondent stated that unless told by the borrower of the existence of these unseen items, they cannot be reported on.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- All comparables used had basement areas while the subject did not. Failure to include some comparables more similar (single level) tends to fall short of the requirement. **[SR 1-1(a)]**.
 - *Respondent agreed and stated that all comparables have basement areas while the subject does not. The comparable sales used are more similar to the subject in all other aspects, not just one particular aspect, such as a basement and the adjustments were made accordingly. During Respondent's initial search for comparable sales, she analyzed more than one single level home, however, the comparables used were found to be the best overall. Respondent felt this more than meets the requirement.*
- Sales of a single level home were available in the market area, but were not presented in the primary data used in the sales comparison approach. **[SR 1-4(a)]**.
 - *Respondent stated that "Comments on Comparable Sale Selection states the appraiser used the following criteria to search for comparable sales. Time Frame: One Year prior to the effective date of this appraisal. Distance: Subject to 1 mile. Subject +/- 5 years, GLA: Subject +/- 10%. Similar quality, similar condition. The appraiser analyzed all sales included in the parameters*

and chose the sales believed to be the most comparable to the subject property in most aspects. It was then necessary to expand all search parameters in an effort to bracket most aspects of the subject property.”

- *Expanding on that comment, if one was to search for single level homes using only those criteria, one would find approximately 128 sales. Once narrowed down to within 10% sf, the number of sales is then reduced to 18. Narrow down +/- 5 years, the number is then reduced to 10. Remove all non-arm's length transactions, leaving 9 sales. Eight of these sales were located in deed restricted communities with HOAs. One sale was left and was not considered due to the sale date and condition, and better comparables were available. Using this worksheet shows that just because there 128 sales of single level homes in the area, it does not necessarily mean that they are comparable in most other aspects to the subject.*

• Addendum (page 2 of 4) states that rooms are identified based on the use by occupant; this is contrary to the standard requirements. **[SR 1-1(a)]**.

- *Respondent believes that it states that “Main level rooms are reported according to their use at the time of the appraisal inspection.” That statement is for clarification only to the reader of the report. It helps to identify the areas between the pictures, the sketch and the report, and is not used as the only criteria in their identification.*
- *The Dictionary of Real Estate Appraisal, 3rd Edition, published by the Appraisal Institute states that no national standard exists on what constitutes a room. Of course, local codes may specifically define a bedroom.*
- *The reviewer's conclusion does not elaborate on what standard requirements he/she is referring to. All rooms in the home are included in the GLA regardless of how they are identified (bed/den, dining/office), and therefore, included in the value.*

• The appraisal lacks sufficient information to allow an intended user/client to understand the rationale for the opinions and conclusions. **[SR 2-2(viii)]**. Additionally, the credibility and understanding of the conclusion is questionable as derivation of adjustments is severely limited. **[SR 2-1(b)]**.

- *Respondent states that the reviewer states that the appraisal lacks sufficient information. As we all know, this is a Summary report, and by its definition, the appraiser is not required to elaborate on all information compiled in this appraisal reporting process or is it required by scope of work. The reviewer states that it lacks sufficient information, but does not elaborate on what information is lacking. The intended user/client had no problems with the rationale used for the opinions and conclusions.*

Respondent additionally stated that she chose comparable sales that required less adjustment and based on a side-by-side analysis and statistical market analysis, when enough market data is available, different aspects of value were chosen and graphed. Respondent states that the lender/client has not requested any explanations or additional information, nor was any other explanations required or requested in the scope of work. The Appraisal was performed meeting all Uniform Standards of Professional Appraisal Practice (USPAP) guidelines. It was based on the records available at the time, the then current market, as well as my familiarity with the market. It was my intention, as it is with every appraisal, that I do my best in supporting the Opinion of Market Value.

Reasoning and Recommendation: Counsel recommends the authorization of a **Letter of Warning** regarding the above referenced USPAP violations.

DECISION: The Commission voted to authorize a Letter of Instruction regarding the USPAP violations.

10. 2016055031

Licensing History: **Certified Residential Appraiser** **11/14/2003 – 3/31/2018**
Disciplinary History: **None.**

This complaint was filed by a consumer and alleged that Respondent undervalued a residential property by using wrong amount of square footage. Complainant alleges that the square footage was calculated incorrectly at 1,117 sq. ft., but the actual square footage of the property is 1,224 sq. ft. . Complainant did not witness the Respondent measuring any rooms in the home. The agent did not pull relevant surrounding home comparables or the appropriate tax records. More accurate comparables that reflect accurate per square foot amounts were pulled by Complainant's real estate agent. Complainant alleges that various upgrades were not included in the report, including the following: new construction to open a wall from kitchen into living room, new paint and appliances (refrigerator; washer/dryer), repair of damaged flooring to floor beam support under the house replaced, air condition unit in closet was rebuilt, new heating and AC unit, hot water heater was replaced when property was purchased, refurbished sub-flooring and flooring that had severe water/dry rot damage upon moving in was replaced.

Respondent stated in response the following in response to the Complainant's allegations. Respondent's responses are in italics.

- Complainant alleged the square footage was calculated incorrectly.
 - *Respondent noted that a note (#2) in the Statement of Assumptions and Limiting Conditions on the 1004 URAR form and stated that he personally measured the property.*
- Complainant alleged that the appraiser did not pull relevant surrounding home comps or the appropriate tax records. More accurate comps were pulled by Complainant's real estate agent.
 - *Respondent states an amendment was made reflecting the real estate agents comparable sales and the Respondent considered these sales per client's request. On some of these comparables Respondent noted that "this is not a comparable sale." Also, Respondent stated the request for reconsideration of value and comparable sales provided by the agent are included in the appraiser's workfile.*
- Complainant alleged that various upgrades were not included in the report.
 - *It is Respondent's opinion that the subject property was fairly represented in both condition of improvement and quality of construction, as defined by Uniform Appraisal Dataset guidelines.*
- Complainant alleged that she did not witness the appraiser measuring any rooms in the home.
 - *Respondent states he knocked on the Complainant's door and informed her that he was on the property, taking photos and measuring the home from the exterior and that he would knock a few times and come inside. Respondent states the*

Complainant did not escort him to the second level, where he did measure from the interior.

- Complainant alleged that the appraiser was here for less or approximately 30 minutes and asked when leaving what the home should appraise for.
 - *Respondent cannot remember the total length of time on site and does not recall what he said to the Complainant, but says it sounds like something he may say in an offhanded way to a pushy homeowner.*
- Complainant alleged that no square footage was given for stairs or landing – and downstairs bathroom.
 - *The downstairs bathroom GLA is included in the lower level GLA. Respondent did cut out the staircase on the second level, as he should have.*
- Complainant alleged that comps were pulled six (6) blocks away and two streets behind the subject.
 - *Respondent states that location alone does not make a comparable sale.*
- Complainant alleged that she contacted the Respondent numerous times with no response.
 - *Respondent states that Complainant was informed by his office to contact her lender for any questions or concerns, and that Respondent would not discuss the report with her directly, per request of the client.*

REVIEWER CONCLUSIONS [alleged violations included within brackets]: *Respondent's response is in italics:*

Neighborhood Analysis - [SR 1-1(a),(b)&(c)].

- The neighborhood analysis section of this original report does not meet the requirements for development and reporting of an appraisal.
- Appraiser defines neighborhood so broad in its boundaries as to be meaningless, it encompasses a number of neighborhoods each with varying features and characteristics. The neighborhoods included offer a range of disparate economic and demographic characteristics.
- Reviewer states that in the immediate neighborhood of the property, there are sales of similar properties within a 6-month timeframe from the date of the original inspection. Reviewer is not suggesting that these sales are appropriate for this appraisal but sees no evidence that they were considered in the original report.
- The neighborhood section of this report is misleading and does not accurately reflect market participant behaviors or expectations.

Respondent's Response –

- *It is the opinion of the Respondent that the neighborhood boundaries defined in the neighborhood section of the report reflects "East Nashville." East Nashville does have many subset neighborhoods that are smaller and more defined, however, due to the type of structure for the subject (attached, condominium & PUD, 31 years actual age, 1117sf GLA), the Respondent was forced to extend the search to this larger neighborhood encompassing multiple subset markets in order to find comparable sales*

most similar to the subject. This is represented in the data pool at the top of the Sales Comparison Approach, and in the (missing; see notes below) CMA report.

- Reviewer states that in the immediate neighborhood of the property, there are sales of similar properties within a 6-month timeframe from the date of the original inspection. Respondent attempted to include in the appraisal report to client a CMA report of the immediate neighborhood sales and listings, that are within the defined criteria as reported in the appraisal (+/- 25% GLA, HPR, 3 mile proximity, 12 month sales history). In the Table of Contents of the appraisal report, the CMA Report is included, however, an error was made in the report, and I uploaded the CRS report twice into the appraisal. Also included in the report. Respondent only realized that this was NOT included in the original report, or in the work file submitted to the Commission in response to the homeowner complaint, after the review by the Commission. The CMA report is a standard inclusion in all of my reports; I assumed that it WAS in the report, as this was not part of or related to any of the original complaint by the homeowner. Respondent included the one page CMA analysis, which was in the appraiser's electronic work file for review.*
- Neighborhood Section reflects data provided from 1004 MC Market Conditions Addendum, included in the report. No intent of the Respondent to mislead the client in any way.*

Site Analysis - [SR 1-3(b)]

- The site analysis section of the original report does not meet the requirements for development and reporting of an appraisal.
- Appraiser did not include in his report any support for his conclusion of Highest & Best Use.

Respondent's Response –

- The subject is classified as a residential condominium per public records, and is a PUD/Horizontal Regime per Deed. Respondent states this is a battle he has fought with lenders for years, and Tennessee's interpretation of PUDs and Condominiums does not comply with those of most states, and with the lending institutions. Generally a condominium has no site dimensions or site size defined. Generally it is a unit as opposed to a lot... The subject is not typical, in that it is classified as a condominium, is a unit, not a lot, but DOES have site size defined in public records. In haste, this is an oversight on the part of the Respondent. Respondent included the proper site size in the report, but at some point in the process, confused the subject as other similar Condo/PUDs and reported it also as no site size recorded. Again, this is not an attempt to mislead, but an error on my part.*

Description of Improvements - [SR 1-1(a),(b)&(c)]

- The appraiser states that there have been, "no updates in the prior 15 years." Then he goes on to state that there is a new HVAC system, new water heater and new windows.

- Square footage measurements between appraiser and assessor's office are similar but not the same. Assessor's sketch does not include a second floor, but appraisers does; also appraiser excluded stairwell and landing in measurements.
- Appraiser does not state which standard of measurement he uses, nor does he state that he uses a standard of measuring at all.

Respondent's Response –

- *Respondent uses TOTAL software, by AlaMode. This is a very common and popular appraisal software product. Since the last form update and inclusion of Uniform Appraisal Dataset, there has been an emphasis on kitchens and bathrooms. The reviewer states that Respondent's report says "no updates in the prior 15 years" but then goes on to state new HVAC system, new hot water heater, and new windows. TOTAL software asks when updates or renovations have been made to kitchens and bathrooms, then automatically inserts a statement into the file that reflects the answers imputed by the appraiser. Respondent states that there is no intent to mislead here. The software produced statement reflecting kitchens and bathrooms. Furthermore, the inclusion of additional updates is my attempt to be proactive and informative.*
- *Per reviewer, square footage measurements between appraiser and assessor's office are similar but not the same. Respondent states that has stated in his response to the original complaint, "Please note #2 of Statement of Assumptions and Limiting Conditions on page 4 of 6 on the 1004 URAR Form. I personally measured the subject property." All Respondent can respond is that my firsthand knowledge of subject's GLA as measured by me was used to best represent the subject's GLA.*
- *Respondent states that stairwell was included in lower level of sketch, landing of 2nd floor included on 2nd floor of sketch. The stairwell was open to the 2nd floor above, and should not be included in GLA. Respondent believes his sketch to be a fair and accurate first hand representation of GLA for the subject.*

Sales Comparison Approach - [SR 1-1(a),(b)&(c); SR 1-4(a)&(b)(i)]

- Appraiser includes a total of eight (8) comparable properties (sales and listings), all selected from within the defined market area. However, as discussed in the Neighborhood Analysis, the market area as defined is so broad that it is meaningless.
- Sales comparison approach lacks foundation and reliability.

Respondent's Response –

- *Reviewer's conclusion that Sales Comparison Approach lacks foundation and reliability due to Neighborhood Analysis. It is the opinion of the Respondent that the neighborhood as defined in the Neighborhood section was necessary due to lack of comparable sales. The omission of the CMA report is in part to blame, as its inclusion (as intended) would further support the lack of data available in the market, justifying the need to extend market boundaries. The data pool is, however, defined at the top of the Sales Comparison Approach, and reflects the data on the missing CMA report provided from the appraiser's electronic work file generated on 08/05/2016.*

Cost Approach - [SR 1-1(a), (b) & (c); SR 1-4(b)(i-iii)]

- Cost approach included an estimate of land value, but contained no support for the estimate.
- This section stated that the site value was determined from public tax assessor records; there is no market-based support for this value conclusion.
- Appraiser stated the following in the report:
 - The cost is based on “replacement cost new” but appraiser does not calculate replacement cost new.
 - The effective date of cost data was June 20165, but included no cost data.
- Appraiser did not apply any appraisal methods or techniques in the cost approach.
- Appraiser estimated a remaining economic life of 60 years for the property, but included no support for this conclusion.

Respondent's Response –

- *Estimate of land value was based on an error of the appraiser, described above, on the assumption of no defined site for condominium.*
- *As stated in the Reconciliation Section, the Cost Approach was not considered appropriate, and was not developed.*

Reviewer's Conclusions:

- This report does not contain sufficient information to enable the intended users to understand the report properly. **[SR 2-1(b)].**
- Reviewer believes this is an incomplete appraisal with significant deficiencies and it contains significant errors and omissions.
- Reviewer finds that this appraisal report is misleading within the context of the requirements applicable to the work engaged.
- This report contains several USPAP violations including: **SR 1-1(a), (b) and (c); SR 1-2(e)(i); SR 1-2(h); SR 1-3(b); SR 1-4(a); SR 1-4(b)(i-iii); SR 2-1(a) and (b); SR 2-2(a)(viii); SR 2-2(a)(x).**

Respondent's Response –

- *In my haste, Respondent states that he made multiple errors on this file. The unique features of the subject (being both condominium and PUD) escalated these issues. However, Respondent attest, it was not, and never has it been my intent, to mislead any client or user of any appraisal report performed by me.*

Reasoning and Recommendation: Counsel recommends the authorization of **thirty (30) hours of coursework**, courses to be decided by the Commission, such courses must be completed within one hundred eighty (180) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

DECISION: The Commission voted to authorize a Letter of Instruction regarding the USPAP violations.

11. 2016042691 - RE-PRESENT

Licensing History: Certified General Appraiser

**Disciplinary History: 2013009201 – Consent Order for \$1000 and Education
2015020881 – Pending (Formal Charges Authorized)**

This is a re-presentation from the September 2016 meeting:

This complaint was opened administratively by the TREAC staff after receiving a letter from the Mississippi Appraiser Board which indicated that the Respondent changed the dates reflected on his temporary license card. The letter from the Mississippi Appraiser Board states the following:

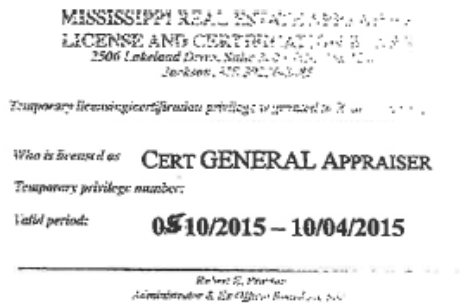
- *Respondent received a temporary license in Mississippi on or about June 15, 2015.*
- *A complaint was filed with the Board alleging that they had been unable to get in touch with the Respondent to obtain a copy of his temporary permit card for a specific assignment.*
- *Respondent did not place his temporary MS permit number adjacent to his signature on the subject appraisal report.*
- *Once the client received a copy of the Respondent's MS permit card, it appeared that the Respondent had changed the dates reflected on the card.*
- *Subject appraisal report was prepared and transmitted on May 19, 2015, which is prior to the date of issuance of his MS temporary permit card.*

Respondent stated the following in his response:

- *Contacted on or about the first week of March 2015 about appraising a condo in Mississippi.*
- *Respondent said he was engaged by telephone on March 10, 2015 and followed up request on March 11, 2015 (document was provided).*
- *On March 10, 2015, Respondent contacted Mississippi Appraiser Board about the Temporary Permit and the urgency. Respondent filled out the application and mailed it along with a check on March 10, 2015.*
- *Respondent proceeded to start the appraisal process of gathering data and went to inspect the property on March 19, 2015.*
- *Respondent prepared a report as requested by the lender and sent it in with a statement stating that the MS State Certification had been applied for. Respondent said after the report was sent to the lender there was an issue regarding the correct address of the property, which was corrected and resubmitted.*
- *Respondent received several calls from the lender regarding the MS certification. Respondent contacted the MS office and they denied ever receiving the application or check.*
- *Respondent went to the post office in Tennessee and determined that the letter had not been delivered to Mississippi office. Respondent resent the letter and received a certificate on or around the first of June.*
- *Respondent had the license card scanned and sent it to the lender.*

- Respondent states that he did not alter the certification and it must have been something on the glass when it was scanned. Respondent states it would not make any sense to change the date from 6/10 to 5/10 as both were after the appraisal date.

Counsel has reviewed all of the documents provided and made note that on the subject appraisal report, the "effective date of appraisal" was 5/19/2015 and that it appears from reviewing the MS temporary cards provided by the MS Appraiser Board that the Respondent changed the date on the card. I have included a redacted copy of the MS temporary permit cards below. MS Temporary Permit Card provided to client by Respondent:



MS Temporary Permit Card provided by the MS Appraiser Board:



Reasoning and Recommendation: Counsel believes this is a violation of T.C.A. § 62-39-326(4) and recommends the authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) to be satisfied within thirty (30) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

DECISION: The Commission voted to place this complaint on litigation monitoring pending the outcome of the current Mississippi Appraiser Boards investigation.

New Information: Counsel reviewed this matter again after the last meeting and believes that we do not have any authority to discipline the Respondent in this matter unless Mississippi does

so first. Counsel has discussed this matter with the Mississippi Real Estate Appraiser Board's attorney and at this time the Mississippi Board intends to serve a complaint on the Respondent soon.

New Recommendation: Counsel has followed up with the Mississippi Real Estate Appraiser Board and they intend to serve a complaint on the Respondent. Accordingly, an administrative hearing will be held before the Mississippi Board on Thursday, December 15, 2016. Therefore, Counsel believes this matter should be placed under litigation monitoring pending the outcome of the Mississippi Real Estate Appraiser Board's administrative hearing.

DECISION: The Commission voted to accept the recommendation of legal counsel.

NEW BUSINESS (CONT'D)

Finally, a new election of officers was held to end the year. For the election of a new chairperson, Mr. Collinsworth put forward Mr. Thomas. For a vice chair, Dr. Mackara put forward Mr. Tankersley. Mr. Tankersley was appreciative but declined the post, and suggested Mr. Garrison instead. Dr. Mackara agreed with the proposed ticket of Mr. Thomas and Mr. Garrison, and they were elected unanimously to their new positions.

There being no other new business, Mr. Thomas concluded the meeting at 11:43 pm.