



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

**February 13, 2012 - Minutes**  
**Second Floor Conference Room, Andrew Johnson Tower**

The Tennessee Real Estate Appraiser Commission met February 13, 2012 at 8:45 a.m. in Nashville, Tennessee, at the Andrew Johnson Tower in the second floor conference room. Chairperson, Nancy Point, called the meeting to order and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

Nancy Point  
Rosemarie Johnson  
Norman Hall  
Michael Green  
Timothy Walton  
Dr. Edward A. Baryla  
Herbert Phillips

**COMMISSION MEMBERS ABSENT**

James E. Wade, Jr.  
Erik Sanford (resigned 2/9/12)

**STAFF MEMBERS PRESENT**

Nikole Avers  
Aminah Saunders

**ADOPT AGENDA**

Mr. Hall made the motion to accept the agenda and it was seconded by Mr. Phillips. The motion carried unopposed.

**MINUTES**

The January 17, 2012 minutes were reviewed. Ms. Johnson made the motion to accept the minutes as written. It was seconded by Mr. Hall. The motion carried unopposed.

**Resignation of Commission Member Erik Sanford**

Ms. Point took a moment to express her appreciation for the service of Mr. Sanford who resigned from his position as a public member of the Real Estate Appraiser Commission on February 9, 2012. His anticipated scheduling conflicts with work in 2012 spurred his decision to resign. His letter was read by the Commission members at the meeting.

## Experience Interviews

**Julia K. Thayer** made application to upgrade from a license real estate appraiser to become a certified residential real estate appraiser. Mr. Hall was the reviewer and recommended approval of her experience request. Mr. Green seconded the motion. The motion carried unopposed.

**Charles Edward Tindell III**, made application to upgrade from a registered trainee to become a certified general real estate appraiser. Mr. Walton was the reviewer and recommended two additional reports be requested from the applicant before vote taken on their experience request. Mr. Walton asked that an appraisal report of an income producing property and one single family residential appraisal report be requested for audit.

**Terrell H. Smith**, made application to upgrade from a license real estate appraiser to become a certified residential real estate appraiser. He requested that the Commission waive his experience interview because he had a prior experience interview in 2008. Mr. Hall made the motion to deny the request for waiver and require an experience interview because the last interview was four years ago. Mr. Green seconded the motion. The motion passed.

## Education Committee Report

Dr. Baryla reviewed the education and submitted his recommendations electronically to the Real Estate Appraiser Commission, as seen below. Mr. Phillips made a motion to accept Dr. Baryla's recommendations. Mr. Hall seconded the motion. The motion carried unopposed.

## February 13, 2012 Education Committee Report

Course Provider	Course Number	Course Name	Instructors	Hours	Type	Recommendation
Appraisal Institute	1548	Quantitative Analysis	Marv Wolverton, Ken Foltz	30 + 3	BOTH	for
ASFMRA	1554	Appraising Rural Residential Properties	James Synatzske	8	CE	for
The Columbia Institute	1553	On-line Appraisal of 2-4 Family & Multi-Family Properties, No. 838	George R. Harrison	7	CE	for
The Columbia Institute	1552	On-line Mortgage Fraud: A Dangerous Business, No. 837	George R. Harrison	7	CE	for
The Columbia Institute	1551	On-line 2012-13 7 Hour Equivalent USPAP Update No. 831	George R. Harrison	7	CE	for
IRWA	1558	303 – Managing the Consultant Process	William J. “Joe” Liebhauser, SR/WA	16	CE	for

### Individual Course Approval

Name	File #	Provider	Course Name	Hours	Type	Recommendation
Sherry Lin Kaley	2811	Relocation Appraisers and Consultants, Inc.	Consistent Analysis & Recognizing Trends & Price is Right Tour and Mock Appraisal	10	CE	for

#### **LEGAL REPORT:**

**1. 2011017461 Mr. Wilson was the reviewer.**

This complaint matter was presented at the November 2011 Commission meeting.

This complaint was filed by a lender and alleged that the Respondent communicated a misleading 2008 appraisal by utilizing inappropriate comparable and failing to address maintenance issues.

#### **REVIEWER CONCLUSIONS [alleged violations included within brackets]:**

- Neighborhood and Sales Comparison Approach indicate a lack of geographic competence. [ Competency Rule, SR 1-1(b)(c), SR 1-2(e)(i), SR 2-2(b)(iii)]
- The subject improvements are inadequately described. [ 1-2(e)(i). 2-2(b)(iii)]
- No analysis of lot sales in the reported value. The Cost Approach was included but no cost sheets were included in the submitted material. [1-4(b), Ethics Rule: Recordkeeping]

**License History:** Certified Residential 01/04/1996 - Present

**Prior Complaint / Disciplinary History:** None.

**Reasoning and Recommendation:** Respondent has had no prior discipline in twenty five (25) years as a licensed appraiser however the specific allegations are significant, therefore Legal recommends a consent order imposing a civil penalty in the amount of five hundred dollars (\$500.00) and a fifteen hour Sales Comparison Approach course to be completed within ninety (90) days of execution with no credit given for corrective education.

**Updated Recommendation:** The Respondent indicated disagreement with the review and stated the intent to SURRENDER the appraiser license. The credential expired January 31, 2012; therefore legal recommends CLOSE and FLAG in the event the Respondent reapplies. Mr. Hall made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

This complaint was filed anonymously and alleged that the subject property was overvalued.

**REVIEWER CONCLUSIONS [alleged violations included within brackets]:**

- No analysis of the prior sale and the sales contract. [SR 1-5(a)(b)]
- Inadequate description and analysis of subject improvements and easements. [SR 1-1(b)(c), SR 1-2(e), SR 2-1(a)(b), SR 2-2(b)(iii)]
- Sales Comparison Approach grid had errors and did not discuss or adjust views or river frontage of comparable sales and there was no discussion of any reconciliation that derived the indicated value. [SR 1-1(a)(b)(c), SR 1-4(a)]
- The final reconciliation section contained inconsistent statements regarding the three approaches. [SR 1-1(a)(b)(c), SR 1-6, SR 2-1(a)(b), SR 2-2(b)(viii)]

In response to the specific allegations the Respondent states that many of the reviewers allegations are opinions and opinions are not considered valid proof of USPAP violations. The Respondent points out the comment to Standard Rule 1-1 which states that, *perfection is impossible to attain and competence does not require perfection*. As to the analysis of the prior sale and contract the Respondent states that the summary contained is weak and that the reporting requirements in 2007 were significantly less industry wide. The standards have increased significantly since that time – the Respondent states that this is not offered as an excuse but as context and the degree of reporting was accepted by peers and peer review committees at that time. As to the easements the Respondent points out the comment to SR 1-2(e), *An appraiser may use any combination of a property inspection and documents such as a physical legal description, address, map reference, copy of a survey or map, property sketch, or photographs to identify the relevant characteristics of the subject*. The Respondent states that the easements were not included in the conveyance as they are listed in the legal descriptions as “excepted” and therefore are not a portion of the property. As to errors contained in the Sales Comparison Approach the Respondent states that there were minor calculation errors in the adjustment errors but those errors do not constitute a series of errors that would undermine the credibility of the report. With regards to the adjustments, the Respondent states that the necessity of adjustments for views, water, flood area is a matter of opinion and that the subject contains significant creek frontage which was a premium – value, well sought after resource. The Respondent states that six comparable properties were used and contained characteristics similar to the subject – water features, mountain views, pastureland, dwellings, etc. The Respondent states that it was impossible to find perfect comparable to the subject.

**License History:** Certified General 01/1/2006 - Present

**Prior Complaint / Disciplinary History:** None.

**Reasoning and Recommendation:** The Respondent has been licensed since 2006 and the appraisal at issue was performed in 2007. The Respondent provided a thorough response to the allegations however overall the Respondent failed to adequately summarize information so that information was understandable to intended users. As such Legal recommends the imposition of a consent order imposing a five hundred dollar (\$500.00) civil penalty and completion of a thirty (30) hour Sales Comparison Approach course to be completed within

one hundred and eighty (180) days of execution. The civil penalty should act as a sufficient economic deterrent while the education should assist the Respondent in becoming a more effective appraiser thereby protecting the interests of the public. Mr. Green made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

**3. 201102343 Mr. Wilson was the reviewer.**

This complaint was filed anonymously and alleged that the subject property was overvalued.

**REVIEWER CONCLUSIONS [alleged violations included within brackets]:**

- No stated Scope of Work. The intended use statement is confusing. [SR 1-1(c), SR 2-1(b), SR 2-2(b)(vii), Scope of Work rule]
- No analysis of the prior sales and sales contract. [SR 1-5(a), SR 2-2(b)]
- Neighborhood section inconsistent and incomplete. [SR 1-1(b)(c), SR 1-2(e)(i), SR 2-1(a)(b)]
- Sales Comparison Approach inaccurate. [SR 1-1(a)(b)(c), SR 1-4]
- No discussion of any reconciliation derived from the indicated value. [SR 1-1(a)(b)(c), SR 1-6, SR 2-1(a)(b), SR 2-2(b)(viii)]
- Exceeded transaction value for a Certified Residential appraiser. T.C.A. 62-39-302 (3)

**License History:** Certified Residential 09/27/2005 - Present

**Prior Complaint / Disciplinary History:** None.

**Reasoning and Recommendation:** The Respondent has been Certified Residential since 2005 and has no prior discipline. The appraisal at issue was performed in 2007. Legal recommends a civil penalty in the amount of one thousand dollars (\$1000.00) for exceeding the license limits and a civil penalty of five hundred dollars (\$500.00) for the USPAP violations alleged. The Respondent would also be required to successfully complete a fifteen (15) hour USPAP course and fifteen (15) hours of basic appraisal procedures coursework within one hundred and eighty (180) days of the execution of the order. The recommended disposition should serve as a sufficient economic deterrent while the education should assist the Respondent in becoming a more effective appraiser thereby protecting the interests of the public.

Mr. Phillips made the motion to accept the recommendation and Mr. Green seconded the motion. The motion carried unopposed.

**4. 2011023611 Mr. Wilson was the reviewer.**

This complaint was filed by a lender and alleged that the Respondent over valued a residential property by communicating an inflated appraisal report.

The Respondent states that the comparable properties used in the appraisal are within 100 square feet of the subject property's GLA and are within reasonable proximity to the subject. The Respondent states that the sales selected were entirely appropriate and Respondent stands behind the appraisal and indicate that the value conclusion was well supported.



**License History:** Certified Residential 11/09/1994 - Present

**Prior Complaint / Disciplinary History:** 946785 (Dismissed), 201100501 (Closed w/Letter of Caution).

**Reasoning and Recommendation:** The Respondent has been licensed since 1994 with no prior discipline. The appraisal at issue was performed in 2010. Given the nature of the allegations and the Respondents seventeen (17) year licensing history legal recommends a Letter of Warning regarding the allegations noted by the reviewer. A letter of Warning should act to sufficiently advise the Respondent of the potential violations of USPAP thereby protecting the interests of the public. Mr. Green made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

**6. 2011030731 Mr. Sam Pipkin was the reviewer.**

This complaint was filed by a consumer and alleged that the Respondent misreported the square footage and inconsistently applied a price per square foot which caused the subject to be undervalued.

**REVIEWER CONCLUSIONS [alleged violations included within brackets]:**

- No apparent violations of USPAP found.

**License History:** Licensed RE Appraiser 05/21/07 to 11/18/09  
Certified Residential 11/09/09 to Present

**Prior Complaint / Disciplinary History:** 201000883 (Dismissed)

**Reasoning and Recommendation:** Legal recommends that the complaint be DISMISSED as there were no violations of USPAP found. Mr. Phillips made the motion to accept the recommendation and Mr. Hall seconded the motion. The motion carried unopposed.

**7. 201200170 No reviewer in this matter.**

This complaint was filed by TREAC staff upon notification that the AMC's surety bond was cancelled effective December 13, 2011.

On January 23, 2012 the AMC Respondent voluntarily surrendered the AMC registration.

**Registration History:** 07/18/2011 – 1/23/2012

**Prior Complaint / Disciplinary History:** None.

**Reasoning and Recommendation:** Legal recommends that the complaint be CLOSED as the AMC surrendered the AMC registration. Mr. Phillips made the motion to accept the recommendation and Ms. Johnson seconded the motion. The motion carried unopposed.

**8. 2011030201/2011027361 Mr. Michael Orman was the reviewer in this matter.**

This complaint was filed by a consumer against an AMC and alleged that the AMC selected an appraiser who was not geographically competent and as a result the appraiser utilized inappropriate comparable sales and failed to justify throwing out comparable properties that were deemed superior.

As the allegations related to the performance of an appraisal TREAC staff opened a complaint against the Respondent appraiser.

**REVIEWER CONCLUSIONS [alleged violations included within brackets]:**

- The estimated site value was unsupported. [SR 2-2(b)(viii)]

**License History:** 03/04/2008 to present

**Prior Complaint / Disciplinary History:** 201001764 Closed w/ LOW

**Reasoning and Recommendation:** The Respondent has been licensed since 2008. The reviewer found that the appraisal report was conveyed in an appropriate and competent manner as such legal recommends the dismissal of the complaint matter against the AMC and Respondent. Mr. Hall made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

**9. 201103210 There was no reviewer in this matter.**

This complaint was filed by an appraiser and alleged that the Respondent is attempting to engage in business as an AMC without first obtaining a registration. In support of the complaint the Respondent submitted an email where the AMC is seeking an appraiser to build a relationship with.

The Respondent states that they were unaware of the TN AMC Registration requirements.

**License History:** Unlicensed.

**Prior Complaint / Disciplinary History:** None.

**Reasoning and Recommendation:** Legal recommends a Letter of Warning regarding the AMC registration requirements. The Letter of Warning should act to adequately put the AMC on notice of the AMC registration requirements. Mr. Green made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

**10. 2011026681 Mr. Michael Orman was the reviewer in this matter.**

This complaint was filed by an AMC and alleged that the Respondent misreported market conditions, failed to summarize the condition of the property, failed to reconcile the previous sale of the subject and used inappropriate comparable properties and ultimately overvalued the subject.

## **REVIEWER CONCLUSIONS [alleged violations included within brackets]:**

- Previous sale of subject was not analyzed. [SR 1-5(b), SR 2-2(b)(viii)]
- Neighborhood/Marketing trends not adequately described. [SR 1-1(b), SR 1-2(e)(i)]
- Sales Comparison Approach analysis and conclusions are not supported. [SR 1-1(a)(b)(c), SR 1-4(a), SR 2-2(b)(viii)]
- Site value was not supported. Cost Approach data was inconsistent. Conclusions not adequately supported. Physical depreciation not calculated properly or explained. [SR 1-1(a)(b)(c), SR 1-4(b), SR 2-2(b)(viii)]
- Exclusion of the Income Approach was not explained. [SR 2-2(b)(viii)]
- Reconciliation failed to adequately address the quality and quantity of data in arriving at the final value. [SR 1-6(a)(b), SR 2-1(b), SR 2-2(b)(viii)]

In response to the specific allegations, the Respondent states that the previous sales data was provided, the sales involved were private therefore there was limited data available. As to declining values the Respondents states that the reviewer used median data averages which contained inherently large parameters and that the use of statistical models must be properly analyzed to have relevant conclusions.

**License History:** Certified Residential 11/27/1991 - present

**Prior Complaint / Disciplinary History:** 200317448 (Closed w/ Consent Order imposing a \$500.00 civil penalty), 201003270 (Closed w/ Consent Order imposing a 15 hour Report Writing course)

**Reasoning and Recommendation:** The Respondent resolved a complaint involving a 2007 appraisal report last month. The current complaint matter involves substantially similar report writing and USPAP issues. Legal recommends the imposition of a consent order requiring the completion of a fifteen (15) hour USPAP course within ninety (90) days of execution. The Respondent would be required to submit the work log sixty (60) days after completion of the course to the TREAC staff and at least one appraisal would be selected for review. The additional corrective education should adequately address any deficiencies in the Respondent's work while the review of Respondent's work log should assist TREAC in determining the quality of Respondent's current work product thereby protecting the interests of the public. Mr. Hall made the motion to accept the recommendation and Mr. Phillips seconded the motion. The motion carried unopposed.

### **11. 2011021912/2011021911 Mr. Michael Orman was the reviewer.**

This complaint matter was previously presented at the January 2012 meeting.

This complaint was filed by a lender and alleged that the Respondent communicated a misleading appraisal report by appraising a duplex as single family, utilizing inappropriate comparable sales and omitting the income approach without adequate explanation and ultimately over valuing the subject.

**REVIEWER CONCLUSIONS [alleged violations included within brackets]:**

- Previous listing and sale was not analyzed. [SR 1-5(a)(b), SR 2-2(b)(viii)]
- Property type incorrectly identified. [ Competency Rule; Scope of Work Rule; SR 1-3(a)(b), SR 2-2(b)(ix)]
- Zoning incorrectly reported. [Scope of Work Rule, SR 1-1(a)(b)(c), SR 1-2(e)(i), SR 1-3(a)(b), SR 2-2(b)(ix)]
- Highest and Best Use analysis inadequately summarized. [Scope of Work Rule, SR 1-1(a)(b)(c), SR 1-2 (e)(i), SR 1-3(a)(b), SR 2-2(b)(ix)]
- Description of improvements failed to adequately address relevant characteristic for subject. [SR 1-2(e), SR 2-1(b), SR 2-2(b)(iii)]
- Sales Comparison not properly completed for subject. [SR 1-1(a)(b)(c), SR 1-4(a), SR 2-2(b)(viii)]
- Site valuation and cost approach not supported. [SR 1-1(a)(b)(c), SR 1-4(b), SR 2-2(b)(viii)]
- Exclusion of the income approach was not adequately explained. [SR 1-1(a)(b)(c), SR 1-4(c), SR 2-2(b)(viii)]
- Reconciliation improperly developed. [ Competency Rule, Scope of Work Rule, SR 1-6(a)(b), SR 2-1(a)(b), SR 2-2(b)(viii)]

**Licensing History:** Supervisor: Licensed RE 09/25/2001 – 10/03/2002  
Certified Residential 10/04/2002 – 01/07/2008  
Certified General 01/08/2008 - Present

**Prior Complaint / Disciplinary History:** Supervisor 200504504 (Closed), 200801992 Closed with Order imposing \$2700.00 civil penalty plus costs & thirty (30) hours corrective education.

**Previous Recommendation:** Counsel recommends the imposition of a civil penalty of one thousand five hundred dollars (\$1500.00), a thirty (30) hour Sales Comparison course and Income Approach course and a fifteen (15) hour USPAP course to be completed within ninety (90) days of execution. The Respondent would be required to submit the work log to the Administrative Director one hundred and twenty (120) days from execution and *no fewer* than one (1) appraisal report will be selected for review for a determination of USPAP compliance.

**Updated Reasoning and Recommendation:** Respondent's Counsel advises that the Respondent completed a fifteen (15) hour Residential Report Writing course and a fifteen (15) hour Advanced Residential Case Studies in late 2010. The Respondent states that the audit of the work log by TREAC dated February 2010 until August 2010 made no findings of issues with the Respondent's work following the coursework. The appraisals at issue relate to appraisals performed in 2007. The Respondent's Counsel indicates that at the time of the appraisal, the Respondent was dealing with the terminal illness of a very close family member and neglected his responsibilities as Supervisor. As the Respondent's work has been audited since the 2007 complaint matter and thirty (30) hours of corrective education has been completed Legal recommends a revised Consent Order imposing a fifteen hundred dollar (\$1500.00) civil penalty to be paid within one hundred and eighty (180) days of execution and successful completion of a four (4) hour course on Supervising Trainees and a fifteen (15) hour USPAP course to be completed within ninety (90) days of execution. The

audit requirement would remain intact. The revised education should act to specifically address the issues regarding the supervision of a trainee and USPAP compliance. Mr. Phillips made the motion to accept the recommendation and Mr. Green seconded the motion. The motion carried unopposed.

**12. 2011028221                    There was no reviewer in this matter.**

This complaint was filed by an agency and alleged that the Respondent conducted an appraisal while unlicensed.

The Respondent’s employer, an out of state realty corporation, indicated that the report was never intended to be an appraisal but to provide certain research and information such as vacancy rates, market conditions, hazards and environmental issues and overall building quality and materials. The employer states the report was to be utilized by the client as an underwriting tool not as an appraisal.

**License History:** Unlicensed.

**Prior Complaint / Disciplinary History:** None.

**Reasoning and Recommendation:** The Consolidated Summary: Site & Valuation Report submitted appears to fit under the statutory definition of an appraisal. The report contains a Market Value Conclusion. As such Legal recommends a Letter of Warning regarding the TN definition of an appraisal and the licensing requirements for conducting appraisals in Tennessee. Ms. Johnson made the motion to accept the recommendation and Mr. Hall seconded the motion. After some discussion the motion was withdrawn and Mr. Hall made an alternate motion that the Respondent be issued a one thousand dollar (\$1,000) civil penalty or citation and a Cease and Desist order. Mr. Green seconded the motion. The motion carried unopposed.

Ms. Avers provided the Commission members with a director’s report which included information on the budget information for the program, the total number of licensees, renewal information, complaint total numbers with processing time in relation to the State’s performance measures, examination statistics and an update on the upcoming changes to the real property appraiser qualifications issued by the Appraisal Foundation’s Appraisal Qualification Board (AQB). No votes were request as this information was provided for informational purposes only.

A formal hearing was held in the matter of David Landes.

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Being no further business, the meeting was adjourned at 3:15 p.m.

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Chairperson, Nancy Point

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Nikole Avers, Executive Director