



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

October 8, 2012 - Minutes
Second Floor Conference Room, Andrew Johnson Tower

The Tennessee Real Estate Appraiser Commission met October 8, 2012 at 8:30 a.m. in Nashville, Tennessee, at the Andrew Johnson Tower in the second floor conference room. Chairperson, Norman Hall, called the meeting to order and the following business was transacted.

COMMISSION MEMBERS PRESENT

Norman Hall
Michael Green
Rosemarie Johnson
Dr. Edward A. Baryla
Nancy Point
Herbert Phillips
Jason Covington
James E. Wade, Jr.

COMMISSION MEMBERS ABSENT

Timothy Walton

STAFF MEMBERS PRESENT

Nikole Avers Jesse Joseph Keeling Baird

ADOPT AGENDA

Dr. Baryla made the motion to accept the agenda and it was seconded by Ms. Johnson. The motion carried unopposed.

MINUTES

The September 10, 2012 minutes were reviewed. Dr. Baryla made the motion to accept the minutes as written. It was seconded by Mr. Covington. The motion carried unopposed.

EXPERIENCE INTERVIEW

Steve Carey Gregory made application to upgrade from a registered trainee to become a state licensed real estate appraiser. Ms. Point was the reviewer and made a motion for approval of his experience request. Ms. Johnson seconded the motion. The motion carried unopposed.

Robert E. Ashburn made application to upgrade from a registered trainee to become a state certified residential real estate appraiser. Mr. Covington and Mr. Wade were the reviewers. Mr. Covington made a motion for approval of his experience request. Mr. Green seconded the motion. The motion carried unopposed.

Nathan Edward McBroom made application to upgrade from a registered trainee to become a state certified residential real estate appraiser. Mr. Green was the reviewer and made a motion that the applicant send in at least 3 additional appraisal report for review that have an effective date of report after October 8, 2012 where at least three (3) report show the income approach to value and three (3) reports show the cost approach to value. He indicated these reports may be demonstration reports, if necessary. No second experience interview will be required if the reports are found by Mr. Green to show USPAP compliant application of the cost and income approaches to value. Mr. Wade seconded the motion. The motion carried unopposed.

Education Committee Report

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

October 8, 2012 Education Committee Report

Course Provider	Course Number	Course Name	Instructors	Hours	Type	Rec.
American Continuing Education Institute; DBA Calypso Continuing Education	1609	Environmental Hazard Impact on Value	Francis X. Finigan	7	CE	for

Individual Course Approval

Appraiser Applicant	Course Provider	Course Name	Instructors	Hours	Type	Rec.
Regan Schwarzlose	RMS – The Risk	Chief Appraisers	Panel	10	CE	for

CG 4415	Management Association	Real Estate Roundtable 2011				
Regan Schwarzlose CG 4415	RMS – The Risk Management Association	Chief Appraisers Real Estate Roundtable 2011	Panel	10	CE	for
Arthur D. Lewis	International Association of Assessing Officers	IAAO Course 102-Income Approach to Valuation	Bill Gibbs	33	CE	for

Application Review – Carol Ann Easley (Smith)

On September 7, 2012 an application to become a registered trainee was received by staff from applicant Carol Ann Easley (Smith). The application was incomplete but included marking “yes” to character question 1 on the application. Ms. Easley did not include the required letter of explanation or include all disciplinary history documents but did include a partial copy of the Notice of Hearing and Charges from the October 2011 disciplinary hearing. Ms. Smith was previously a certified residential real estate appraiser in Tennessee and Mississippi. She has disciplinary history in Mississippi indicated on the ASC registry and no longer hold certification in that State, but recently applied to become a trainee in MS. Her certification was revoked in Tennessee by final order on October 24, 2011. Ms. Smith requested in November of 2011 to have the Tennessee revocation stayed, but her request was denied during the November 14, 2011 Commission meeting. Ms. Smith filed an appeal to Chancery Court; no decision on that matter has yet been received by the staff of TREAC.

On September 7, 2012 staff sent notification to Ms. Easley (Smith) and her intended sponsor that because of the prior disciplinary history that an application review would be required for consideration of her application at the October 8, 2012 Commission meeting. Copies of the prior disciplinary orders were attached to the emails submitted the applicant and the sponsor. The applicant’s email bounced back invalid email address on September 13, 2012. Staff sent the notification to the applicant by regular mail. On September 13, 2012 the proposed sponsor sent by email and subsequent letter notification that after a review of the amount and type of disciplinary action levied against Ms. Easley (Smith), he no longer felt he was in a position to review and give proper training to the applicant, withdrawing as her sponsor. Ms. Easley’s (Smith) application was denied by staff on September 13, 2012 because the sponsor indicated on the application withdrew his sponsorship. A letter was sent certified mail canceling her appointment and denying her application because she did not meet the requirements for application as a registered trainee. She was also notified that the application did not include a course completion certificate for the 15 hour USPAP course which is also required.

On September 27, 2012 an email from Carol Easley from a previously undisclosed email address was received by Ms. Avers indicating that she wished to attend an informal conference with the Commission on October 8, 2012 for reconsideration of the denial of her trainee application. She indicated she would bring a copy of the USPAP course with her and be prepared to discuss the disciplinary history. Ms. Avers responded that her request to meet with the Commission is accepted, but that the requirement for a sponsor could not be waived as it is a requirement for registration as a trainee in the appraiser rules.

1255-01-.12 REGISTERED TRAINEE.

(1) Application. An applicant for registration as a real estate appraiser trainee shall successfully complete the following requirements prior to obtaining registration:

(a) Obtain and complete the required application form from the Commission.

(b) Provide proof on the application form showing that he or she has obtained a high school diploma or its equivalent.

*(c) **Provide on the application form the name and certificate number of the certified real estate appraiser under whose direct supervision the applicant will serve.***

(d) Provide the business address of his or her supervising appraiser and use that address as his or her business address. If an applicant has more than one (1) supervising appraiser, then the applicant shall use the business address of at least one (1) of his or her supervising appraisers.

(e) Complete an approved thirty (30)-hour course in Appraisal Principles, an approved thirty (30)-hour course in Practices and Procedures, and the fifteen (15)-hour National Uniform Standards of Professional Appraisal Practice Course.

(f) Submit with the application a nonrefundable application and registration fee of one hundred twenty-five dollars (\$125.00).

Disciplinary History:

200800016 – Closed with consent order \$1,000 civil penalty and suspension of
200800847 the appraiser credential for 18 months, with Respondent to serve 6
200800863 months on actual suspension followed by 12 months of stayed
suspension on probation with: experience log requirements;
required courses including a 30 hours sales comparison and
income approach course, a 30 hour cost approach course, and a
15 hour USPAP course; and a prohibition of any trainee supervision
for 12 months.

200800963 – Closed with a consent order to suspend the appraiser credential
200801113 for 60 days to be served currently with the 18 month suspension,
200801742 6 months to serve on actual suspension pursuant to prior order.

201002987 – Closed with consent order \$1,000 civil penalty and one year
201100024 probation with experience log requirement and prohibition of any
201100745 trainee supervision for probation period.

201100356 – Closed with a final order revoking the appraiser’s certification for numerous violations and prior aggravating disciplinary sanctions and the Respondent’s pattern and practice of gross negligence in the performance of appraisals and costs of the investigation and hearing (**unpaid - \$2,675**). There is an appeal in Chancery Court.

201102714 – Closed and flagged because the appraiser credential had been previously revoked. Allegations by the Complainant of fraudulent sale data, lack of analysis, lack of data verification, and insufficient reporting.

Calls and correspondence since revocation:

Subsequent to the revocation of Ms. Smiths, several calls were received regarding her credential. One inquiry was from a licensee (Opdyke) that indicated that she was attempting to gain sponsorship and had indicated that since she had previously been a certified appraiser that she would not need someone to be with her on inspections. Upon review of her disciplinary history and notification the inspection requirements of supervisors he indicated he would not sponsor her. Calls from AMC’s indicating that she was soliciting work were received by Ms. Avers. Ms. Avers contacted Ms. Smith and she denied she had been telling companies that she could continue to offer appraisal services. Emails to and from John Sisk relating to these inquiries are included with Board documents. Emails to Ms. Smith at appraisal1000@aol.com email address regarding these inquiries. March 13, 2012 email from other identified email address used by Ms. Smith bigriverappraisa@gmail.com requesting staff update her status with HUD for FHA appraisal work. Email from same email address bigriverappraisal@gmail.com saying she didn’t know why my email stating her credential is revoked and she can’t do any HUD appraisals. Her email indicated that all additional communication would be from the appraiser1000@aol.com email account. Her application received September 7, 2012 indicates this AOL email address. September 7, 2012 email bounce back indicating the email sent by Ms. Avers regarding her application was undeliverable. September 27, 2012 email from Carol Easley Easley.carolann@gmail.com which included her request for reconsideration of denial of her trainee application. This email address was not disclosed on the application and has not been used in prior communication.

Staff Recommendation and reasoning:

Ms. Carol Ann Easley (Smith) has not met the requirements of an applicant for registration as a trainee. She has no sponsor for her registration and has failed to submit a course completion certificate for the required 15 hour USPAP course.

Additionally, she has not paid the hearing and investigation costs from the prior formal hearing proceeding and she has an appeal (initiated in 2011) to chancery court regarding her revocation that has not yet reached disposition.

Ms. Avers recommends to the Commission that reconsideration for registration of Ms. Easley (Smith) be denied and that any future application she may submit include a new application fee and all required documentation.

Ms. Avers added that since the time of Ms. Easley (Smith)'s application the State of Mississippi has requested certified copies of all prior disciplinary orders. She was told that Ms. Easley (Smith) has applied there and indicated a MS residence address on their application, while the TN application indicates residency in TN.

Vote: Mr. Wade made a motion to accept Ms. Avers recommendation to deny the application reconsideration. Mr. Covington seconded the motion. Mr. Phillips recused from vote because of having reviewed Ms. Smith's complaint matters in the past. The motion carried unanimously.

Ms. Easley (Smith) was not in attendance at the meeting during her appointment time, but showed up later, at approximately 9:15 a.m. CST., during a formal hearing which was already in progress. Ms. Avers spoke to her during a break in the meeting. She was told she could request to speak to the Commission when they concluded the formal hearing, but she did not stay to speak to the Commission members.

Legal Report

1. 2012003281

Mr. Michael T. Orman was the reviewer.

This complaint was filed by a property owner and alleged that the Respondent misreported the square footage of the subject property, misreported comparable sale information, and undervalued the subject property.

The Respondent indicated he made some typographical errors in the first report and that he did not complete the cost approach on the subject property (0-1 year actual age) because the secondary market and the client did not require it and because cost figures do not always represent contributory value. The Respondent indicated he measured the subject property using ANSI and Fannie Mae guidelines requirements. He indicated the revisions to the report did not warrant a change to the value conclusion.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- The physical characteristics of the subject property were not properly identified (gross living area). [SR 1-1 (b); SR 1-2 (e)(i); SR 2-2 (b)(iii)]
- The sales comparison approach analysis and conclusions were not adequately supported. This lack of support reduces the reliability and/or credibility of the conclusions presented in this approach to value. [SR 1-1 (a)(b)(c); SR 1-4 (a); SR 2-1 (b); SR 2-2 (b)(viii)]

- The site value and the cost approach exclusion were not adequately supported. The Respondent has not correctly employed recognized methods and techniques. [Competency Rule-Being Competent; Scope of Work Rule; SR 1-1 (a)(b)(c); SR 1-4 (b)(i)(ii)(iii); SR 2-1 (b); SR 2-2 (b)(viii)]
- There was insufficient information presented to enable the client and/or intended users to understand the report. The analysis, reasoning, and conclusions are not conveyed in an appropriate manner. [SR 1-6 (b); SR 2-1 (b); SR 2-2 (b)(viii)]
- The work file was incomplete as it did not contain the original appraisal report. [Ethics Rule-Record Keeping]

License History: Registered Trainee 7/5/1994-6/19/1996
 Certified Residential 6/20/1996-Present

Prior Complaint/ Disciplinary History: 20050047 (Dismissed), 200801287 (Dismissed), 200902722 (Dismissed), 201102423 (Closed with a Consent Order requiring \$500 civil penalty and 30 hour Basic Appraisal Procedures course due by January 3, 2013).

Reasoning and Recommendation: The reviewer found that the inconsistencies throughout the report diminish the reliability of the report. The information provided and the opinions reported in this appraisal report do not provide adequate support for the conclusions rendered. Based on the evidence presented it would appear there is a discrepancy in the reported gross living area (square footage) of the subject property and that this discrepancy could have an effect on the value conclusion presented.

The appraisal at issue was performed in 2011, at the time the Respondent had been Certified Residential for thirteen (13) years. The allegations as noted above are significant and the value conclusion was not developed in compliance with applicable standards thereby reducing the credibility of the conclusions. As such, Counsel recommends the imposition of a civil penalty in the amount of Five Hundred Dollars (\$500.00), a fifteen (15) hour "Site Valuation and Cost Approach" Course, and a fifteen (15) hour "Market Analysis and Highest and Best Use" course to be completed within 180 days of execution of the Consent Order. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public. The Respondent may receive a maximum of twenty-one (21) hours of credit for approved classroom continuing education courses or no more than fourteen (14) hours of online continuing education credit for renewal of their credential.

Vote: Mr. Green made the motion to accept the recommendation and it was seconded by Mr. Phillips. The motion carried unopposed.

2. 2012011921

Mr. Wilson was the reviewer in this matter.

This complaint was filed by a home retailer and alleged bias/prejudice in the appraisal of manufactured housing, use of inappropriate comparable sales, omission of subject property amenities, and under-valuing a residential manufactured house. This complaint was based on two separate appraisals of two separate property addresses. The effective dates of the two (2) reports were in December of 2011.

The Respondent states that the purpose of this complaint seems to be to try to influence the appraiser's value in the past and in the future and that the Complainant would not have had a problem if he had gotten the number/value that he wanted.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

Property Address #1

- Missing information on contract and asking price. Contract section does not list the asking price even though the seller, per the report, is paying a large amount of closing costs and added several appliances as part of the sale price. [SR 1-1(b) & (c), SR 1-2 e(iii), SR 2-1 (a) & (b)]
- The neighborhood section was inadequate, as it used very "canned" statements, with very little real information about the neighborhood and area. [SR 1-1 (b) & (c), SR 1-2 (e)(i), SR 2-1 (a) & (b)]
- There were no site value sales, no analysis of appraisal methods, or techniques for site value and reconciliation. [SR 1-4(b)(i), SR 2-2 (b)(viii), ETHICS RULE: Record Keeping]
- There was no explanation as to why the income approach was not appropriate. [SR 2-2 (b)(viii) Comment]
- There was no work file submitted. [ETHICS RULE: RECORD-KEEPING]

Property Address #2:

- Missing information on contract and asking price. Contract section does not list the asking price even though the seller, per the report, is paying a large amount of closing costs and added several items and upgrades as part of the sales price. [SR 1-1(b) & (c), SR 1-2 e(iii), SR 2-1 (a) & (b), SR 2-2 (b)(viii)]
- The neighborhood section was inadequate, as it used very "canned" statements, with very little real information about the neighborhood and area. [SR 1-1 (b) & (c), SR 1-2 (e)(i), SR 2-1 (a) & (b)]
- There were no site value sales, no analysis of appraisal methods, or techniques for site value and reconciliation. [SR 1-4(b)(i), SR 2-2 (b)(viii), ETHICS RULE: Record Keeping]

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- Previous transfers were not reported and/or analyzed. The report indicates that, “the subject has not been sold nor ownership transferred over the past 36 months, per MLS and tax records”. Based on the reviewer’s research, the subject property appears to have transferred twice within the last three years prior to the effective date of the report, 10/29/2011. [SR 1-5 (b); SR 2-2 (b)(viii) Comment: lines 784-789]
- The relevant characteristics of subject improvements (guest house) and the effect on value have not been adequately discussed. [SR 1-2 (e)(i); SR 2-2 (b)(iii)]
- The site value support is not provided in the report or work file. [SR 1-1 (a)(b)(c); SR 1-4 (b)(i)(ii); SR 2-1 (b); SR 2-2 (b)(viii)]
- The cost approach analysis was not supported. The physical depreciation was not properly calculated. [SR 1-1 (a)(b)(c); SR 1-4 (b)(i)(ii); SR 2-1(b); SR 2-2 (b)(viii)]
- The work file submitted did not contain true copies of the appraisal report submitted to the client. [ETHICS RULE-Record Keeping Lines 292-294]

Licensing History: Registered Trainee 5/22/1998-6/17/1999
Licensed RE Appraiser 6/18/1999-Present

Disciplinary History: 200500230 (Closed with Consent Order imposing a civil penalty).

Reasoning and Recommendation: The reviewer found that the appraisal report lacks sufficient information to enable the client/intended user to understand and rely on the report and did not submit true and correct copies of all appraisal reports communicated to the client. The Respondent has been licensed for thirteen (13) years. As such, Counsel recommends the imposition of a civil penalty in the amount of Five Hundred Dollars (\$500.00) and a fifteen (15) hour Residential Report Writing and Case Studies course. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

Vote: Mr. Green made the motion to accept the recommendation and it was seconded by Mr. Phillips. The motion carried unopposed.

4. 2012005451 Mr. Michael Orman was the reviewer in this matter.

This complaint was filed by a consumer and alleged that the Respondent under-valued a residential property and that the Respondent does not know his job.

The Respondent states that Complainant claims that he did not have a basement, however, Respondent claims that while not all the way below grade, Complainant did, in fact, have a basement. Respondent states that Complainant's accusations that he did not know what he was doing are baseless. Respondent states that he sees this complaint as an obvious attempt to illegally influence Respondent's value opinion based on the hypothesis that the subject below grade level was completely above grade, which is untrue.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- The site value support was not provided in the report or work file. [SR 1-1 (a); SR 1-4 (b)(i)(iii); SR 2-1(b); SR 2-2 (b)(viii)]
- The cost approach analysis was not supported. The reviewer found no supporting information and analysis in the report or information in the work file supplied by the Respondent that would allow the reviewer to recreate the cost approach. [SR 1-1(a); SR 1-4 (b)(i)(ii); SR 2-1 (b); SR 2-2 (b)(viii)]

Licensing History Registered Trainee 11/13/2002-10/28/2007
 Certified Residential 10/29/2007-Present

Disciplinary History None.

Reasoning and Recommendation: The reviewer found that the site value was not properly supported and that the cost approach was completed, but supporting information was not consistent with the report or work file. These items can have an effect on the intended users' ability to understand some of the reasoning. However, the reviewer found that the report does appear to contain sufficient information to enable the client/intended user to understand and rely on the report. The Respondent has been licensed for five (5) years and has had no previous disciplinary action against him, thus, legal counsel recommends **Closure with a Letter of Warning** regarding the issues noted by the reviewer.

Vote: Mr. Wade made the motion to accept the recommendation and it was seconded by Mr. Covington. The motion carried unopposed.

5. 2012007411 Mr. Wilson was the reviewer in this matter.

The complaint was filed by a consumer and alleged that the Respondent misrepresented the finished basement on the subject property. The appraisal that is the subject of this complaint was performed on 2/29/12, when the Complainant had a purchase contract on the house. Complainant alleges that since the appraisal, he has learned that the finished basement does not have heat/air supplied to any of it, however, the appraisal report designates it as "finished" with a "finished basement" value included.

fifteen (15) hour Residential Report Writing course to be completed within one hundred and eighty (180) days of execution. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

Vote: Ms. Johnson made the motion to accept the recommendation and it was seconded by Mr. Covington. The motion carried unopposed.

6. 2012005441 Mr. Michael Orman was the reviewer in this matter.

This complaint was filed by a fellow practitioner and alleged that Respondent over-valued a residential property by using comparable sales fourteen (14) miles away from the subject in a superior location.

The Respondent states that he performed all necessary steps to complete the appraisal in a professional manner.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

- The previous transfer of subject property was not properly analyzed. [Record Keeping Rule – Lines 294-296 and Lines 318-319; SR 1-5 (b); SR 2-2 (b)(viii) Comment: Lines 785-788 and Lines 792-797]
- The factors affecting marketability and market trends have not been adequately discussed. [SR 1-2 (e)(i); SR 2-1 (b); SR 2-2(b)(iii)]
- The sales comparison approach was not completed appropriately. [SR 1-4 (a); SR 2-2 (b)(viii)]
- The cost approach analysis was not supported. [SR 1-4 (b)(ii); SR 2-1(b); SR 2-2 (b)(viii)]
- The reconciliation does not properly address the quantity and quality data analyzed or the applicability and suitability of the approaches used. [SR 1-6 (a)(b); SR 2-1 (b); SR 2-2(b)(viii)]
- The work file submitted did not contain all true copies of the appraisal report submitted to the client. [RECORD KEEPING RULE]

Licensing History Registered Trainee 5/29/1997-11/13/2000
Certified Residential 11/14/2000-Present

Disciplinary History: 2012018321 (Open).

Reasoning and Recommendation: The reviewer found that the report lacks sufficient information, reducing the reliability and credibility of the report, which may not enable the client/intended user to understand and rely on the report. The Respondent has been licensed for almost twelve (12) years. As such, Counsel recommends the

imposition of a civil penalty in the amount of Five Hundred Dollars (\$500.00), a thirty (30) hour Sales Comparison and Income Approach Course, and a fifteen (15) hour Residential Report Writing course to be completed within 180 days of execution of the Consent Order. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public. The Respondent may receive a maximum of twenty-one (21) hours of credit for approved classroom continuing education courses or no more than fourteen (14) hours of online continuing education credit for renewal of their credential.

Vote: Ms. Johnson made the motion to accept the recommendation and it was seconded by Mr. Phillips. The motion carried unopposed.

NEW BUSINESS

Director's Report

Ms. Avers gave a director's report to the Commission, which included staffing updates, discussion of the needed legislative changes, and newsletter articles for the Real Estate Appraiser Commission. She updated the members on the budget information and an overview of number of complaints received in the calendar year. Finally, she updated the members on the numbers of licensees, courses and active temporary practice permits. She indicated later in the week she would attend a meeting at the Association of Appraiser Regulatory Officials where federal updates would be given. She told the Commission members she would provide them a report at the next Commission meeting.

FORMAL HEARINGS

Two formal hearings were held after the above board business. Judge Summers presided.

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Being no further business, the meeting was adjourned at 12:00 p.m.

Chairperson, Norman Hall

Nikole Avers, Executive Director