



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

May 12th, 2014
Minutes
First Floor Conference Room (1-B)
Davy Crockett Tower

The Tennessee Real Estate Appraiser Commission met on May 12th, 2014 in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Chairman Green called the meeting to order at 10:05 a.m. and the following business was transacted.

COMMISSION MEMBERS PRESENT

Michael Green
Mark Johnstone
Norman Hall
Rosemary Johnson
Tim Walton
Gary Standifer
Eric Collinsworth

COMMISSION MEMBERS ABSENT

Nancy Point
Dr. Edward Baryla

STAFF MEMBERS PRESENT

Nikole Avers, Keeling Baird, Dennis O'Brien

Chairman Green read the public meeting statement into the record which indicated the agenda was posted to the Tennessee Real Estate Appraiser Commission website on April 23rd, 2014.

ADOPT AGENDA

Mr. Hall made a motion to adopt the agenda. It was seconded by Ms. Johnson. The motion carried unopposed.

MINUTES

The April 7th, 2014 minutes were reviewed. Mr. Hall made the motion to accept the minutes as written. It was seconded by Mr. Collinsworth. The motion carried unopposed.

REPORT OF EXPERIENCE INTERVIEWS

Richard H. Neu made an application to upgrade from a registered trainee to a certified general real estate appraiser. Since Chairman Green was the reviewer, he handed the meeting over to Mr. Johnstone, then recommended that his experience request be granted. Mr. Collinsworth made a motion to approve the request. This was seconded by Ms. Johnson. The motion carried unopposed.

Brian A George made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Collinsworth was the reviewer and recommended that his experience request be granted. Mr. Walton made a motion to approve the request. This was seconded by Mr. Hall. The motion carried unopposed.

Richard A. Crook made an application to upgrade from a registered trainee to a certified general real estate appraiser. Mr. Hall was the reviewer and recommended that his experience request be granted. Mr. Standifer made a motion to approve the request. This was seconded by Mr. Walton. The motion carried unopposed.

Bradley B. Gauchat made an application to upgrade from a registered trainee to a certified general real estate appraiser. Mr. Johnstone was the reviewer and recommended that his experience request be granted. Mr. Standifer made a motion to approve the request. This was seconded by Mr. Collinsworth. The motion carried unopposed.

MAY 2014 - EDUCATION COMMITTEE REPORT

Dr. Baryla reviewed and approved all the submissions. His recommendations were read into the record as below:

Course Provider	Course Number	Course Name	Instructor	Hours	Type	Rec.
ASFMRA	1744	Introduction to the Valuation of Permanent Plantings	D. Hodge	8	CE	For
ASFMRA	1745	Introduction to Commercial Greenhouse Appraisal	D. GaNun	8	CE	For
ASFMRA	1746	Key Issues of Grain Elevator Valuation	J. Berg	8	CE	For
Allterra Group	1747	2014 Keynote Alternative Valuation	R. Murphy, G. Kifer, D. Bunton, A. Romano, R. Frazier, J. Brenen, K. DeFeo B. King, J. Petkovski	7	CE	For
Allterra Group	1748	2014-2015 7 Hour National USPAP Course	D. Molitor-Gennrich, R. Heyn	7	CE	For
Allterra Group	1749	2014 Valuation Visionaries Regulatory Compliance	J. Bradford, R. Langdon, J. Walitt, A. Petit, C. Bennett, M. Floyd, J. Del Ray, R. Borges	7	CE	For
ASFMRA	1750	Highest and Best Use Seminar	W. Young	8	CE	For
ASFMRA	1751	Appraising Agricultural Land in Transition	W. Young	8	CE	For
IRWA	1752	The Valuation of Environmentally Contaminated Real Estate - 417	R. Dickson	16	CE	For
IRWA	1753	Understanding Environmental Contamination in Real Estate - 603	R. Dickson	8	CE	For
The Spearman Center	1754	Facing Appraisal Challenges 2014	W. Spearman	7	CE	For

Individual Course Approval

Licensee	Course Provider	Course Name	Hours	Type	Rec.
Brittnee C. B. Netherland (TR 4982)	Farm Credit Mid-America	2014-2015 National USPAP Update Course	15	QE	For

Ms. Johnson made a motion to accept the recommendations. This was seconded by Mr. Hall. The motion carried unopposed.

DIRECTOR'S REPORT

Director Avers informed the members that SB 1620 and SB 2081 which were discussed at the last meeting had been assigned public chapter numbers 621 and 570 respectively.

Also presented at the last meeting, S. 947 had since passed the Senate on December 17th, 2013, but not the House as yet. In this law, appraisers and the appraisal process had been included within the identity of a financial institution, so the FFIEC being made up of federal banking regulatory agencies and their oversight of state agencies, would link the appraiser commission to be beneficiaries of that law, once it was passed.

On the 2015 rule making changes, a final draft of the rules was proposed for the Commission's authorization to proceed to public rulemaking hearing in July 2014. After the board voted on the draft, staff would e-notify appraisers to take the feedback survey posted on the TREAC website. Director Avers also had the board members look over the survey prepared on online qualifying and continuing education.

Vote: Mr. Walton made the motion to proceed with conducting a rule making hearing with all the language as contained in the current draft, presented at this meeting. This was seconded by Mr. Collinsworth. The motion carried unopposed.

Mr. Johnstone recommended that it would also be a good idea to record the percentage of feedback from the survey that was returned anonymously.

Ms. Baird then read out the seven questions and answers of the Regulatory Flexibility Analysis that had to be presented as part of the draft, so the board could weigh in on the language used.

Vote: Mr. Johnstone made a motion to adopt the question and answer language as presented by Ms. Baird, amended to include a stronger linkage with the law. This was seconded by Mr. Collinsworth. The motion carried unopposed.

Director Avers continued with a summary of the CFPB rules that covered minimum requirements on AMC regulations that contained some sections where the language could cause some concern. As such, the board members were strongly encouraged to comment on the proposed changes before the June 9th deadline. Chairman Green suggested that our state appraisers be informed of such proposed changes by e-notification or a link on the TREAC website.

Vote: Mt Standifer made a motion that these proposed rules be brought to the attention of the state appraisers through a link on the TREAC website. This was seconded by Mr. Collinsworth. The vote carried unopposed.

On the recent AARO conference, Director Avers shared that there was an interesting session on processing complaints and information from the FBI, with a case study from author of the Mortgage Fraud Blog, Rachel Dollar, involving real estate appraisers and related parties to the transaction.

The AQB had voted to extend fingerprint and background checks requirements to 2017 for state compliance, where there could be changes to the criteria language after pending legislation to amend the Safe Act had passed or failed.

The ASB chair updated AARO on the 2016-2017 USPAP changes that would likely include changes on the topic of ‘draft reports’.

On the supervisor/trainee course development, it seemed that most larger schools were leaning towards developing a 4 hour course to meet AQB requirements so if Tennessee planned on requiring a 7-hour course, the board might consider approving the course in two parts, the AQB required 4-hour part and a Tennessee specific part of 3 hours to increase the likelihood of having the full support of schools such as the Appraisal institute, Columbia and McKissock.

In the session on pending legislation, changes to the Safe Act and the licensing system used by the mortgage industry (NMLS) that handled basic licensing data including fingerprints and background checks, would enable applicants using this central system to get their fingerprints taken once, then apply online to use that same data report repeatedly for credentials in multiple jurisdictions.

There were also interesting sessions on other industries related to appraisals on changes in lending trends and the CFPB release of the draft rules for federal requirements for AMC regulations. Director Avers ended the report with an overview of the current TREAC budget.

CHAIR REPORT – AARO MEETING

Chairman Green shared some of the discussions and feedback he had got on various topics of interest to the board members and state appraisers, such as the new background checks, fingerprinting and the supervisor/trainee course requirements. He ended with a recommendation that the incoming chair and the AMC member attend the next AARO conference in the fall.

Vote: Mr. Standifer made a motion to send the incoming chair and the AMC member to the AARO conference in the fall, 2014. This was seconded by Ms. Johnson. The vote carried unopposed.

LEGAL REPORT

1. 2014005381

This complaint was filed by a real estate agent who represents the seller and alleged that Respondent does not have the proper tools to enter the property to be appraised, which is a Sentricard. Complainant alleged that at the request of his sellers, they will not allow anyone to enter their property without going through the Sentrilock system, which requires a Sentricard. Complainant alleged that Respondent informed them that the Commission does not require them to have a Sentricard, therefore, they will not get one. Complainant alleged that this is a huge inconvenience.

Communication was sent to the Complainant from this office, explaining that the Sentricard access is not under the Commission’s authority, and inquiring as to whether Complainant wanted to withdraw the complaint. The letter was returned marked “unclaimed”.

License History:	Registered Trainee	12/11/1992-6/7/1995
	Certified Residential	6/8/1995-Present

Disciplinary History:	(200502051-Dismissed; 200602831-Dismissed; 200706807-Closed with Letter of Instruction)
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Reasoning and Recommendation: The subject of this complaint is not within the jurisdiction of the Commission. As such, Counsel recommends that this matter be **Closed with no further action.**

Vote: Mr. Collinsworth made a motion to accept counsel’s recommendation. This was seconded by Mr. Walton. The vote carried unanimously.

2. 2013009201

This complaint was filed anonymously and alleged that Respondent's report included the highest and best use of the land as a proposed assisted living facility, and the land could not be legally used for that purpose. There was no mention of the current zoning or mention that the land must be rezoned. The income approach data was prepared by Cecil McNatt's, not market rates. The Complainant alleged that the financial loss to the company exceeded \$200,000.

Respondent filed a response to the complaint, stating that Complainant indicated that the appraisal was completed in 2010, when actually it was completed in 2008. In addition, Respondent stated that the vacant land comparable sales in his appraisal were located in close proximity to the subject property and are quite similar. Respondent also stated that the site value that was indicated by Complainant in the complaint was an incorrect statement of site value. Respondent's indicated the site value estimate in his appraisal was a much lower number.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- Two prospective values were provided (real property and going concern), but no proposed completion date was provided. The market value at completion is a prospective value as is the going concern value. The effective dates of those values should be future dates, not the current date.
- The report does not include an analysis of the pending purchase price compared to the concluded value as required by USPAP in the reconciliation portion. [SR 1-5(a) & (b)]
- The report omits any discussion and/or conclusion of exposure time. [SR 1-5 (a) & (b)]
- The legality of the planned use should have been verified by the appraiser with the zoning authority. Then an extraordinary assumption could be included if it was determined the current zoning would not permit the proposed improvements.
- A very brief description of the proposed improvements is included in the report that includes only the size of the building and number of units with sizes and some amenities. The only other description is a floor plan and elevation. No description of the type of construction or other building physical construction is included.
- The area or market review is limited to a few pages of published data. There is no analysis in the report.
- The report contains no analysis of highest and best use.
- The report contains no analysis of the sales, other than price per acre. There is no discussion regarding comparability or planned uses, zoning, topography, location, etc. Typically, there is an inverse relationship between size and unit prices. This should have been addressed. The report contains no support for the concluded value of \$50,000 per acre.
- Marshall and Swift was the basis for calculating replacement cost for the subject. The indicated cost per square foot between good (\$96.08) and excellent (\$118.14) was utilized. If these costs are utilized, the cost for elevators must be deducted. The elevation included in the report indicates a one-story building. The elevator adjustment was not included in the calculation. In addition, an adjustment for size is required, but omitted. Both costs include all cabinetry and kitchen equipment; ready for occupancy. However, the cost for fixed kitchen, security and fire equipment has been added at \$75,000 (no explanation where these costs came from), and the cost for 32 kitchenettes has been added. In the absence of explanations or discussions to the contrary, these are not appropriate adjustments. The cost developed in this report appears to be inflated significantly. The value conclusion does not appear to be credible.
- The information regarding the two properties in the sales comparison approach (improved) is very limited. Two sales (one nine years old) is not adequate support for this approach for this type property. Sales of these type facilities are not scarce. Greater effort spent seeking sales of other facilities from other parties would have been beneficial. Without additional information or analysis, this approach and the conclusion do not appear to be credible.

- The rental income approach might be applicable if all units were the same. The report contains no information from developers and owners of other similar properties as stated, and there was no such information or support included in the workfile information provided. A market survey should have been included to lend support for the concluded “market” rents.
- The bases for occupancy rates assumptions are not provided. No market survey is indicated to support the assumptions. The report does not provide a market analysis of a projected absorption rate. There is no support for the concluded 75% occupancy the first year.
- The report and workfile contain no information regarding expenses that have been taken from the appraisal of other similar facilities. Since previous appraisals were referenced, they should be part of the workfile if the information is not to be included in the report. The report contains no information regarding property tax rates, tax surveys, or projected valuation by the county tax assessor.
- In the discounted cash flow analysis, there is no provision for deferred or lost income during the construction period. This DCF discounts to the point of completion. The resulting value(s) should be discounted back to the date of appraisal or another adjustment applied. The report does not include a projected construction period. The DCF does not provide for some form of inflation of expenses for years 2-5.
- The appraisal states, “Under USPAP Guidelines this is a summary report.” However, due to almost complete lack of descriptions, analyses, and other information and discussions, it is more likely this would be considered to be a Limited Use Report.

Licensing History: Certified General 10/04/1991-Present

Disciplinary History: (241752-Closed with no action; 200312206-Dismissed)

Reasoning and Recommendation: Due to the lack of information, errors, and discrepancies in this report, Counsel recommends the authorization of a Five Hundred Dollar (\$500) civil penalty 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.

Mr. Walton abstained from voting on this matter.

Vote: Mr. Collinsworth made a motion that the respondent takes a thirty (30) hour Appraisal Procedures and a fifteen (15) hour USPAP class. In addition, the respondent was to pay a one thousand dollar (\$1000) civil penalty, to be satisfied within thirty (30) days of the consent order. This was seconded by Ms. Johnson. The vote carried unanimously.

At this point, Mr. Collinsworth made a motion that counsel send a letter to all state reviewers reminding them of their requirements to comply with USPAP and maintain the highest levels of professionalism in their work. After being drafted by legal counsel, the letter would be reviewed and approved by Chairman Green before being mailed. This was seconded by Mr. Hall. The motion carried unopposed

3. 2014002541

This complaint was opened by the administrative staff for the Tennessee Real Estate Appraiser Commission because the Respondent applied to reactivate his certified residential license, but has had multiple convictions.

The Respondent was previously disciplined for prior convictions relating to theft and drug possession and received a final order, which required a One Thousand Dollar (\$1,000) civil penalty plus costs and one (1) year probation. The probation period ran from August 10, 2010 to August 10, 2011.

There were multiple additional arrests which resulted in two prior complaint matters, which were closed because the Respondent in consultation with his attorney at that time, elected to place his license into inactive status while he resolved that arrests and sought substance abuse treatment.

Below is a summary of the convictions found through county records in one Tennessee county for this Respondent since the above final order.

5/17/2010	Probation Violation	
11/17/11	Assault (8/12/11)	Class A misdemeanor
11/17/11	DUI (8/26/11)	Class A misdemeanor
4/18/13	Bribery of a Public Servant (7/8/12)	Class C misdemeanor
4/18/13	Reckless Driving (7/8/12)	Class B misdemeanor
4/18/13	DUI 3 rd (7/8/12)	Class A misdemeanor
4/18/13	Probation Violation (7/8/12)	
4/18/13	Leaving the Scene of an Accident (7/8/12)	Class A misdemeanor
4/18/13	Public Intoxication (5/8/12)	Class C misdemeanor
4/18/13	Escape (1/29/13)	Class A misdemeanor
4/18/13	Assault (3/21/13)	Class A misdemeanor
4/18/13	Simple Possession Sch IV (3/21/13)	Class A misdemeanor
4/18/13	Resisting Arrest (3/21/13)	Class B misdemeanor
4/18/13	Disorderly Conduct (3/21/13)	Class C misdemeanor
4/18/13	Assault (3/21/13)	Class A misdemeanor
4/18/13	Joyriding (3/21/13) T.C.A.39-14-106	Class A misdemeanor
4/18/13	Probation Violation (3/21/13)	

There were additional arrests, not listed above that did not result in convictions.

Respondent submitted an application to change his status back to active, which was approved by this office and became effective March 5, 2014. There were two prior complaints that had been submitted to our office, which were reopened with application to become active as a real estate appraiser. Respondent was sent written communication from this office, asking him to show cause as to why his certificate should not be revoked for his guilty pleas to dishonest and fraudulent actions or omissions, and for conviction of multiple misdemeanor offenses and crimes that substantially related to the functions and duties of an appraiser, in violation of T.C.A. 62-39-326(3), (4), & (5) and 62-39-329.

Respondent's attorney sent a response to the complaint on Respondent's behalf, stating each of the arrests that this office asked Respondent to respond to have been dismissed. Such arrests consisted of the following: June 4, 2011 (Domestic Assault), June 19, 2011 (Forgery), July 29, 2011 (Forgery and Escape), August 5, 2011 (DUI), November 14, 2013 (Harrasment). Respondent's attorney stated that there are no criminal charges pending against Respondent at the current time. While Respondent's attorney does admit that Respondent did plead guilty and was convicted of such offenses of assault, DUI, reckless driving, probation violation, leaving the scene of an accident, public intoxication, escape, simple possession Schedule IV, etc. in General Sessions Court, he contends that Respondent has never been convicted of a felony. Respondent's attorney submitted that the misdemeanor offenses listed do not involve "dishonesty, fraud, or misrepresentation" or are not offenses "substantially related to the qualifications, functions, and duties of a person developing appraisals and communicating appraisals to others" as required by T.C.A. 62-39-326(3) and (4). Respondent's attorney stated that in August 2013, Respondent's real estate broker's affiliate license was revoked by the TREC for failing to report a conviction. This was an oversight on Respondent's part because he has not been actively involved in affiliate broker's sales since 2007. Respondent's attorney stated that Respondent's convictions are all related to his problems with substance abuse and addiction. He has successfully completed a lengthy in-patient rehabilitation

program in 2013 and has passed all his drug screenings since that date. Respondent is now drug and alcohol free. Respondent's attorney stated that Respondent has had his appraiser's license since 2002 and has performed hundreds of appraisals and has never had any problems with any of those appraisals. Respondent's attorney submits that Respondent's rehabilitation should be considered in mitigation of any penalty TREAC is considering in this matter. Respondent's attorney suggested that a lengthy period of probation with substantial civil penalties would serve the interest of the Commission and would allow Respondent to continue to work as an appraiser.

License History:	Registered Trainee	10/14/2003-10/19/2006
	Certified Residential	10/20/2006-8/15/2010
	Inactive	8/16/2010-3/4/2014
	Active Certified Residential	3/5/2014-Present

Disciplinary History: (200900324-Dismissed; 200902049-Closed with Final Order for \$1,000 and costs and one (1) year probation, 201102339 & 201102562-Closed administratively)

Reasoning and Recommendation: T.C.A. 62-39-326 states in pertinent part, as follows: **"The rights of any applicant or holder under a certificate as a state licensed or certified real estate appraiser may be revoked, suspended, or restricted, or the owner of the certificate may be assessed a civil penalty of up to one thousand dollars (\$1,000) per violation, or otherwise disciplined in accordance with this chapter, upon any of the following grounds: (3) Conviction, including conviction based upon a plea of guilty or nolo contendere, of a crime that is substantially related to the qualifications, functions, and duties of a person developing appraisals and communicating appraisals to others or conviction of any felony; (4) An action or omission involving dishonesty, fraud, or misrepresentation; or (5) A violation of any of the standards for appraisals and appraisal practice as set forth in this chapter and the rules and regulations promulgated by the commission."** As such, Counsel recommends that Respondent's credential/license as a Certified Residential appraiser be revoked, effective immediately upon execution of the Consent Order ordering revocation. Such terms are to be settled by Consent Order or Formal Hearing.

Vote: Mr. Hall made a motion to accept counsel's recommendation. This was seconded by Mr. Johnstone. The vote carried unanimously.

4. 2014005591

This complaint was filed by a consumer and alleged unprofessional conduct on the part of Respondent. Complainant stated that Respondent drove onto her property, got out of his vehicle and began to take pictures of her guest house. Respondent informed Complainant's husband that he was an appraiser and was doing comparables in the area. Complainant's husband informed Respondent that it was private property, and he didn't want Respondent taking pictures of his house. Complainant alleged that Respondent left the premises, peeling out of the driveway and shooting off five rounds from a 9 mm gun. Four of the five shell casings were found. Subsequently, a chase ensued. The local police office got involved, but Respondent was not detained. Complainant asks that the Commission please take note of this incident.

No response to the complaint was given by Respondent.

License History:	Registered Trainee	7/8/1998-11/6/2001
	Certified Residential	11/7/2001-Present

Disciplinary History: 200500261-Dismissed

Reasoning and Recommendation: This type of complaint matter is outside the jurisdiction of the TREAC and should be handled in court, if Complainant wishes to pursue the matter further. As such, Counsel recommends that this matter be **Closed and flagged in the event a criminal conviction at a later date is received by the administrative office.**

Vote: Mr. Walton made a motion to accept counsel's recommendation. This was seconded by Mr. Collinsworth. The vote carried unanimously.

5. 2014005631

This complaint was filed by a national bank and alleged that the Respondent acted in a misleading manner by signing an appraisal for a property which he did not inspect. Complainant alleged that Respondent submitted an appraisal on December 10, 2012, which he signed as the inspecting appraiser. He also made specific statements in the report about inspecting the property and naming a trainee appraiser as providing significant appraisal assistance. The appraisal was disputed, and Respondent admitted that he could not respond to the questions as he did not inspect the property. Rather, he sent the trainee to complete the inspection in order to get the appraisal started because he was having health problems and could not make the appointment. Health problems persisted, and the appraisal was due, so he submitted the report without inspecting the property. The trainee did not sign the report and was only named as providing assistance. Respondent signed the report as the inspecting appraiser. Since that time Respondent has retired and made his license inactive with the state of Tennessee. Respondent's license had been inactive since December 2013.

Respondent did not provide the state with a response to the complaint but did make his license inactive, effective December 2013.

Licensing History Certified Residential (From 1/31/1995-12/11/2013 and became inactive since that date)

Disciplinary History: None

Reasoning and Recommendation: The USPAP Ethics Rule states that, "An appraiser must affix, or authorize the use of, his or her signature to certify recognition and acceptance of his or her USPAP responsibilities in an appraisal, appraisal review, or appraisal consulting assignment." As Respondent has admitted to the behavior described above and has already placed his license into inactive status, Counsel recommends that Respondent's certified residential credential/license be voluntarily surrendered, to take effect immediately upon execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

Vote: Mr. Hall made a motion to accept counsel's recommendation. This was seconded by Mr. Standifer. The vote carried unanimously.

6. 2014005741

This complaint was filed by a consumer and alleged that the appraisal report was incorrect because it showed the incorrect owner of public record, and she was contacted several times to correct this error. However, Respondent continuously sent the same incorrect report.

Respondent sent a response to the complaint, stating that she has been harassed by the AMC involved in this matter since March 10, 2014. Respondent stated that they are verbally asking her to change the owner of record to the current owner, not the owner of record on the effective date of the report. The Respondent provided copies of the public record, indicating owner of record at the time of the appraisal. They asked that the owner of record be changed to a person who did not own the property at the time Respondent inspected it.

Licensing History: Registered Trainee 12/16/2005-12/12/2007
Certified Residential 12/13/2007-Present

Disciplinary History: None

Reasoning and Recommendation: Counsel recommends that this matter be **Closed with no further action**. This matter seems to be a dispute between an AMC and an appraiser that the Commission does not exercise authority over. There is insufficient information to warrant any type of disciplinary action.

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

7. 2014005981

This complaint was filed by the Respondent in the previous matter and alleged that the AMC verbally asked her to change the owner of record in the appraisal report, and that the AMC had been harassing her to do so since March 10, 2014. Complainant stated that the AMC asked her to change the owner of record to a person who did not own the property at the time Respondent inspected it. The Respondent provided copies of the public record indicating owner of record at the time of the appraisal.

Respondent sent a response to the complaint, stating that Respondent's claim of harassment is false and frivolous. Respondent stated that despite Complainant's allegations, it put its requests and communications to Respondent in writing, however, Respondent does not respond to emails or phone calls. Respondent stated it is not asking the Complainant to change the actual owner of public record, but to comment in the addendum about the owner change. Respondent stated that it supplied Respondent with the quitclaim deed. Respondent stated it does not take compliance lightly and would not do anything to jeopardize its reputation.

Licensing History: Registered AMC 7/1/2011-Present

Disciplinary History: None.

Reasoning and Recommendation: Counsel recommends that this matter be **Closed with no further action**. This matter seems to be a dispute between an AMC and an appraiser that the Commission does not exercise authority over. There is insufficient information to warrant any type of disciplinary action.

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

8. 2014003201

This complaint was filed by a consumer and alleged that Respondent's performance lacked professionalism, and her professional conduct was unacceptable. Complainant stated that Respondent's incorrect property values and definition of living space almost resulted in buyers being forced to pay a higher interest rate on the life of the loan to compensate her undervaluing of the property.

Respondent stated in her response to the complaint that she was not retained by the Complainant and had no contact with him other than the inspection, which was routine, with no issues raised by him during the same. Respondent also stated that the subject property is located in a rural area with limited closed sales. The closed sales selected were the best comparable to the subject. Although the ideal would be to have homes that were exactly like the subject, i.e., brick construction in this case, this is rarely a reality.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- There is evidence to suggest that the appraiser did not personally measure the subject house but used the gross living area provided by MLS and public records. The GLA indicated in the appraisal report (2044 square feet) is the exact same amount as reported in MLS and public records. There are no field notes in the appraiser's submitted workfile showing a sketch or any measurements. The appraiser makes this statement on page 3 of the appraisal report, "GLA measurements rounded off to whole number." This statement implies, or leads the reader to believe, that the house was personally measured by the appraiser. At a minimum, if the appraiser did not personally measure the house, this should have been disclosed in the appraisal report, along with an extraordinary assumption regarding the use of MLS and public records. [Potential USPAP violations: SR 2-1(a), (b), & (c); SR 2-2(b)(iii); SR 2-2(b)(x); Scope of Work Rule]
- Adjustments are made in the sales comparison approach for site, age, and condition differences. The appraiser indicates that these adjustments are market-derived, but there is no analysis or support for the adjustment amounts found either in the report or the workfile. [SR 1-4(a); SR 1-4(lines 560-561); SR 1-6(a); SR 2-2(b)(viii); SR 2-1(b); Record-Keeping Rule (line 299)]
- Six closed sales and two active listings are included in the sales comparison approach of the report. These 8 properties indicate a range in adjusted values from \$153,000 to \$224,000. This is a significant spread in value that requires detailed explanation to support the appraiser's final opinion of value. There is no further explanation as to how the value was developed "qualitatively rather than quantitatively". [SR 1-4(a); SR 1-4(lines 560-561); SR 1-6(a); SR 2-2(b)(viii); SR 2-1(b); Record-Keeping Rule (line 299)]
- The 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(b)(ix)]
- There is no statement, in the certification, that the appraiser has or has not performed any services on the subject property within the past 3-year period. [SR 2-3, lines 877-879]

Licensing History: Certified Residential 11/08/2001-Present

Disciplinary History: (200800743-Dismissed; 200900283-Closed with Consent Order for \$750 and education; 200901228-Closed with Letter of Caution)

Reasoning and Recommendation: Counsel recommends that this matter be **Closed with a Letter of Instruction**, pertaining to summarizing information to support opinions and conclusions and reconciling value indications within the appraisal report and the certification requirements of the appraisal.

Vote: Mr. Walton made the motion that the respondent takes a fifteen (15) hour Residential Case Studies and a fifteen (15) hour USPAP class. This was seconded by Mr. Collinsworth. The vote carried unanimously.

9. 2014003221

This complaint was filed by a consumer and alleged the under-valuing of a residential property by using inappropriate comparable sales data. Complainant alleged that Respondent use properties in neighborhoods that were vastly different from where the subject property is located, and, thus, undervalued the subject property.

Respondent sent a response to the complaint, stating that Complainant's allegation was not a USPAP violation. Respondent stated that under Standard Rule 1-4, he did his due diligence in selecting the comparable sales, and in his opinion, the sales included were considered to be the most similar available when compared to the subject.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- An opinion of site value is provided in the cost approach. There are no land sales provided in the report to support the value conclusion, and there are no land sales or additional extraction data in the workfile to support a site value opinion. There is no summary of support and no reconciliation of land sales to support any site value at all. [SR 2-2(a)(viii); SR 1-4, line 582; SR 2-1(b); Record-Keeping Rule, line 321]
- Sales 3 and 4 are adjusted \$8,000 for location and sale 3 is adjusted \$5,000 for site; none of these adjustments are supported by paired-sales data either in the report or in the workfile submitted by the appraiser. There is insufficient summary of the support for how the location adjustments were developed. [SR 2-2(a)(viii); SR 1-4, line 582; SR 2-1(b); Record-Keeping Rule, line 321]
- The 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. In addition, an opinion of site value is provided in the cost approach of the report, but there is no opinion given for the highest and best use of the site as-vacant. [SR 1-3(b); SR 2-2(a)(x)]
- There is no statement, in the certification, that the appraiser has or has not performed any services on the subject property within the past 3-year period. [SR 2-3, line 822]

Respondent's Response to Reviewer's Conclusions

Respondent sent a response to the reviewer's conclusions, addressing the potential violations of USPAP found by the reviewer. With regard to the first bullet, Respondent stated that vacant land sales were included in his workfile. Respondent included the MLS numbers for the land sales that he states are in the workfile. With regard to bullet number 2, Respondent stated that the location adjustments were explained in the summary of the sales comparison approach. The location adjustments were made to reflect the market difference found between homes located in a close proximity to the interstate that were affected by traffic noise from the interstate. The adverse condition was also explained on page 1 of the URAR. The site adjustment made to comparable sale #3 was made to reflect the market difference between the larger site of comparable sale #3 and the subject. With regard to highest and best use (bullet number three), Respondent stated that he did check the box on page 1 of the URAR stating the subject improved is the highest and best use. He stated he provided vacant site sales in the workfile to help better show that the subject improved has a higher value than being vacant. However, he admits that he should have expanded his commentary to better explain what the current use was the highest and best use of the property. With regard to the certification statement, Respondent stated that he had this statement in two different places in his report. The first is on the letter of transmittal, and the second is on the additional comments page on page 3 of the URAR.

Licensing History: Registered Trainee 8/1/2006-9/12/2009
Certified Residential 9/13/2009-Present

Disciplinary History: 200901769-Closed with a Letter of Warning

Reasoning and Recommendation: The reviewer found that the quality of Respondent's work to be deficient in its compliance with USPAP. Counsel recommends that this matter be **Closed with a Letter of Instruction**, pertaining to summarizing information to support opinions and conclusions within the appraisal report.

Vote: Mr. Johnstone made a motion to dismiss the case. This was seconded by Mr. Collinworth. The vote carried unanimously.

PRESENTATION BY LEGAL STAFF

Damon Romano gave a presentation to the board members on Ex parte Communications and contested case hearings.

Having no further business, Mr. Green adjourned the meeting at 1:45pm.