



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

September 15th, 2014
Minutes
First Floor Conference Room (1-A)
Davy Crockett Tower

The Tennessee Real Estate Appraiser Commission met on September 15th, 2014, in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Mr. Green called the meeting to order at 9:10 a.m. and the following business was transacted.

COMMISSION MEMBERS PRESENT

Michael Green
Norman Hall
Gary Standifer
Eric Collinsworth
Rosemary Johnson
Dr. Warren F. Mackara

COMMISSION MEMBERS ABSENT

Mark Johnstone
Tim Walton
Nancy Point

STAFF MEMBERS PRESENT

Nikole Avers, Adrian Chick, Keeling Gamber
Dennis O'Brien, Cody Kemmer

COURT PERSONNEL

Judge, Mary Collier
Court Reporter, Tracy Foley-Wilkes

Mr. Green read the public meeting statement into the record which indicated the agenda was posted to the Tennessee Real Estate Appraiser Commission website on August 12th, 2014.

ADOPT AGENDA

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

MINUTES

The August 11th, 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

Brandi Nicole Goodman made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Collinsworth was the reviewer and recommended that her experience request be granted. Mr. Hall made a motion to approve the request. This was seconded by Mr. Standifer. The motion carried unopposed.

Mark Andrew Moore made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Hall was the reviewer and recommended that he turn in three more reports for review. Dr. Mackara made a motion to accept this recommendation. This was seconded by Ms. Johnson. The motion carried unopposed.

Lori Ann Vest made an application to upgrade from a registered trainee to a state licensed appraiser. Since Mr. Green was the reviewer, he handed the meeting over to Mr. Hall and then recommended that her experience request be granted. Mr. Collinworth made a motion to approve the recommendation. This was seconded by Mr. Standifer. The motion carried unopposed.

Alana Marie Ward made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Standifer was the reviewer and recommended that her experience request be granted. Ms. Avers also attended the experience interview. Dr. Mackara made a motion to approve the request. This was seconded by Mr. Hall. The motion carried unopposed.

Johnathan Clark Abbotoy requested an experience interview having completed 500 hours of appraisal experience. After reviewing his appraisals, Mr. Collinworth placed on record that other than his having made a few suggestions on how to improve reporting detail, he felt Mr. Abbotoy was well prepared to push forward as a trainee appraiser.

SEPTEMBER 2014 - EDUCATION COMMITTEE REPORT

Dr. Mackara reviewed the submissions and read his recommendations into the record as below:

Course Provider	Course Number	Course Name	Instructor(s)	Hours	Type	Recommendation
a la mode, Inc.	1781	Accurate Sketching Made Easy	J. Baker, P. Stansberry	3	CE	Approval
a la mode, Inc.	1782	Developing Complaint Reports with TOTAL	J. Baker, P. Stansberry	7	CE	Approval
a la mode, Inc.	1783	Mobile Appraiser Workflow	J. Baker, P. Stansberry	7	CE	Approval
a la mode, Inc.	1784	Controlling Your Data with TOTAL	J. Baker, P. Stansberry	3	CE	Approval
ASFMR	1785	Current Environmental Issues	B. Gehris	8	CE	Approval
Appraisal Institute	1787	Residential Market Analysis and Highest & Best Use	J. Atwood	14/15	CE/QE	Approval
Dennis Badger	1788	Appraising Green	M. Deweese, J. Lagrew, D. Badger	3.5	CE	Approval
Dennis Badger	1789	Appraising Green II	M. Deweese, J. Lagrew, D. Badger	3.5	CE	Approval
Dennis Badger	1790	FHA Appraisals & the HUD 4150.2 Handbook	M. Deweese, J. Lagrew, D. Badger	3.5	CE	Approval

Individual Course Approval

Licensee	Course Provider	Course Name	Hours	Type	Recommendation
Ashley Marie Allen	Farm Credit Mid-America	2014-2015 National USPAP Update Course	15	QE	Approval

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

DIRECTOR'S REPORT

Director Avers reported that travel authorizations for the board members attending the October meeting of The Association of Appraiser Regulatory Officials (AARO) in Washington, D.C., had been approved. The Appraisal Qualification Meeting that she would attend was scheduled to be held in Memphis on September 19th, 2014. She introduced the new TREAC team member, Mr. Cody Kemmer who had been recently appointed as a licensing technician. The current budget information, licensing numbers and complaint numbers were presented and Director Avers ended by presenting a request from Richard Keith Hinkle (TR 4478), that the board waive a second experience interview and allow him to take the Licensed

Appraiser exam a second time. In a letter to the board he stated that he had successfully sat through an experience interview earlier but was unable to pass the exam. He believed he was better prepared by his past experience and by the more recent specialized courses he had taken in preparation for this attempt. Director Avers recommended that the board approve his request. **Vote:** Mr. Hall made a motion to grant his request. This was seconded by Dr. Mackara. The motion carried unopposed.

LEGAL REPORT

1. 2014015371

This complaint was filed by an Appraisal Management Company and alleged that the report contains an inaccurate and misleading subject improvement description, inappropriate comparable sales selections, and an inadequate reconciliation of value. The Complainant alleged that Respondent failed to appropriately identify the proposed subject improvements as a manufactured home in the URAR (1004) appraisal, dated October 29, 2013. Additionally, Complainant alleged that when Respondent inspected the completed subject improvements on February 24, 2014 for the purpose of an FHA/HUD Compliance Inspection Report, he still did not recognize that the home was not modular construction, as indicated in the URAR (1004) appraisal.

Respondent sent a response to the complaint stating that he was given misleading information on what was to be inspected in the final inspection, and his client determined after further communication that, although this was misleading, they would take no action to disrupt their relationship with him.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

Appraisal Review, dated October 29, 2013

- Neighborhood: The neighborhood is described as being about 168 square miles (based on the neighborhood boundaries). The neighborhood as described is far too large. It is some combination of neighborhood/market area. The importance of a good market/neighborhood analysis is imperative to a credible appraisal as it lays the ground work for highest and best use and comparable selection. Here, the intended user cannot evaluate the subject's neighborhood properly. [SR 1-1(c)(Lines 485-490)]
- Description of Improvements: Plans and Specs: Plans were in the workfile, but there was little information about the specifications. [SR 1-1(e)(Lines 526-528)]
- Highest and Best Use: As Improved: Highest and best use is stated, however, the support and rationale for that opinion was not summarized. No analysis was found in the appraiser's workfile. This indicates that no analysis was performed. [SR 2-2(b)(ix)(Lines 799-800; SR 1-3(b)(Lines 556-558)]
- Cost Approach: Land Value: Land value is stated. However, the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analysis, opinions, and conclusions were not summarized adequately in the report. [SR 2-2(b)(viii)(Lines 782 & 784)]
- Cost New: The information analyzed (Marshall and Swift and local cost data) were not summarized in the report. [SR 2-2(b)(viii)(Lines 782-783)]
- Direct Comparison Approach: Analysis: The appraiser stated the adjustment amounts for most of the line-item adjustments. However, only reported the logic and reasoning for the "Age" and the "Quality" adjustments. [SR 2-2(b)(viii)(Lines 782-784)]
- Certification: The prior services statement is not in a certification. [SR 2-3(Lines 867-868 & 877-878)]

"Compliance Inspection" Report, dated February 24, 2014

- The "compliance inspection" report is appraisal practice and while there are no USPAP Standards associated with this assignment, the assignment is subject to USPAP definitions, preamble, ethics rule, competency rule, and the jurisdictional rule.
- The appraiser stated that modular homes typically sell higher per square foot than manufactured homes. This established that the type of home is a relevant property characteristic. Therefore, even if the quality of construction were equal (which there is no evidence of) the type of home is

Disciplinary History: (200503361-Dismissed; 201400926-Closed with no further action)

Reasoning and Recommendation: Respondent has been a certified general appraiser for approximately nineteen (19) years with no prior disciplinary action against him. As such, Counsel recommends that this matter be **Closed with a Letter of Warning** regarding the violations noted above.

Vote: Dr. Mackara made a motion to accept counsel's recommendation. This was seconded by Mr. Hall. The motion carried unopposed.

2. 2014018581

This complaint was filed by an Appraisal Management Company and alleged the Respondent provided a fraudulent errors and omissions declarations page as proof of current coverage.

Respondent sent a response stating that he had recently moved and was trying to get set up with some of his old clients. He indicated that he had originally sent Complainant AMC a document that they were not supposed to have, due to it being labeled incorrectly. Soon after, Complainant sent Respondent another request for E&O documents, explaining the ones he had sent were expired, which made sense because after he moved, he changed E&O providers from the company that he had used in the past. As soon as Respondent had a hard copy of the updated declaration, he forwarded it to Complainant and considered the matter to be resolved.

Licensing History:	Registered Trainee	2/23/2004-6/17/2007
	Certified Residential	6/18/2007-Present

Disciplinary History: None

Reasoning and Recommendation: Errors and Omissions insurance does not fall under the jurisdiction of the Commission. Thus, Counsel recommends that this matter be **Closed with no further action**.

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

3. 2014020341

This complaint was filed by a property owner and alleged that Respondent did not provide the appraisal report on time and did not return Complainant's emails or phone calls, which is unprofessional and unacceptable.

Respondent sent a response stating that he inspected Complainant's property on July 24, 2014, with the full intention to provide the service that he gives each of his clients. Five days later, Respondent indicated that he began to have personal medical issues and was not prepared to share those issues as an excuse to extend due dates with the hopes that he would still meet his obligations. The situation grew worse over the next couple of weeks. Subsequently, Respondent was informed that the Complainant had contacted another appraiser and that the report was no longer necessary. Respondent indicated that he never took compensation for the promised report. Respondent apologized for any inconvenience that he may have caused due to his health concerns and stated that it was out of the norm and unforeseeable at the time he accepted the order.

Licensing History:	Registered Trainee	9/12/1997-4/8/1999
	Licensed RE Appraiser	4/9/1999-12/16/2007
	Certified Residential	12/17/2007-Present

Disciplinary History: 200317516-Dismissed

Reasoning and Recommendation: The matter of returning phone calls and turn-around times on appraisals does not fall under the jurisdiction of the Commission. As such, Counsel recommends that this matter be **Closed with no further action**.

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

4. 2013016761

RE-PRESENTATION

This matter is being re-presented from the December 2013 Legal Report. At the December 2013 Commission meeting, the Commission voted to authorize a Litigation Monitoring Order, pending the outcome of the jury trial on August 18, 2014. The facts of the matter as presented at that meeting are as follows:

This complaint was filed by the administrative staff of the Tennessee Real Estate Appraiser Commission, as the result of a new article, alleging that Respondent violated AMC independency. Such news article stated that Respondent was facing a lawsuit from a former chief appraiser, who is alleging that Respondent violated federal regulations and terminated her employment in response to her complaints. It was alleged that Respondent's parent corporation developed a program to recruit mortgage brokers and loan officers by telling prospective recruits they could provide their own personal list of appraisers to be included on the approved panel for the appraisal process at Respondent AMC's business.

Regulations under the Truth in Lending Act (TILA) requires that employees, officers, and directors in the loan process not be directly involved in selecting, retaining, recommending, or otherwise influencing the choice of who will perform a valuation or who may be included from a panel of approved appraisers.

Respondent sent a response to the complaint stating that Respondent and its parent corporation have thoroughly investigated the claims made by the former employee of Respondent and have determined that her lawsuit has absolutely no merit. Respondent stated that it intends to assert a vigorous defense against the former employee's false accusations.

Licensing History: Registered AMC 10/27/2011-10/26/2015

Disciplinary History: 201202543-Closed with no action

Reasoning and Recommendation: The pending trial in this matter has been continued until 2015. Respondent has not signed the Litigation Monitoring Order that was sent out in December of 2013. Upon further research into the pending matter and communication with Respondent, it appears that even if Respondent was convicted of violating the Truth in Lending Act at trial, the TREAC statutes governing AMC's would not cover the specifics in this case. Since, the Commission would not be able to discipline the AMC in this matter based on the information that is currently available, it is Counsel's recommendation that this matter be **closed** at this time. If, after the outcome of the trial, it is necessary to re-open the matter, it will be re-opened at that time.

Vote: Dr. Mackara made a motion to accept counsel's recommendation. This was seconded by Mr. Collinsworth. The motion carried unopposed.

5. 2014012701

RE-PRESENTATION

This matter is being re-presented from the August 2014 Commission meeting, during which time the Commission authorized a Consent Order in the amount of One Thousand Five Hundred Dollars (\$1,500) and a fifteen (15) hour USPAP course. The facts of the complaint matter were presented as follows:

This complaint was filed by a consumer and alleged the Respondent under-valued a residential investment property in an appraisal report completed in October of 2013. Complainant alleged that the results of the appraisal cost her several hundred dollars. The subject property is a furnished model home in a new subdivision. Complainant alleged Respondent refused to do a re-evaluation for the lender.

Respondent sent a response to the complaint, indicating the complaint appeared to mostly reflect concerns with the loan process. Respondent indicated he had not had any contact from the Complainant or the

lender to complete a “re-evaluation” of the appraisal. The instructions in the engagement letter were to complete an appraisal for a refinance transaction for the above referenced property on the SFR 1004 form with rental comparable and operating income statement forms. These items were included in the delivered report. The documents/statements included in the complaint suggest that the Complainant supplied comparable sales to the lender. Respondent stated he was not provided any comparable sales and not requested to complete a “re-evaluation”. Respondent stated the Complainant has not provided documents to support concerns with the appraisal. The majority of the concerns appear to be directed at the client’s loan process. Respondent stated he is independent of this process.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- The appraiser has identified the property rights appraised as “Fee Simple”. The market value of the fee simple estate assumes that the property has no leases or tenants and could be leased at the prevailing market rate. Clarification should be made as to why the property rights valued are “Fee Simple” and not “Leased Fee”. [SR 1-2(e)(ii)]
- The appraiser does not specify the extent of data researched with regard to search parameters for comparable sales (size, age, garage, etc.). This is confusing in the Sales Comparison Approach. It is unclear as to whether the appraiser is comparing sales of properties with similar size (GLA) or smaller size with garage. [SR 1-2(h); SR 2-1(b)]
- The appraiser is engaged to complete an appraisal for a refinance transaction for the subject property on a 1004 form and to include a rent schedule and an operating income statement. The appraiser completed the appraisal as instructed but does not clearly explain the assignment conditions in the appraisal report, the details of the lease or why he is including the income statement. A copy of the lease is not provided nor discussed. An income approach is not processed. [SR 2-1(h)]
- The subject property transferred to the current owner on April 28, 2011 for a sale price of \$219,990 as referenced on the property tax record and in the warranty deed. The appraiser did not disclose or analyze the prior sale of the subject property. The reviewer found no listing of the subject property in the 12 months prior to the effective date. However, a prior listing describes property as 3 bedrooms, 2.5 baths and 2,688 square feet of GLA. The current floor plan and finish differs from the listing description. The listing was on the market for 0 days with an original list price of \$219,990. Given that the home has appraised 41 months later for \$255,000, it would be prudent to research and explain the value difference. [SR 1-5(b)]
- The appraiser describes the subject as having a “standard” floor plan, however, the property is “the model home for the development with the garage currently enclosed and used as a sales office,” which seems contradictory. The finished area (GLA) is reported as 3,338 square feet and a two-car, built-in garage is checked. This is also contradictory. The sketch included in the addendum reflects a total of 3,338 square feet of GLA, including the enclosed garage. [SR 2-1(a)]
- The appraiser uses three sales and one listing. The comparable sales are all located within the subject neighborhood. They range from 8 to 16 years old and are similar in design by number of bedrooms and baths and are considered to have similar condition. A comment should be made to clarify the reasons why no sales are used within the subject subdivision; no sales are used with similar age compared to the subject; no sales are used with GLA greater than the subject 3,338 square feet. [SR 2-1(b)]
- The report states that Sale 1 transacted for \$234,900 in February 2013. The deed indicates that the sale transacted for \$223,000 in May 2013. [SR 1-1(b)]
- For Sale 2, based on a review of the property record and tax map on CRS, the reported site size is overstated. [SR 1-1(c)]
- For Sale 3, based on a review of the property record and tax map on CRS, the reported site size is understated. [SR 1-1(c)]
- No adjustment is made for the subject enclosed garage compared to the two-car garage for the comparable sales. No hypothetical conditions or extraordinary assumptions are made or described within the report regarding the subject property. An adjustment is made for size based on the difference in GLA of the subject compared to sales and listing with no adjustment made for the absence of a two-car garage. This may overstate the value of the property. [SR 2-1(a)]

- A comment should be made to clarify the reasons why no adjustments are made for age compared to the subject and no adjustments are made for two-car garage. [SR 2-1(b)]
- The appraiser stated the adjustment amounts for the line-item adjustments; however, gave no explanation or support for any of the adjustment rates. The supporting data was not found in the workfile indicating the analysis was not performed. [SR 2-1(b); SR 2-2(b)(viii); SR 1-4(a)]
- The age of the subject is described as two years, however, in the reconciliation the subject is misreported as “more than five years old”. This is stated as the reason the cost approach was not developed. The appraiser has not provided an adequate explanation for his omission of the cost approach from the analysis. Given the age of the property, and its unique characteristics it would be prudent to process the cost approach in support of value and/or support adjustments in the sales comparison approach. [SR 1-1(c); SR 2-2(b)(vii)]
- It is likely that sufficient data was available to process the income approach. Since the property is an investment property, it would be prudent to process the income approach and to consider the relevance or applicability of the approach in the reconciliation of value. [SR 2-2(b)(viii)]
- The appraiser states that “comparable 1 is most like the subject and was given greater weight in the final estimate of value.” However, the value estimate from the Sales Comparison Approach is reconciled higher near the average of sale 1 and sale 3. [SR 2-2(b)(viii)]
- In the sales comparison approach, the quantity of data available is not specifically discussed. [SR 1-6(a); SR 2-1(b); SR 2-2(b)(viii)]
- The report states that “...concessions are uncommon and have no apparent impact on the subject or its market area.” However, adjustments are made for closing costs for two of three sales in the market data grid. Adjustments are not explained. [SR 2-1(b); SR 2-2(b)(viii)]

Licensing History: Certified Residential 8/18/2005-Present

Disciplinary History: 201002903 & 201003117-Consent Order with \$1,000 civil penalty and 15 hour Residential Report Writing Course and 15 hour Residential Site Valuation and Cost Approach Course)

Reasoning and Recommendation: After the Consent Order was sent out to Respondent; Executive Director Avers received communication from Respondent, indicating his desire to voluntarily surrender his appraiser credential. Respondent indicated that he is no longer working in the appraisal business and intends to get out of the appraisal business, as a whole. As a result of this communication by Respondent, Counsel recommends the authorization of a voluntary surrender of Respondent’s appraiser credential immediately upon execution of the Consent Order, in lieu of the previously authorized Consent Order containing a civil penalty and CE hours. Such terms are to be settled by Consent Order or Formal Hearing.

Vote: Mr. Collinworth made a motion to accept counsel’s recommendation. This was seconded by Dr. Mackara. The motion carried unopposed.

FORMAL HEARING

The Commission held a formal hearing before Judge Mary Collier, attended by court reporter Tracy Foley-Wilkes.

Having no further business, Mr. Green adjourned the meeting at 2:55 p.m.