



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

**Meeting Minutes for May 22, 2017
Conference Room 1A
Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission convened in the first floor conference room of the Davy Crockett Tower in Nashville, Tennessee. Roxana Gumucio called the meeting to order at 9:05 a.m. and the following business was transacted:

BOARD MEMBERS PRESENT: Randall Thomas, Mark Johnstone, Rosemarie Johnson, Rex Garrison, and Warren Mackara.

STAFF MEMBERS PRESENT: Roxana Gumucio, Sarah Mathews, Robyn Ryan, and Erica Smith.

ROLL CALL/NOTICE OF MEETING

Executive Director Roxana Gumucio called the meeting to order at 9:05 am and read notice of the meeting into the record.

AGENDA

Mr. Johnstone motioned to adopt the day's agenda as written. This was seconded by Ms. Johnson. The motion carried by unanimous vote.

MINUTES

Mr. Johnstone made a motion to adopt the minutes from both the January 11, 2017 and the March 29, 2017 meeting as written, which Mr. Garrison seconded. The motion carried by unanimous vote.

EXPERIENCE REVIEWS

Mr. Garrison recapped his interview with Mr. Corey Hammonds, seeking an upgrade from Registered Trainee to Certified General. Mr. Garrison made a motion to accept the upgrades to Certified General. This was seconded by Mr. Johnstone. The motion carried by unanimous vote.

Mr. Johnstone recapped his interview with Melissa Rich, seeking an upgrade from Registered Trainee to Certified General. Mr. Johnstone requested reports from the candidate where she had a more direct role in their completion, at least fifty percent (50%) responsibility, for further experience review. Mr. Johnstone made a motion that her future submissions be within the standards so outlined by rule and statute. This was seconded by Ms. Johnson. The motion

carried by unanimous vote. Mr. Johnstone made an amended motion that her future submissions within standards so outlined be permitted to come before him for final approval without resubmitting to the board. This was seconded by Mr. Garrison. The motion carried by unanimous vote.

After the "Education Report", Mr. Garrison wanted to complete the "Experience Reviews" portion with three more interviews as follows:

Mr. Garrison recapped his interview with Ms. Robin Melton, seeking an upgrade from Registered Trainee to Certified General. Mr. Garrison made a motion to accept the upgrade to Certified General. This was seconded by Dr. Mackara. The motion carried by unanimous vote.

Mr. Garrison recapped his interview with Mr. Drew Gaw, seeking an upgrade from Registered Trainee to Certified General, which Mr. Garrison followed with a recommendation to approve his upgrade. Ms. Johnson made a motion to accept the upgrade to Certified General. This was seconded by Dr. Mackara. The motion carried by unanimous vote.

Mr. Garrison recapped his interview with Mr. Jason Nobles, seeking an upgrade from Registered Trainee to Certified General, which Mr. Garrison followed with a recommendation to resubmit three current reports for further review. No vote was necessary to accept this recommendation.

EDUCATION REPORT

Dr. Mackara introduced the courses recommended for approval. Dr. Mackara made a motion to accept those recommendations, which Mr. Johnstone seconded. The motion carried unanimously, with Mr. Garrison recusing himself from the vote.

DIRECTOR'S REPORT

Director Gumucio took a moment to recognize the service of Mr. Eric Collinworth and to notify the Commission that Mr. Jason Bennet would be appointed in his place and present at the next regularly scheduled meeting. Director Gumucio gave the Commission a projected budget and list of expenditures.

LEGAL REPORT

1. 2016057481 – Respondent 1- REPRESENT

Licensing History:	Certified Residential Appraiser	9/23/2004 – 9/30/2018
Disciplinary History:	None	

2016057482 – Respondent 2 -REPRESENT

Licensing History:	Appraisal Management Company	10/11/2011 – 10/10/2017
Disciplinary History:	None	

This is a re-presentment from the January 2017 meeting:

This complaint was filed by a consumer against an appraiser (Respondent 1) and an AMC (Respondent 2), alleging that appraisal report must be questioned. Complainant alleged that Respondent 1 performed the appraisal on July 26, 2016, after cancelling the first appointment on July 19 because it was

too hot. Complainant has alleged the following issues with the appraisal report completed by Respondent 1:

- *Respondent 1 had a sketch which she stated was non-living area. This included the 2-car garage, screened porch, open porch, wood deck, concrete patio and basement. Complaint states that there is no concrete patio at the home and that she is categorizing half the home as non-living with regards to the basement. The home is built on the side of the mountain with 2 levels.*
- *Respondent 1 stated that sales comparable to the subject were difficult to find and that there were two (2) somewhat comparable.*
- *All comparables used were on average 40% smaller in terms of square footage.*

- *The foundation is superior walls and not poured concrete, as stated in the report.*
- *No value was given to the two (2) heating/cooling units.*
- *The minimum value for the home should be \$418,800. That is using \$160 per square foot for the upper level and \$80 per square foot for the lower level.*

Respondent 1 denies all the allegations outlines in the complaint and states that she never stated that she could complete the appraisal by doing a drive by and taking some photos. Respondent 1 states the following:

- *Respondent 1 did not include the square footage in the lower level with the livable square footage of the upper level because the entire back wall of the lower level is below grade and pursuant to industry standards she is not allowed to take that square footage into consideration for livable footage. However, Respondent 1 did place value on the lower level square footage, as a basement.*
- *Comparables were difficult to find due to the nature of the property. Respondent 1 indicated on the report that one of the comparables had been sold in the 12 months prior, explaining that it had been bought and sold within twelve months against and indicating that it was a comparable once the property had been bought, renovated and then sold.*
- *Respondent 1 states the Complainant's representative, who was present at inspection, told her the walls were poured concrete. Respondent 1 states that whether the walls are "superior walls" or poured concrete, it does not bring inherently more value to what a buyer would pay for the property.*
- *Respondent 1 was not obligated to do the cost approach method, but she did do it because she believed it would reflect the value of the home better.*

Respondent 2 states in response that there do not appear to be any assertions or allegations that are inconsistent with or in violation of USPAP. Rather the Complainant's has a difference of opinion. Respondent 2 does state that if a homeowner takes exception to the value, there is a procedure by which the homeowner can dispute the value. Respondent 2 did relay the Complainant's concerns to Respondent 1 and worked with him to fully address all issues raised and regrettably, the Complainant's were not content with the responses and elected to file the complaint.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

Note: Reviewer reviewed Respondent 1's appraisal report. Counsel has included Respondent 1's responses to the Reviewer's conclusions below in italics.

Neighborhood

- *The information provided appears to be reasonable and reflecting the area trends appears to have been reasonably analyzed.*

Site

- *A review of information gathered from CRS Property Report supports the physical information about the subject site provided in the report. The site dimensions, size, utilities, and zoning appear to have been adequately identified and described. Based on the information presented for review, the highest and best use determination appears to be appropriate and reasonable.*

Description of Improvements

- *Based on the information presented, the report provides sufficient amount of comments, descriptions and analysis about the subject's physical characteristics to allow the reader to have a proper mental understanding of those relevant factors that have an effect on the subject property.*
- *In reviewing the appraisal report, the below grade/basement area was considered in the overall valuation of the subject property in an appropriate manner, according to the scope of the assignment.*

Sales Comparison Approach

- *There was no adequate reasoning or analysis provided in the report to support the adjustments made. Based on the information provided, it appears that the appraiser has selected and identified sales that are from the same or similar market as subject. Adjustments were made to the sales but no discussion or analysis was provided in the report to indicate how these adjustments were derived or supported.*
- *The sales comparison reconciliation did provide some discussion, but does not provide adequate reasoning for the adjustments, analysis, opinions and conclusions.*
- *In summary, adequate reasoning has not been provided for the adjustments and sufficient analysis has not been provided to support opinions and conclusions. With the lack of proper analysis of the sales information, the conclusions are considered to be questionable and unsupported, based on the information provided.*
- *The report does not provide sufficient information to enable the clients and intended users to understand the rationale for the opinions and conclusions provided in the sales comparison approach to value. [SR 1-1 (a); SR 2-2(b)(viii)]*

Site Value:

- *Comments in the site section of the cost approach provide a number of sales as support for the appraiser's opinion of site value.*

Cost Approach:

- *There is a lack of supporting information or discussion indicating the figures and analysis presented are market oriented. The report should have comments or analysis presented offering the reasoning behind the opinions and conclusions presented, to allow the reader/intended user to properly understand the report.*
- *It should be also noted that the site improvements of the cost approach was left blank. It is unknown if the site improvements were considered elsewhere or were left out of this approach. There were no comments or analysis provided to assist with this situation.*
- *These inconsistencies and the lack of support reduce the credibility of this approach to value. Based on lack of information provided, it appears that the cost estimates are not market oriented or supported, that the physical depreciation has not been correctly calculated, and this approach to value has not correctly employed recognized methods and techniques. [SR 1-1 (a),(b) &(c); SR 1-4(b)(ii); SR 1-4(b)(iii); SR 2-2(a)(viii)]*

Reconciliation

- *The reconciliation in the report does not reconcile quality and quantity of data used in the approaches to value.*

- *This statement does not provide sufficient reporting and analysis to support opinions and conclusions provided. The applicability and suitability of the approaches used to arrive at the value conclusions have not been adequately reconciled.*
- *The appraisal results have not been conveyed in an appropriate manner, reducing the credibility of the final value opinion.*
- *This lack of analysis and insufficient information reduces the ability of any clients, and or intended users, the ability to rely on, or understand the report. [SR 1-6 (a)(b); SR 2-2(a)(viii)]*

Respondent 1 states the following in response to the Reviewer's conclusions:

- *The property at issue is a property without that many comparables. The property is a lake view property and not a lake front property. The Complainant's wanted comparables used that were lake front properties, which are inherently more valuable and would not be comparable to simple lake view properties.*
- *Adequate reasoning was provided regarding adjustments and analysis. Respondent 1 stated that it was clear from the extensive file materials that due diligence was performed in acquiring and processing the available information.*
- *Respondent 1 states the sales comparison approach was conducted within the standards of USPAP.*
- *Respondent 1 stated that she went thru each house in the subdivision to pull information for site value information. Again, this house is lake view property, which is completely different than lake front property.*
- *The cost approach is supported by documentation and analysis as evidenced by the tremendous amount of documentation and research that has already been provided in the property file.*
- *Finally, the reconciliation does provide sufficient reporting and analysis to support the conclusions provided and was completed according to USPAP standards.*

Reasoning and Recommendation: *Counsel recommends the following:*

- *Respondent 1 – Counsel recommends the authorization of a **Letter of Warning** in regards to the above-referenced USPAP violations.*
- *Respondent 2 - Counsel recommends the matter be **dismissed**.*

DECISION: *The Commission voted to postpone making a decision against Respondent 1 or 2, until further information, as requested by the Commission, is received and reviewed.*

The below information was presented at the March 2017 meeting:

Counsel reached out to the Respondent 2 (AMC) and spoke directly to the General Counsel and requested a copy of the scope of work, but Respondent 2 never provided Counsel with a copy, but rather reiterated their previous response (above). Counsel was additionally told by Respondent 2's general counsel that the appraiser followed the appropriate guidelines under USPAP, but again did not address the scope of work question.

Reasoning and Recommendation:

- *Respondent 1 – Counsel recommends the authorization of a **Letter of Warning** in regards to the above-referenced USPAP violations.*
- *Respondent 2 - Counsel recommends the matter be **dismissed**.*

DECISION: The Commission voted to postpone making a decision against Respondent 1 or 2, until further information, as requested by the Commission, is received and reviewed.

New Information: At the March 2017 meeting, the Commission requested that Counsel obtain the scope of review information. Since the March 2017 meeting, a paralegal with our legal division, emailed Respondent 2's representative on March 7, 2017 requesting a copy of the contract between Respondent 2 and the lender. Respondent 2's representative responded on March 16, 2017, stating that Respondent 2 performed services to qualify, select and manage the appraisal process as an appraisal management company. Respondent 1 conducted the field work and expressed her opinion of the value of the subject property in the appraisal report, and the issues brought forth in the complaint are only related to the appraisal and appraiser's competence. Therefore, Respondent 2's representative stated that Counsel needed to contact Respondent 1 or the appraisal firm to request any documentation. As a result, the paralegal then called Respondent 1 and left her a voicemail requesting that she provide the scope of review that the lender had requested. That same day, the paralegal also left a voicemail for the Complainant requesting the same information about the scope of review. Respondent 1, Respondent 2, and the Complainant have failed to provide the information regarding the scope of review that the Commission has requested.

New Recommendation: Dismiss

New Decision: The Commission voted to authorize a Letter of Warning for Respondent 1 with regards to the above referenced USPAP violations and Dismiss Respondent 2.

2. 2017012921

Licensing History:	Appraisal Management Company	11/16/15 – 11/15/17
Disciplinary History:	None	

Complainant filed complaint with the Department of Commerce and Insurance on February 24, 2017 against Respondent because Respondent had not paid Complainant for an appraisal performed in May 2016. Complainant is a licensee who accepted an assignment from the Respondent on May 11, 2016 at 4:58 pm to inspect, measure, and take photographs of the subject property. After returning from the inspection, there was a cancellation notice on Complainant's email. Complainant then emailed Respondent to inform them that they still owed the Complainant half of the fee, totaling \$225. Complainant states that Respondent stated that they would pay the Complainant's fee of \$225. Respondent did not pay the fee. On August 29, 2016, Respondent requested Complainant complete another assignment and Complainant reminded Respondent that the first assignment had not been paid for by Respondent. Respondent stated they would overnight a check to Complainant. Complainant proceeded with the second assignment and sent the report in to Respondent, but never received the check for \$225 for the first assignment.

Respondent responded to the complaint stating Respondent scheduled an inspection for May 12, 2016, at 12:00 pm. Respondent provided a copy of the automated notification that was emailed to Complainant at 10:45 am on May 12, 2016, along with a status update in the portal to put the appraisal on hold. It is standard practice to notify appraisers of all appraisal updates via email and through the website portal. Typically, no compensation will be received by an appraiser that is notified that an appraisal is put on hold and still completes the appraisal. Respondent states since the appraisal was put on hold so close to the actual appraisal's scheduled time, Respondent made a good gesture and paid Complainant the \$225 that

was owed from the first assignment. Respondent provided a copy of the check for \$225 that was sent to Complainant on March 6, 2017.

Recommendation: Dismiss

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

3. 2017013561

Licensing History:	Unlicensed
Disciplinary History:	None

Complainant's mortgage company retained Respondent, as well as the Respondent in the complaint 2017013621 below, for what Complainant states as "an evaluation" on Complainant's home in order to stop Private Mortgage Insurance ("PMI") payments. According to the Expert Reviewer who Counsel requested to review Respondent's "evaluation," the "evaluation" document that Complainant provided is actually a Comparative Market Analysis ("CMA"), not an appraisal or a mere evaluation. Respondent's first CMA was for \$235,000, which is \$20,000 lower than the purchase price of the subject property in 2008. Complainant then contacted her mortgage company regarding her concerns about the Respondent's CMA and the mortgage company requested Respondent perform another CMA of the subject property. The second CMA was for \$215,000. Complainant feels the CMA's value of the property is ridiculous, and the Respondent is incompetent and not familiar with the areas' property values.

Respondent is a licensed real estate broker and is not a licensed appraiser. Respondent has not responded to this complaint.

REVIEWER CONCLUSIONS

It is of the opinion of the Expert Review Appraiser that the State of Tennessee Appraisal Board does not have legal jurisdiction in this matter because the Respondent is a real estate broker and the document provided in the complaint was a Comparative Market Analysis, not an appraisal report.

Recommendation: Dismiss

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

4. 2017013621

Licensing History:	Appraisal Management Company	7/1/11 – 7/31/17
Disciplinary History:	None	

Respondent is the Appraisal Management Company in the above complaint 2017013561. Respondent states that they ordered a Comparative Market Analysis (CMA) for the subject property from the Respondent, a licensed real estate agent, in the complaint 2017013561 above. Respondent explains that a CMA is not a full appraisal, but is similar to a Broker Price Opinion. Respondent further states that Respondent does not determine an opinion of value, but simply coordinates with the licensed real estate agent that completes the CMA, and then Respondent provides the CMA to their customer.

REVIEWER CONCLUSIONS

The Respondent was not acting in an Appraisal Management Company role in this complaint because the person providing the CMA was a licensed real estate broker, not an appraiser.

Recommendation: Dismiss

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

5. 2017015291

Licensing History:	Certified Residential Appraiser	1/4/94 – 7/31/17
Disciplinary History:	None	

Complainant filed this complaint against Respondent based on an appraisal assignment conducted by Respondent for a 1004 SFR on a refinance transaction. Complainant's employer is an appraisal company and received the Respondent's completed appraisal report with an effective date of October 16, 2014 and an opinion of value of \$252,500. On October 21, 2014, the lender requested Respondent review three alternate sales that were not included in the original report, and Respondent retransmitted the appraisal with commentary that "the alternative sales were not comparable."

On August 8, 2016, Complainant's employer was notified that the lender received a Repurchase Demand Letter from Fannie Mae (FNMA) which indicated that the appraisal did not adequately support the value stated based on five reasons:

- 1) **Comparable Sales Physical Features Reported Inaccurately** (the gross living area was reported as 1,730 sq. ft., but the MLS states the gross living area is 3,058 sq. ft.);
- 2) **Subject Physical Features Reported Inaccurately regarding Amenities** (report stated property had a 1,029 sq. ft. basement with 803 sq. ft. finished, but the basement was actually 546 sq. ft. with almost 100% finished);
- 3) **Use of Comparable Sales with Dissimilar Site Characteristics without Adequate Explanation** (report used a comparable sale that was situated on a lot that was 12.5 times larger than the subject property);
- 4) **Inappropriate Sales Selection Due to Location** (report used two comparable sales that were inappropriate because they were 4.99 and 3.23 miles away from the subject property, in different towns, and there were more appropriate comparable sales available to use); and,
- 5) **Use of Physically Dissimilar Comparable Sales Gross Living Area** (report used a comparable sales that was 1,096 sq. ft. larger, or 56% larger, than the subject property)

On August 9, 2016, the Complainant's employer provided a copy of the FNMA Repurchase Demand Letter with the alternate comparable sales to Respondent and requested her response to each of the five reasons FNMA set out in their letter, as well as a response as to why the alternate comparable sales were excluded from the appraisal. Respondent responded to Complainant's employer on August 24, 2016, and it was then forwarded to FNMA, who then issued a second Repurchase Demand Letter and responded to the Respondent's response to the first demand letter.

On September 21, 2016, Complainant's employer ordered an exterior-only 2055 from a different appraiser, and requested it be effective retroactively to October 10, 2014. This report had an opinion of value of \$209,000. Complainant states the subject property's value was between \$205,000 and \$215,000 as of October 2014, and sold as an REO as of October 2, 2016 for \$195,000.

Complainant's employer believes the Respondent ignored sales located in the subject property's subdivision that were comparable for sales located over one mile away, two comparable sales were actually in an adjacent town, and these issues led to a misleading appraisal report and an overstated opinion of value.

Respondent responded to the complaint and denies the allegations that she purposely ignored sales of properties within the subdivision of the subject property, denies inflating the value intentionally, and states that she has worked for the Complainant's employer and Quicken Loans for several years without issues or complaints. Respondent states that once she received the Repurchase Demand Letter, she realized she did make some mistakes in her appraisal report. The gross living area of the basement was misstated in her appraisal but this mistake would not have changed the overall value. Respondent also states she should have replaced comparable sales one only because she could not verify the square footage and it was inconsistently listed in the MLS, public records and by the agent. Respondent states the comparables from a different town were appropriate because they were in the same county, school district, and would have the same taxes, amenities, hospitals, etc. Respondent states the comparables provided by FNMA were not appropriate because they would not be marketed to the same potential buyers, they are of an inferior quality to the subject property, and the entire neighborhood is inferior in amenities and overall appeal. Respondent states she could have used a couple of sales from the subdivision but it would not have changed the overall value. Respondent also argues that the retroactive appraisal completed by another appraiser was not a full inspection of the property and did not use the comparable sales that the lender and FNMA had suggested either; a full inspection done at the time the Respondent completed her appraisal would have rendered a value similar to the Respondent's opinion of value.

Respondent states that she has signed up for several classes regarding Fannie Mae guidelines as well as Comparable Sales Selection and Support, in hopes that she will not make the same mistakes in the future. Respondent claims that the unintentional mistakes she made did not result in an overvaluation of the subject property.

REVIEWER CONCLUSIONS

The Respondent failed to understand the methods and techniques or, at a minimum, apply the correct physical characteristics to provide a credible appraisal based on the Respondent's selection of sales, allocation of square footage, garage space, etc., in violation of **Standards Rule 1-1(a)**.

The Respondent committed substantial errors that significantly affect an appraisal because of the incorrect square footage allocated to sale number one and the misapplication of square footage for the subject where the garage space was included in the basement adjustment line and no adjustments were made for garage storage in the garage line. This is a violation of **Standards Rule 1-1(b)**.

The Respondent used sales from a broad area while ignoring proximate sales in violation of **Standards Rule 1-4(a)**.

The Respondent did not use such comparable data as available to estimate the difference between cost new and present worth of improvements in violation of **Standards Rule 1-4(b)(iii)**.

The Respondent did not communicate each analysis, opinion and conclusion in a manner that is not misleading in violation of **Standards Rule 2**. Specifically, the lack of consideration of more proximate sales to the subject property and of a significant difference in square footage, along with misappropriation of garage area in the analysis created a misleading report in violation of **Standards Rule 2-1(a)**. The appraisal did not discuss the difference in quality that is apparent between the subject property and the sale properties utilized, nor did it discuss the differences between the subject property and the comparables, and the basis for derivation for adjustments made or omitted, in violation of **Standards Rule 2-1(b)**.

The Respondent's appraisal did not include the reasoning that supports the analysis and conclusions because the report sets out adjustments but does not adequately discuss or analyze to the point the reader of the report would understand the nature and degree of the adjustments; specifically, the size adjustment of \$15 per square foot is not discussed or supported and the inclusion of the garage within the basement square footage adjustment duplicates that portion of the property in the adjustment process. This is in violation of **Standards Rule 2-2(viii)**.

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

Decision: The Commission authorized a civil penalty in the amount of One Thousand Dollars (\$1000) to be satisfied within thirty (30) days of execution of the Consent Order, a seven (7) hour Supporting Adjustments course, seven (7) hour Common Appraisal Errors course, seven (7) hour Fannie Mae Update course, seven (7) hour ANSI, Home Measurement course, such courses must be completed within one hundred eighty (180) days of execution of the Consent Order.

6. 2017021091

Licensing History:	Certified Residential Appraiser	1/19/94 – 8/31/17
Disciplinary History:	None	

Respondent completed an appraisal for Complainant. Complainant states Respondent made two serious mistakes in the appraisal to warrant this complaint:

- Respondent listed the square footage as 2091 on the appraisal provided, but the outside measurement of the subject property is a 98 x 24 rectangle, making the actual square footage equal to 2,352.
- Respondent took 30 days to render the appraisal after the order was placed costing Complainant \$271.25 to "increase the lock window" to make up for Respondent's late report. Complainant believes the Respondent should be liable to repay the \$271.25.

Through counsel, Respondent states:

- Respondent acknowledges that there was an error in the square footage numbers associated with the property sketch and appraisal; however, this did not result in prejudice to the Complainant.

- Respondent and the Appraisal Management Company set a due date for the appraisal and the Company requested the Respondent to perform the appraisal. The Company classified the subject property as a multi-family home; however, Respondent found the property to be uniquely constructed with passive and active solar building design and with a hobby-farm component. Based upon the unique nature of the property and the time necessary to complete the appraisal, Respondent requested a fee increase from the Company. The Company approved the increased fee and Respondent submitted the appraisal on March 14, 2017, 8 days before the closing date of March 22. Respondent has no control over closing dates. Complainant requested the change and makes no claim that the closing was delayed.
- Respondent points out that Complainant provided a "Closing Disclosure" that shows the \$271.25 is a loan cost in the form of origination charges for extensions. The Complainant also provided the Notice of Change Circumstances Reasons Closing Disclosure which states the Complainant requested changes to the mortgage loan sought, specifically a change in escrow account, name/address/social or DOB updated, and this request cost the Complainant the \$271.25. This contradicts Complainant's statement that the \$271.25 was the cost to "increase the lock window" due to the delay in the appraisal report being submitted.

REVIEWER CONCLUSIONS [alleged violations included within brackets]:

Building/Improvement Description:

- The appraisal cites the finished living area at 2,091 sq. ft., while the owner quoted 2,352 sq. ft. and tax records cited 2,328 sq. ft. The appraiser agreed this was an error and allowing that a reasonable estimate of the living area is 2,330 sq. ft., the difference is 239 sq. ft. between the actual living area and that utilized in the appraisal. This is a difference of 11.43%.

Cost Approach:

- The cost approach was conducted using the Marshall Valuation service as a guide for replacement cost and depreciation. The recalculation utilizing the correct square footage indicates a value of \$359,000, while the appraisal value was \$335,149, indicating a difference of \$23,851.

The Respondent's appraisal contained an error in the estimation of living area which represented a difference of 11.34%. Recasting the cost and sales comparison approaches with the correct square footage would indicate a difference of \$23,851 relative to the cost approach and \$7,980 relative the average of the adjusted sale indication for the four comparables. The appraiser had put most reliance on the sales comparison approach in the appraisal so that a reasonable impact of error as to the value calculated by the appraiser is reasonably estimated at \$8,000. Using this method the value difference is about 2.45%.

Outside of the square footage error, the appraisal appears to be well researched as to selection of comparable sales and general information provided to the reader.

Standards Rule 1-1(b) requires that an appraiser not commit a substantial error of omission or commission that significantly affects an appraisal.

Recommendation: Counsel recommends a Letter of Warning.

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

7. 2017002891

Licensing History:

Certified General Appraiser

3/17/93 – 3/17/19

Disciplinary History:

None

Complainant is a former owner of a restaurant building that had been appraised as part of a law suit after property was foreclosed and concerns the value as of the date of foreclosure. Complainant states Complainant is facing a considerable financial loss and the issue is governed by what the court determines as a creditable value. Prior to foreclosure, Complainant had an appraisal done that showed the property worth in excess of \$800,000 and the current tax appraisal was in excess of \$700,000. Complainant states the appraisal in question had the value at \$200,000 and questions that value. Complainant states appraisal lists the subject as improved with mini-warehouses but the subject was a restaurant. Complainant questions the comparable properties and questions the land value as Complainant purchased the property in 2014 for \$210,000 and made improvements.

Respondent states the property was in litigation and that Respondent would be presenting the work file and defense of same at the hearing. Respondent requested that all files be sent after trial. The trial was set for February 2017 and in April, Respondent sent a copy of appraisal but with no other information and did not send a copy the work file.

REVIEWER CONCLUSIONS

No work file was made available for review by Reviewer in violation of USPAP requirements of record keeping “work file must be made available by the appraiser when required by a state appraiser regulatory agency of due process of law” “ appraiser who willfully or knowingly fails to comply with the obligations of this RECORD KEEPING RULE is in violation of the ETHICS RULE”.

Report provided by Respondent is different from the report submitted by complainant as that report had 71 pages, and report provided by Respondent had 88 pages. Page 15 is missing from the report provided by Respondent and that page has several references to the subject property being a mini warehouse with 9 buildings and 251 units but the subject property was a restaurant, and therefore the report submitted is not a true and correct copy of what was provided to Complainant.

Appraisal report had a report date of December 12, 2016 and an effective date of appraisal of October 24, 2016 and Respondent also rendered an opinion of value with effective date of October 28, 2014 but nothing articulates why date used.

* **Intended Use.** Report does not identify intended use of appraisal in original report and does not identify intended user of appraisal in violation of **Standard 2-2**

* **Neighborhood Analysis.** Report has no analysis of neighborhood, no discussion of land use regulations, supply and demand for property type, or market trends. Respondent placed property in city limits but this is not accurate. Section titled “The Subject Community” is copied from Wikipedia and there was a lack of analysis in violation of **Standard 2-1 (a)(b), 2-2(a)(viii).**

* **Description Improvements.** Description of improvement is not related to the subject of appraisal and is misleading, confusing and not in compliance as reader cannot tell if property is a restaurant or a mini warehouse and is in violation of **Standard 2-1(a)(b), 2-2(a)(iii)(viii)(ix).**

* **Sales Comparison.** The sales comparison approach indicated use of five sales in reference but report included 6 sales with locations. No sales photos were included in original report and Respondent did not describe the use of sales. There is no commentary on the comparability of each sale as it relates to the subject property and none of the included sales were free standing restaurant as is subject property. The sales included a motel, a fitness center, a church and fellowship hall, a service garage, a downtown two story office building and convenience market but no free standing restaurant property was included and the sales were misleading. Nothing in original report makes it clear how Respondent arrived at adjusted value and there is no discussion of property types. This comparison is in violation of **Standard 2-1(a)(b)< 2-2(a)(vii), 1-1(a)(b)(c).**

* **Income Approach.** This section contained a one page, three paragraph discussion wherein Respondent references nearby Walmart for rental rates and does not address expenses. Respondent derived range of rental rates with no analysis of comparable restaurant properties and applied an unsupported cap rate to get to value range of \$250,000 to \$400,00 and did not come to a final value indication. This is in violation of **Standard Rule 1-1(a)(b)(c), and Standard Rule 1-1(c)(i)(ii)(iii)(iv)(d).**

Recommendation: \$2,000 civil penalty for violation of Standard 2-2, 2-1, 1-1 and 1-4.

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

8. 2017010101

Licensing History:	Certified Residential Appraiser	6/6/03 – 4/30/18
Disciplinary History:	2011025211	Closed with Letter of Warning
	2014008181	Closed with Consent Order (15 hrs Residential Report Writing, 30 hrs Basic Appraisal Procedures, and 15 hrs Residential Site Valuation)

Complainant is bank who states Respondent failed to comply with USPAP and law concerning Appraisal for a consumer's home for the purpose of consumer credit transaction. Complainant states Complainant asked for response to a deficiency letter and that Respondent did not sufficiently answer the issues raised. Complainant states the appraisal had the property valued in excess of \$900,000 in the fall of 2016 but had sold in spring of 2016 for \$400,000.

Respondent states that all the previous listing and sales history was reported and that the property had been purchased below market value. Respondent states the property was in need of TLC and was observed from the street only so the condition of interior was unknown to Respondent. Respondent states that based on heated square footage alone the 135% increase was warranted. Respondent states that other properties in neighborhood with 7000 or more square footage sold for over \$173 per foot so that the price per foot for the subject property which had 7862 was \$119 per foot.

REVIEWER CONCLUSIONS

* **Sales Comparison:** opinions, analysis and conclusions are not properly supported. Insufficient information and inadequate reasoning to support the adjustments and report does not provide sufficient information to understand rationale for opinion.

SR 1-1 (a)(b)(c), SR 1-4(a), SR 2-2 (a)(viii)

* **Site Value:** Not supported. No supporting documentation for the statement that the value was developed based on sales in neighborhood and nearby neighborhoods.

SR 1-4(b)(i), SR 2-2(a)(viii)

* **Cost Approach:** Not supported. Cost report indicated a replacement cost new was utilized. There were no comments to support a number 60 in the area of depreciation and nothing to show what this figure represents. Cost analysis was not completed and nothing to support that the cost approach had been completed. Report lacks information and analysis to understand methods of reasoning. Neighborhood factors and trends not adequately address or analyzed. Relationship between subject property and neighborhood property not considered. Inconsistencies through report diminish reliability. **SR1-1(a)(b)(c), SR 1-4(b)(ii), SR 2-1(a)(b), SR 2-2(a)(viii)**

* **Reconciliation:** does not reconcile quality and quantity of data used in approach to value. Statements do not provide sufficient reporting and analysis to support opinions and conclusions. Lack of analysis and insufficient information reduces ability to rely on or understand report.

SR1-6(a)(b), SR2-2(a)(viii)

Recommendation: \$2,000.00 civil penalties for violations of SR 1-1,1-4, 1-6 SR 2-1, 2-2.

Decision: The Commission authorized a civil penalty in the amount of Four Thousand Dollars (\$4,000) to be satisfied within thirty (30) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

9. 2017011411

Licensing History:	Certified Residential Appraiser	12/13/00 – 11/30/18
Disciplinary History:	201002731 Close with Letter of Caution	

Complainant is home owner who was attempting to refinance. Complainant states that the appraisal report had factual errors but that even after correction, the appraisal amount did not change and Complainant believes the amount is low. Complainant states that Complainant disputes the first level is a basement and disputes that it is below grade. Complainant also disputes comparables used.

Respondent states Complainant contacted Respondent directly concerning the values and was told by Respondent to contact the lender who would then contact Respondent. Concerning the den, bath and built in garage, Complainant states these are below grade at rear of home and given value in basement section of report. Respondent states the comparable sales and listings were most reflective of property value.

REVIEWER CONCLUSIONS

Note: Reviewer reviewed Respondent appraisal report.

* **Sales Comparison approach:** Fairly comparable and recent sales and listings were considered. The data presented appears to be fairly complete and accurate. Verification process noted no significant discrepancies in the reporting of the comparable sales in sales comparison grid. Complainants' issues concerning adjustments or lack for amenity/characteristic differences were not significant to have impact on final value opinion. Value is adequately supported.

* **Subject property:** construction type, site grade and quality of materials support method for valuation. Primary living areas are on above levels not on first or lower levels. Areas connect to grade block construction with no exterior siding, as here are deemed by market as supplemental to functioning primary areas and are basement type use areas.

Conclusion appraisal is deemed satisfactory in general appraisal practices and procedures and the methodology is appropriate for the local area. Adequate and relevant data was presented with satisfactory judgment, logic and reasoning. Comparable sales appear appropriate and reasonable.

Recommendation: Dismiss

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

10. 2017014371

Licensing History:	Certified Residential Appraiser	7/2/03 – 5/31/18
Disciplinary History:	2012021861 Closed with Consent Order- Misleading and Fraudulent Report (\$1,000 Civil Penalty and 15 hrs Residential Report Writing and Case Studies, 7 hrs Comparative Analysis)	

Complainant is licensee who reviewed two appraisals by the Respondent and states both appraisals have USPAP violations. Complainant states the subject properties are located within blocks of one another. Complainant states Respondent has made excessive time adjustments, used “flip” sales to inflate the value, and failed to report previous transfers in the appraisal reports.

Respondent responded to the complaint stating that one of the subject properties showed an increase in market value from \$84,000 in the prior 7-12 months to \$88,894 in the current three months and there were only two sales in the market for the current 3 months. One sale was for \$127,900 and the other was for \$49,885. From a trending perspective Respondent did not consider these two sales as evidence of a market trend and did not feel that adjusting sales prices upward based on two atypical sales was warranted. The second subject property had an increase in market value from \$50,000 in the prior 7-12 months to \$59,000 in the current 3 months. For trending purposes, this had 9 sales in the current three months so Respondent felt that this was based on more representative numbers since it had been \$61,750 in the prior 4-6 months. Respondent states this is how Respondent arrived at the increases in the median sales price for the preceding 12 months and why the adjustments was applied to one appraisal and not the other. Respondent did inadvertently omit the prior sale on Comp 2 which was a trust deed sale/foreclosure sale. Respondent states all comps were listed and sold after being exposed to the open market in good condition having been rehabbed and updated. The land value was determined by establishing a land-to-improvement ratio from the sales comps and then applying the median of that range to the appraised value of the subject. Respondent states properties in “as-is” with no repairs is not comparable to properties that have been repaired and rehabbed and sold on the open market.

FIRST APPRAISAL REVIEWER CONCLUSIONS :

Site

- The highest and best use was not adequately identified and described **Standard Rule 1-3(b); Standard Rule 2-2(a)(x)**

Site Value/Cost Approach

- A \$25,000 site value was noted in the cost approach section. No supporting information was found in the appraisal report or the work file provided, indicating the opinion of site value was completed by an appropriate appraisal method or technique. **Standards Rule 1-4(b)(i); Standards Rule 22(a)(viii)]**

- The report lacks the information and analysis necessary to understand the reasoning behind the formulation of the cost figures used, as well as the final conclusion. **Standards Rule 1-1(a)(b)(c); Standards Rule 1-4 (b)(ii); Standards Rule 2-1(a)(b); Standards Rule 2-2(a)(viii)**

Income Approach

- The Respondent notes in the report that the rental comparable information was verified by the owner of record and came from the MLS rental report, but later indicates the data source for the rental comparable were obtained through Zillow. The expert reviewer accessed Zillow's website and found the "listings" of the rentals and were not leased as of the effective date of the appraisal report.
- The Respondent has not adequately collected, verified, and reported the comparable rental data.
- The reasonable support for the Gross Rent Multiplier has not been provided and overall does not appear that the appraiser has correctly employed recognized methods and techniques. **Ethics Rule-Conduct (line 241, page 8); Standards R1-1(a)(b)(c); Standards Rule 1-4(c)(i)(iii); Standards Rule 2-1(a)(b); Standards Rule 2-2(a)(viii)**

Reconciliation

- The report does not reconcile quality and quantity of data used in the approaches to value. **Standards Rule 1-6(a)(b); Standards Rule 2-2(a)(viii)**

The reviewer states the Respondent has selected and identified sales that are from the same market area but it does not appear that the appraiser has done their due diligence in completing the necessary research to qualify a sale. Adjustments were made to the sales but no discussion or analysis was provided in the report to indicate how the adjustments were derived or supported. The sales comparison reconciliation did provide some discussion, but did not provide adequate reasoning the adjustments, analysis, opinions and conclusions. **Standards Rule 1-1(a)(b)(c); Standards Rule 1-4 (a); Standards Rule 2-2(a)(viii)**

SECOND APPRAISAL REVIEWER CONCLUSIONS:

* **Site** Highest and best use was not adequately summarized

* **Sales Comparison** Opinions, analysis and conclusions not properly supported. Six properties were used but the report has no commentary addressing the verification of the sales used. There were no comments or indication that the Respondent verified sales with a primary participant of the sales used. Verification is necessary to understand sale. No paired sales analysis was found to support condition adjustment and no analysis to support for adjustments for carports and garages. No data provided to support extraction technique noted for square footage adjustments and no adequate reasoning or analysis found in report or in subsequent work file to support adjustments. The sales comparison is in violation of **Standards Rule 1-4.**

* **Site Value** Not supported. Report states allocation method was used to determine land value but no supporting information was found in report or work file to indicate that the opinion of site value was completed by this or any appropriate appraisal method or technique and is violation of **Standards Rule 1-4 (b)(i), Standards Rule 202(a)(viii).**

* **Cost Approach** Not supported. Replacement cost new was used and comments state physical depreciation was calculated via age/life method but report lacks information and analysis to understand reasoning behind the formulation of the cost figures used and the reasoning for the final conclusions. Without this information, Reviewer could not recreate the cost approach used. This was in violation of **Standards Rule 1-1(a)(b)(c), Standards Rule (b)(ii), Standards Rule 2-1(a)(b) and Standards Rule 2-2 (a)(viii).**

- * **Income Approach** Not adequately supported. Report states that the rental information for the three comparables came from MLS rental report and verified with owner. Reviewer access MLS and could not find the three comparables. Report also indicated that the data source was Zillow which contradicts the MLS reference. Reviewer found listings in Zillow but notes that the rental comparables were not leased as of effective date of the report. Rentals were not reflective of market reaction as of effective date of the appraisal assignment as the properties were not leased. The market rental rate provided by report is not supported by information presented. The report indicates a Gross Rent Multiplier of 128 but nothing in the report or work file shows supporting data considered or analyzed. The report is in violation of **Ethics Rule-Conduct (line 241, page 8), Standards Rule 1-1(a)(b)(c), Standards Rule 1-4(c)(i)(iii) and Standards Rule 2-1(a)(b) Standards rule 2-2 (a)(viii).**
- * **Reconciliation** Does not address quality or quantity of data used in the approach to value. The statement in the report does not provide sufficient reporting and analysis to support opinions and conclusions provided and the applicability and suitability of the approaches uses to arrive at the value conclusions were not adequately reconciled. The appraisal results were not conveyed in an appropriate manner and thus, the credibility of the final value opinion is reduced. Lack of sufficient information and analysis reduces ability to rely on or understand the report in violation of **Standards Rule 1-6(a)(b), and Standards Rule (a)(viii).**

Recommendation: \$4,000 civil penalties for violations of Standards Rules 1-1, 1-4, 1-6, 2-1, 2-2, Ethics Rules, and 15 hours continuing education Residential Report Writing, 15 hours continuing education Comparative Analysis

Decision: The Commission voted to accept the recommendation of legal counsel with continuing education to be above and beyond the minimum CE required for licensure renewal. Such terms are to be settled by Consent Order or Formal Hearing.

All five members agreed with the amended decisions presented.

Update on Legislative Session

Counsel Sarah Mathews provided updates on Senate Bill No. 0279, 1188, and 1260 which will result in rulemaking to be presented at the next meeting. The rulemaking will involve registration application requirements for Appraisal Management Companies to be amended by deleting inclusion of criminal acts of moral turpitude, by including convictions of any felony or misdemeanors involving theft of services, money or property, and by further defining what is meant by "Good Moral Character". It will also involve rulemaking edits for background checks to be amended by deleting the phrase "individual" and substituting instead the phrase "person" and deleting the phrase "or any individual designated as the controlling person of the Appraisal Management Company".

Registered Trainee- Proposed Rule

The Appraisal Subcommittee Audit recommended a change to the Continuing Education section. The proposed edit is the redlining of the language that states the registered trainee shall be required to obtain the minimum CE hours "in excess of two (2) years" prior to "the next" renewal period to read "each" renewal period, in essence eliminating the initial two year grace period on CE.

Mr. Garrison made a motion to approve the proposed rules as recommended by the Appraisal Subcommittee Audit. This was seconded by Mr. Johnstone. The motion carried by unanimous vote.

NEW BUSINESS

Review Appraisals

The Commission discussed the possibility of a statutory proposal that requires the appraiser doing the review or audit in Tennessee to be licensed in Tennessee. Counsel Sarah Matthews informed the Commission that she would discuss further with supervising attorneys regarding any further clarification or statutory proposals that may be required.

Evaluations

Rex Garrison requested an attorney general opinion regarding clarification on guidelines of evaluations vs. appraisals. In essence, an evaluation must clearly indicate that it is not an appraisal. The opinion further reiterated that all appraisals must comply with the Uniform Standards of Professional Appraisal Practice.

Commission Meeting Schedule

Director Gumucio proposed the Real Estate Appraiser Commission 2018 meeting dates. Mr. Garrison made a motion to approve the proposed meeting dates, with the January meeting amended to the 22nd. This was seconded by Mr. Johnstone. The motion carried by unanimous vote.

Update on Appraisal Subcommittee Audit

An appeal was filed to challenge the Appraisal Subcommittee Audit temporary downgrade resulting solely from reviewing registered trainee continuing education resulting in the proposed rule change detailed above.

There being no other business, Chairman Thomas adjourned the meeting at 12:00 pm.