



Summer 2013

Articles:

Time is of the
Essence – Page 2
By Mark
Johnstone

Finding Balance –
Page 3 & 4
By Timothy
Walton

FYI –HUD
Page 4

Tips for Preventing
Complaints and
Disciplinary Action
Page 5

Disciplinary Action
Report Link
Page 7

Governor Haslam Appoints New Commission Members

The Real Estate Appraiser Commission welcomes its newest members, Eric Collinworth who is the AMC representative on the Real Estate Appraiser Commission and Gary R. Standifer, an appraiser member representing middle Tennessee. Nancy Point has been reappointed; she is an appraiser member representing east Tennessee. The Commission staff wishes to express our sincere appreciation to our Commission members whose terms on the Commission have ended. Herbert Phillips and Jason Covington for the many years of dedicated service and outstanding leadership in giving voice and vision for the past, present and future. You have made an invaluable contribution to the Real Estate Appraisal profession. Michael Green, the appraiser member representing East Tennessee, was elected chair at the July meeting. Mark Johnstone, appraiser member representing west Tennessee was appointed vice-chair.

Email Notification Are Now Available!

You can now get notifications from the Real Estate Appraiser Commission related to the following:

New or Amended Statutes - New or Updated Rules

Changes to Fees - Rulemaking Hearings related to Fees

Significant Changes Impacting Your License - Changes to Policies

This will be especially critical as we proceed through all the changes coming for appraisers in the next couple of years, so please sign up and stay informed.

The Newsletters will also be announced through this new email notification system rather than being emailed through the listserv. You have to sign up to get the announcements.

To sign up please website at: <http://1.tn.gov/candi-notify>





Mark Johnstone has been a Certified General Appraiser for 17 years is a MAI designed appraiser. He was recently appointed vice-chair of the Real Estate Appraiser Commission and has served in the past as the chair of the Commission.



Time is of the Essence by Commission member Mark Johnstone

Some insight on our biggest challenge immediately facing the State of Tennessee is implementation of the new Appraiser Qualification Criteria changes.

These changes represent minimum national requirements that each state must implement no later than January 1, 2015. Please note that one of the adopted changes eliminates the "segmented" approach to implementation, which means that as of January 1, 2015, all applicants must satisfy all portions of the new Criteria in order to obtain a real property appraiser credential.

A summary of the changes can be found on The Appraisal Foundation's (TAF) website at: http://www.appraisalfoundation.org/s_appraisal/index.asp

Here are some of the changes that will affect new applicants, current trainees, and anyone intending to upgrade an appraiser credential:

- Bachelor's degrees will be required for certified residential or certified general applicants. State licensed appraiser applicants will have college level education requirements, but may not be required to hold a degree.

- Fingerprinting and background checks will be required for all new applicants.

- No "grandfathering" of education, experience, or examination. You must hold the credential prior to 2015 or you will be entirely on the new requirements.

- All qualifying education will have to be obtained within 5 years of application for registered trainee applicants. (This applies only to those applying to become trainees, not those applying to upgrade to license or certification).

- Both Trainees and Supervisors will have course requirements; supervisors may not have been disciplined within the prior 3 years in a manner that affected their ability to engage in appraisal practice.

- Education and Experience must be completed prior to taking the AQB approved National Uniform Licensing and Certification Examination.

minimum education, experience and examination requirements for real property appraisers to obtain a state license or certification. Each State, in its laws and regulations, further defines requirements for the various categories and permitted practices. The requirements must at least meet, requirements set forth in the AQB Criteria for appraisers to be "AQB compliant" and be included on the National Registry (www.asc.gov) which is a requirement for appraisers that work on federally related transactions.



Under the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), the Appraisal Qualifications Board (AQB) establishes the

Finding Balance by Commission Member Timothy Walton

I am a native of the Memphis Area and began appraising residential real estate in 1993 as a trainee with Statewide Appraisal Service in Bartlett, TN. Before completing my certification requirements I moved to Bramble & Taylor Appraisal Company in Covington, TN. Having trained in both urban and rural settings I gained valuable experience in the nuances and complexities of both and became proficient in both manual/courthouse and digital research. Completing my training I as a Certified Residential Appraiser in 1997, I started my own firm, Allright Real Estate Services, LLC, in 1998. The focus of my practice is single family residential real estate appraisal, but I have an understanding of income capitalization and experience in residential income appraisal and expert testimony. From 2006 - 2008 I contracted for Horizon Consulting in Lansdowne, VA as a consultant/review appraiser; reviewing HUD REO appraisals and suggesting improved

approaches to HUD's REO valuation methods. In 2009-2010 I contracted with HUD to review residential appraisals and attended contractor training at the Atlanta HOC. Recently I was appointed to the Tennessee Real Estate Appraiser Commission by Gov. Haslam and in 2012 ran for Property Assessor of Shelby County nearly beating the incumbent.

I've also been extremely fortunate to have a second career as a fire fighter. I began as a recruit at Arlington Fire Dept in 1986 where I learned the basics and earned my EMT certification. I then applied for a job with the larger Shelby County Fire Dept and was hired in 1987; after completing my fire fighter certifications I entered the paramedic program and was certified in 1989. Fresh out of paramedic school I was assigned to Engine 63/Med-Squad 3 in southeast Shelby County which at that time was among the 50 busiest engine companies in the nation. Over the last 20 plus years I've worked my way up through the ranks and currently serve as Lieutenant on SCFD Engine 60.

In the mid-1990's I earned spots on our light weight tug-o-war & muster teams and competed in the World Police & Fire Games. I'm very proud to have won a bronze medal in Melbourne, Australia in 1995 and 2 more bronze in Calgary, Canada in 1997. These events included over 8,500 athletes and were second in size to only the summer Olympics.

Needless to say it can be a challenge to keep up with two demanding careers that are so different. However, it's actually the contrast that makes them work so well for me. Ten days a month I'm blue collar, burned and bloody doing my best to help when things are at their worst. The truth is that no one can withstand that type of physical, mental and emotional strain without a change of pace.

That is where I am extremely blessed to have had the opportunity to become an appraiser. The cerebral

Continued Page 4



Continued From Page 3: Finding Balance

challenges involved in appraising are the perfect antidote to a rough shift. Focusing my thoughts on the research and analysis breaks the cycle of stress. The fact that every assignment is unique provides endless variety and makes it a great fit for me. Appraising and firefighting are my yin and yang.



Appraiser FYI: HUD ML 09-29

When a case number is transferred with a completed appraisal, may a new appraisal be requested? When a borrower has switched lenders, the 1st lender must transfer the case to the 2nd lender upon borrower request. FHA does not require that the client name on the appraisal be changed when it is transferred to another lender.

- In accordance with USPAP, the lender is not permitted to request that the appraiser change the name of the client within the appraisal report unless it is a new appraisal assignment. The appraiser cannot 'readdress' (transfer) the original appraisal report to another party and must perform a new appraisal assignment in compliance with Advisory Opinion #26 and FAQ # 74 in the 2008-2009 edition of USPAP.

For cases assigned on or after January 1, 2010:

- A 2nd appraisal may be ordered by the 2nd lender when:

1. The 1st appraisal contains material deficiencies determined by the DE underwriter for the 2nd lender.
2. The appraiser performing the 1st appraisal is on the 2nd lender's exclusionary list.
3. Failure of the 1st lender to provide a copy of the appraisal to the 2nd lender in a timely manner would cause a delay in closing, posing potential harm to the borrower.

Potential harm includes events outside of the control of the borrower such as loss of interest rate lock, purchase contract deadline, foreclosure proceedings, and late fees.

For cases in 1 and 2 above, copies of both appraisals must be retained in the case binder. For cases in 3 above, the 1st appraisal must be added to the case binder when it is received. In all cases, the lender must document why a 2nd appraisal was ordered and retain the explanation in the case binder.

FHA prohibits appraiser shopping where lenders order additional appraisals in an effort to assure the highest possible value for the property and/or the least amount of deficiencies and/or repairs are noted and required by the appraiser.



Tips for Preventing Complaints and Disciplinary Action

By Nikole Avers, Executive Director

I have seen and heard a lot of complaints in the last several years. Some are very legitimate, some not so much. As a professional you may not be able to completely avoid complaints, but many professional complaints can be avoided. Anyone can file a complaint and the Commission considers complaints submitted in writing to the Commission office to determine if they are within the authority of the law (T.C.A 62-39). An appraiser can minimize the stress and uncertainty of receiving a complaint by being mindful of their requirements.

In Tennessee, by law real estate appraisers are required to comply with Uniform Standards of Professional Appraisal Practice (USPAP) and that requires analysis of relevant property characteristics and specific reporting requirements such as external influences, property characteristics, sale and listing history, etc.

The motivations of buyers, sellers, real estate agents, appraisal management company (AMC) personnel, and lenders whenever a real estate transaction is pending and even many years after a

sale has closed are often very high and sometimes can become emotional. The appraiser is required to remain independent, impartial, and objective.

Many appraisers will have a complaint filed against them at some point against them in their career. Once a complaint is received, any appraisal that is part of the complaint will be reviewed for USPAP compliance.

TIPS:

- If you are unfamiliar with a particular market area, or type of property, or if the property exceeded your license limits as outlined in the law (T.C.A 62-39-302); consult a qualified professional or transfer the client to another qualified appraisal professional. Know your limits.

- If you notice a mistake, address it immediately with the client. If you are honest and address the matter timely, many times errors can be resolved quickly. If you make a change to the report, make sure it is clear what changes have been made to the report. If the day you transmit this change is different than the initial day you communicated the report (i.e. not a same day fix), make sure you change the report date or date signed (not the effective date).

Document all reports communicated to your client to the workfile, even the one with the mistake. If you sent it out into the world, document it. Don't assume the receiver of the report had the good conscience to delete your prior version. You don't know what may later come up. You can save an electronic version of the report; it doesn't have to be paper (i.e. 123 MainStreet1, 123 MainStreet2).

- Be a good communicator with your client. If the client cannot reach you, or calls are not returned timely, it may ultimately lead to a complaint. Be sure you are communicating with the client about any delays that may crop up. Timeliness isn't generally grounds for discipline, but good communication with your client and within your appraisal report can save a lot of communication time later in a complaint process.

- Report more on the property characteristics. This is important to the clients and the home owners. You might be surprised at the number of complaints initiated over omissions of characteristics of the property. Lenders need to know things like deferred maintenance, external influences, functional obsolesces, and overall

(continued Page 6)



Nikole Avers is the Executive Director of the Tennessee Real Estate Appraiser Commission. She is a Certified Residential Real Estate Appraiser with experience in real estate appraisal, appraisal review and teaching appraisal courses. She is an AQB certified USPAP instructor and she contributed as a subject matter expert for the AQB on the 2008 and 2009 National Real Property Appraiser Examinations. Nikole is currently the Vice-President of the AARO and chair of the Policy and Planning committee.

(Continued from Page 6)

and overall quality and condition of the improvements to make an informed lending decision. The client is supposed to get a copy of your report, but once the report is communicated to the lender they can send it to the home owner. The appraiser is bound by confidentiality; the lender has to give the borrower a copy of the appraisal. You might also avoid receiving a complaint from a home owner if you report property characteristics better. A lot of complaints are filed by home owners because the appraiser either misreported property characteristics or omitted them entirely, such as upgrades to the kitchen or bathrooms, energy efficiency items, and basement finish.

- Support your opinions in your appraisal and in your workfile. The site value, for example, is an opinion of value. If you include an opinion of site value in your appraisal report, but you fail to support the conclusion or fail to include support in your workfile for how you developed the opinion of value, then you have included an unsupported opinion of value in your appraisal. Be certain you use recognized methods and techniques for developing your opinions of value. It makes me sad to think how many times I have heard "I used the assessor's value" as the site value. That is not an acceptable method for developing a conclusion of value in your appraisal unless you are the assessor.

- Methods for Estimating Site Value
- Sales Comparison
- Allocation
- Extraction
- Land Residual
- Ground Rent Capitalization
- Subdivision Development

Summarize rationale for selecting comparable sales and reasoning and support for adjustments to the comparable sales. It seems so basic, but that is what the client hired you for to explain the market. So start summarizing it for them. If you don't know why you selected a comparable or made an adjustment, you're heading in the wrong direction.

IF A COMPLAINT IS FILED AGAINST YOU:

The Commission will send you a letter and give you an opportunity to respond to the complaint.

We will also ask for a copy of the appraisal and workfile. You are required to provide the appraisal and workfile (T.C.A 62-39-332); the rest of the response is up to you. You can respond professionally or unprofessionally; but, honestly, who do you think you are helping by choosing now to go off on a soap box rant about being offended that anyone would ever even think to question your appraisal? I would encourage you to be professional and concise. If you made a mistake, now is the time to own it. If not, just write your report complies with professional standards. If the complaint was filed by a consumer, they may not be as knowledgeable about appraisal requirements as you are and may even have accused you of things you may find offensive personally. Don't take it personal. Try to remember that when buying or selling a house, everything is very personal to the consumers and emotions run high. Remember the last time you bought or sold a house? Did it go smoothly? If it did, you were lucky or it was so long ago you don't remember how many times you got angry before closing. The lender complaints tend to be more professional when they are filed, but they are filed by people too, so just remember not to take it personal. Responding to questions is part of the business of appraisal practice.

Another reason to keep it professional, all your responses become public record once they hit my office. Yes, anyone can get a copy of your very personal moment so keep it professional.

Upon receipt of your response, the documentation submitted by both you and the Complainant will be reviewed. If there is an appraisal report review will be conducted to determine if the report was issued in compliance with USPAP, TREAC laws and administrative Rules and Regulations.

The complaint along with your response will be presented to the Commission anonymously at which time the Commission will determine if there is any cause for disciplinary action or if the matter should be closed or dismissed. Not all matters result in discipline, sometimes the Commission may determine letters of warning, caution, or instruction are warranted – which are not considered disciplinary action, but are kept as part of the official license record and may be a mitigating reason for discipline for future occurrences of the same violation. If there is cause for discipline, then settlement may be offered or formal hearing may proceed. **(continued Page 7)**

If a formal hearing is proceeding formal charges are sent to the Respondent. The complaint may be heard before the Commission then at a meeting. The Commission members will act in a similar manner as a jury. There will be an administrative law judge at the hearing. Respondents may have their own attorney's or represent themselves.

Just as a final disclosure: I am not the Commission. That issue comes up more than you might think, so I am going to address it. The Commission is made up of nine (9) Governor appointed members (T.C.A. 62-39-201). I am the executive director of the Commission and I do not vote on your complaints. I work for the State, and I am an appraiser just like many of you readers. I get calls from home owners, lenders, AMC agents, appraisers, attorneys, buyer/sellers, and concerned citizens. I don't decide ultimately what happens to appraisers; the Commission does. The above is my advice on avoided complaint based on seven (7) years' experience as director and as a real estate appraiser for more than thirteen (13). It is not meant to be in lieu of USPAP or as if I am speaking on behalf of the Commission. I can only speak for myself and my experience.



Real Estate Appraiser Disciplinary Action Report

Disciplinary actions taken by the Real Estate Appraiser Commission against real estate appraiser licensees or those matters relating to unlicensed conduct are reported monthly to the Division of Regulatory Boards. To view the most recent information and archived disciplinary action reports, please visit this web page:
<http://tn.gov/commerce/boards/archive.shtml>

Editorial Request:

Are you interested in writing an article for the Real Estate Appraiser Commission? Do you have topics that you would like addressed in this newsletter? Write to us at; Nikole.Avers@tn.gov with your thoughts or ideas.