



# OKLAHOMA REAL ESTATE APPRAISER BOARD

3625 NW 56<sup>TH</sup> STREET, SUITE 100, OKLAHOMA CITY, OK 73112

Issue #28 – October 2011



Overholser Mansion

Interim Director [reablegal@oid.ok.gov](mailto:reablegal@oid.ok.gov)  
Admin Officer [reabadmin@oid.ok.gov](mailto:reabadmin@oid.ok.gov)  
Main # (405) 521-6636  
Fax # (405) 522-6909

### Upcoming Board Events

- 10/5 – 10/7 ASC Field Review
- 10/7 Oct Board Mtg
- 10/14 – 10/18 Office Closed - AARO Conference
- 11/4 Nov Board Mtg
- 11/11 Veteran's Day

### BOARD MEMBERS

Commissioner, John Doak	Chairperson	
Lee R. Caesar, Jr., Realtor Member	Vice-Chair	2016
P. Lane Wheeler, Appraiser Member		2015
Betty J. Cagle, Appraiser Member		2014
Patti L. Fisher, Appraiser Member		2013
Jana S. Barker, Layperson		2012
Joey Snyder, Banking Member		2012
Kim N. Allen, Appraiser Member		2011

### Board Staff:

Christine McEntire, Interim Director  
Shannon Gabbert, Administrative Officer



**The Snare of “Non-traditional” Appraisal Products**

*Author: Bob Keith*

The Dodd-Frank Wall Street Reform and Consumer Protect Act requires Appraisal Management Companies (AMCs) to register in, and be subject to supervision by, each state in which such company operates. The Act requires each State appraiser certifying and licensing agency to fulfill these regulatory responsibilities.

The Act further requires AMCs to verify that only licensed or certified appraisers are used for federally related transactions; that appraisals coordinated by an AMC comply with the Uniform Standards of Professional Appraisal Practice; and that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129E of the Truth in Lending Act.

The Act defines Appraisal Management Company as “...in connection with valuing properties collateralizing mortgage loans or mortgages incorporated in securitization, any external third party authorized... by a creditor of a consumer credit transaction secured by a consumer’s principal dwelling... that oversees a network or panel of more than 15 certified or licensed appraisers in a State or 25 or more nationally within a given year...”

There are many uses for alternative valuation products other than for valuing properties collateralizing a mortgage loan secured by a consumer’s principle dwelling and that are not federally related transactions. Such uses include, but are not limited to: HELOC, asset management, portfolio management and short sale negotiation (hereafter referred to as “other uses”).

Companies that utilize the services of an appraiser for these “other uses” typically fall outside of the Dodd-Frank definition of an AMC (depending upon state law) thus are not to subject to the otherwise mandatory AMC registration and supervision by the States. They also do not require a traditional appraisal using Fannie Mae appraisal forms, but instead often ask appraisers to provide a service utilizing the company’s own proprietary reporting format (alternative valuation product) for a nominal fee for the appraiser.

These alternative valuation products vary in terms of the information appraisers are asked to provide. Many of them ask the appraiser to evaluate comparable sales used in a previous appraisal and to provide additional sales that the appraiser believes are comparable to a subject property. Others ask the appraiser to evaluate a previous Broker’s Price Opinion (BPO) and form an opinion about whether the broker’s price opinion is too high or to low. Still others ask an appraiser to reconcile value or price opinions previously provided by other professionals to arrive at the appraiser’s conclusion of value or price. And still others may provide an appraiser with an older appraisal performed by someone else and ask the appraiser to opine whether a subject’s market has increased or decreased in value since the effective date of the previous appraisal.

The examples listed above, and many other variations thereof, all call for an appraiser to develop some type of value opinion about a subject property.

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**Message from the Director**

Please join me in congratulating Rod Stirman on his recent retirement! Mr. Stirman served the Board for many years in his capacity as Special Assistant, as well as serving as Director himself for the past eight years. His expertise and knowledge of the appraisal industry will be greatly missed.

Many of you may already know me as I have been the Board’s Legal Secretary for the past four years working on the enforcement side of this Agency. I am very excited by the opportunity to serve Oklahoma appraisers as the Board’s Interim Director and I look forward to meeting many more of you and increasing my knowledge of an industry that I have come to truly appreciate.

*~ Christine McEntire, Interim Director ~*

**APPRAISER SCOPE OF PRACTICE**

**Trainee:** Appraisal of those properties within the authorized scope of practice of the supervisory appraiser.

**State Licensed:** Complex 1-4 residential units up to \$250,000 & non-complex 1-4 res. units transaction value up to \$1,000,000.

**Certified Residential:** 1-4 residential units without regard to transaction value or complexity.

**Certified General:** All types of real property with any transaction value.

### **Tips for Responding to Complaints**

*Author: Pam Griebel*

As a part of the disciplinary process, when a grievance against an appraiser is received in the Board's office, a copy of the entire grievance is sent to the appraiser under a cover letter. The letter offers the appraiser the opportunity (but not a requirement) to respond to the allegations contained in the grievance within ten days. At that point, the grievance and response (if any) are forwarded to the four members of the Probable Cause Committee (PCC) to determine whether reasonable cause exists to believe that violations of the Oklahoma Certified Real Estate Appraisers Act (Act) have occurred.

For a licensed professional, a grievance is serious. The first reaction may be that of fear and anger. There is a temptation to respond immediately in the midst of the emotional stress or to lay it aside and try to forget that it arrived. Yet, an unprofessional response portrays the individual in an unfavorable manner to those responsible for screening and assessing grievances.

The appraiser should know that fewer than half of the grievances received result in formal public discipline. Many are unfounded; some are outside the Board's jurisdiction; some raise concerns but are not sufficiently serious to warrant discipline. The manner in which the appraiser responds makes a substantial difference.

1. **Be courteous, responsive, and professional.** When writing a response, author your response in a highly professional manner. Support what you say with documentation from your work file. Responses are often received that appear to have been written by pouting teenager without spell check. Write the response after the adrenaline has subsided. Ranting, raving, and engaging in personal invective seldom conveys the impression that the author wants the PCC, hearing panel or Board to have, and oftentimes lends credibility to the grievance.
2. **Be honest.** People, including credentialed appraisers, make mistakes. At times, the strength of a professional is in acknowledging an error and detailing steps to prevent recurrences. If there is any truth at all to an allegation, don't be afraid to admit that it should have been handled differently.
3. **Take responsibility.** The PCC, hearing panels, and the Board are averse to responses that blame secretaries, trainees, or software. While it's fine to report the errors of an associate, a professional shouldn't attempt to displace the blame for a matter for which he is legally responsible.
4. **Educate yourself.** Read the laws, rules, and USPAP provisions. It only makes matters worse if you misstate them in your response.
5. **Be timely.** If you cannot respond in the ten days provided, contact the Board office and request that additional time to respond be granted. This should be done before the suspense date for the response, not a week after.
6. **Don't create additional grounds for discipline.** Carefully read your response before you mail it. Do not address matters unrelated to the allegations in the grievance. If you receive a subpoena, comply fully and timely with its requirements.
7. **Guard your communications.** Board rules prohibit a respondent from attempting to pressure, coerce, intimidate, or otherwise influence or affect the opinion of a Board member, hearing officer, witness, or complainant regarding a disciplinary matter. Grievances, once filed, cannot be withdrawn by the grievant. Communicating with a hearing officer or Board member creates a requirement for that person to recuse from all consideration of the matter. Communicating with grievants or witnesses generally yields a negative result.
8. **Legal counsel.** The Board and its staff make no recommendations as to whether a respondent should engage legal counsel. Respondents do, of course, have the right to do so at their discretion. Neither will the Board or staff recommend attorneys. If the grievance is of a serious nature, a respondent should not wait until after the response is already filed to engage an attorney. Doing so can create irreparable damage.
9. **Understand the roles of the various players.**

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### **The Snare of "Non-traditional" Appraisal Products Cont...**

The mere act of providing a list of comparable sales after filtering through all available sales in a neighborhood results in a range of value opinion by the appraiser. This is because the appraiser applies some form of analysis on all of sales in a neighborhood to determine which of those sales are "comparable" to a subject property. This results in the appraiser's opinion on the range of value for the subject since one of the comps provided represents the lowest and another the highest sale price of "comparables" to the subject property.

Likewise, an appraiser who reviews a previous appraisal or BPO and opines that real estate values have decreased since that time is expressing an opinion that the value of the subject property is less today than when the appraisal or BPO under review was performed.

Anytime an appraiser develops his or her opinion of (a single point of) value, range of value or a direction of value (relative to a benchmark e.g. a previous appraisal or BPO) that constitutes an appraisal. State licensed and certified appraisers are obligated to adhere to the Uniform Standards of Professional Appraisal Practice (USPAP) that requires the performance of certain steps in the development of an opinion of value as well as eleven specific elements that are required to be included in a written report communicating that opinion of value. Many of the alternative valuation products (proprietary reporting formats) discussed in this article fail to comply (without significant supplementation by the appraiser) with USPAP.

Companies that are not subject to Dodd-Frank requirements to register with the State as an AMC and who do not require traditional appraisal products to suit their purposes MUST be aware that appraisers are subject to strict rules of conduct with respect to developing and reporting their opinions about value. Failure to adhere to these professional standards of practice can have a significant adverse impact on an appraiser's professional license.

*~ Bob Keith, Administrator, ACLB ~*



- a. **Board staff.** The staff operates the disciplinary process. The staff does not make decisions within the process. The staff is the point at which paperwork is filed, distribution of documents is accomplished, docketing performed, suspense dates monitored, notices issued, and other administration relating to discipline attended to. Staff members and Board counsel assure that all proceedings are conducted in the manner set forth by the Board's rules and statutory requirements in the Act and the Administrative Procedures Act. The staff provides administrative and limited investigative support to the Board, the PCC, Board counsel, and Board prosecutors.
- b. **Probable Cause Committee.** The committee meets, reviews grievances and responses and determines whether it appears that there is reasonable cause to believe that a statutory violation has occurred. It prepares a recommendation for disposition of each grievance and presents it to the Board for a decision. Disposition recommendations run the gamut from close – no probable cause to forward for prosecution.
- c. **Disciplinary Hearing Panel.** As most hearings take the better part of a day, the Board uses a system in which hearing panels conduct the evidentiary phase of the case. Hearing panels conduct disciplinary hearings in the manner set forth by Board rules and issue a recommendation to the Board.
- d. **The Board.** The Board makes the final decisions in all instances.
- e. **Prosecutors.** The Board engages the services of attorneys to present the prosecution side during any hearings. Prosecutors are also empowered by the Board to negotiate consent agreements with respondents and to present them to the Board as recommendations.

10. **Do not panic.** As previously stated, more than half of the grievances filed do not result in formal discipline. The Board's policy requires that on receipt of a grievance, staff will send a letter and a copy of the grievance to the appraiser for a response. So, some grievances that are sent appear to be (or actually are) frivolous. But with that said, remember the first sentence in the Preamble to USPAP. "The purpose of the Uniform Standards of Professional Appraisal Practice (USPAP) is to promote and maintain the public trust in appraisal practice..." When a grievant (on the phone) says: "This guy drives up in an old pick-up; gets out and looks over the fence into our back yard; gets his dog out of his truck and puts him in our back yard; knocks on our front door (in his cut-off blue jeans, sleeveless t-shirt, and flip-flops); and announces that he is the appraiser and requires access to the inside of my house...; can he really be a licensed appraiser?"; it neither promotes nor maintains the public trust, is not frivolous, and is grossly unprofessional.

~ Pam Griebel, AAG, Iowa Attorney General's Office ~

## FROM THE DESK OF THE ADMINISTRATIVE OFFICER

In light of recent staffing changes, I thought I would give a quick overview of my role here with the Agency. As I am sure most of you know, I have been the Administrative Officer for going on four years now and will continue on in that capacity. For those of you not familiar with my role, I handle all of the licensing and education matters for appraisers and Appraisal Management Companies licensed in our great state.

Additional licensing tips and issues will be discussed throughout the newsletter and, as always, please feel free to contact us with any questions or concerns that you may have. I look forward to my continued interaction with each and every one of you and will do my utmost to be of assistance. Happy trails!

~ Shannon N. Gabbert ~

### ATTN: NON-AQB COMPLIANT APPRAISERS

**Effective July 1, 2013** the Real Property Appraiser Qualification Criteria for State Licensed Appraisers will change. As of that date, in order for a state licensed appraiser to remain actively listed on the National Registry, that individual must satisfy current AQB Criteria. Licensed appraisers currently listed as AQB Compliant will remain actively listed on the National Registry; their current status will not be affected. Non-AQB Compliant licensed appraisers will be mandatorily listed as inactive.

- 1) You can apply for upgrade to Certified Residential or Certified General; **or**
- 2) You can apply for upgrade to AQB Compliant.

The Appraiser Qualification Criteria outlining upgrade requirements with regard to education and work product review is available on our website.

**Q: Why does the ASC show me as expired when I paid my license before it was due?**

A. The National Registry is not based on real-time data. This agency sends a data set to the ASC (Appraisal Subcommittee – [www.asc.gov](http://www.asc.gov)) on a weekly basis. It is best to pay your licensing fee immediately upon receipt of the Fee Statement or Renewal Application to avoid complications.

Some recent changes have come about regarding online qualifying education that appraisers should be aware of. The Board voted to allow qualifying education to be taken online at the September 10, 2010 Board Meeting. Currently only two providers are approved to offer online qualifying education; Appraisal Institute and McKissock.

As a result of the above, there have been some changes to the course numbering system, as reflected below:

**The course numbering system is as follows:**

600-level courses are approved for qualifying education. All qualifying education courses are approved for continuing education.

60A and up level courses are approved for online or distance qualifying education. All qualifying education courses are approved for continuing education.

700-level courses are approved for in-class continuing education.

900-level courses are approved for online or distance continuing education.

The 15-Hour National USPAP is course number 600 (in-class) and 60A (online).

The 7-Hour National USPAP Update is course number 700 (in-class) and 900 (online).

Also, please keep in mind that 21 of the required 42 hours of continuing education for your three-year licensing cycle **MUST** be taken in person.

**ATTENTION EDUCATION PROVIDERS**

Please note that the provider forms have changed. The new forms may be downloaded from our website, at [www.reab.oid.ok.gov](http://www.reab.oid.ok.gov), located under Education Provider Information. Additionally, please be aware of the following:

**Board rule OAC 600:10-1-8. Course approval requirements**

(d) Course providers shall provide written notice of date, time, place, and title of courses to be presented **not less than seven (7) days in advance of the beginning date of the course**. Courses presented shall be subject to unannounced compliance inspection by a representative of the Board.

Failure to comply with the above could result in cancellation and/or disapproval of the course, or refusal of continuing education credits to attending participants. Please plan accordingly when scheduling your classes.

**TIPS AND TIDBITS:**

**TIP:** Did you know that our website now has Course Announcements? If you're looking for in-class education from local providers, all you need do is log on to the REAB website at [www.reab.oid.ok.gov](http://www.reab.oid.ok.gov) and click on Course Announcements, located under the Main Menu. From there, you will be able to view all upcoming local education up to four months in advance! Happy hunting!

**TIDBIT:** You can now verify if an Appraisal Management Company ("AMC") is licensed or not by visiting our website and clicking on the Appraisal Management Company Registration link at the bottom of the Main Menu, and then selecting the Approved Appraisal Management Companies link.

**Q. Is Oklahoma a voluntary or mandatory state?**

**A.** Oklahoma is characterized as a voluntary state; meaning that a real estate appraiser credential is not required to perform an appraisal, unless that appraisal is involved in a federally related transaction or a real estate related financial transaction of an agency, instrumentality, or federally recognized entity covered by FIRREA of 1989. As a practical matter, however, virtually all residential mortgage transactions are performed by credentialed appraisers as a lender requirement.

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**Q. Why did HUD/FHA remove me from their rosters?**

**A.** HUD and FHA retrieve their information from the Appraisal Subcommittee (please refer to previous questions). Please be aware that this office has no interface with HUD or FHA; if you have additional questions concerning those agencies, please refer all inquiries to the appropriate entity.



**Q. Why does the ASC have a different expiration date than the one that I was issued?**

**A.** The Board issues credentials for three years, but you only pay licensing fees for one year at a time. When you pay your annual licensing fees, which includes your National Registry fee, the National Registry is updated, and the ASC advances your registry expiration date by one (1) year. They do not utilize the expiration date that is issued to you by this office.

**HAVE YOU MOVED?**

Board Rule OAC 600:10-1-9 requires that: each applicant... notify the Board of a change of business address, residence address, or mailing address. Change of address notification shall be made, in writing, by mail, fax or e-mail, within ten (10) days of the change of address. Please utilize the Change of Address form for all informational updates. The form can be found on the REAB website at [www.reab.oid.ok.gov](http://www.reab.oid.ok.gov), under Change of Address form, located under the Main Menu.

**Q. Does your office accept credit cards?**

**A.** No, our office currently only accepts checks or money orders.



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Oklahoma Insurance Department  
5 Corporate Plaza  
3625 NW 56th St, Ste 100  
Oklahoma City, OK 73112