



# NORTH CAROLINA APPRAISAL BOARD

## **APPRAISER REPORT**

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## **GENERAL ASSEMBLY ENACTS LEGISLATION TO REGULATE APPRAISAL MANAGEMENT COMPANIES**

Effective January 1, 2011, all appraisal management companies (AMC) must register with the North Carolina Appraisal Board in order to do business in this state. One of the Appraisal Board members appointed by the Governor will have to be a person representing the appraisal management or banking industry.

### **Effect on appraisers**

The Board plans to adopt a rule that will require appraisers to make sure the AMC they are working for is registered with the North Carolina Appraisal Board. Appraisers may be disciplined if they work for an unregistered AMC.

One important thing to note is that the legislation does not impact the amount of the fee an AMC pays an appraiser. The law will require that fees be paid within 30 days unless the appraiser is notified in writing of the reason for nonpayment. Appraisers must also be notified if they are being taken off an AMC approved list.

### **Specifics of the legislation**

An AMC is defined as a business entity that utilizes an appraisal panel or fee panel and performs appraisal management services. It does not include any of the following:

- Any agency of the federal government or any State or municipal government.
- An appraiser who enters into an agreement with another appraiser for the performance of an appraisal, and upon completion of the appraisal, the appraisal report is signed both by the appraisers.
- Any state or federally chartered bank, farm credit system, savings institution, or credit union.

An AMC must file an application with the Appraisal Board that includes:

- the name and contact information for the company's agent for service of process in this State;
- the name, address, and contact information for any individual or business entity that owns ten percent (10%) or more of the AMC; and
- the name, address, and contact information for the compliance manager.

The initial registration fee for an AMC will be \$3,500, and the annual renewal fee will be \$2,000.

Duties of an AMC include:

- Verification that a person being added to the appraiser panel holds an appraisal license in good standing in this State if a license or certification is required to perform appraisals;
- A requirement that appraisers inform the AMC of their areas of geographic competency, the types of properties the appraiser is competent to appraise, and the methodologies the appraiser is competent to perform;
- Review the work of appraisers who perform appraisals for them on a periodic basis;
- Maintenance of a detailed record of each service request that it receives and the appraiser that performs the appraisal.
- Filing a complaint against an appraiser who violates USPAP or engages in unethical conduct;
- Paying the appraisal fee to the appraiser within 30 days of the date the appraisal is transmitted by the real estate appraiser to the registrant, except in cases of noncompliance with the conditions of the engagement. In such cases, the AMC must notify the

appraiser in writing that the fees will not be paid and why.

- Each individual who owns more than 10% of the company must be of good moral character, must never had a license to act as an appraiser refused, denied, cancelled, or revoked by this or any other state.
- Designation of a compliance manager, who must be a certified real estate appraiser on active status and in good standing in any state.

The AMC may not influence or attempt to influence the development, reporting, result, or review of a real estate appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery, or in any other manner, including:

- Withholding or threatening to withhold timely payment for an appraisal report;
- Withholding or threatening to withhold future business from an appraiser;
- Promising future business, promotions, or increased compensation;
- Conditioning the ordering of an appraisal or the payment of a fee, salary, or bonus on the opinion, conclusion, or valuation to be reached or on a preliminary estimate requested from an appraiser;
- Requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal or provide estimated values or comparable sales at any time before the appraiser's completion of the appraisal report;
- Providing to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or targeted amount to be loaned to the borrower. However, an appraiser may be provided with a copy of the sales contract for purchase transactions.
- Providing stock or other financial or nonfinancial benefits;
- Allowing the removal of an appraiser from its appraiser panel without prior written notice to the appraiser. The notice shall include written evidence of the appraiser's illegal conduct, substandard performance, or otherwise improper or unprofessional behavior or any violation of USPAP or State licensing standards;
- Requesting or requiring an appraiser to collect a fee from the borrower, homeowner, or any other person in the provision of real estate appraisal services;

- Altering, modifying, or otherwise changing a completed appraisal report without the appraiser's written knowledge and consent;
- Using an appraisal report for any other transaction;
- Requiring an appraiser to indemnify an AMC or hold an AMC harmless for any liability, damage, losses or claims arising out of the services performed by the AMC, and not the services performed by the appraiser;
- Requiring an appraiser to provide the company with the appraiser's digital signature or seal;
- Requiring or attempt to require an appraiser to prepare an appraisal if the appraiser, in the appraiser's own independent professional judgment, believes the appraiser does not have the necessary expertise for the assignment or for the specific geographic area and has notified the AMC and declined the assignment; or
- Requiring or attempt to require an appraiser to prepare an appraisal under a timeframe that the appraiser, in the appraiser's own professional judgment, believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations if the appraiser has notified the AMC and declined the assignment.

An AMC may request that an appraiser:

- Consider additional appropriate property information;
- Provide further detail, substantiation, or explanation for the appraiser's value conclusion, through the AMC's established dispute process; or
- Correct errors in the real estate appraisal report.

If an AMC violates this new law, the Appraisal Board may take disciplinary action against the AMC, including suspension or revocation of the AMC's registration in this State. In addition, the Board may impose a civil penalty that may not exceed ten thousand dollars (\$10,000) for each violation of this Article. If the Board orders an AMC to cease prohibited action and it continues to do so, the Board may impose a civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation of the order. The Board also has the right to investigate or examine the books and records of an AMC, which must be produced in this state.

You can view the entire legislation at <http://www.ncga.state.nc.us/gascripts/BillLookUp/BillLookUp.pl?Session=2009&BillID=s829&submitButton=Go>

## BOARD ELECTS OFFICERS

John D. Lyon, Jr. has been re-elected Chairman of the Appraisal Board for 2010-2011. Governor Michael F. Easley appointed Mr. Lyon to the Board in 2008.

J. David Brooks has been re-elected Vice-Chairman of the Appraisal Board for 2010-2011. Governor Michael F. Easley appointed Mr. Brooks to the Board in 2007.

# APPRAISER REPORT

Published as a service to appraisers to promote a better understanding of the Law, Rules and Regulations, and proficiency in ethical appraisal practice. The articles published herein shall not be reprinted or reproduced in any other publication, without specific reference being made to their original publication in the **North Carolina Appraisal Board Appraiser report**.

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Beverly E. Perdue, Governor

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Pam A. Privette, *Administrative Assistant*  
Mindy M. Sealy, *Administrative Assistant*

## APPRAISER COUNT

(As of July 26, 2010)

Trainees	469
Licensed Residential	173
Certified Residential	2135
Certified General	1164
Total Number	3941

## APPRAISER EXAMINATION RESULTS

January 2010 – May 2010

Examination	Total	Passed	Failed
Trainee	40	37	3
Certified Residential	9	5	4
Certified General	0	0	0

Examinations are administered by a national testing service. To apply for the examination, please submit an application which may be downloaded from the Appraisal Board's website at <http://www.ncappraisalboard.org/forms/ApplicationForLicensure.pdf>

# Appraisal Board Amends Rules

The North Carolina Appraisal Board amended several rules effective July 1, 2010. A summary of the rule changes follows.

## Prequalifying Education – Some can now be online

*All courses to become a trainee must be taken in a classroom setting.* All other prequalifying education may be taken online, except for Residential Sales Comparison and Income Approach and General Appraiser Income Approach.

## Continuing Education

The amount of continuing education for participation in appraisal education activities (teaching appraisal courses, writing appraisal textbooks, development of instructional materials on appraisal subjects, etc.) is limited to 14 hours per CE cycle. No CE credit will be given for Basic Appraisal Principles and Basic Appraisal Procedures. Equivalent approval for continuing education not approved in North Carolina will be given only in 7 hour increments. A licensee who became licensed by reciprocity who then moves to NC may renew by letter of good standing only for the first renewal. After that, the licensee must comply with the instate CE requirements.

## Appraisal Reports

Significant appraisal assistance must be disclosed in the body of the appraisal report. An appraiser who signs a report has a right to a copy of the report if the copy is made at the time the report is completed, and must be given a copy upon request for the purpose of submission of the report and work file to the Board, compliance with due process of law, submission to a peer review committee, or in accordance with retrieval arrangements.

## Trainee Supervision

**A significant change to note: A supervisor must accompany the trainee on the first 50 inspections or the first 1500 hours of experience, whichever comes first.** This addresses the concern that trainees in commercial firms were unfairly required to have most of their inspections supervised since they receive more points for each appraisal. Also, all appraisers signing an appraisal report where a trainee provides significant professional assistance or signs a report must have been declared a supervisor for the trainee before the appraisal is signed.

## Course Completion Standards

Licensees who take a prequalification course for CE no longer have to take the examination but may do so.

## Instructor and School Requirements

If a USPAP instructor fails to renew or loses his or her AQB certification, the instructor must immediately stop teaching and notify the Board. Current Appraisal Board members cannot teach prequalification courses or continuing education courses. Schools must send a copy of course materials every third renewal of a course.

## Broker Price Opinions

The Appraisers Act specifically exempts a comparative market analysis (CMA) when it is performed by a licensed real estate broker provided that person does not represent himself or herself as being state-licensed or state-certified as a real estate appraiser. A comparative market analysis is defined in the law as the analysis of sales of similar recently sold properties in order to derive an indication of the probable sales price of a particular property by a licensed real estate agent for the agent's principal. A principal is a person for whom a broker acts as an agent and to whom the broker owes duties. Although a BPO is not defined in the statute, it is considered similar to a CMA.

The Act does not specifically state whether a CMA or BPO may be

performed for a fee. Traditionally, a real estate agent received compensation through a commission paid if and when the property is sold. Many brokerages, however, now offer a "pay-as-you-go" service where the client pays for the services as they are rendered and regardless of whether the property is sold.

The Appraisal Board takes the position that a licensed real estate broker may receive a fee for performing a CMA or BPO *as long as the CMA or BPO is performed for a present or prospective seller or buyer brokerage client on the property which is the subject of a present or prospective brokerage agreement.* There must be a reasonable likelihood that the broker will enter into a brokerage agreement as a seller's or buyer's agent for the property that is the subject of the BPO for this exception to apply.

One specific situation which has caused confusion is in the area of employee relocation programs. In those programs, a company will contact one or more real estate agents for a CMA on a property which it intends to purchase as part of an employee relocation plan. Typically the company will then choose one of the agents who prepared a CMA to list the property. In this situation, the relocation company may be considered a prospective brokerage client, and performing a CMA under those circumstances, for a fee, will not violate the Appraisers Act.

Appraisers who obtain a copy of a BPO that appears to have been done in violation of the Appraisers Act should consider sending in a complaint to the Appraisal Board and to the North Carolina Real Estate Commission.

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### **\*\*\*CONTINUING EDUCATION REMINDER\*\*\***

All appraisers and trainees must have 28 hours of continuing education credit in order to renew their licenses in 2011, including the 7-hour National USPAP Update course. All continuing education must be taken between June 1, 2009 and May 31, 2011.

- If you took the 15-hour National USPAP course you may receive continuing education credit, but you will still have to take the 7-hour National USPAP update course in order to renew your registration, license or certificate.
- Appraisal Board rules allow you to take up to 14 hours of the 28-hour requirement as on-line courses.
- You can take a pre-certification course for continuing education, but if you use it for continuing education, you cannot use it to upgrade.
- No continuing education credit was carried over from the 2007-2009 education cycle into the 2009-2011 cycle.
- If you reside in another state and are currently licensed by the appraiser certification board of that state, you may satisfy the continuing education requirement by providing a current letter of good standing from your resident state showing that you have met all continuing education requirements in that state.

Trainees who initially register on or after January 1, 2011 will not have to obtain continuing education to renew in 2011.

To view a current list of continuing education courses approved by the Board, please visit our website at [http://www.ncappraisalboard.org/education/contin\\_edu.htm](http://www.ncappraisalboard.org/education/contin_edu.htm)

# ISSUES IN COMPARABLE SALES

## **What is a true comparable sale?**

In looking at a sale to see if it may be used in an appraisal, the appraiser must make sure that the sale reflected an arm's length transaction. There are generally five elements of an arm's length transaction.

1. The buyer and seller are typically motivated.
2. Both parties are well informed or well advised, and each is acting in what they consider their best interest.
3. A reasonable time was allowed for exposure in the open market.
4. Payment was made in terms of cash in United States Dollars or in terms of a financial arrangement comparable thereto.
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions.

If any of these tests are not met, the sale may only be used with appropriate discussion and adjustment. A client may have additional requirements, such as that the sale must be less than 6 months old or within a certain distance from the subject. It is the appraiser's responsibility to be familiar with and comply with those guidelines.

## **Source of data**

Your source of data for your comparable sales must have sufficient information so that you can understand the conditions of sale, existence of financing concessions, physical characteristics of the subject property, and whether it was an arms-length transaction. Competency requires that you have the ability to locate home sales information available from many sources, not just a Multiple Listing Service. A local MLS is a good source of data, but should not be considered the only source an appraiser may utilize in selecting comparable sales. In some areas, tax records or private databases provide more comprehensive data. A FSBO (for sale by owner) property could be a reasonable comparable sale if it had been properly marketed. Some builders do not utilize the MLS for their subdivisions, preferring to do some or all of the sales themselves. This is especially true in some "green" subdivisions. If a property has not been marketed on MLS or another regional database, the appraiser must make sure that the property was exposed to the open market for a reasonable time before it can be used. Also remember that Fannie Mae requires you to state the specific source of your data; they do not allow the use of a broad category such as "public records".

## **Verification**

Remember, Standards Rule 1-4 of USPAP requires that you collect, verify and analyze the data used in the report. For example, if you collect comparable sales information from MLS, you then verify the information by checking with the listing or sales agent, the tax office, or another source. If there is any discrepancy between these two sources, you must continue to research the sale until you are confident that the information you will use in your analysis is correct. This is especially important if you receive verbal information or a HUD-1 that conflicts with public records.

An appraiser cannot state that the verification source is "inspection".

Information in MLS may not be accurate and may report a sale that was not arm's length. There are some instances where real estate agents may report a land/home package sale on MLS. Sometimes you will see a remark that the sale is for information purposes only and is not to be used as a comp. Even if the sale is reported on the MLS, that does not make it a legitimate, arm's length transaction.

## **Using foreclosure sales**

In the current economy, foreclosures have skyrocketed and REO sales have become common in many areas. Lenders may be more willing to accept a short sale to avoid foreclosure. The problem with using these sales is that in many instances the buyers and sellers are not typically motivated. The seller may want to unload the property as soon as possible, not caring about the final price received. The buyer may take advantage of this and make an offer much lower than what they are willing to pay. The properties themselves are often sold "as is", without any repair or inspection contingency. Given these problems, FHA and other lenders "strongly discourage" the use of foreclosure sales or short sales as comparables.

In areas where there are only a few distress sales, it is easy to ignore them as comparable. In some areas, however, there are so many foreclosure sales that they have become the market for that area and buyers will not pay full price for a home absent special financing or concessions. As a result, there could be a longer marketing time and resultant decline in value in the area. These factors should be noted in the marketing conditions section of the appraisal report or on the 1004 MC. In this circumstance, using a foreclosure sale might be warranted, if adequate research is done and the use of the sale is explained in the report.

## **Recordkeeping**

You should also be careful to correctly identify both your data source and verification source, and to keep in your workfile a copy of the information relied upon for the appraisal. For example, if you use MLS as your data source and tax records as your verification source, you should have a copy of the MLS sheet and tax record in your file. MLS and tax records may be changed or deleted before the end of the 5 year retention period for the workfile, and it is important that you can show what information you relied on in your appraisal. Sometimes you may receive information orally, such as from the listing broker over the telephone. You should make a note for the file of your conversation, including the name and telephone number of the source of information and the date, as well as a summary of the information received. You do not have to keep a paper workfile. You may keep your entire workfile in electronic form.

## **Summary**

The choice of comparable sales is crucial to the valuation process. Make sure you have done the necessary research to choose the best sales available, and then verify the data until you are confident that the data is accurate. Make appropriate adjustments as warranted. Keep good records, including documentation of the source of your comparable sales, in case your appraisal is questioned in the future.

## USPAP Q&A

The Appraisal Standards Board (ASB) of The Appraisal Foundation develops, interprets, and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. The USPAP Q&A is a form of guidance issued by the ASB to respond to questions raised by appraisers, enforcement officials, users of appraisal services and the public to illustrate the applicability of USPAP in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems. The USPAP Q&A may not represent the only possible solution to the issues discussed nor may the advice provided be applied equally to seemingly similar situations. USPAP Q&A does not establish new standards or interpret existing standards. USPAP Q&A is not part of USPAP and is approved by the ASB without public exposure and comment.

### **Disclosure of any prior services regarding the subject property, when an appraiser has appraised the property multiple times.**

**Question:** If I have appraised a property multiple times within the previous three years, do I have to disclose the *number* of appraisal services? (e.g., “I have appraised the subject property three times during the previous three years.”)

**Response:** Yes. Each prior service must be disclosed to the client and included in the report certification. This disclosure is similar to when an appraiser has any current or prospective interest in the subject property or the parties involved, which requires that *each interest* be specified. Therefore, *each service* must be disclosed to the client and appear in the certification. (See lines 231-241 in the 2010-11 edition of USPAP)

### **Disclosure of any prior services regarding the subject property, when an appraiser has performed services other than appraisal practice.**

**Question:** If I have performed a service other than appraisal practice, such as acting as a general contractor within the prior three years, do I have to describe the specific service or merely state a service was performed?

**Response:** You must disclose to the client the type of prior service you performed regarding the property and this must be included in the report certification. This disclosure is not limited to services provided as part of appraisal practice. Therefore, *each service* must be disclosed to the client and appear in the certification.

### **Disclosure of any prior services regarding the subject property before accepting an assignment, when the client had previously required an appraiser to sign a confidentiality agreement.**

**Question:** The Comment to the Conduct section of the ETHICS RULE states, in part, “If an appraiser has agreed with a client not to disclose that he or she has appraised a property, the appraiser must decline all subsequent assignments that fall within the three-year period.” Does this really mean that the appraiser could not be engaged by this same client, on this property, within the three-year period?

**Response:** Yes. The agreement not to disclose that he or she has appraised the property is between an appraiser and the client. It is possible that a qualified legal opinion might conclude that a confidentiality agreement between an appraiser and a client does not preclude disclosure between the same parties. However, the ASB is not qualified to make such a determination. Without such a legal opinion, the requirement precludes an appraiser from disclosing the prior service and from appraising the property again during this three-year disclosure period.

However, there is nothing that prohibits a client and an appraiser from modifying the prior agreement to allow disclosure. If the confidentiality agreement is amended, the disclosure could be made and an appraisal could be completed for the same client. It must be made clear that if a client releases an appraiser from such a confidentiality agreement, services performed within the previous three-year period *must be disclosed* in the certification of the subsequent report, even if the client is the same for both assignments.

### **Disclosure of any prior services regarding the subject property before accepting an assignment, when the appraiser only works for one client.**

**Question:** I am a staff appraiser for a company and only complete appraisals for my employer’s (the company’s) internal use. Am I required to inform the company that I have previously completed an appraisal within the three-year period when the company is already aware of it?

**Response:** If you consistently correspond with the same person in the company when completing subsequent assignments regarding the same property, the risk of misleading that person is probably minimal. However, your prior services must still be disclosed. When you are working with the same person and they understand your professional responsibilities, it is unlikely this will be a problem.

It is also possible that the specific person you deal with from one instance to the next may change. In this case, the new contact must certainly be informed if you have performed services regarding the subject property within the last three years.

While it is not included in your question, there is also the possibility that you may have performed services regarding that property for a different client within the three-year period, or performed another type of service.

### **Disclosure requirements when an appraiser has NOT performed services regarding a property in the prior three years.**

**Question:** I am aware of the new disclosure requirements in the Conduct section of the ETHICS RULE for the 2010-11 edition of USPAP that requires me to disclose any services I performed regarding the subject property within the prior three years. If I have *not* performed any such services, am I required to make that disclosure as well?

**Response:** No. USPAP does not specifically require disclosure when no prior services were performed by the appraiser within the last three years.

## Mission Statement

The mission of the North Carolina Appraisal Board is to protect consumers of real estate services provided by its licensees by assuring that these licensees are sufficiently trained and tested to assure competency and independent judgment. In addition, the Board will protect the public interest by enforcing state law and Appraisal Board rules to assure that its licensees act in accordance with professional standards and ethics.

# Disciplinary Actions:

*The following is a summary of recent disciplinary actions taken by the Appraisal Board. This is only a summary; for brevity, some of the facts and conclusions may have not been included. Because these are summaries only, and because each case is unique, these summaries should not be relied on as precedent as to how similar cases may be handled.*

*In many cases appraisers are required to complete additional education as part of a consent order. Please check with the Board office if you have questions regarding an individual's current license status.*

## **John Joseph Allen A6223 (Greensboro)**

By consent, the Board suspended Mr. Allen's residential license for a period of six months effective May 1, 2010. The first month of the suspension is active and the remainder is stayed until June 1, 2010. If Mr. Allen completes a class in measuring residential properties and a class in appraiser liability by that date, the remainder of the suspension shall be inactive. Mr. Allen appraised a property located in Browns Summit, North Carolina for \$150,000 as of February 21, 2009. The subject property is a one story brick ranch that is sited on a 1.79 acre tract in a residential subdivision. Mr. Allen stated that the subject property contained 1272 square feet when it actually contained about 2000 square feet. He relied on tax records for his square footage. He visually observed the property but did not measure it. Due to this error, his appraised value was low.

## **Walden Randall Cochran A4781 (Spartanburg, South Carolina)**

By consent, the Board accepted the voluntary surrender of Mr. Cochran's residential license effective March 24, 2010.

## **Glenn Day A5987 (Wake Forest)**

By consent, the Board suspended Mr. Day's residential certification for a period of six months effective April 1, 2010. The first three months of the suspension shall be active and the remainder stayed until December 1, 2010. If Mr. Day completes the Residential Sales Comparison & Income Approaches class, a class in mastering unique and complex properties and the 15 hour National USPAP class by that date, the remainder of the suspension shall be inactive. Mr. Day appraised a property located in Wake Forest, North Carolina for \$625,000 as of February 8, 2007. The subject property is a 4,368

square foot frame dwelling with a partial brick exterior located in a residential subdivision on a .54 acre lot. The appraisal report stated that the subject was listed for sale, but did not mention a list price. The subject actually had never been listed on MLS. The prior sale of the subject for \$535,000 two years prior to the appraisal was noted. The contract price of \$425,000 was noted but not analyzed. Mr. Day should have addressed the large difference between the contract price and the appraised value. After performing the original report, Mr. Day readdressed the appraisal to two other mortgage lenders. On two other occasions he noted a different borrower. The subject property has two separate living areas and there were no remotely similar dwellings in the immediate market area. Mr. Day chose comparable sales from nearby but superior subdivisions, and he failed to make adjustments for the differences. As a result, he overvalued the subject property.

## **Steven C. Gardner A4528 (Salisbury)**

By consent, the Board suspended Mr. Gardner's residential certification for a period of for a period of three months. The suspension shall be stayed until July 1, 2010. If Mr. Gardner completes a class in sales comparison and a class in appraising complex properties by that date, the suspension shall be inactive. Mr. Gardner appraised a property located in New London, North Carolina for \$280,000 as of June 17, 2008. The subject was a brick veneer modular home built in 2008 that has 1942 square feet. It is located in a second home community on the shore of a large lake. This resort community is an RV park, wholly owned and operated by the homeowners. The restrictive covenants allow travel trailers, motor homes and other similar types of camping trailers, but not tents or tent type folding campers. The neighborhood description in the appraisal report did not adequately describe the nature of the community. The subject property was an over-improvement for the community, but this was not adequately explained in the report. Mr. Gardner used five comparable sales, two of which were located in the same community. Two were located in a superior area, and the fifth was a listing from the subject neighborhood. He made adjustments to his sales for differences, but those adjustments were not explained, nor did there appear to be adequate support for them in the work file.

## **Tracey E. Hayden A5800 (Charlotte)**

By consent, the Board suspended Ms. Hayden's residential certification for a period of six months effective April 1,

2010. She must complete courses in sales comparison and appraising condominiums. Ms. Hayden appraised a property located in Charlotte, North Carolina for \$825,000 as of January 25, 2007. The subject property is a 2,000 square foot condominium located on the 15<sup>th</sup> floor. On the effective date of the appraisal, the subject was listed for \$699,000 and was under contract for \$800,000. Although these facts were stated in the report, there was no explanation for the large difference between the listing price and the contract price. The subject had transferred in June 2006 for \$624,000, which was not mentioned in the report. Ms. Hayden's first comparable sale was located one floor above the subject and contained 1978 square feet. This property sold for \$690,000 in October 2006, and she made no adjustments to it. Her second sale was 300 square feet bigger and was located on the penthouse level in the same project. She made inadequate adjustments to this sale. The third sale came from a different project. She made an unsupported positive adjustment of \$50,000 for floor location. Ms. Hayden overvalued the subject property.

## **Paul Hensley A4347 (Durham)**

By consent, the Board issued a reprimand to Mr. Hensley effective August 1, 2010. He must complete a course in sales comparison and the 15 hour National USPAP course, including passing the examination, by December 1, 2010. If he does not complete both classes by that date, the reprimand will be vacated and a six month suspension shall be imposed as of that date. Mr. Hensley appraised a property located in McLeansville, North Carolina. The subject property is a 1,572 square foot doublewide manufactured home located in a residential subdivision. The subject was under contract for \$117,000 on the date of the appraisal. Mr. Hensley valued the subject at \$118,000 effective February 28, 2008. He failed to properly report the sales history of the subject and one of the comparable sales. The tax card did not reflect the most recent sales of the subject and the comparable sale. He stated in the report that there were no sales concessions made with regard to the sales contract, which is not correct. The contract, a copy of which was in the work file, stated that the sellers agreed to pay up to \$6,000 in closing costs and 3% towards the down payment. Mr. Hensley stated in the report that the subject was currently offered for sale, but it was not placed on the MLS until shortly after the sale. It was then reported as having zero days on the market.

**Jeffrey P. Johnson A6489 (Raleigh)**

Following a hearing, the Board revoked Mr. Johnson's residential certification effective April 1, 2010. There were four cases against Mr. Johnson. In the first case, Mr. Johnson appraised a property located in Winston-Salem, North Carolina effective December 22, 2008, finding a value of \$143,000. The subject property is a one story brick and vinyl sided home with 1085 square feet and a full finished basement. Mr. Johnson reported the distance from the subject of Comparable 1 as 0.47 miles when it was actually 4.22 miles from the subject. He reported the distance from the subject of Comparable 3 as 0.46 miles when it was actually 1.74 miles from the subject. There were sales available in the subject subdivision that ranged from \$36,875 to \$89,250. Mr. Johnson overvalued the subject property. The subject property is approximately 82 miles from his primary business location. He was not a member of the Multiple Listing Service in this area at the time of the appraisal and was not geographically competent to perform this appraisal. In the second case, Mr. Johnson appraised a property located in High Point, North Carolina effective February 13, 2009, finding a value of \$122,000. The subject property is a one story vinyl sided home with 1100 square feet on a slab foundation. Mr. Johnson reported the distance from the subject of Comparable 1 as 0.50 miles, Comparable 2 as 0.75 miles, and Comparable 3 as 0.52 miles. The actual distances were 2.67 miles for Comparable 1, 3.82 miles for Comparable 2, and 3.76 miles for Comparable 3. All of the photographs of the comparables were incorrect. There were more similar sales available in the subject's immediate area that ranged from \$98,500 to \$116,000. Mr. Johnson overvalued the subject property. The subject property is approximately 68 miles from his primary business location. He was not a member of the Multiple Listing Service in this area at the time of the appraisal and was not geographically competent to perform this appraisal. In the third case, Mr. Johnson appraised a property located in Raleigh, North Carolina effective May 5, 2009, finding a value of \$268,000. The subject property is a vinyl sided townhome with 2023 square feet, 7 rooms, 3 bedrooms, and 2.5 baths. It is located in a country club neighborhood. Mr. Johnson reported the distance of the comparables from the subject as between 0.25 and 0.33 miles when they were actually approximately 1.25 miles from the subject. The photo of Comparable 1 is incorrect. There were other sales in the subject's immediate area that ranged from \$243,000 to \$317,500. One sale of the

same floor plan as the subject sold for \$315,000 on September 17, 2008. There was no reason why neighborhood sales could not be used. Had they been used, the appraised value would have been higher. In the fourth case, Mr. Johnson appraised a property located in Durham, North Carolina effective January 7, 2009, finding a value of \$260,000. The subject property is a one story vinyl sided home with 2737 square feet. The subject appears to be a manufactured or modular home, although the county tax records report the subject as being conventional construction. This was not addressed in the report. The subject has 10.95 acres. Comparable 3 has 0.40 acres and is located in a residential subdivision comprised of similarly sized lots. This subdivision has several amenities such as a pool and tennis courts that were not mentioned in the appraisal report. In all of the above cases, Mr. Johnson was notified in writing, by email and by telephone calls that he needed to respond to the complaints and to send in the appraisals and work files. He was personally contacted by and met with an investigator for the Board and was told he needed to send in responses. Despite several assurances that he would do so, he never sent any documents to the Board. Although Mr. Johnson may have had personal issues during the period of time these appraisals were done and the complaints were filed, he continued to appraise, and there was no reason why he could not have responded to the complaints. Mr. Johnson had previously been disciplined by the Appraisal Board.

**Kimberly Johnson A6918 (Holly Springs)**

By consent, the Board suspended Ms. Johnson's residential certification for a period of six months. The suspension is stayed until February 1, 2011. If Ms. Johnson completes the precertification course residential market analysis and highest and best use, and the 15 hour National USPAP course, and passes the examinations in both courses, the suspension shall be inactive. Ms. Johnson performed an appraisal of a property located in Apex, North Carolina in September 2009, finding an appraised value of \$202,000. She revised her report and valued it at \$235,000. Her workfile did not include a copy of the first appraisal report that valued the subject at \$202,000. The workfile does have a copy of the \$235,000 appraisal report that was saved electronically over the first report without saving the two reports individually. The subject property is a 1.5 story home located on a 4.48 acre tract. There is no highest and best use analysis in the workfile. The subject is zoned R-80W, and this should have been discussed in the report. Ms.

Johnson stated that highest and best use was present use. She used three comparable sales that were located in subdivision settings but did not make appropriate adjustments for location.

**Robert E. Lee A3399 (Gatesville)**

By consent, the Board suspended Mr. Lee's residential certification for a period of six months. The suspension is stayed until September 1, 2010. If Mr. Lee completes a course in Mastering Unique and Complex Properties and a course in sales comparison by that date, the suspension shall be inactive. Mr. Lee appraised a property located in Elizabeth City, North Carolina for \$455,000 as of April 5, 2009. The subject is a 4604 square foot 1.5 story dwelling built in 2007. It is located on 12.77 acres of land located 3/10 mile down a gravel drive off the main road. The subject dwelling is a high end off-frame modular, which was not noted in the report. Mr. Lee had the wrong flood zone in the report. The subject is located behind another property owned by the same owner. It does not have road frontage, and there is no deeded access through the other lot. This was not mentioned or discussed in the report. Mr. Lee's third comparable sale did not appear to be an arms length transaction and should not have been used in the appraisal. There were very few sales in the subject county, which made this a difficult property to appraise.

**Todd A. Marshall A6183 (Barrington, Illinois)**

By consent, the Board accepted the voluntary surrender of Mr. Marshall's residential license effective May 25, 2010.

**Julia Matteson McIntosh A4676 (Cary)**

By consent, the Board suspended Ms. McIntosh's residential certification for a period of twelve months effective August 1, 2010. The first three months of the suspension are active and the remainder is stayed until January 1, 2011. If Ms. McIntosh completes a course in North Carolina Board rules by that date, the remainder of the suspension shall be inactive. In November 2009, Ms. McIntosh signed a consent order with the North Carolina Real Estate Commission that became effective on December 1, 2009. In the consent order, she consented to the revocation of her broker's license. The consent to revocation was based upon the following facts, which were neither admitted nor denied. Ms. McIntosh failed to obtain a written agency agreement, failed to provide agency disclosure, failed to obtain a property disclosure statement for the

buyer, failed to collect an earnest money deposit from the buyer and failed to disclose to the lender in the transaction that a portion of her commission was to be rebated back to the buyer in the form of an HVAC unit for the property. Ms. McIntosh failed to notify the Appraisal Board that she had signed the consent order.

#### **I. Dean Myers A5514 (Gastonia)**

By consent, the Board voted to suspend Mr. Myers' residential certification for a period of twelve months. The suspension is stayed until September 1, 2010. If Mr. Myers completes the 15 hour National USPAP course, including passing the examination, the suspension shall be inactive. Mr. Myers performed an appraisal of a property located in Newton, North Carolina in April 2008, finding an appraised value of \$110,000. The subject property is a 1,778 square foot doublewide manufactured home. In the report, Mr. Myers noted two of the prior transfers of the subject, but he did not report two more transfers in January 2008. These transfers took place on the same day and neither had excise tax. The owner in the tax records was not correct, but the report did have the correct owner name. Mr. Myers noted in the report that his Comparable Sale 3 transferred in February 2007 transfer of this property with zero dollars paid in excise stamps (a foreclosure), but he failed to note a transfer of this property that occurred 4 months later. On the effective date of the appraisal, April 21, 2008, the subject was under contract for \$115,000. On April 28, 2008, the sales price changed to \$105,000. Mr. Myers revised his appraisal to state that the sales price was reduced to \$105,000 on April 28, 2008, but he kept the original effective date of April 21, 2008. He should have had a new effective date for the revised report.

#### **Freddy W. Narron A6705 (Middlesex)**

By consent, the Board suspended Mr. Narron's residential certification for a period of six months. The suspension is stayed until January 1, 2011. If Mr. Narron completes a course in residential design and functional utility and a class in sales comparison by that date, the suspension will be inactive. Mr. Narron performed an appraisal of a property located in Clinton, North Carolina in October 2006, finding an appraised value of \$285,000. The subject property is a 2277 square foot brick ranch with a 1496 square foot 2-story addition. The addition has the same mailing address as the original improvement and the county tax records consider both the addition and original improvement as "main area" without any distinction between the two

areas. Mr. Narron considered the addition and the original improvement as one dwelling that contained 3901 square feet. The addition and the original improvement are not connected by an interior door. Each unit has its own separate entrance to the outside. The addition can be considered an accessory unit. The instructions from the client stated that if the subject property contains an accessory unit that is not directly accessed from the main living area, it should not be included in the subject's gross living area, but must be listed as a separate line item, then valued based on market contribution. The instructions also indicated that this fact must be disclosed in the appraisal. Mr. Narron did not describe any of this in the report, giving the impression that this was all one unit. He used four comparable sales in his report that ranged in size from 2134 to 3426 square feet. Had he used sales that were more comparable in size to the subject property, or if he had made appropriate adjustments to his sales for the actual size of the dwelling, the appraised value may have been lower.

#### **David C. Norris A6051 (Wake Forest)**

By consent, the Board suspended Mr. Norris' residential certification for a period of three years effective August 1, 2010. Mr. Norris must complete a course in Mastering Unique & Complex Property Appraisal and a course in Residential Market Analysis and Highest and Best Use. He must take and pass the examinations in these courses. He also agrees that he will take the state certified residential examination. If he completes this coursework and passes the state examination by May 31, 2011, only the first year of the suspension will be active. If he fails to complete the coursework or pass the examination by that date, the remaining two years of the suspension shall be imposed. Mr. Norris appraised a property located in Pittsboro, North Carolina in October 2008. He first valued the subject at \$595,000, then revised the report and valued the subject at \$655,000. The subject property is a residential dwelling with 3689 square feet of living area plus a full basement, located on a 4.2 acre lot in a suburban area. In the original appraisal, Mr. Norris used one sale from a superior neighborhood and failed to make appropriate adjustments. His third sale was a presale that sold for \$25,000 more than the list price, yet he failed to analyze or adjust for this factor. The photograph of and description of his third sale were incorrect. Proximity to two of the sales was indicated at 1.97 miles and .87 miles when these properties were actually 9.2 miles and 12.3 miles from the subject. After the property owner contacted him

about the value, Mr. Norris selected three new sales and revised his value. Two of the sales were from a golf course neighborhood with several amenities, yet no adjustments were made for these factors. The third sale was from the subject neighborhood. This property, which sold for \$640,000, had unusual amenities, such as a fully outfitted wood working shop, that were not mentioned or adjusted for in the appraisal. There were other sales that could have been used in the report. Had they been used, the appraised value would have been lower.

#### **Amy Jo Rawson A6628 (Charlotte)**

By consent, the Board suspended Ms. Rawson's residential certification for a period of six months effective February 9, 2010. The first month of the suspension is active. If Ms. Rawson completes the 15 hour National USPAP course, including passing the exam, and a course in Business Practices and Ethics by June 1, 2010, the remainder will be inactive. Ms. Rawson performed three appraisals of a property located in Charlotte, NC. The first was done in February 18, 2008 for \$114,000, subject to repairs. She then appraised it on June 18, 2008 for \$118,000 "as is" and for \$117,000 as of October 20, 2008, also "as is". The subject property is a 1.5 story dwelling situated on a .28 acre lot in an older residential neighborhood. It had been renovated after the purchase in February 2008. Ms. Rawson did not do an interior inspection for the October 2008 report, although the appraisal certification states that one was done, as she could not access the interior. She inserted interior photos from the June 2008 report in the October 2008 report without noting that they were taken in June.

#### **John P. Walters A5811 (Lagrange)**

By consent, the Board suspended Mr. Walters' general certification for a period of five years effective May 1, 2010. The first six months of the suspension are active and the remainder is stayed until December 31, 2010. Mr. Walters also agreed to the following. He will complete the following courses: Residential Market Analysis and Highest & Best Use, Residential Site Valuation & Cost Approach, Residential Sales Comparison & Income Approaches, and the 15 Hour National USPAP class. Mr. Walters must take and pass the examinations in these courses. The hours from these courses may not be used towards his continuing education requirement. If he completes this coursework by December 31, 2010, the remainder of the suspension shall be inactive. If he fails to complete it by that

date, the remaining suspension shall be imposed. Mr. Walters also agreed that he will take and pass the certified residential state examination by December 31, 2010. If he completes the coursework by December 31, 2010 but fails to pass the certified residential state examination by that date, the suspension shall become active on that date and shall remain in effect until he passes the examination. Mr. Walters agreed that he will perform no appraisals for litigation purposes for a period of 5 years. For a period of one year after his certification is reinstated, he shall have all of his appraisal reports co-signed by a certified real estate appraiser. There were six cases against Mr. Walters. In the first case, Mr. Walters appraised 78 acres of vacant land located in Bath, North Carolina for \$3,232,000 as of October 16, 2006. The subject property was accessed by a 20-foot easement from the highway and this was noted in the report. With this easement, the tract could legally be subdivided into five building lots. Mr. Walters used a hypothetical condition that the tract had a 50-foot easement to state that the highest and best use was subdivision into 50 residential lots. After submitting this report, the client requested that he prepare an appraisal "as is". He then valued the property for \$1,800,000. The comparable sales chosen in both reports were superior to the subject and although negative adjustments were made, they were inadequate. In the second case, Mr. Walters appraised a .15 acre vacant tract of land located in Bath, North Carolina for \$100,000 as of October 16, 2006. The subject lot does not meet minimum zoning for a septic system or for an improvement.

Since the subject lot is not able to support a septic system and did not meet minimum setbacks, its highest and best use would be assemblage with an adjoining tract to be used as a residential home site. All of the comparable sales used in the report were conforming lots that had sufficient land area for on-site septic and required setbacks. Although it appears that Mr. Walters used a hypothetical condition to value the subject, he did not mention it in the appraisal report. In the third case, Mr. Walters appraised a property located in Morehead City, North Carolina for \$1,200,000 as of October 16, 2006. The subject property is a .49 acre sound-front lot with 60' of frontage on the sound. It is improved with a 1,024 square foot two-bedroom dwelling built in 1962. The dwelling was given no value in the report. The first comparable sale is located in a superior area in an old established sound front neighborhood located on the opposite side of the bridge from the subject. Mr. Walters made an inadequate adjustment for location. The second and third comparable sales were sound-front lots located in a new upscale gated community with a marina and a concrete bulkhead. Each lot has a private pier, as well as other valuable amenities. The neighborhood also features a clubhouse and pool. No adjustments were made for these factors. In the fourth case, Mr. Walters appraised a property located in Morehead City, North Carolina for \$900,000 as of October 16, 2006. The subject is a vacant .17 acre sound-front lot with 60' of frontage on the sound. Corner lots on the water are subject to special setbacks; the setbacks combined with the small size of the subject limit potential

development of this lot, but this was not mentioned in the report. Mr. Walters used the same three sales used in the third case, and he made no adjustments for the amenities and location. In the fifth case, Mr. Walters appraised a property located in Morehead City, North Carolina for \$340,000 as of October 16, 2006. The subject property is a .12 acre lot located in a transitional, mixed use area. The subject is a non-conforming lot that is subject to 15' front and 7' side setbacks, which would limit any new construction to a maximum width of 28'. Two of the comparable sales were 47 to 55 feet wider than the subject, which allowed for larger improvements. This issue was not addressed in the report. One of the comparable sales was located in a new community with architectural guidelines and planned amenities including a clubhouse, boat ramp, docks, pool complex, and boat slips. Inadequate adjustments were made for location. This sale was not arms length and should not have been selected. The value opinions for all of these properties were not supported by the market. In the sixth case, Mr. Walters appraised a property located in Greenville, North Carolina for \$500,000 as of October 16, 2006. The subject is a 4319 square foot brick-sided 2-story dwelling built in 1987 and located on a .55 acre lot. One of the comparable sales was a ranch style home with a finished basement. This sale was analyzed as if all living area was above grade, and the basement garage was attached, which was inappropriate. Mr. Walters chose sales from different subdivisions and he made inadequate adjustments for the differences. Mr. Walters undervalued this property.

## **CHANGES TO EXPERIENCE LOG AND HOURS COMING SOON!!!**

The Board is in the process of modifying the current experience log to better comply with the AQB's Guide Note 6. It is anticipated that the new form will be available online in September 2010 and will become mandatory beginning January 1, 2011.

Board staff has worked with appraisers from various trade organizations around the state to convert our point system of experience to an hour based system. The changes will be presented and implemented in September along with the new experience log.

## **2010 Board Meeting Dates**

August 18  
September 21  
October – No meeting  
November 9  
December 14

All meetings are conducted at the North Carolina Appraisal Board building located at 5830 Six Forks Road, Raleigh.

NORTH CAROLINA APPRAISAL BOARD  
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