



The

APPRAISER

A PUBLICATION OF THE ARKANSAS APPRAISER LICENSING & CERTIFICATION BOARD

Volume 18, Number 3

Fall Issue

November 2010

Opinion of Value

By Tom Rife, Chairman

Bob Dylan, singer, songwriter, and poet of the baby boomer generation, wrote a song in the 1960's called "The Times They Are A-Changing."

With the passage and enactment of The Dodd-Frank Wall Street Reform and Consumer Protection Act and Anti-Predatory Lending Act in Title XIV, it is obvious that the appraisal profession is changing.

Among the changes and highlights contained in the new law are the following:

1. No more drive-by appraisal reports are allowed. All sub-prime mortgages will require written reports by state licensed appraisers and will require interior inspections.
2. Sweeping new powers for the Appraisal Subcommittee (ASC) including a mandate to establish a toll-free complaint hotline and email. Further, the ASC shall be required to refer complaints for further action to appropriate governmental bodies including a state appraisal board, financial institution regulator, or other appropriate legal authorities.
3. Appraisal Management Companies (AMC) are to be regulated by individual state appraisal boards (Arkansas had enacted

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ASC Releases Title XI Non-compliance Findings

In the summer edition of this newsletter we reported that the Appraisal Subcommittee's (ASC) policy managers had completed their biennial audit of the Arkansas Appraiser Licensing and Certification Board's operations.

The preliminary observation of the auditors pointed to a number of concerns and noncompliance issues that warranted further explanation and specified corrective action. Among those significant issues addressed by

Financial Reform Act leads to "customary and reasonable fees" for appraiser

the Board during a 60 day response period were the following:

- The auditors determined that the Board failed to notify the National Registry – or publish in its newsletter – the revocation of a Board member's credential. The Board's primary response was that the individual had opted not to renew his license and had allegedly advised the Board and the governor that he was resigning from the Board prior to the scheduled hearing. The explanation that the respondent did not have an active license to revoke or report did not fly.
- The reviewers found that another sitting Board member was inadvertently given credit for a continuing

education (CE) seminar that was never approved by the Board. The Board's explanation was that a staff member had failed to include the individual's request for CE on the education committee's agenda and that the Board member had completed 14 hours of CE by attending the Board's annual seminars which were not considered in the total hours of CE.

- The Appraisal Subcommittee's representatives also concluded that the Board's complaint tracking system is inadequate and that a policy must be established to ensure all disciplinary actions are reported to the National Registry.
- The statute of limitations covering the time frame for which the Board can consider jurisdiction over a complaint was strongly challenged by the auditors. A response to this area of concern was that the Arkansas General Assembly should be requested to delete or amend this statutory provision.
- The reviewers also took issue with the Boards granting of appraisal experience for individuals who had performed timber cruises (inventorying of standing timber) in regards to its contribution to a timberland appraisal. The Board not only challenged this issue with the Subcommittee but has had numerous communications with the Appraisal

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Qualifications Board chairman but to date the issue has not been resolved. The Subcommittee takes the position that a timber cruise of standing timber is personal property and therefore is not acceptable experience.

Notwithstanding the submission of the Board's detailed explanations and specific corrective actions that have been taken, the ASC issued its official finding on August 16 stating Arkansas' appraiser licensing program is not in substantial compliance with Title XI. This decision by the ASC effectively placed the state's program on a "watch list" that will result in a second ASC review in February. That review will primarily focus on the state's effective implementation of the required corrective actions that were addressed in the ASC's official compliance review.

To date, the Arkansas Appraiser

Licensing Board and its staff have aggressively sought to address and respond to every issue raised in the preliminary findings only to have those responses summarily ignored until after the ASC's follow up review in 2011. The Board, however, did register its disappointment with the ASC's lack

... Board to undergo follow-up review by ASC monitors ...

of consideration of the interim information but to no avail. Unfortunately there is no administrative appeal to the ASC's finding of noncompliance by the Appraisal Subcommittee until the issue rises to the level of de-certification proceedings under Title XI.

The Board is of the opinion that the follow up review by the ASC will reveal that most of the required state actions have been addressed and the

ASC will subsequently issue a finding that Arkansas's Appraiser Licensing program is continuing to function in compliance with Title XI.

Uniform Licensing and Certification Exam Results

The Appraiser Qualifications Board continues to monitor the National Uniform Licensing and Certification Examinations and reports the average pass rate for first-time test takers has been 50 to 65 percent this year.

The Board found that candidates with post-2008 education and college degrees fared better on the examinations.

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this legislation effective January 1 for this provision – thank you, Jim Martin!) This will include the mandatory reporting of Uniform Standards of Professional Appraisal Practice (USPAP) deficiencies to state appraisal boards through the ASC hotline. This may have an increasing state board activity if the AMCs don't follow the review and oversight ability of the ASC.

- 4. All appraisal reviews must be completed in compliance with the USPAP and performed by an appraiser who is duly licensed or certified by a state appraisal board. The appraiser must be duly licensed or certified by the state in which the property is located.
- 5. The Home Valuation Code of Conduct (HVCC) will no longer be in effect. Stronger appraiser independence language that mirrors the HVCC will be the new guideline and will be tied to

the powers given the ASC.

- 6. Broker price opinions (BPO) cannot be used as the primary basis to determine the value of a property for the purpose of loan origination of a residential mortgage secured by such piece of property. BPOs are out!
- 7. The biggest issue relates to "customary and reasonable fees" charged by appraisers. Lenders and their agents shall compensate fee appraisers at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised. Evidence of such fees can be established by objective third-party data and not based on fees paid by AMCs.

These seven are what I consider to be the highlights of the new law. We have just had mid-term elections that may have new changes in store. Stay tuned for more possible changes.

Please call the other Board mem-

bers or me with questions concerning the appraisal process and USPAP. We are here to serve the public which includes the appraisal profession. We want you to prosper, grow in knowledge, ethics, and integrity, while staying alive in these tough economic times.

Finally, an appraiser was walking along a beach in southern California and found a magic lamp that had washed ashore. The appraiser rubbed the lamp and a genie appeared and offered him one wish. The appraiser replied, "I'd like you to build a highway from here to Hawaii, as I love to travel to Hawaii!"

The genie stammered and said, "That's too big of a wish. Can you make the wish something easier for me to accomplish?" The appraiser responded, "Well, I wish that you could make me fully understand the Uniform Standards of Professional Appraisal Practice."

The genie stammered again and asked, "Do you want that bridge to be a two lane or four lane?"

THE APPRAISER

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Subscription: \$10 a year

Education Offerings

Arkansas Chapter of the Appraisal Institute – Contact Barbara Martin at (501) 776-9630 or appraisalinst@sbcglobal.net for more information.

Career Webschool – Distance Learning on-line. Call 717-919-9191

The Columbia Institute – Contact www.columbiainstitute.org or call 1-800-460-3147 for more information.

Lifetime Learning – Contact Dennis McElroy at (417) 887-2221. All classes held in Springfield, Missouri.

McKissock – Contact 1-800-328-2008, or www.McKissock.com/appraisal for more information.

ASFMRA – Contact Deanna Ilk for scheduling information at 1-303-758-3513.

Oakcrest Appraisal Academy – Contact 1-918-906-5982 or go to www.oakcrestappraisalacademy.com for the schedule of approved CE classes.

Ozarks Technical Community College
 Contact Dana Patterson at 417-447-7500.

National Association of Independent Fee Appraisers – Contact 1-312-527-6736 for more information.

RCI Career Enhancements – Contact David Reinold at (479) 968-7752 or www.raycampinc.com.

“Basic Appraisal Principles “B”, 15 hrs. QE, Nov. 8-9; **“General Appraiser Income Approach “D”**, 15 hrs. QE, Nov. 15-16; **“USPAP Update”**, 7 hrs. CE, Dec. 6; **“National USPAP”**, 15 hrs. QE, Dec. 13-14; all in Russellville.

John C. Wilkerson, Jr. – Pryor Creek, OK. Contact 1-918-825-1514 for more information on class schedules.

Alfred Clark Enterprises – Jackson, MS. Contact 601-949-8411 or email jcksnalfred6@bellsouth.net.

Lowman & Company. – Contact 660-826-2020, Sharon Lowman in Sedalia, MO. www.lowman-co.com

STATUS REPORT

As of June, 2010, Board records showed these totals for appraisers:

State Certified General. . . 459

State Certified Residential 401

State Licensed 68

State Registered. 169

(Includes temporary and nonresident appraisers)

Potential applicants should contact the Board's staff for current information relating to application process, exam schedules, fees, and other licensing inquiries by calling (501) 296-1843, using our website at www.arkansas.gov/alcb/, or write to the Appraiser Licensing and Certification Board office, 101 E. Capitol, Suite 430, Little Rock, Arkansas 72201.

Board Calls for Nominations to Fill Vacancies

Dwight Brown and William Neal, who are both on the Appraiser Licensing and Certification Board, are prohibited under Arkansas law from being appointed to additional terms as board members.

Brown is an appointee recommended to the governor by the American Society of Farm Managers and Rural Appraisers, whereas Neal was suggested to represent financial institutions on the board. Both have been term limited from serving additional terms. Their terms expire on Jan. 15, 2011.

The Board, then, has pursuant to Act 541 of 1991 called for suggested candidates from the financial community and the state's appraisal groups. Arkansas law also puts a congressional district limitation in place, meaning

the new appraisal appointees must be from Arkansas Congressional Districts I and IV. The Board is asking the appraisal and financial associations to submit possible appointees to the Governor ASAP.

B.A. McIntosh, representing District II, and Tom Rife, representing District III, are also facing expiring terms. However, they are eligible for reappointment – each for an additional three-year term – by Gov. Mike Beebe. In the past, though, the Governor's office has requested supporting recommendations for Board members seeking additional terms from their associations.

McIntosh is a member of the International Association of Assessing Officers and Rife is a member of Appraisal Institute.

For more information, visit the Board's Internet site at www.arkansas.gov/alcb.

Professionalism and You

Hello from the office of the Board Investigator!

I hope that you have all had a good year and that the Holiday season that is fast approaching will bring a smile to everyone's face.

I want to discuss a topic with you that I know is important to all of you. I have found that being unprofessional can really lead to trouble. When I say unprofessional I mean, for example, long angry e-mails defending your position without being apologetic or offering to remedy or even discuss the issue at hand. That leads to appraisers who refuse to answer the phone or e-mails from clients – appraisers who make threats and yell. I cannot stress to you how important it is to be professional – not only in looks and demeanor but also in writing and day-to-day business practice.

In order to maintain our professionalism and good customer service we must all follow good business practices. We all need to recognize that we are dealing with the public and that will sometimes require us to put on our “kid gloves” and make a little more effort. Everyone needs to accept that misunderstandings will happen but, at

the same time, we need to make an effort when they do occur to handle them with professionalism. Complaints come from misunderstandings – remember to think twice about your response and how you handle your clients.

... Professionalism is demonstrated by good business practices and customer service ...

There are a few ways to prevent or at least minimize misunderstandings. Taking your time is one of them. Often when we get in a hurry this is when we make most of our mistakes. Take your time when writing your reports, responding to e-mails, and making phone calls. When writing e-mails and reports make sure to utilize all the tools available to you – there is a spell check on your computer for good reason. Also, re-read the report/e-mail before it goes out as this will ensure you understand you are accountable for all the work and correspondence that is leaving your office with your

name on it. It is your name and your business you are representing, so make it great!

In this technology based world in which we live, we must still be professional when we are on our cell phones. The cell phone was invented to make life and business easier and faster, however that does not mean we should not be any less professional. When using your cell phone as a business tool make sure your voicemails, texts, and even e-mails represent a good business image. I know in this day and age even cell phones have spell check – use it! If you are driving or out in the field working and a client calls to discuss something, you need to acknowledge them and either stop and take the time to discuss the matter with them or advise them of a time when you will call them back.

I understand that life, time, and other obligations get in the way but we need to make sure that every client is getting the best service/work that you are capable of. We need to treat every client with the utmost respect and professionalism and I can assure you it will ensure great outcomes for everyone!

Mark those Calendars

Annual Seminar set for March 31

The Arkansas Appraiser Licensing Board's Education Committee chair Rhona Weaver has announced that Thursday, March 31 is the date for the next “Day with Appraisers” seminar.

This daylong event will again be held at the Shrine Temple located at #1 Scimitar Circle in Little Rock.

The Education Committee along with the Board staff is currently developing the seminar outline, as well as, the timely topics to be discussed by the special guest speakers, Board

members, panelists, and staff. It is anticipated that this year's program will follow the usual format of a morning devoted to guest speakers discussing relevant issues while the afternoon session will be divided by property types with panels of speakers covering relevant subjects. The Education Committee welcomes input from members of the appraisal community about any issues or concerns they would like addressed.

The focus of the keynote speakers and the theme of the program

have yet to be determined. As has been the custom those attending the Seminar will be granted seven (7) hours of continuing education toward meeting the next continuing education renewal cycle in June 2012.

More details about the seminar program will be released in a promotional and registration brochure Arkansas appraisers will receive in the near future. Mark your calendars and set aside March 31 so you'll be sure to attend this annual event.

Congress Enacts HR 4173

The savings and loans crisis of the 1980s seemed quite significant and extremely costly at the time.

However, that event pales in comparison with the overall economic and financial bust of the 21st century. A casual observer does not have to study the issue very long to conclude that one of the common underlying factors was real estate and real property financing. The second common issue between these two economic events is legislative reform. As appraisers you know all too well the impact that the savings and loans bail out had on Congress' reaction through the Fi-

...Financial Reform Act Increases ASC Powers...

ancial Institutions Recovery, Reform, and Enforcement Act of 1989 and its appraisal amendments to Title XI. Now – approximately 20 years later – the scope of federal reform legislation has once again been amplified to the extent that change is affecting all real estate market participants. Why can't we learn from the past?

HR 4173, now known as the Restoring American Financial Stability Act of 2010, was recently signed into law by President Barack Obama and contains significant provisions that not only impact the financial regulatory institutions but the appraisal community as well. Probably the broader reach of this reformation act is the newly created Bureau of Consumer Financial Protection. This agency will have approval authority over the threshold levels established by financial institutions at which certified or licensed appraisers are not required on 1-4 residential units. Authorizing another agency to provide oversight of the appraisal process and quality of reports can only result in the filing of more complaints against appraisers.

Included in HR 4173 was a number of amendments to Title XI that relates to the Appraisal Subcommittee's regulations and expansion of that

agency's authority over a state's appraisal licensing activities. A number of the more significant provisions that are expected to impact the appraisal community are as follows:

- The Appraisal Subcommittee will be expanded to include a representative from the Bureau of Consumer Financial Protection and the Federal Housing Finance Agency (FHFA) – the group that provides oversight for the government sponsored enterprises Fannie Mae and Freddie Mac.
- The ASC will now have monitoring responsibilities for a state's federally mandated registration of Appraisal Management Companies in addition to maintaining a national register of such companies. The states will collect fees from the AMC for submission to the Subcommittee.
- The Act gives the Subcommittee the authority to increase the National Registry fees for appraisers up to \$40 per year. The Arkansas Board does not anticipate implementing this increase until renewal period ending June 30, 2012.
- A Title XI amendment also requires "trainee" and "supervisory" appraisers to meet Appraiser Qualifications Board minimum requirements and gives the ASC the authority to enforce the requirement.

The Subcommittee is granted the authority to remove a state license or certified appraiser from the National Registry (for not more than 90 days) on an interim basis pending State Agency action. Included within this expanded authority, the Subcommittee now has the power to impose interim sanctions against a state agency that fails to have an effective regulatory program, in advance of initiating de-recognition proceedings.

- Congress has also given the Subcommittee discretionary authority to establish an appraisal complaint "hotline" if one has not been implemented within six months of passage of these amendments. The appraisal complaints filed with the Appraisal Subcommittee's hotline will be referred to the respective state jurisdictions for resolution.
- On a more positive note, Title XI specifically addresses the prohibition and the use of broker's price opinions with regard to an origination of a mortgage loan on a residential mortgage.

Although HR 4173 is now law many of the act's provisions call for further development of specific implementing rules and regulations pursuant to the federal Administrative Procedures Act.

Appraisers take note – change is on the way!

Foundation Responds to Inquiries

In response to various questions, the Appraisal Standards Board (ASB) frequently issues its answers that are designed to clarify the applicability of USPAP to specific situations:

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.)

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Appraiser National Registry Fee Increasing to \$40 in 2012

The Appraisal Subcommittee (ASC) voted in October to increase the National Registry fee for certified or licensed appraisers from \$25 to \$40, effective Jan. 1, 2012.

The increase is the first one the ASC has put in place since the group was formed in 1989. The ASC has the authority to increase the fee to as much as \$50 under Title XI and can, additionally, consider increasing the fee periodically every five years to a maximum of \$80 per appraiser with the approval of the Federal Financial Institutions Examination Council under the terms of HR 4173 – The Dodd–Frank Wall Street Reform and Con-

sumer Protection Act of 2010.

According to the ASC, the increase is necessary to cut into its deficits and stay viable in light of the increased workload expected under the Dodd-Frank Act. Some of the new responsibilities the ASC expects to take under the act include the development of a grant program for state appraiser regulatory agencies to assist with enforcement, the creation of regulations in specific areas such as enforcement, the development of a hotline on appraisal independence and the generation of quality control standards for automated valuation models.