

West's Colorado Administrative Code

Title 700. Department of Regulatory Agencies

725. Division of Real Estate

4 CCR 725-2. Board of Real Estate Appraisers (Refs & Annos)

4 CCR 725-2:13

Alternatively cited as 4 CO ADC 725-2

725-2:13. DISCIPLINARY PROCEDURES

Currentness

13.1 Complaints alleging violation of the Colorado Real Estate Appraiser Licensing Act or the Board Rules must be in writing on a form or in the manner prescribed by the Board. Nothing in this Board Rule 13.1 will act to prevent the Board from acting upon its own motion to open a complaint.

13.2 Pursuant to [section 12-61-704\(1\)\(c\), C.R.S.](#), and [section 24-4-105\(3\), C.R.S.](#), any disciplinary hearing conducted on behalf of the Board may, at the discretion of the Board, be conducted by an Administrative Law Judge from the Office of Administrative Courts of the Department of Personnel & Administration.

13.3 REPEALED.

13.4 When a holder of a Board-issued license or Temporary Practice Permit has received written notification from the Board that a complaint has been filed against the holder, a written response to the Board is required to be submitted by the holder. Failure to submit a written response within the time set by the Board in its notification will be grounds for disciplinary action unless the Board has granted an extension of time for the response in writing and regardless of the question of whether the underlying complaint warrants further investigation or subsequent action by the Board. The licensee's written response must contain the following:

- A. A complete and specific answer to the factual recitations, allegations or averments;

- B. A complete and specific response to any additional questions, allegations or averments presented in the notification letter;

- C. Any documents or records requested in the notification letter; and

D. Any further information relative to the complaint that the licensee believes to be relevant or material to the matters addressed in the notification letter.

13.5 The holder of a Board-issued license or Temporary Practice Permit, including an owner of more than ten (10) percent of a licensed appraisal management company, must inform the Board in writing within ten (10) days of any disciplinary action taken by any other state, district, territorial, or provincial real estate appraiser or appraisal management company licensing authority. For purposes of this Board Rule 13.5, disciplinary action may include, without limitation, actions such as fines, required education, probation, suspension, revocation, letters of censure, debarment, required supervision, and the like.

13.6 Pursuant to [section 24-34-106, C.R.S.](#), when a licensee is required to complete real estate appraisal education as part of stipulation, final agency order, or stipulation for diversion, no portion of any such courses or programs will be creditable toward continuing education or qualifying education requirements.

13.7 Pursuant to [sections 12-61-713\(1\)\(a\) and \(k\), C.R.S.](#), a licensee must inform the Board in writing within ten (10) days of conviction of, entering a plea of guilty to, entering a plea of nolo contendere to, or receiving a deferred judgment and sentence to any felony or misdemeanor offense, excluding misdemeanor traffic offenses, municipal code violations or petty offenses. A licensee must inform the Board in writing within ten (10) days of any disciplinary action taken against any professional licenses held by the licensee, excluding the licensee's Colorado appraisal credential. For purposes of this Board Rule 13.7, disciplinary action include, without limitation, actions such as imposition of fines, required or remedial education, probation, suspension, revocation, letters of censure, debarment, mandatory supervision, and the like.

13.8 Board members, Division staff and contractors hired by the Division are not required to comply with USPAP in performance of the official duties that include, but are not limited to:

A. Investigations;

B. Work experience reviews conducted during license application processing;

C. The review or analysis of investigative findings, experience reviews, and/or work product reviews resulting from Board case resolutions; or

D. The review of the appraisal as part of an application.

An investigation or review conducted by staff, a member of the Board or a contractor hired by the Division is not considered an "appraisal review" or an "appraisal" as defined by the USPAP.

13.9 A licensee must respond in writing to any correspondence from the Board requiring a response. The written response must be submitted within the time period provided by the Board. The Board will send such correspondence to the licensee's address of record with the Board. Failure to submit a timely written response will be grounds for disciplinary action.

13.10 Exceptions and Board Review of Initial Decisions:

A. Written form, service, and filing requirements

1. All designations of record, requests, exceptions, and responsive pleadings (“pleadings”) must be in written form, mailed with a certificate of mailing to the Board and the opposing party.
2. All pleadings must be filed with the Board by 5:00 p.m. on the date the filing is due. These Rules do not provide for any additional time for service by mail. Filing is the receipt of a pleading by the Board.
3. Any pleadings must be served on the opposing party by mail or by hand delivery on the date on which the pleading is filed with the Board.
4. All pleadings must be filed with the Board and not the Office of Administrative Courts. Any designations of record, requests, exceptions, or responsive pleadings filed in error with the Office of Administrative Courts will not be considered. The Board's address is:

Colorado Board of Real Estate Appraisers

1560 Broadway, Suite 925

Denver, CO 80202

B. Authority to Review

1. The Board hereby preserves the Board's option to initiate a review of an initial decision on its own motion pursuant to [section 24-4-105\(14\)\(a\)\(ii\) and \(b\)\(iii\), C.R.S.](#) outside of the thirty (30) day period after service of the initial decision upon the parties without requiring a vote for each case.

2. This option to review will apply regardless of whether a party files exceptions to the initial decision.

C. Designation of Record and Transcripts

1. Any party seeking to reverse or modify the initial decision of the Administrative Law Judge must file with the Board a designation of the relevant parts of the record for review (“designation of record”). Designations of record must be filed with the board within twenty (20) days of the date on which the Board mails the initial decision to the parties’ address of record with the Board.

2. Even if no party files a designation of record, the record must include the following:

- a. All pleadings;
- b. All applications presented or considered during the hearing;
- c. All documentary or other exhibits admitted into evidence;
- d. All documentary or other exhibits presented during the hearing;
- e. All matters officially noticed;
- f. Any findings of fact and conclusions of law proposed by any party; and
- g. Any written brief filed.

3. Transcripts: transcripts will not be deemed part of a designation of record unless specifically identified and ordered. Should a party wish to designate a transcript or portion thereof, the following procedures apply:

- a. The designation of record must identify with specificity the transcript or portion thereof to be transcribed. For example, a party may designate the entire transcript, or may identify witness(es) whose testimony is to be transcribed, the legal ruling or argument to be transcribed, or other information necessary to identify a portion of the transcript.

- b. Any party who includes a transcript or a portion thereof as part of the designation of record must order the transcript or relevant portions by the date on which the designation of record must be filed (within twenty (20) days of the date on which the Board mails the initial decision to the parties).

- c. When ordering the transcript, the party must request a court reporter or transcribing service to prepare the transcript within thirty (30) days. The party must timely pay the necessary fees to obtain and file with the Board an original transcription and one (1) copy within thirty (30) days.

- d. The party ordering the transcript must direct the court reporter or transcribing service to complete and file with the Board the transcript and one (1) copy of the transcript within thirty (30) days.

- e. If a party designates a portion of the transcript, the opposing party may also file a supplemental designation of record, in which the opposing party may designate additional portions of the transcript. This supplemental designation of record must be filed with the Board and served on the other party within ten (10) days after the date on which the original designation of record was due.

- f. An opposing party filing a supplemental designation of record must order and pay for such transcripts and portions thereof within the deadlines set forth above. An opposing party must also cause the court reporter to complete and file with the Board the transcript and one (1) copy of the transcript within thirty (30) days.

- g. Transcripts that are ordered and not filed with the Board in a timely manner by the reporter or transcription service due to non-payment, insufficient payment, or failure to direct as set forth above will not be considered by the Board.

D. Filing of Exceptions and Responsive Pleadings

1. Any party wishing to file exceptions must adhere to the following timelines:

- a. If no transcripts are ordered, exceptions are due within thirty (30) days from the date on which the Board mails the initial decision to the parties. Both parties' exceptions are due on the same date.

- b. If transcripts are ordered by either party, the following procedure will apply. Upon receipt of transcripts identified in all designations of record, the Board will mail notification to the parties stating that the transcripts have been received by the Board. Exceptions are due within thirty (30) days from the date on which such notification is mailed. Both parties' exceptions are due on the same date.

2. Either party may file a responsive pleading to the other party's exceptions. All responsive pleadings must be filed within ten (10) days of the date on which the exceptions were filed with the Board. No other pleadings will be considered except for good cause shown.

3. The Board may in its sole discretion grant an extension of time to file exceptions or responsive pleadings, or may delegate the discretion to grant such an extension of time to the Board's designee.

E. Request for Oral Argument

1. All requests for oral argument must be in writing and filed by the deadline for responsive pleadings. Requests filed after this time will not be considered.

2. It is within the sole discretion of the Board to grant or deny a request for oral argument. If oral argument is granted, both parties will have the opportunity to participate.

3. Each side will be permitted ten (10) minutes for oral argument unless such time is extended by the Board or its designee.

13.11 A controlling appraiser must inform the Board in writing within ten (10) days of conviction of, entering a plea of guilty to, entering a plea of nolo contendere, entering an alford plea, or receiving a deferred judgment and sentence to any misdemeanor or felony relating to the conduct of an appraisal, theft, embezzlement, bribery, fraud, misrepresentation, or deceit, or any other like crime under Colorado law, federal law, or the laws of other jurisdictions.

13.12 A controlling appraiser, or an approved designee of a licensed appraisal management company, must inform the Board in writing within ten (10) days when an owner of an appraisal management company, possessing more than ten percent ownership of the licensed entity, has been convicted of, entered a plea of guilty to, entered a plea of nolo contendere, entered an alford plea, or receiving a deferred judgment and sentence to any misdemeanor or felony relating to the conduct of an appraisal, theft, embezzlement, bribery, fraud, misrepresentation, or deceit, or any other like crime under Colorado law, federal law, or the laws of other jurisdictions.

Credits

Amended Aug. 31, 2009; Feb. 3, 2010; Dec. 30, 2011; June 30, 2013; Aug. 30, 2014; Jan. 1, 2015; Jan. 1, 2017.

Current through CR, Vol. 40, No. 9, May 10, 2017.

4 CCR 725-2:13, 4 CO ADC 725-2:13

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.

West's Colorado Administrative Code

Title 700. Department of Regulatory Agencies

725. Division of Real Estate

4 CCR 725-2. Board of Real Estate Appraisers (Refs & Annos)

4 CCR 725-2:17

725-2:17. LICENSING REQUIREMENTS FOR APPRAISAL MANAGEMENT COMPANIES

Currentness

17.1 Prior to application for licensure for an appraisal management company or as a controlling appraiser, a person who has been convicted of, entered a plea of guilty to, entered a plea of nolo contendere to, or received a deferred judgment and sentence to a misdemeanor or felony, or any like municipal code violation, may request the Board to issue a preliminary advisory opinion regarding the possible effect of such conduct on an application for licensure. A person requesting such an opinion is not an applicant for licensure. The Board may, at its sole discretion, issue such an opinion, which will not be binding upon the Board; is not appealable; and will not limit the authority of the Board to investigate a later application for licensure. The issuance of such an opinion by the Board will not act to prohibit a person from submitting an application for licensure. A person requesting such an opinion must do so in a form prescribed by the Board. Such form must be supported and documented by, without limitation, the following:

- A. Court documents, including original charges, disposition, pre-sentencing report and certification of completion of terms of sentence;
- B. Police officer's report(s);
- C. Probation or parole officer's report(s);
- D. A written personal statement explaining the circumstances surrounding each violation, and including the statement attesting that "I have no other violations either past or pending";
- E. Letters of recommendation; and
- F. Employment history for the preceding five (5) years.

17.2 Pursuant to [section 12-61-707, C.R.S.](#) an applicant for an appraisal management company's or a controlling

appraiser's license who has been convicted of, entered a plea of guilty to, entered a plea of nolo contendere to, or received a deferred judgment and sentence to a misdemeanor or a felony, or any other like municipal code violation, must, with his or her application, include an addendum to the application in a form prescribed by the Board. Such addendum must be supported and documented by, without limitation, the following:

- A. Court documents, including original charges, disposition, pre-sentencing report and certification of completion of terms of sentence;
- B. Police officer's report(s);
- C. Probation or parole officer's report(s);
- D. A written personal statement explaining the circumstances surrounding each violation, and including the statement attesting that "I have no other violations either past or pending";
- E. Letters of recommendation; and
- F. Employment history for the preceding five (5) years.

17.3 Initial licenses will expire on December 31 of the year of issuance. All appraisal management company and controlling appraiser licenses expire annually on December 31.

17.4 An appraisal management company must have a controlling appraiser, with an active controlling appraiser's license, to perform services requiring a license. If the controlling appraiser leaves the employment of the appraisal management company, the controlling appraiser or an authorized representative of the appraisal management company must notify the Board within three (3) business days in a manner acceptable to the Board. Upon such notification or discovery by the Board, the license of the appraisal management company will be placed on inactive status unless or until a replacement controlling appraiser has been identified by the appraisal management company and approved by the Board or a temporary controlling appraiser license is timely processed by the Division.

17.5 The controlling appraiser license will be placed on inactive status upon notification to the Board that the controlling appraiser has left the employ of the appraisal management company. The controlling appraiser license will remain on inactive status until the license expires or the controlling appraiser is designated to be the responsible party for an appraisal management company.

17.6 An individual or company license cannot be transferred for use of the licensed name or license for the benefit of

another person, partnership, limited liability company, or corporation.

17.7 The controlling appraiser, or an authorized representative, must notify the Board within ten (10) business days of a change in ownership of the appraisal management company that results in a new owner who owns more than ten (10) percent of the entity, or a change in ownership that increases an existing individual's total ownership to more than ten (10) percent.

17.8 The Board may refuse to issue a license to a partnership, limited liability company, or corporation if the name of said corporation, partnership, or limited liability company is the same as that of any person or entity whose license has been suspended or revoked in any jurisdiction or is so similar as to be easily confused with that of the suspended or revoked person or entity by members of the general public.

17.9 No license will be issued to an appraisal management company under a trade name, corporate name, partnership name, or limited liability company name which is identical to another licensed appraisal management company. A license will not be issued to an individual proprietorship that adopts a trade name which includes the following words: corporation, partnership, limited liability company, limited, incorporated, or the abbreviations thereof.

17.10 All applications will contain a certification that the controlling appraiser is responsible for the appraisal management company. All applications will require the appraisal management company to identify at least one authorized representative responsible for contacting the Board when there has been a change in the employment of the controlling appraiser or there is a change in the ownership of the entity.

17.11 When an application for licensure as an appraisal management company is submitted, the controlling appraiser must certify the following:

A. If the appraisal management company is a corporation, that the corporation complies with [section 12-61-707\(8\)\(c\), C.R.S.](#) and that the controlling appraiser has been authorized by the corporation as the controlling appraiser for the corporation.

B. If the appraisal management company is a partnership, that the partnership complies with [section 12-61-707\(8\)\(a\), C.R.S.](#) and that the controlling appraiser has been authorized by the partnership as the controlling appraiser for the partnership.

C. If the appraisal management company is a limited liability company, that the company complies with [section 12-61-707\(8\)\(b\), C.R.S.](#) and that the controlling appraiser has been authorized by the company as the controlling appraiser for the limited liability company.

17.12 An appraisal management company is not required to be domiciled in Colorado in order to obtain a license, if the

company maintains a definite place of business in another jurisdiction and is registered as a foreign entity with the Colorado Secretary of State.

17.13 If the appraisal management company has no registered agent registered in Colorado, such registered agent is not located under its registered agent name at its registered agent address, or the registered agent cannot with reasonable diligence be served, the controlling appraiser, on behalf of the appraisal management company, may be served by registered mail or by certified mail, return receipt requested, addressed to the entity at its principal address and to the controlling appraiser's address of record. Service is perfected at the earliest of:

- A. The date the controlling appraiser receives the process, notice, or demand;
- B. The date shown on the return receipt, if signed by or on behalf of the controlling appraiser; or
- C. Five (5) days after mailing.

17.14 Applicants for licensure, activation, renewal, or reinstatement as an appraisal management company must certify compliance with [section 12-61-709, C.R.S.](#) in a manner prescribed by the Board. The surety bond must:

- A. Be for a minimum of \$ 25,000.00;
- B. Be in conformance with all relevant Colorado statutory requirements; and
- C. Cover acts contemplated for appraisal management companies under part 7 of article 61 of title 12 during the period of licensure by the appraisal management company.

Any licensed appraisal management company that certifies compliance and fails to maintain a surety bond, or to provide proof of continuous coverage, will be placed on inactive status:

- A. Immediately if a current surety bond is not provided to the Board; or
- B. Immediately upon the expiration of any current surety bond when certification of continued coverage is not provided.

17.15 An appraisal management company or controlling appraiser whose license has been placed on inactive status must:

- A. Cease any activities requiring a license.

- B. Cease all advertising of licensed services.

- C. If an appraisal management company, inform all clients of the company's license status and inability to provide any services requiring a license.

- D. If an appraisal management company, ensure that all appraisal fees collected from the client(s) have been accounted for and disbursed pursuant to [section 12-61-714\(1\)\(h\), C.R.S.](#)

- E. If an appraisal management company, fees for services requiring a license can be collected for licensed services performed prior to inactivation of the license.

17.16 Licenses will be issued by the Board in a timely manner after the receipt of a complete application, including required fees and all supporting documentation. The Board reserves the right to require additional information and documentation from an applicant in order to determine compliance with applicable laws and regulations, and to verify any information or documentation submitted.

17.17 If the fees accompanying any application to the Board (including fees for renewals, transfers, etc.) are paid for by check and the check is not immediately paid upon presentment to the bank upon which the check was drawn, or if payment is submitted in any other manner, and payment is denied, rescinded, or returned as invalid, the application will be deemed incomplete. The application will only be deemed complete if the Board has received payment of all application fees together with any fees incurred by the Division including the fee required by state fiscal rules for the clerical services necessary for reinstatement within sixty (60) days of the Division mailing notification of an incomplete application.

17.18 A temporary controlling appraiser's license may be issued to a corporation, partnership, or limited liability company to prevent hardship. No application for a temporary controlling appraiser's license will be approved unless the designated individual is a certified appraiser, in good standing. The temporary license is valid for ninety (90) days. Upon application and showing of good cause, the Board may extend a temporary license for one additional ninety (90) day period.

Credits

Adopted June 30, 2013. Amended Aug. 30, 2014; Jan. 1, 2017.

Current through CR, Vol. 40, No. 9, May 10, 2017.

