



DELAWARE APPRAISAL COUNCIL BUZZZZZZZZZZ

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Council Members

Steve Huston, Chairperson
Sussex County

George Fantini,
Vice-Chairperson
New Castle County

Neal Scott
Sussex County

Kevin Esslinger, Public Member
Kent County

Stephens Simmons, Public
Member
New Castle County

Richard W. Bauermeister, Public
Member
Sussex County

Arthur B. Cahall, Public Member
Kent County

Steve Huston and George Fantini Elected

At the January meeting, Steve Huston of Seaford was elected Chairperson of the Delaware Council. Steve is a Certified Residential Real Property Appraiser and works with his parents at Huston Appraisal in Seaford. Steve is also a Licensed Real Estate Salesperson. Steve replaces Don West who has served the maximum number of consecutive terms as Chairperson.

George Fantini of Wilmington was elected Vice-Chairman. George is a Certified Residential Real Property Appraiser. George is also a licensed Real Estate broker and owner of Century 21-Fantini. George replaces Charles Witt who served the maximum number of consecutive terms.

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Required Course

ALONG WITH THE REQUIRED 7-HOUR USPAP UPDATE, ALL APPRAISERS LICENSED IN DELAWARE, REGARDLESS OF LICENSING LEVEL OR IF APPLIED BY RECIPROCITY, MUST ALSO COMPLETE A MINIMUM 2-HOUR CLASS ON DELAWARE RULES AND REGULATIONS. MANY CHANGES HAVE OCCURRED OVER THE PAST FEW YEARS. IN ORDER TO KEEP YOU IN COMPLIANCE AND INFORMED, THIS CLASS IS NOW A REQUIRED CONTINUING EDUCATION CLASS FOR EACH LICENSING PERIOD.

2008 AQB criteria

You can obtain the most current and complete information relating to the qualifications and interpretations from the Appraisal Qualifications Board of the Appraisal Foundation at 1029 Vermont Ave., NW Suite 900, Washington, DC 20005-3517 or at its web site www.appraisalfoundation.org

Letter to Real Estate Commission

The following letter was approved by the Delaware Council and sent to the Real Estate Commission concerning *BROKER PRICE OPINIONS* in November of 2006. The letter went out under the signature of Donald West, Chairperson. The Real Estate Commission sent the letter in its entirety to the board of each county to disseminate to each of their members. Each board addressed it in a newsletter and/or in general broker/membership meetings.

Dear Commission Members:

As you are aware, the Delaware Council on Real Estate Appraisers is charged with the responsibility under Chapter 40 of Title 24 to protect the public, specifically those persons who are the direct recipients of appraisal services. A major portion of this undertaking is the licensing and regulation of those who perform appraisals in the state.

Delaware is a mandatory state. This means that a Delaware licensed or certified appraiser must prepare all appraisals, including those for loan purposes. The statute defines an appraisal as an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specific interests in, or aspects of, identified real estate as of a specific date. The Uniform Standards of Appraisal Practice defines an appraisal as an Opinion of Value.

Barron's banking dictionary defines a Broker's Opinion of Value as "an estimate of the probable selling price of residential property based on comparable prices of comparables properties in the area, or a drive-by inspection, which is often used by a mortgage service as an alternative to a full property appraisal when a loan is in default or loan terms are being modified. This is also called a *competitive market analysis*."

Section 4019 of Subchapter III of Chapter 40 of Title 24 says this statute "shall not apply to any Delaware licensed real estate sales person or broker, who prepares a *competitive market analysis survey* used only for the purpose of listing a property for sale or lease."

The members of Council are of the opinion the completion of Broker Price Opinions by anyone for any purpose other than for a listing presentation is in violation of Chapter 40 of Title 24.

Our statute provides a penalty: "if (anyone) is found guilty of engaging in the practice of appraising, or using in connection with the person's name, or otherwise assuming or using any title or description conveying, or tending to convey the impression that the person is qualified to act as an appraiser, such offender shall be guilty of a misdemeanor. "

Summary of the New 2008 Criteria to become Licensed or Certified

- **Licensed:** Must obtain 150 classroom education hrs (including the 15-hr USPAP), 2000 experience hrs, and pass the 2008 Licensed Real Property exam
- **Certified Residential:** Must obtain 200 classroom education hrs (including the 15-hr USPAP), hold an Associate Degree or higher or 21 college semester hours in specified coursework (in lieu of a degree), 2500 experience hrs over 24 months, and pass the 2008 Certified Residential Real Property exam
- **Certified General:** Must obtain 300 classroom education hrs (including the 15-hr USPAP), hold a Bachelor Degree or higher or 21 college semester hrs in specified coursework (in lieu of a degree), 3000 experience hrs over 30 months, and pass the 2008 Certified General Real Property exam

The fine shall not be less than \$500 or more than \$1,000 for the first offense. For a second or subsequent conviction, the fine shall be not less than \$1,000 or more than \$2,000 for each offense.

Few lenders know that Delaware is a mandatory state. It is a violation of the statute for a real estate agent or broker to complete a competitive market analysis or broker's price opinion to be used for lending purposes. Agents and Brokers must know and understand Delaware law regarding this issue.

We are requesting your assistance in notifying members of the real estate community about the Council on Real Estate Appraisers' regulations. If you have any questions, please do not hesitate to contact the Council.

Sincerely,

Donald E. West, Chairperson

Changes in Rules and Regulations

At the March 2008 meeting of the Delaware Council on Real Estate Appraisers, after a public hearing, a number of items were adopted. You should be made aware of these changes and looking for a few more to follow. You will find all of the Rules and Regulations on-line at www.dpr.delaware.gov. They will also be covered in the mandatory Delaware Law, Rules and Regulation Course.

(Information on rules and regulations changes is accurate to the date of the publication of the newsletter. The Council approved Rules and Regulations are published on the Council's website which can be found at www.dpr.delaware.gov.) (updated 10/23/09)

Changes in Continuing Education

Section 2.3.1.1 No continuing education is required for fewer than 6 months of licensure. *(This is a clarification necessary to correct a typo in earlier rules and regulation postings).*

Section 2.5.11 At least fourteen (14) hours of continuing education per licensure period must be taken in a traditional classroom setting with an instructor. The mandatory 7-hour USPAP update course must be taken in a classroom setting, with an instructor. *(This is a must for the 2007-2009 licensure time period. Watch for more changes in this area to be forthcoming).*

NOTE: *At the time of publication, the Council anticipated implementation of this rule change effective for the 2007 – 2009 licensure period. However, the final rule change specifically states an effective date of November 1, 2009. (updated. 10/23/09)*

Section 4.1.2 The license of a State licensed appraiser trainee shall be prominently displayed at his or her supervisor's place of business. *(This*

AQB 2008 Regulations Regarding Licensed Supervisors

- According to the new 2008 regulations set forth by the AQB, as of 1/1/2008 *NO* licensed real property appraiser may supervise a trainee. THE SUPERVISOR MUST BE STATE CERTIFIED!

FAQ

Question: When I complete the Appraiser examination, do I need to send my scores in to the office?

Answer: The Council receives a monthly report of all examinations taken. The report is sent directly from the testing service. Test results must be received 3 business days prior to the next meeting in order for the Council to review the record for approval of licensure.

replaces the requirement that the trainee must carry their license with them when performing an appraisal inspection).

Section 4.1.3 When performing appraisal, the licensee or certificate holder shall carry on his/her person the pocket card issued by the Council. *(This applies to all who hold any type of Delaware appraisal license).*

Section 4.1.6 All licensees and certificate holder shall notify Council in writing of each change of business address, residence address, e-mail address, business telephone number or trade name within ten (10) days of said change. The information provided shall be sufficiently descriptive to enable the Council to correspond with and locate the licensee or certificate holder. All licensees and certificate holders shall notify the Council in writing of each change or supervisor or employer, and shall provide Council with the new supervisor or employer's name, business address, and business telephone number. *(This is just common sense. We need to know how to locate you without a major manhunt)!*

Section 4.2.4 Beginning July 1, 2008, any person who has been subject to disciplinary action within the proceeding three years shall not be eligible to supervise trainees for three years after completion of any sanctions. *(This one will help improve our profession).*

Section 4.3.2.3 The trainee shall inspect the property and participate in the appraisal process in order to receive credit for the hours spent. In order for the trainee to receive experience log credit, either the contribution of the trainee shall be identified in the report, with the trainee identified by name, state and license number, or the trainee shall sign the report. The trainee shall sign the report as follows:

The trainee shall place on the "other" line in the signature section of the appraisal forms, his or her license # and the title appraiser trainee" in the appropriate places. For example:

"or other (describe) Appraiser Trainee DE #X4xxxxxx

Section 11.0 A number of additional crimes were added to those that may prohibit someone from licensure as an appraiser in Delaware. *(See the Rules and Regulations on line. For a complete list go www.dpr.delaware.gov .*

USPAP Questions and Answers

Geographic Competency in Appraisal Reviews

Need to file a complaint?

Visit our website at www.dpr.delaware.gov. Click on the link "File a Complaint" under the SERVICES menu

License Upgrades

If you are applying to upgrade your license (i.e. Licensed Real Property to Certified Residential), in order to pay the UPGRADE FEE only, you will need to have paid the renewal fee for the upcoming renewal period otherwise you must pay the FULL LICENSING FEE and the Federal Registry fee. For more information about the fees, visit www.dpr.delaware.gov.

Question: Can I authorize someone else to sign an appraisal report for me, using my signature? If so, could you identify what steps I must take to do this correctly?

Response: USPAP does not specifically state that the appraiser can only personally sign a report. It does state, in the definition of signature, that the signature must be "*personalized evidence indicating authorization*" and requires the appraiser to have "*sole personal control of affixing the signature.*"

Standard Rule 2-3 states: *Each written real property appraisal report must contain a signed certification*

In the definitions section, a signature is defined as:

Personalized evidence indicating authentication of the work performed by the appraiser and the acceptance of the responsibility for content, analysis and the conclusions of the report.

Comment: A signature can be represented by a handwritten mark, a digitized image controlled by a personal identification number, or other media, where the appraiser has the sole personal control of affixing the signature

Unless specifically contrary to the law of a particular jurisdiction, USPAP allows another person to sign for an appraiser, as long as it is with the appraiser's specific authorization and is clear. One solution would be for the other person to sign the appraiser's name and then write their own initials along side the signature by the word "by" for example, "by clw".

Appraisal Without Knowing Sales Prices

Question: I have been asked to perform an appraisal for a home that I know is under contract. No lender is involved and the buyer and seller do not want the appraiser to know the amount of the sales contract. Can I accept the assignment and still comply with USPAP?

Response: Yes. USPAP does not contain a requirement for the appraiser to know the pending sales price of the subject property.

Standards Rule 1-5(a) does require the appraiser to analyze all current agreements of sale, listings of the subject property, etc. when available during the normal course of business.

License Renewal

As per Rule and Regulations:

2.3.1.2 Effective with the licensure period beginning November 1, 2007, fourteen (14) hours of continuing education are required after at least *6 months* but fewer than *24 months* of licensure; and

2.3.1.3 twenty-eight (28) hours of continuing education are required after *24 months* of licensure

No continuing education is required for fewer than 6 months of licensure!

Don't let your license expire!

Licenses are renewed in October 31st of every odd year. Once your license expires, you are not allowed to practice. Remember to keep your license current. It is the licensee's responsibility to contact the Division if renewal information is not received. Renewal notices are usually sent out 60 days prior to the expiration. So be on the look out.

*When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser **in the normal course of business**, analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal.*

However, if the appraiser's scope of work and the normal course of business render the subject property's pending transaction details unavailable, the appraiser may be able to comply with USPAP without obtaining the information. For more information on the normal course of business, please see Advisory Opinion 24, *Normal Course of Business*.

It should be noted that even when the amount of the sale contract is unknown, this does not eliminate the appraiser's responsibility to analyze other information that is available related to the pending sale. This can be such information as marketing history and other details of the pending sale that may be available.

Due Process Under Confidentiality

Question: I received a request from my state attorney general's office to turn over some appraisal files I had prepared. Can I comply with this simple request or must it be in the form of a subpoena?

Response: The Confidentiality section of the ETHICS RULE states, in part:

An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client; state enforcement agencies and such third parties as may be authorized by due process of law.

USPAP does not identify what constitutes "due process of law." While a subpoena or court order might clearly constitute due process, a simple verbal request might not. Therefore, for requests of this type, it may be necessary to seek legal counsel to determine what constitutes "due process."

Appraiser Qualifications Report

Question: I've seen several narrative appraisals that include a copy of the appraiser's resume, professional qualifications, or curriculum vitae (CV). Does USPAP require an appraisal report to include the appraiser's qualifications?

Response: No. Although certain professional appraiser organizations or users of appraisal services might require the appraiser to include the appraiser's qualifications, it is not a USPAP requirement

FAQ

Q: I took a course in another state. The course is not listed on your approved course listing. How can I obtain approval of this course?

A: Per Rule & Regulation 2.5.10, "Educational Offerings that have documented approval by the AQB or by another state are automatically approved when they are submitted to the Council with a certificate of attendance. In cases where the educational offering has not been approved by the AQB or another state, either the provider or the appraiser must apply to the Council for approval using a form approved by the Council". Applications can be found on the website under "Forms" at www.dpr.delaware.gov.

Appraisal Report Received By Others

Question: I was recently contacted by a lender regarding an appraisal I had performed for another client. The lender had somehow obtained a copy of my

appraisal report and had some questions they wanted me to answer. However, this lender was not my original client and was not named as an intended user. Are there any USPAP violations against discussing my appraisal with this lender?

Response: Yes. USPAP prohibits the appraiser from communicating *assignment results or confidential information* (as defined in USPAP) to anyone other than the client and parties specifically authorized by the client (with the exception of those authorized by due process of law, etc.) Even if the lender who had contacted the appraiser was identified as an intended user in the original report, the lender is not part of the appraiser-client relationship. Therefore, authorization from the client would be needed if that lender wanted to discuss *assignment results or confidential information*.

Barring an agreement between the appraiser and the original client prohibiting disclosure of any information pertaining to the assignment, the appraiser may confirm that he or she performed an appraisal on the subject property, and may communicate anything other than *assignment results* (which include the appraiser's opinions and conclusions, in addition to the value conclusion), or *confidential information* (as defined in USPAP)..

Changing the Effective Date

Question: I recently had a client contact me and ask me to change the effective date of my appraisal, to make it one week after the effective date shown in my report. Does USPAP permit me to simply change the effective date without taking additional steps?

Response: No. As indicated in the SCOPE OF WORK RULE, the effective date of the appraiser's opinions and conclusions is an assignment element.

If the client is asking for an appraisal with a different effective date, the appraiser needs to determine the appropriate scope of work to produce credible assignment results for this request. Such a request would need to be considered a new assignment, but that does not necessarily require "starting from scratch." As with all new assignments, the appraiser must decide the appropriate scope of work to produce credible assignment results. This would include a decision as to whether or not it was necessary to perform another inspection, as well as the extent of any additional research and analysis that may be required. The scope of work for the new assignment can be different from the scope of work completed for the earlier assignment. As with any assignment, the appraiser might be able to use information and analyses developed for a previous assignment

Does Appraising a Physical Segment Require Use of a Hypothetical Condition?

Question: I received a request to perform an appraisal on an improved property; however, the client only wants me to provide an opinion of land value, giving no value to the improvements. Does such an assignment require the use of a hypothetical condition, since the improvements exist but are not being included in the value?

Response: No. Such an assignment does not require the use of a hypothetical condition.

Standards Rule 1-1(e) (v) permits the appraisal of a physical segment of a property. In this example, the segment being appraised would be the land. Put simply, the land is the subject of the assignment and the improvements are not. To avoid communicating a misleading appraisal report, the report would have to acknowledge the *existence* of the improvements on the land, but they do not have to be included in the value.

USPAP defines a hypothetical condition as:

...that which is contrary to what exists but is supposed for the purpose of analysis.

In this example, a hypothetical condition would not be required because the land does, in fact, exist. This is no different than the situation that commonly exists in appraisals employing the cost approach. In arriving at an opinion of value by the cost approach, an appraiser often develops an opinion of the site value as if vacant; separate from an estimated value of the improvements.

This can be contracted by an assignment that includes providing a current value of proposed improvements appraising the improvements if currently completed is contrary to what exists, so a hypothetical condition would be required in this case.

Must a Hypothetical Condition or Extraordinary Assumption Be Labeled?

Question: If I employ a hypothetical condition or an extraordinary assumption in an assignment, does USPAP require me to label it as such?

Response: No. USPAP does not require use of the specific terms *hypothetical condition* or *extraordinary assumption*. USPAP requires that all hypothetical conditions and extraordinary assumptions be disclosed clearly and conspicuously, and it must be disclosed that their use might affect the assignment results.

Name and Address Changes

If you are an appraiser trainee it is important that you contact the Division of Professional Regulation in writing with supervisor and/or address changes.

PAGE 4 OF THE APPLICATION FOR APPRAISER TRAINEE IS THE FORM THAT IS NEEDED TO BE COMPLETED AND RETURNED TO THE DIVISION OF PROFESSIONAL REGULATION FOR ANY SUPERVISOR WHO ADDS A TRAINEE OR ANY TRAINEE WHO CHANGES OR ADDS A SUPERVISOR

**** Please Note ****

A Certified Supervisor (X1 or X2) can only supervise THREE trainees at any time!!!! And Licensed Real Property Appraisers (X3) may no longer supervise a trainee as of January 1, 2008!!!

Reciprocal Licenses:

Currently, as it stands, when applying for a Delaware Real Estate Appraiser license via reciprocity you must obtain a letter of good standing from each state in which you are currently licensed or ever held a license – **THE COUNCIL WILL NOT ACCEPT ONLINE VERIFICATIONS OF YOUR LICENSE IT MUST BE SUBMITTED DIRECTLY FROM THE STATE LICENSING BOARD OFFICE.**

Is a Transmittal Part of an Appraisal Report?

Question: I recently completed an appraisal report that included a letter of transmittal as part of my report. Some of the items required to comply with the report requirements of USPAP appear only in the letter of transmittal. My client states that a letter of transmittal is not part of the appraisal report, and these items must appear within the body of the report to comply with USPAP. Is my client correct?

Response: No. The client is not correct. Although a letter of transmittal is not required by USPAP, there is nothing in USAPP that prohibits making a letter of transmittal part of the appraisal report.

It should be noted that USPAP does require an appraiser signing any part of an appraisal report, including a letter of transmittal, to also sign the certification.

Disciplinary Actions

William R. McCain (License #X1-0000045)

Mr. McCain of Salisbury, Maryland admitted to violating Rule 4.1.7 of the Council of Real Estate Appraisers by failing to put his Delaware license number on a report prepared by Gretchen M. Nichols, who was a trainee working under the his supervision. Ms. Nichols failed to identify herself as a “state licensed appraiser trainee” or “appraiser trainee” and failed to include her Delaware license number. In failing to properly supervise Ms. Nichols, Mr. McCain violated 24 *Del C.* Section 4009 c.

The Council accepted a Consent Order with the disciplinary sanction of a Letter of Reprimand permanently placed in Mr. McCain’s file.

Gretchen M. Nichols (License # X2-0000452)

Ms. Nichols of Salisbury, Maryland admitted to violating Rule 4.1.7 of the Council of Real Estate Appraisers by failing to identify herself as a “state licensed appraiser trainee” or “appraiser trainee” and failed to include her Delaware license number on the report. On the report Ms. Nichols also admitted to violating 24 *Dec C.* Section 4014 (a) (5).

The Council accepted a consent order with the disciplinary sanction of a Letter of Reprimand permanently placed in Ms. Nichol’s file.

Reporting of Disciplinary Sanctions

All disciplinary sanctions are reported as follows:

- 1....National Registry of the Appraisal Subcommittee (ASC)
- 2....Made a permanent part of the State licensing record and website
- 3....Reported to any other state where individual is licensed to practice

*** IT IS THE POLICY OF THE DIVISION OF PROFESSIONAL REGULATION THAT ONCE A LICENSEE HAS RECEIVED A DISCIPLINARY ACTION OF ANY TYPE IT IS PERMANENTLY ATTACHED TO THEIR DELAWARE LICENSE RECORD AND CAN NOT BE REMOVED ***

Got Comments?

If you have any suggestions or comments regarding the newsletter, please do not hesitate to forward them to nicole.monique.williams@state.de.us .

*Your Next Appraisal Assignment Below is due in **Two Days!** 😊*

