The Oregon Appraiser

Spring/Summer 1999

# Message from the ACLB chair

The board welcomes new member Terry Bernhardt, who represents the certified appraiser classification. Mr. Bernhardt has 30 years of appraisal experience and currently holds the Certified Residential Certificate. Mr. Bernhardt has served on several committees for the communities in which he works as well as for professional appraisal organizations. He is a native Oregonian who grew up in Tillamook and graduated from the University of Oregon. We welcome him to the board.

I would like to remind you that Uniform Standards of Professional Appraisal Practice (USPAP) 1999 became effective March 31, 1999. According to Oregon Administrative Rule (OAR) 161-025-0060, appraisals completed by appraisers in Oregon must now meet USPAP 1999 requirements. There have been several changes made to USPAP during the past year as a result of two exposure drafts from the Appraisal Standards Board (ASB). There were more than 1,500 written responses to these exposure drafts. The key features and changes for USPAP 1999 can be found on page E of the document and in the article on page 8 of this newsletter.

If you need a current USPAP 1999 document, you can order it electronically at the Appraisal Foundation's Web site: www. appraisalfoundation.org.

The Appraisal Subcommittee (ASC) that the federal agency created partly to monitor state appraiser regulatory agencies has made the national registry of real estate appraisers available to the public on the Internet. The ASC home page at www.asc.gov allows anyone to access information about every currently licensed or certified appraiser in the United States. The national registry was created partly to aid financial institutions, government agencies, and the public at large by providing a national database of active appraisers.

The ACLB is currently discussing OAR 161-010-0025 and improving the criteria for acceptable appraisal experience as defined in OAR 161-010-0020. Our board meetings are open to the public and public comment is welcomed. The board meeting schedule is on page 3 of the newsletter.

Please remember we welcome your feedback, comments, and ideas for future articles.

Roxanne R. Gillespie, MAI
ACLB Chair,

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**Appraiser Certification and Licensure Board of Oregon**

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Karen Turnbow
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*Auditor/Investigator*

Roger Hanthorn
*Office Specialist*

**Board members**

Roxanne Gillespie ..... Board Chair
*Certified Appraiser*

Nancy Gabert ..... Board Vice Chair
*Licensed Appraiser*

Autumn Rudisel ..... Bank Member
*Mortgage Banker*

Terry Morrison ..... Bank Member
*Banker*

Paul Zacha ..... Industry Member
*Certified Appraiser*

Roger Hansen ..... Public Member
*Right of Way Manager, ODOT*

Ellen Bachman ..... Public Member
*Attorney at Law*

Bill Braly ..... Ex Officio Member
*Policy Adviser, DCBS*

Terry Bernhardt .. Industry Member
*Certified Appraiser*

Gerald Curtis .... Industry Member
*Certified Appraiser*


# Fast facts

*by Linda Riddell, administrator*

### *The Appraisal Foundations USPAP course*

The Appraisal Foundation has announced that it is offering a course on the Uniform Standards of Professional Appraisal Practice (USPAP) that can be used by all educational providers. Known as the National USPAP Course, it is now available to the general public.

The course was developed by the seven appraisal sponsors of The Appraisal Foundation and was donated to The Appraisal Foundation. The appraisal sponsors of the Foundation are the American Society of Farm Managers and Rural Appraisers, the Appraisal Institute, the International Association of Assessing Officers, the International Right of Way Association, the National Association of Independent Fee Appraisers, the National Association of Master Appraisers, and the American Society of Appraisers.

In addition to being jointly developed by seven appraisal organizations, the National USPAP Course is the only standards course that has been reviewed by the Appraisal Standards Board to ensure consistency with USPAP and reviewed and approved by the Course Approval Program of the Appraiser Qualifications Board. The Appraisal Foundation will receive feedback from students, instructors, and state appraiser regulators on an ongoing basis to assist in making annual improvements to the course.

### *Board actions at the April quarterly meeting*

The board proposed to adopt the National USPAP Course by administrative rule as the required USPAP course for qualifying education. In addition, appraisers renewing their licenses or certificates will be required to take the course at least once every five years. If adopted by the board at its July 19, meeting, it will become effective January 1, 2000.

The board also proposed adoption of an administrative rule requiring appraisers to disclose in all appraisal reports the name and registration number of any appraiser assistants registered with the ACLB who provide assistance to the appraiser signing the appraisal report. If adopted at the July 19, meeting, this will be a supplemental requirement to USPAP and will become effective upon adoption.

Members of the ACLB have re-elected Roxanne Gillespie of Gillespie & Associates Inc., Eugene, as chair and Nancy Gabert of D.L. Bratton Appraisal Services, Bend, as vice-chair. Their terms are July 1, 1999 to June 30, 2000.

### *Exposure time linked to market value*

When the purpose of an appraisal assignment is to develop an opinion of market value, the appraiser must also develop an opinion of reasonable exposure time linked to the value opinion. This is a binding requirement from which departure is not permitted. SR 1-2.

### *Who can file a complaint?*

Oregon Administrative Rules Chapter 161 provides that any person may file a complaint. All complaints must be written and submitted to the administrator at the ACLB office. A complaint should include both allegations of violation and a copy of the appraisal report.

### *What is the difference between an extraordinary assumption and a hypothetical condition?*

An extraordinary assumption is an assumption directly related to a specific assignment, which, if found to be false, could alter the appraisers opinions or conclusions. Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property or about conditions external to the property, such as market conditions or trends, or the integrity of data used in an analysis.

A hypothetical condition is that which is contrary to what exists, but is supposed for the purpose of analysis.

Hypothetical conditions assume conditions contrary to known facts about physical, legal, or economic characteristics of the subject property or about conditions external to the property, such as market conditions or trends, or the integrity of data used in an analysis.

*Changes to your report certification*

The ASB has made revisions to the appraisers certification in Standard Rule 2-3, 1999 Edition of USPAP. These revisions are binding requirements and require real estate appraisers to modify their current certifications to read:

Standards Rule 2-3 (This standards rule contains binding requirements from which departure is not permitted.)

Each written real-property appraisal report must contain a signed certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

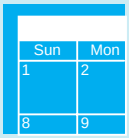
- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report, and no (or the specified) personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraisal property.)
- No one provided significant professional assistance to the person signing this report. (If there are exceptions, the name of each individual providing significant professional assistance must be stated.)

*Beware of requests on disk!*

It has come to the attention of the ACLB that a lender conducting business in the State of Oregon, as a matter of policy, requests that appraisers submit their appraisal reports on 3" disks in addition to hard copies. This is a violation of USPAP, unless you comply with the requirements of Statement 8.

USPAP requires the appraiser to protect the integrity of electronically transmitted reports. To electronically transmit an appraisal report, the appraiser must: (1) Enter into a written agreement with the client that clearly state the responsibilities and obligations of the appraiser and the client; (2) sign the certification page; (3) ensure that the signature is protected by a security feature for all appraisers signing the report; and (4) confirm the date, time, and quantity of data transmitted by the appraiser and the date, time, and quantity of data received by the client. ■

## Meeting dates for 1999




**July 19**
Quarterly board meeting

**October 18**
Quarterly board meeting

**September 16**
ARAC meeting

All meetings are open to the public. Auxiliary aids for those with disabilities are available with advance requests. Contact the ACLB office for specific times and locations of meetings, (503) 373-1505, or visit our Web site, www.cbs.state.or.us/aclb

## ACLB board vacancy

The governor's office is currently accepting applications for a licensed appraiser position on the board that will become available July 1, 2000. The member in this position serves a four-year term. If you are interested in being considered for this appointment, contact Linda Riddell, ACLB administrator, (503) 373-1505, or Lisa Howard, (503) 378-4863, in the Office of the Governor. ■

# Choosing comparable sales for the sales comparison analysis

*By Nancy Gabert, board vice chair*

Webster's Dictionary, 7th edition defines comparable as: "capable of or suitable for comparison", or "equivalent, similar." Application of these definitions to comparable sales in real estate appraisals indicates that these sales are suitable and have some measure of similarity and equivalency.

In residential appraising, several industry and practical requirements further define a comparable sale. Some considerations for selection of comparable sales are date of sale, location and neighborhood; site size and view; style and quality of the residence; age and condition; living area and room count; and special features and amenities. An excellent method of selecting a comparable sale is for the appraiser to assume the role of a prospective purchaser. If the appraiser were to purchase the subject property, what other properties would he or she consider alternative.

FNMA and lender guidelines have established that a comparable sale should be less than six months old. This six- month time frame provides some assurance that the sales reflect current market conditions. This time frame may be exceeded if comparable data from an older sale is explained and is provided as additional support. If properties are unique, it may also be appropriate to select older sales if they are more similar to the subject than other current sales.

The location and neighborhood are primary considerations for selection of sales data. Although other pertinent data may be available, sales from the immediate neighborhood reflect the same external influences that affect the subject property. Access to shopping, schools, employment, and recreation are also primary considerations. Negative factors, too, must be considered. Negative influences may include nearby industry, commercial usage, airports, freeways, power substations, etc. They are best measured by comparing other properties affected similarly. The age and condition of a neighborhood also need to be considered. These are objectively measured by neighborhood sales.

Specific site characteristics should be addressed in the selection of comparable data. Similarly sized sites with similar views are most appropriate and minimize the need to make adjustments based on subjective observations. New developments often provide lot sales information that can allow paired sales analysis for extracting a reasonable value difference.

However, reliable lot sales are not always available within established neighborhoods; therefore, properties with similar sites from the same area provide the most reliable data. Availability of public utilities, provisions for private services, off- and on-site improvements, and common areas are some critical site characteristics for selection of the best sales date.

Design differences and quality considerations must also be addressed by the appraiser. It is typically better to use all log-home comparable sales when appraising a log home and ranch-style home sales when appraising ranch-style homes. The appraiser needs to be aware that a great degree of difference in quality may exist between homes within the same neighborhood. In the example of log homes, construction costs range from $40 per square foot for an owner-built chinked log cabin to over $200 per square foot for a full Norwegian Scribe custom-built home. The design of the home dictates the ease or difficulty of construction. A rectangular home is easier to build; stock plans are usually appropriate. Inexpensive construction techniques, lower acquisition costs, and moderate curb appeal are to be expected. A complex design however, is more difficult to build; it has a custom

design that requires considerable engineering, unique construction methods, and higher costs. Finished, it has greater curb appeal. Design and quality considerations are typically interdependent.

The appraiser needs to consider the age and condition of the subject relative to the comparable sales. Actual age is the time a home has been in existence while effective age is the observed age of a home based on usage, maintenance, updating, remodeling, or lack thereof. Homes constructed within an era are more likely to have similar building codes, construction techniques, weatherization requirements, and components and features than those from a different era. It may be appropriate to select sales of new or nearly new homes when appraising homes built 50 years ago that have been completely renovated and incorporate modern codes and components like those of new homes. Condition is the observed state of exterior and interior components that are often short lived and is the measure of maintenance and pride of ownership within a home.

A consideration for a prospective purchaser and an appraiser in selecting comparables is the living area, room count, and functional utility of a property. Each purchaser has specific requirements for use. A retired couple may seek to minimize their investment in their home. They may find that one or two bedrooms in 600 to 1200 square feet of living area suits their needs. On the other hand, a family of seven would generally not find sufficient utility in such a modest home. They may require individual bedrooms, multiple baths, and recreation and private areas.

Finally, features and amenities need to be part of the appraiser's consideration for selection of appropriate data. Homes with enclosed in-ground swimming pools mandate comparison to homes with enclosed in-ground swimming pools. If a property has additional major features such as shops, guest houses, barns, it is reasonable to provide sales that have similar features. Lesser features such as fireplaces, decks and whenever possible, fences are not as critical although they should have direct comparisons. ■

# Visit our Web site!

The Appraiser Certification and Licensure Board Web site contains valuable information concerning real estate appraiser licensing, including:

- fees for services
- a search engine for a listing of approved education courses
- a search engine for a listing of Oregon appraisers
- link to The Appraisal Foundation
- links to other state appraiser boards
- appraiser application and renewal forms
- a list of ACLB members and staff
- a list of states with Oregon reciprocity, along with e-mail and Web addresses
- Q & A's on USPAP by the ASB
- newsletters from the ACLB and other state boards

Our Web site address: www.cbs.state.or.us /aclb ■

## Appraisers in Oregon

*(as of June 1, 1999)*

| | |
|---|---|
| Certified general appraisers | 614 |
| Certified residential appraisers | 105 |
| Licensed appraisers | 776 |
| Appraiser assistants | 282 |

# Enforcement actions

At the September 21, 1998, quarterly meeting, the Appraiser Certification & Licensure Board voted to publish all enforcement actions regarding complaints *filed* on or after January 1, 1998, in *The Oregon Appraiser.*

### January 1, 1998 to May 1, 1999

## 1998

**King, Chad M.** - L000376 (State-licensed appraiser): Default Final Order issued March 19, 1998, assessing civil penalty of $10,000, denying King's license renewal, and accepting the voluntary surrender of his license for violations of ORS 674.100. King prepared, completed and issued misleading appraisal reports by falsely representing himself as a State Licensed Appraiser after his license had expired and by falsely representing the expiration date of his appraiser license as October 31, 1999, when in fact it had expired on October 31, 1997 and had not been approved for renewal.

**Egan, Laurie E.** - L000349 (State-licensed appraiser): Stipulated Final Order entered May 15, 1998, assessing a civil penalty in the amount of $6,000, a formal reprimand and 10-day suspension for violation of ORS 674.140(1), (3) and (10). Egan was an accessory to unlicensed appraisal activity when an employee under her direct supervision conducted real estate appraisal activity in Oregon without being licensed or certified. The employee signed and issued appraisal reports on Oregon properties that Egan co-signed as supervisory appraiser.

**Rhoten, Ross M.** - L000764 (State-licensed appraiser): Stipulated Final Order entered October 22, 1998, assessing a civil penalty of $250 for violation of ORS 674.130, and Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rule 2-1(a).

**Reed, R. Joel** - C000436 (State-certified general appraiser): Stipulated Final Order entered October 26, 1998, assessing a civil penalty of $250 for violation of ORS 674.130, and Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rules 1-1(b) and 1-5(a).

**Cramer, Larry E.** - AA01069 (Registered appraiser assistant): Stipulated Final Order entered December 4, 1998, assessing a civil penalty of $1,100 for violation of ORS 674.100. Cramer unlawfully conducted real estate appraisal activity in Oregon without first being licensed or certified as an appraiser with the ACLB.

**Reinhart, Michael P.** - L000781 (State- licensed appraiser): Default Final Order issued December 8, 1998, assessing a civil penalty of $500 for violation of ORS 674.130 and Uniform Standards of Professional Appraisal Practice (USPAP) Standards Rules 1-1(b) and (c), and 1-2(a).

**Steingraber, Jeffrey S.** - CR00059 (State-certified residential appraiser): Stipulated Final Order entered December 22, 1998, assessing a civil penalty of $1,100 for violation of ORS 674.130 and OAR 161-025-0005. Steingraber was an accessory to unlicensed appraisal activity when an appraiser assistant under his direct supervision conducted real estate appraisal activity in Oregon without being licensed or certified. The appraiser assistant signed and issued appraisal reports on Oregon properties that Steingraber co-signed as supervisory appraiser.

**Addi, Cathy A.** - L001038 (State-licensed appraiser): Stipulated Final Order entered December 29, 1998 assessing a civil penalty of $700 for violation of ORS 674.130 and the Uniform Standards of Professional Appraisal Practice (USPAP) Ethics Provision Conduct Section and Standard Rule 2-1(a) in that she certified that she had personally inspected the subject properties and comparable sales, when in fact she did not, thereby creating misleading appraisal reports.

## 1999

**Normandeau, Zoe F.** - L000580 (State- licensed appraiser): Stipulated Final Order entered March 5, 1999, assessing a civil penalty of $1,400 for violation of ORS 674.130 and OAR 161-025-0005. Normandeau was an accessory to unlicensed appraisal activity when an appraiser assistant under her direct supervision conducted real estate appraisal activity in Oregon without being licensed or certified. The appraiser assistant signed and issued appraisal reports on Oregon properties that Normandeau co-signed as supervisory appraiser.

**Bires, Dale W.** - AA01137 (Registered appraiser assistant): Stipulated Final Order entered March 5, 1999, assessing a civil penalty of $1,400 for violation of ORS 674.100. Bires unlawfully conducted real estate appraisal activity in Oregon without first being licensed or certified as an appraiser with the ACLB. ■

# What is AARO?

*By Sherry Bren,*
*AARO immediate past president*

In 1991, after the first national State Regulators Conference hosted by the Appraisal Subcommittee in Washington, D.C., 12 states committed to charter membership in an Association of Appraiser Regulatory Officials (AARO). From a tentative beginning, AARO has emerged as an effective national organization of state real estate appraiser regulators representing 54 member jurisdictions. Additionally, 22 appraisal-related organizations have been accepted as affiliates.

Scott Williams, 1998-99 chair of the Appraiser Qualifications Board said in a 1997 letter to AARO "I was very impressed with how far the organization has come in a relatively short period of time. It is through the continuing efforts of organizations like AARO that the public will be protected and the cause of competent and ethical appraising will be advanced."

That is the mission of the Association of Appraiser Regulatory Officials: "to improve administration and enforcement of real estate appraisal laws in member jurisdictions." The mission of AARO is accomplished through communication, research, education and cooperation.

The member appraiser regulatory agencies of the various states and other jurisdictions of the United States are the voting entities of AARO. They are represented, supported, and strengthened by individuals from each jurisdiction. These representatives bring balance to the AARO forum by their wide range of knowledge, experience, geographical diversity, and perspective. They are appraisers, government regulators, attorneys, representatives of financial institutions and the real estate industry, and the general public.

As AARO matures, the gathering of information and research among the states becomes a valuable exchange of ideas. Procedures that have been successful in other member jurisdictions as well as common issues and concerns are often shared among jurisdictions. AARO facilitates communication between and among appraiser regulatory officials and others with an interest in appraiser and appraisal issues.

Cooperation with member jurisdictions and with all other organizations whose objectives are similar in nature to the objectives and purposes of AARO is the key to success.

The members of AARO welcome the opportunity to become a united voice for the real estate appraiser licensing and regulatory agencies of various states, working together through responsible and reasonable discussion of issues to influence in positive ways, the significant decisions and emerging issues in the appraiser regulatory process. ■

# The danger of *ex parte* communications

*by Linda Riddell, administrator*

*Ex parte* communications, which include instances of individual appraisers contacting members of the ACLB to get information about a pending or denied application; to discuss a pending complaint, supervisory audit or disciplinary action; or to attempt to influence a board decision, are improper and may be detrimental to the individual appraiser.

*Ex parte* communications are any oral or written communications received by ACLB members or the presiding officer, whether a hearings officer or an administrative law judge, when *all* parties are not present.

Such communications could cause a board member who may have voted in the individual appraiser's favor to abstain from voting on the application or disciplinary action in question when it comes before the ACLB.

Please address questions regarding applications, audits, and disciplinary matters to the ACLB staff. The staff will provide information and advice on procedures. ■

# Key Features of the 1999 Uniform Standards of Professional Appraisal Practice

*By the ASB of the Appraisal Foundation*

The 1999 USPAP is the result of two exposure drafts that occurred on December 22, 1997, and June 23, 1998. On the basis of substantial public testimony and more than 1,500 written responses at Appraisal Standards Board public hearings, the ASB formally adopted the 1999 USPAP on September 16, 1998. Based on the input of professional appraisal organizations, educators, regulators, and state enforcement agencies, the effective date of the 1999 USPAP is March 31, 1999.

## Key features of the 1999 USPAP

**Format:** The table of contents no longer has an introduction section.

**Terminology:** Language changes have been made throughout the document for clarification purposes. Examples include, but are not limited to, the following:

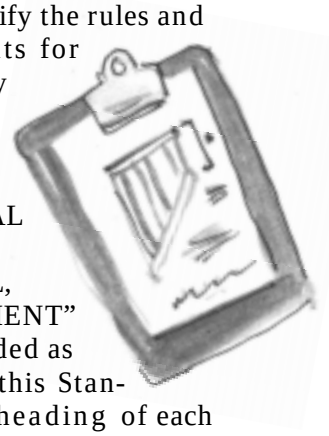
- the term "Provision" has been changed to "Rule"
- the term "estimate," when used for "opinion," has been changed to "opinion"
- the phrase "specific guideline" has been changed to "specific requirement"
- the term "consider" has been replaced with more specific language to identify the action required by a standards rule

**Ethics Rule:** The Conduct section has been changed to clarify the fundamental obligations of professional practice. The obligations associated with the use of hypothetical conditions have been moved to the development and reporting sections of the Standards Rule. Changes to the Management section clarify issues relating to contingent compensation. State enforcement agencies have been added to the list of parties included in the Confidentiality section. Additional text has been added to clarify the contents of the workfile discussed in the Record Keeping section.

**Departure Rule:** Additional comments have been provided to address scope-of-work decisions. Specific requirements regarding "applicable" or "necessary" is defined to better describe the minimum level of due diligence.

**Definitions:** New definitions have been added. New terms include *assignment, assumption, bias, confidential information, extraordinary assumption, hypothetical condition, scope of work, specific requirements, supplemental standards,* and *workfile.*

**Standard 1:** Changes have been made to clarify the rules and requirements for real property appraisal development. The phrase "REAL PROPERTY APPRAISAL, DEVELOPMENT" has been added as the title of this Standard. The heading of each Standards Rule now contains explicit language as to whether the Rule contains binding or specific requirements. Standards Rule 1-2 has been changed to incorporate the requirements of Statement on Appraisal Standards No. 9. Standards Rule 1-2 no longer permits departure. Additional language has been provided to address the purpose of the assignment, scope of work, extraordinary assumptions, and hypothetical conditions. It is important for all real estate appraisers to read the changes to this Rule and to the Standard.



**Standard 2:** The phrase "REAL PROPERTY APPRAISAL, REPORTING" has been added as the title of this Standard. The heading of each Standards Rule identifies whether the rule contains binding or specific requirements. The name of the restricted report has been changed to "Restricted Use Appraisal Report." Commentary has been added to clarify the conditions for using the different reporting options. Revisions have been made to the certification in Standards Rule 2-3. These revisions will require real estate appraisers to modify the language in their current certifications.

**Standard 3:** The phrase "REAL PROPERTY APPRAISAL REVIEW, DEVELOPMENT, AND REPORTING" has been added as the title of this Standard. The heading of each Standards Rule Identifies whether the rule contains binding or specific requirements. Additions and clarifications have been made to Standards Rule 3-1 and Standards Rule 3-2.

**Standards 4 through 10:** These Standards have not been changed except for clarifications and

Continued on next page

administrative edits to keep them consistent with other changes in the document.

**Statement 7:** Changes were made here to reflect the changes made in the Departure Rule.

NOTE: Administrative edits were made to all sections of this document for consistency.

### ASB work in progress

During 1998, the ASB received a substantial amount of information regarding USPAP and the process through which it is developed. It is evident that a better process for developing the document needs to be created. The ASB announced its plans to institute a new process at its July 1998 meeting. For major changes to USPAP, the ASB will implement a new working group process. The working groups will be part of the research step in the current exposure draft process. The intent of ASB interaction with working groups is to identify the official positions of organizations on USPAP topics, which can then be clarified or developed into exposure draft recommendations for public exposure. This working group process will be applied to topics relating to USPAP Standards 4 through 10 during 1999. ■

❑ Visa

❑ MasterCard

## ACLB takes credit cards

The ACLB now accepts Visa and MasterCard credit card payments for fees. Credit card payments may be made by walk-in, phone, or mail. To use your credit card, provide the name of the cardholder as it appears on the credit card, the credit card number, and the expiration date. ■

# Appraising properties with hypothetical conditions

*By Linda Riddell, administrator*

A hypothetical condition means "that which is contrary to what exists, but is supposed for the purpose of analysis." Hypothetical conditions assume conditions contrary to known facts about physical, legal, or economic characteristics of the subject property, such as market conditions or trends or the integrity of data used in an analysis.

When an appraisal assignment includes hypothetical conditions, the appraiser must comply with binding requirements as follows:

**Standard Rule 1-2(h) — Identify any hypothetical conditions necessary in the assignment.** A hypothetical condition may be used in any assignment *only* if: use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison; use of the hypothetical condition results in a credible analysis; *and* the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.

**Standard Rule 2-2 (a)(viii), (b)(viii), and (c)(viii) — State all assumptions, hypothetical conditions, and limiting conditions that affected the analyses, opinions, and conclusions.** Typical or ordinary assumptions and limiting conditions may be grouped together in an identified section of the report. An extraordinary assumption or hypothetical condition *must be disclosed in conjunction with statements of each opinion or conclusion that was affected.* ■

## *Thank you!*

The members of the Appraiser Certification & Licensure Board and the staff thanks the members of the Appraisal Review & Advisory Committee (ARAC) for volunteering their time to review appraisals submitted with complaints or audits for USPAP compliance.

If you are a licensed or certified appraiser in Oregon and not a member of ARAC, but have an interest in serving on the committee, you may contact the ACLB office at (503) 373-1505 for further information. ■

# Request for written comments

*From the ASB of the Appraisal Foundation*

The Appraisal Standards Board has issued for your information and comment an Exposure Draft of a Proposed Advisory Opinion on Unacceptable Assignment Conditions in Real Property Appraisal Assignments. The Appraisal Standards Board approved exposure of this document following its March 16, 1999, meeting.

Frequently, real property appraisers, particularly residential appraisers, are requested to provide appraisal services where the prospective client specifies a value estimate as an owner's estimate of value, a sales price, a desired loan amount or as a breaking point for the assignment. Appraisers report that the prospective client usually states that they do not want the appraiser to do any fieldwork. Some of these requested services are referred to as a "comp check", "a preliminary appraisal" or by other terms such as preliminary evaluation, study, analysis, etc. Some prospective clients indicate that if the numbers won't work, the appraiser can bill them for research services or a "preliminary" inspection. Other prospective clients will promise future assignments if the appraiser can make the present deal work. Appraisers ask if they can respond to such requests without violating USPAP and, if so, how?

This opinion of the ASB is considered to be an Advisory Opinion because it involves the application of existing information in USPAP to a specific issue. The ASB believes the level of information in USPAP is sufficient to address the scope of the issue at this point in time.

**The comment deadline for this draft Advisory Opinion is July 15, 1999. Written comments received by mail or facsimile (202/347-7727) prior to the deadline will be considered by the ASB.**

The Bylaws of The Appraisal Foundation and the ASB Rules of Procedure do not require that Advisory Opinions be issued for exposure prior to adoption. Given the amount of interest in this issue the ASB decided to expose, this Advisory Opinion for public comment.

Further distribution of this draft to other interested parties is encouraged. Please contact the ASB staff at (202) 347-7722 with any questions.

## PROPOSED ADVISORY OPINION

## SUBJECT: Unacceptable Assignment Conditions in Real Property Appraisal Assignments.

*Issue:*

All real property appraisal assignments involve conditions that affect the appraiser's scope of work and the type of report. What types of conditions are unacceptable?

*Background:*

Many residential property appraisers report requests for service where the caller includes statements or information in the request similar to the following:

I . We need comps for (property description) that will support a loan of_____; can you provide them?

2. Approximate (or minimum) value needed_____ .

3. Amount needed_____ .

4. Sales price _____ .

5. Owner's estimate of value_____ .

6. If this property will not appraise for at least _____, stop and call us immediately.

7. Please call and notify if it is NOT possible to support a value at or above _____, BEFORE YOU PROCEED!!!!

Appraisers report that the caller usually makes it clear that they do not want the appraiser to do any fieldwork. Some callers refer to the service requested as a "comp check" while others refer to it as a "preliminary appraisal" or use some terms other than appraisal (such as preliminary evaluation, study, analysis, etc.). Some callers indicate that, if the numbers won't work, the appraiser can send a bill for research services or a "preliminary" inspection. Other callers promise future assignments if the appraiser can make the present deal work, Appraisers ask "Can I respond to such requests without violating USPAP and, if so, how?"

## ADVICE FROM THE ASB ON THE ISSUE:

*Relevant USPAP References:*

Appraisers receiving requests for services that include the kind of information and situations described in the BACKGROUND section of this Advisory Opinion should carefully review:

- The Conduct and Management sections of the Ethics Rule, particularly in regard to assignments offered under condition of "predetermined opinions or conclusions" or compensation conditioned on the reporting of a predetermined value, or a direction in value that favors the cause of the client, or the amount of the value opinion, or the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the value opinion.
- The Definitions of "Appraisal", "Appraisal Practice", Assignment" and "Scope of Work" in USPAP.
- Standards Rule 1-1(b), particularly as it relates to diligence in the level of research and analysis necessary to develop credible opinions and conclusions.
- Standards Rules 1-2(f), (g) and (h), regarding identification of the scope of work necessary to complete an assignment, and any extraordinary assumptions or hypothetical conditions necessary in an assignment.
- Standards Rule 1-5(a) and (b), regarding the analysis of current or historical market activity regarding the property appraised.
- The Departure Rule, with particular attention to the appraiser's burden of proof in connection with the appraiser's scope of work decision and burden of disclosure in connection with any departures from specific requirements.
- Statement on Appraisal Standards No. 7 (SMT-7), particularly the Scope of Work and Levels of Reliability sections.
- As guidance, Advisory 0pinions AO- 11, 12, 13, and 15.

*Unacceptable Conditions:*

Certain types of conditions are unacceptable in any assignment because performing an assignment under such conditions violates USPAP. Specifically, an assignment condition is unacceptable when it:

- Precludes an appraiser's impartiality. Such a condition destroys the objectivity and independence required for the development and communication of credible results.
- Limits the scope of work to such a degree that the assignment results are not credible, given the purpose of the assignment and the intended use of those results.
- Limits the content of a report in a way that results in the report being misleading.

*Accepting Assignment Conditions:*

The purpose of an assignment and the intended use of the assignment results affect whether assignment conditions are acceptable. Some assignment conditions may be acceptable in one type of assignment but not in another. An appraiser should carefully consider the information provided by the client in a prospective assignment before accepting or declining the assignment. (See Statement on Appraisal Standards No. 9)

In the highly competitive financial services market, cost versus benefit is always an issue. Residential appraisers, particularly, have seen an increase in the use of sophisticated loan application screening tools by their lender-clients. Many lenders believe an appraiser can enhance their screening efforts by doing "preliminary work" which they do not view as an "appraisal."

Other client groups also ask appraisers to provide services under conditions that limit the Appraisers scope of work. Investors, trust administrators and portfolio account managers often require opinions and data from appraisers in order to make decisions. Attorneys often rely on appraisers in counseling their clients and in preparing for litigation.

When considering a request for service, appraisers should ascertain:

- whether the service involves an appraisal;
- what levels of risk are associated with the service, and
- whether there are any unacceptable conditions attached to the assignment.

Appraisers should take care to communicate with prospective clients to reach a common understanding about assignment conditions. Further, the appraiser and client need to recognize that:

1) **the type of assignment in each request described in the BACKGROUND section of this Advisory Opinion is an appraisal.**

If an appraiser is asked whether a specific property has a value (a point, a range, or a relationship to some bench-

Continued on next page

mark), that request is for an opinion of value (an appraisal). Appraisers, obligated to comply with USPAP, must develop a real property appraisal in accordance with Standard 1. Communicating that value opinion must be accomplished in accordance with Standard 2.

Appraisers, like other professionals, must ensure those who use their services recognize the amount of work required — and the expertise needed — to develop a credible value conclusion about a property.

*However*, this does not man that the appraiser cannot provide an economic and competitive service. Indeed, the Uniform Standards of Professional Appraisal Practice recognize the need for different kinds of appraisals. A competent appraiser can vary the scope of work in an assignment, in accordance with the purpose and intended use of the appraiser's opinions and conclusions in the assignment, and remain in compliance with USPAP.

**2) assignment limitations affect the level of risk accepted by each party in an assignment.**

Appraisers and users of appraisals should recognize that assignment limitations affect the reliability of an appraiser's opinions and conclusions. In some assignments, an appraiser can reasonably apply extraordinary assumptions or the Departure rule to compensate for assignment limitations. In other situations, the use of the same assumptions or Departure may not be acceptable.

When the client's intended use is to screen potential business for feasibility, a higher reliance on assumptions or extraordinary assumptions is more appropriate than when the client's intended use is for loan documentation or loan settlement. While the client can accept a higher level of risk in different situations, an appraiser should take reasonable care to inform the client of the risks involved with the assignment limitations.

**3) assignment conditions that compromise an appraiser's impartiality and objectivity in an assignment are unacceptable.**

While a client may feel that offering preference in current or future assignments based on "making the numbers work" in a specific assignment is appropriate, attaching such a condition to an assignment compromises an appraiser's impartiality and destroys the appraiser's credibility.

The Uniform Standards of Professional Appraisal Practice is explicit about such matters. Accepting an appraisal assignment under such a condition violates the Conduct section of the Ethics Rule in USPAP, which states:

> **An appraiser must perform assignments ethically and competently in accordance with these standards, and must not engage in criminal conduct. An appraiser must perform assignments with impartiality, objectivity, and independence and without accommodation of personal interests.**
>
> **An appraiser must not accept an assignment that includes the reporting of predetermined opinions and conclusions.**

Furthermore, accepting compensation for completing an appraisal assignment under such a condition violates the Management section of the Ethics Rule in USPAP, which states:

> **Whenever an appraiser develops an opinion of value, it is unethical for the appraiser to accept compensation in developing that opinion that is contingent upon:**
>
> 1. **The reporting of a predetermined value, or**
> 2. **A direction in value that favors the cause of the client, or**
> 3. **The amount of the value opinion, or**
> 4. **The attainment of a stipulated result, or**
> 5. **The occurrence of a subsequent event directly related to the value opinion.**

## Illustrations:

Some of the requests shown in the BACKGROUND section of this Advisory Opinion share common characteristics. Possible responses to each common group of requests could be:

1. *We need comps for (a specific property) that will support a loan of* _____ ; can you provide them?

   "Maybe, but I'll need to research the market to know whether the 'comps' will support a value range relative to the loan amount. In doing this, I will be deciding which sales are 'comps' and what those 'comps' mean. Those decisions will result in a range of value for your prospective borrower's property, which is an appraisal.

   You also need to recognize that there are risks in this kind of assignment. If I do what you ask, it will be a limited appraisal. You should realize that my value conclusion could change significantly if I subsequently perform a complete appraisal. Under the research and analysis limitations you suggest, I would not have verified some of the data and would have to use extraordinary assumptions about the market data and your borrower's property information. I would not have performed some of the analyses steps I might complete in an appraisal assignment without those limitations. If all of that is agreeable to you, we can proceed."

2. *Approximate (or Minimum) value needed* _____.
3. *Amount needed*_____.
4. *Sales price*_____.
5. *Owner's estimate of value*_____.

   "So long as the amount is only to inform me of your objectives or someone else's opinion, and not a condition for your placement of this assignment with me, we can proceed. However, if that amount is a condition of this assignment, accepting an assignment under that condition violates professional ethics."

6 *If this property will not appraise for at least* _____ *, stop and call us* immediately.

7. Please call and notify if it is NOT possible to support a value at or above BEFORE YOU PROCEED!!!!

   "Your request is acknowledged, but it is important for you to be aware that I must develop an appraisal before I can tell you whether the property will support the value indicated. It is also important for you to be aware that your statement of that amount with this request for service does not, in my view, establish a 'condition' for my performing the appraisal. If you intend it to be a condition for performing the assignment, I cannot accept the assignment because it violates professional ethics."

## Research Illustration:

The foregoing illustrations all include an appraisal assignment. In some situations, a client will request a service that is not an assignment as that term is defined in USPAP. The service to be performed by the appraiser in the following illustration is:

- not an appraisal assignment (the appraiser does not develop a value opinion);
- not a real property consulting assignment (the appraiser does not decide what data is relevant or the meaning of that data in the context of the client's intended use); and
- not a real property appraisal review (there is no appraisal to review).

The caller in this illustration is usually in the process of making a business decision and needs impartial and objective information, but has not yet decided whether to pursue the matter at hand. The caller knows there is the potential for needing an appraisal, depending, in part, on what the sale data shows. The caller also believes that, if the data indicates an appraisal is worthwhile, having that work completed by the appraiser in that subsequent assignment will lessen the time required to perform an appraisal. The prospective client may ask:

*We want you to check your data resources to see if there are sales within the past six months that are within one mile of [address]. If you find some, we may order an appraisal from you.*

Possible Response:

"If what you want is only the sales of properties shown in the data bases available to me with the criteria you specified, I can do that research and send you the result. Then, you can decide what you think your client's property is worth. If I do only that, it is just research and is not an appraisal.

However, you need to recognize that there are risks if you decide to have the research done that way. If you decide to limit my work to just gathering the sales data using the research criteria you set, you are taking the risk that those criteria are both adequate and appropriate to find all of the market data relevant to your client's property. You also take the risk that any appraiser's analysis of that data would result in a value conclusion within the price range suggested by the sales data assembled using your criteria. There is no assurance that such would be the case." ■

## Continuing education credit

Continuing education credits are awarded to appraisers who attend the Appraisal Review & Advisory Committee (ARAC) meetings. All meetings are open to the public. You need not be a member of the committee to attend. The last 1999 meeting is scheduled for September 16th. Each session is given three hours continuing education credit. Please contact the ACLB office for specific times and locations of ARAC meetings (503) 373-1505 or visit our web site, www.cbs.state.or.us/aclb ■

# Questions & answers

*From the Appraisal Standards Board State Advisory Bulletin*

This communication by the Appraisal Standards Board does not establish new standards or interpret existing standards. It's issued to state and territory appraisal regulators to inform them of the ASB responses to questions raised by regulators and individuals, to illustrate the applicability of USPAP in specific situations, and to offer advice from the ASB for the resolution of appraisal issues and problems. It does not constitute a legal opinion.

**Q Client X asked me to identify the client and intended users in your report as Client X "and/or assigns." Does including "and/or assigns" comply with Statement on Appraisal Standards No. 9?**

**A** Some clients request that "assigns" be included with them as intended users of the appraisal report for business and legal reasons. Including assigns as intended users is usually appropriate. A client's assigns generally would have the same rights, obligations and responsibilities regarding the use of the appraisal report as the client, and the assigns' intended use of the appraisal report would typically be the same as the client's. In effect, the assign becomes a substitute for the client. Further, to identify as intended users is to identify a type of user. Statement No. 9 permits the identification of intended users by type, not just by name.

**Q Can an appraiser prepare a retrospective appraisal, with an effective date of value as of five years ago, if that appraiser wasn't even an appraiser five years ago?**

**A** The appraiser must comply with the Competency Provision at the time he or she develops the appraisal, regardless of the effective date of value. If the appraiser is to develop a retrospective (or prospective) value opinion, the appraiser must be able — at the time he or she is performing the assignment — to deal with the nuances of such an assignment (e.g., to research data associated the retrospective or prospective date and to analyze the data in light of market conditions as of that date.) It is not necessary for the appraiser to be, or to have been, a competent appraiser as of the effective date of value.

An appraiser could develop a retrospective appraisal with an effective date of value that is prior to the appraiser's own date of birth. Likewise, an appraiser could develop a prospective appraisal with an effective date of value that occurs after the date of his or her own death. These would be legitimate assignments that could be completed according to USPAP. Yet certainly in such cases the appraiser could not be considered to be a competent appraiser as of those effective dates of value.

**Q Does Standard 3 apply to business valuation or personal property appraisal reports?**

**A** Standard 3 of USPAP applies only to the review of real property appraisals. It does not apply to the review of business valuation or personal property appraisal reports.

**Q There are two appraisers in my company. My partner appraised a certain property a year ago. Is it okay for me to now appraise the same property for a different client?**

**A** The requirements of USPAP are addressed to individuals, not firms. You may appraise the same property, just as a second appraiser who is not in your firm may do so. However, your partner must observe USPAPs requirements regarding confidentiality; i.e., your partner must obtain permission from the first client to divulge confidential data, information, or analyses to you. (See Statement No. 5 for more information.) Further, Standards Rule 2-3 requires the disclosure of any significant professional assistance provided. If your partner's previous experience with the appraisal of the property amounted to such assistance, it must be disclosed.

**Q I've been asked to "reassign" an appraisal performed for a mortgage lender to another mortgage lender. How do I respond to this request?**

**A** This question is addressed in Advisory Opinion AO-10, The Appraiser-Client Relationship, which states:

"The appraiser has a personal obligation and a professional responsibility to avoid any action that could be considered misleading and to protect the confidential nature of the appraiser-client relationship. Simply changing the title page or transmittal letter of an appraisal report without full disclosure of the original appraiser-client relationship is misleading."

When a party other than the client requests an appraisal report that identifies that party as the client, a subsequent appraiser-client relationship is being established; a second assignment is begun. The

appraiser must protect the confidential nature of his or her relationship with the first client, in accordance with the confidentiality section of the Ethics Rule.

You should treat the request for a reassignment as a request for a new assignment. You should obtain permission (preferably in writing) from the first client to proceed, and it must be understood by all parties that a second assignment with a different appraiser-client relationship is being established.

**Q A client asked me not to perform a cost approach in an appraisal assignment, but he doesn't want me to provide a limited appraisal, either. I have determined that the cost approach is relevant. Can I perform the cost approach and give it consideration in the reconciliation, but omit it from the report, which is a summary appraisal report?**

**A** If you have determined that the cost approach is applicable in this assignment, though not necessary in order to result in opinions or conclusions that are credible, then the appraisal would be a limited appraisal if you omit the cost approach. To provide the client with a limited appraisal but allow him to believe that it is not a limited appraisal would be fraudulent and misleading and clearly in violation of the Ethics Rule.

Further, Standards Rule 2-2(b)(ix) says the appraiser must, in a summary appraisal report, "summarize" the information analyzed, the appraisal procedures followed, and the reasoning that supports the analyses, opinions and conclusions. This requirement would not be met if you performed appraisal procedures but did not summarize those procedures in the report. The client and intended users of the report might indeed be misled or confused if discussion of an important part of the appraisal process was omitted from the report and yet that part of process was relied upon.

You should discuss the assignment further with the client and find out if the client wants you to omit the cost approach yet doesn't want a limited appraisal. Perhaps there is some misunderstanding on his part about the concept of departure. ■

## Criminal background checks

The ACLB conducts criminal background checks of *all* applicants for new and renewal appraiser licenses and certificates and of appraiser assistants. Applications require that applicants disclose all convictions of misdemeanors and felonies. Applicants not reporting all convictions of misdemeanors and felonies face a delayed application process and possible disciplinary action or denied application. ■

## ACLB board members

**Back row, left to right:** Autumn Rudisel, Terry Morrison, Terry Bernhardt, Gerald Curtis, Paul Zacha.
**Front row, left to right:** Roger Hansen, Roxanne Gillespie, Ellen Bachman, Nancy Gabert.
**Not pictured:** Bill Braly

## USPAP on line

The 1999 Uniform Standards of Professional Appraisal Practice can now be viewed on The Appraisal Foundation's Web Site under the ASB heading. There is a link to the table of contents on the Appraiser Certification and Licensure Board's Web page: www.cbs.state.or.us/aclb ■

# Change of address?

Don't forget that all appraisers, appraiser assistants, and applicants are required to notify the ACLB **in writing** of changes of address within 10 days of the change. You may send postal mail, faxes, or e-mail to:

Appraiser Certification
and Licensure Board
350 Winter St. NE, Room 21
Salem, Oregon 97310
Phone: (503) 373-1505
Fax: (503) 378-6576

E-mail:
linda.c.riddell@state.or.us

This newsletter is published by the Oregon Appraiser Certification and Licensure Board for professionals licensed by the board.

440-3221 (6/99/COM)

# Appraiser reciprocal agreements

Listed below are states with which the ACLB has reciprocity for real estate appraiser licensing and certification. You may contact the ACLB or any listed state for information and an application packet for reciprocal licensing or certification.

| State | Phone | E-mail |
|---|---|---|
| Alabama | (334) 242-8747 | N/A |
| Arizona | (602) 542-1539 | N/A |
| Arkansas | (501) 296-1843 | ALCB@mail.state.ar.us |
| Illinois | (217) 785-9634 | N/A |
| Kentucky | (606) 246-2011 | N/A |
| Louisiana | (504) 925-4783 | N/A |
| Maine | (207) 624-8520 | carol.j.leighton@state.me.us |
| Massachusetts | (617) 727-3055 | N/A |
| Missouri | (573) 751-0038 | jkolb01@mail.state.mo.us |
| Montana | (406) 444-3561 | pbragg@state.mt.gov |
| Nebraska | (402) 471-9015 | mjhass@nrcdec.dec.state.ne.us |
| New Hampshire | (603) 271-6186 | NHREAB@juno.com |
| New York | (212) 220-1682 | N/A |
| North Carolina | (919) 420-7920 | NCAB@NTWRKS.COM |
| North Dakota | (701) 222-8083 | ndapprbd@btigate.com |
| Ohio | (216) 787-3100 | N/A |
| Oklahoma | (405) 521-6636 | N/A |
| South Dakota | (605) 773-4608 | sherryb@cpr1.state.sd.us |
| Tennessee | (615) 741-1831 | N/A |
| Texas | (512) 465-3950 | rcliner@mail.capnet.state.tx.us |
| Washington | (360) 753-1062 | RealEstate@dol.wa.gov |
| West Virginia | (304) 558-3919 | wvappbd@wvnvm.wvnet.edu |
| Wyoming | (307) 777-7141 | cander2@missc.state.wy.us |

DEPARTMENT OF CONSUMER & BUSINESS SERVICES