

From the President



Laurie Egan, MNAA
NAA President

The Appraisal Summit and Expo, co-hosted by the National Association of Appraisers (NAA) and Columbia Institute, took place November 18th to the 20th in Las Vegas. Thank you to all of the sponsors, exhibitors, speakers,

media and attendees who made it the most successful event to date. With more than 300 in attendance, it was a wonderful opportunity to learn, gain CE credit, network, reconnect with long-time friends and make many new ones. I especially enjoyed meeting in person so many friends I've only communicated with by email or phone - and in this digital era, I bet I'm not the only one who put a lot faces to names this year! Special thanks to Teresa Walker and her amazing team who make all this happen. You rock, T.

The Fall NAA board meeting took place on November 17th and began with Immediate Past President and Founding Member, Michael Brunson, MNAA presiding over the election of 2016 NAA officers. I am truly honored to have been elected by the Board of Directors to serve as President of NAA for a second term and I'm doubly committed to the goals, mission and vision of NAA in my sixth and final year of service as a director.

I'm grateful to Marty Molloy, MNAA and Bob Keith, MNAA for their willingness to continue their service this year as Secretary and Treasurer respectively and it is a great pleasure to serve with Director, John Dingeman, MNAA, who was elected Vice President of NAA at the Fall



meeting. I'm also grateful to Director, Craig Morley, MNAA, who volunteered to take over the very big job of Chair of the Government Affairs Committee. Craig has already contributed a lot towards NAA/NAR government relations.

I would like to sincerely thank outgoing Directors Sam Henderson, MNAA and Fran Oreto, MNAA. Your contributions and dedication to the appraisal profession are innumerable and immeasurable. It has truly been a pleasure to work with you both and I look forward to doing so long into the future.

Due to a change in NAA's bylaws (shifting our Association Manager and Founding Member, George Harrison, MNAA, to a non-voting member of the board) we held a special election this year to fill the seventh voting board member position. As you know, the ballot included four highly-qualified candidates and I thank you all for your willingness to serve our professional peers in this capacity. Lori Noble, MNAA, from West Virginia was elected to the position by a vote of NAA membership. Welcome from all of us, Lori. We really look forward to working with you.

Another election will be held this Summer to fill the positions of three members who will be rolling off the board at the Fall 2016 meeting; Michael Brunson, Marty Molloy and myself, Laurie Egan. I would like to ask all NAA members to consider running for these positions.

While it's true that there is a commitment of time involved, the time I've spent serving with these amazing men and women has been one of the most gratifying experiences of my 28+ year career as a professional appraiser and I hope it's one you all experience during your careers as well.

(Continued on page 2)

Upcoming Meetings:

- Jan. 21—NAA Board of Directors Meeting (Conference Call)
- Jan. 29—APB Public Meeting, Las Vegas, NV
- Feb. 18—IAC Meeting, Tampa, FL
- Mar. 3-4—TAFAC Meeting, Washington, DC
- Apr. 8, 2016—AQB Public Meeting, Phoenix, AZ
- April 8-10—AARO Spring Meeting, Phoenix, AZ
- May 12—NACAO, Naples, FL
- Sept. 14-16—Appraisal Summit & Expo, Las Vegas (Tentative Date)

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Copyright 101



David M. Dingeman

This article is for educational purposes only and does not constitute legal advice. It is recommended that you seek legal counsel for specific matters.

BASICS

U.S. Copyright law protects all original works; U.S.C Title 17, Section 102 Subject Matter of Copyright summarizes that Copyright protection exists for original works of authorship published in any tangible medium including literary works and pictorial works. Copyright protection does not apply to ideas, procedures, processes or systems.

Copyright ownership is created once the author creates the work in a fixed form such as a Word document. The copyright is generally owned by the author unless the author has created the work for his or her employer and has a work for

hire agreement in place. Works do not have to be registered with the U.S. Copyright Office in order to have copyright protection. Registering your work with the Copyright Office provides certain advantages such as statutory damages and attorney's fees.

APPRAISALS

Appraisal reports are original works and are protected by copyright law. The appraisal report may be owned by the employer if done within the scope of employment or the appraisal report may be owned by the client if the client/appraiser included language in the contract that the appraiser is performing the appraisal as a work for hire.



APPRAISER WINS COPYRIGHT SUIT

Tim Vining is an experienced appraiser in Washington State who appraises very large agricultural properties. His appraisal reports are not the usual form-filled appraisal report but a very detailed appraisal report that is unique and recog-

nizable when pilfered by a data gatherer. He recognized a local broker had been using parts of his report in their listings and sued them in federal court. The judge ruled in Mr. Vining's favor and also permanently enjoined the Defendant from any form of copying his work in the future.

COSTS

The U.S. Copyright Office charges a \$35 application fee for registration of an individual work. Costs vary for filing a collection of works usually done by large organizations, such as MLS. Filing a U.S. federal court lawsuit may be cost prohibitive because you have to sue the defendant in their home state or place of business. Just to start, you would have

to pay the filing fees and serving the defendant fees. Some attorneys may take a case on a contingency basis though.

David Dingeman is an intellectual property attorney, practicing law in Dallas, Texas since 1998.

From the President (con't)

(Continued from page 1)

2015 was a busy year indeed and 2016 is looking equally eventful. As always, please contact me or any of the other members of the board to let us know your thoughts, ideas, concerns and victories. NAA is your association and we are committed to working on the issues that impact and benefit you as a professional appraiser.

Happy Appraising!

Laurie



Welcome New Board Member

Lori A. Noble, MNAA, is a certified residential appraiser in West Virginia, she launched her appraisal practice in 1996 as Noble Appraisal Company and in 2015, joined Real Property Consulting Group, a regional valuation consulting firm practicing complex, independent, appraisal analysis for commercial, and litigation. She is presently credentialing for her certified general licensure and student of Real Estate at Forbes School of Business.

Ms. Noble served as 2014-2015 President of the WV Council of Appraisal Professionals, actively par-

ticipates in studies and valuation issues that affect the appraisal industry in her state, as well as national platforms addressing ever-changing appraisal advancements and concerns. She is also an AI candidate for designation.

Lori is a mother of two boys and avid outdoor enthusiast, she enjoys time with friends and family exploring nature and all its wonders. The arts, travel, everything water related, and live-entertainment are some of her favorite hobbies.



The Three C's - CANDOR, CONTRITION, COOPERATION – When Your License is at Stake!



Charlie Franklin
Franklin Law Group

A reminder to ICAP appraisers and licensed professionals in general to remember those three words when dealing with

ally confront the problem – and deal with the inquisitors to get the issue resolved as favorably and expeditiously as possible. Though “they” may claim otherwise, it is important to remember they are not your friends – they are adversaries. Their job is to protect the public at large and not you.

But, they are not super humans. They have the same character traits as everyone else. Those traits, or strengths and weaknesses, are affected by a licensee’s attitude and approach. Attitude and approach have a significant impact on their treatment and perception of the problem.

COOPERATION: Just as honey gets more bees than vinegar, cooperation can go a long way. Cooperation makes their job easier. It establishes a rapport, a relationship. Fighting everything can be a good approach as the State has the burden of proof, but in a war of attrition, they will usually win as they have much deeper pockets and more assets than you.

CONTRITION: No one is sympathetic with arrogant people. When they fail, the reaction most usually have is “they deserved it.” People, however, are willing to forgive – even the mighty – if they express remorse or show regret. When someone

shows regret, a common reaction is to ease up – even those asking the questions!

CANDOR: Finally, the most important factor is honesty and sincerity. Without integrity, anything said

means nothing. All becomes suspect. Pleas fall on deaf ears. Someone may be guilty of exercising poor judgment, or poor decision-making or having poor work skills – all of which may be bad, but if then caught in a lie, it becomes akin to the situation where the “cover-up is worse than the crime”. The punishment or penalty or discipline will be meted out for that as opposed to the original issue which was brought before the regulators in the first place.

So when faced with this situation, reach out for help, but always, remember the Three C’s!



Charles Franklin brings extensive experience and expertise to his practice in general civil litigation and insurance related work, including both presentation of claims and defense of first and third party matters for policyholders and companies. Charlie represents financial institutions and businesses in loan workout and recovery issues, as well as highly regulated businesses and accountants, physicians, appraisers, inspectors, brokers, and other professionals, in malpractice claims, lawsuits and disciplinary proceedings at federal, state, county, and municipal levels, and before private certifying organizations (such as The Appraisal Institute and the Chicago Association of Realtors). In addition, he counsels clients on insurance claims, coverages and disputes, and loss mitigation. Charlie has often served as a “neutral” or an independent arbitrator being appointed by both policyholders and insurance companies.

difficult situations.

You open your mail one day and staring back at you is a letter in an official looking envelope from the State or some faceless bureaucratic staffer. Your stomach drops to the ground; you start gasping for breath. Whether or not you have done something wrong, you are instantly sick. An “investigator” has sent you an inquiry saying someone has “made a complaint against your license” or has accused you of being incompetent, unethical, or something worse. “They” now want you to “come in”, so “they” can “talk” to you. After your initial bad reaction, and after you have read the nastigram again, it is time to take a step back, regroup, and to decide what to

do. Whatever you do, it will certainly cost you some time, probably some money, and a huge amount of aggravation and angst.

First get a lawyer. The State will be represented by one or more of them and you should be too. It is almost always a disadvantage to go unrepresented. It is also penny wise and pound foolish. Remember, whoever “they” are, they can take your license and with it your livelihood. Realizing this, one must refocus – that is actu-



three Cs

TRID v Customary and Reasonable Fees



Joshua Walitt, MNAA

(This past week, I had the opportunity to discuss TRID with appraisers, lenders, and AMCs when I attended and spoke at the Appraisal Summit and Expo ([http://](http://www.appraisalsummit.net)

www.appraisalsummit.net). Clearly, there are misunderstandings of this lender disclosure rule.)

A few basics about the TRID rule (TILA RESPA Integrated Disclosure):

- The lender must disclose the appraisal fee to the borrower, and cannot collect more than the disclosed amount from the borrower at closing. This is a “Zero Tolerance” disclosure item.
- After the amount is quoted to the borrower, if the lender learns of a previously-unknown complexity related to the appraisal, that event may qualify as a “Changed Circumstance”, which may give the lender the option to re-disclose the higher fee amount to the borrower.
- If the lender already knew of the complexity (or reasonably should have known), then the lender cannot re-disclose (nor collect) a higher fee to the borrower. (Additionally, the lender always has the option to simply not re-disclose the higher fee to the borrower, but then cannot collect the higher fee at closing.)

Did you notice...? None of the above actions involve the appraiser!

TRID is a rule that governs activity and disclosure between the lender and the borrower – not the appraiser. In contrast, Customary and Reasonable Compensation (C & R) rules govern activity and payment between the lender and the appraiser.

The lender cannot pick and choose: it must comply with both sets of rules – TRID with the borrower, and C & R with the appraiser. Let’s look at an example...

The lender takes in an application for a single-family property with no known

complexities. The lender engages an appraiser who agrees to perform the specific assignment for \$X, and the lender discloses that fee to the borrower.

After the inspection, though, the appraiser notifies the lender that, since the property actually has an accessory unit, he/she will require a fee of \$Y (higher) due to that complexity. What are the lender’s options in handling this situation?

The lender may agree to pay the higher \$Y fee to the appraiser, so that the fee reflects the complexity in compliance with C & R. In terms of complying with TRID, the lender has a few options, depending on the specific situation and the lender’s interpretation of “changed circumstance”:

- the lender may choose to re-disclose the higher \$Y fee to the borrower so that it can collect that fee from the borrower at closing, if the lender believes the scenario meets the definition of “changed circumstance”; or,
- the lender may choose to not re-disclose the higher fee to the borrower, and simply absorb the difference itself when it pays the appraiser.

The lender cannot pick and choose: it must comply with both sets of rules

Regardless of the lender’s handling of “changed circumstance” or TRID disclosures, the lender is still subject to the C & R appraisal fee rules.

Appraisers are reporting that some lenders have stated the following in newsletters, blast emails, or other announcements:

- The lender will not ever increase the appraiser’s fee even upon discovering complexities; and or
- The lender will pay only a set fee to an appraiser (such as based on county or state) regardless of the complexity of the property or assignment.

The above-two lender policies are just that: lender decisions. Nowhere does TRID suggest that lenders should ignore complexities in an appraisal

assignment when determining a C & R fee to pay an appraiser. In fact, the above policies may prove to be problematic for lenders, due to AIR violations (appraiser independence rules) resulting from non-compliance with C & R rules.

After all, how could a lender produce a believable argument that the C & R appraisal fee for a property – now known to be complex – would be the same amount as when the property was originally believed to be non-complex?

Here are a few tips for appraisers:

- Conduct basic research about a subject property and quote the appropriate fee.
- When requesting fee increases, always cite the reasoning.
- “TRID” is not a compliant excuse for paying a non-C & R fee to an appraiser. TRID regulates disclosure between the lender and the borrower, and does not release the lender from its regulatory responsibility to pay C & R fees, including when a property is complex.

As with most government rules, lenders may end up having procedures that look slightly different from one lender to another. However, TRID-related lender policies should never distract from, be confused with, or “trump” compliance with the payment of customary and reasonable fees to appraisers when faced with complex properties or assignments. Complying with one rule at the expense of another, is never an acceptable approach to compliance.

Joshua Walitt, MNAA, is a Certified Appraiser in Western Colorado. He has written, and continue to write, blogs and articles online. He gives presentations and classes to lenders, homeowner groups, agents and attorneys. He served on Colorado’s ‘AMC Rulemaking Task Force’ in 2013. He has annually served as a Hearing Officer for the Mesa County Board of Equalization, for property value disputes.

Appraiser Turn Times



**John Dingeman, MNAA
NAA Vice President**

On September 18, 2015 the Oregon Appraiser Certification and Licensure Board (ACLB) sent an email to all its licensed appraisers regarding past-due Appraisal Reports.

The letter appeared to be a reaction to the numerous calls and complaints from appraisal users and advised the appraisers that “Accepting an assignment is also accepting the associated assignment conditions. Failing to adhere to the assignment condition can be an actionable violation of USPAP and Oregon Statute”.

This email was then shared via social media which created a firestorm amongst appraisers all across the country. Appraisers commented in outrage in forums and blogs without pausing to understand the issue in its entirety. It can, sometimes, be difficult to separate emotions and far too easy to voice our displeasure behind the guise of the Internet.

Not surprisingly, a direct lender quickly disseminated the letter to its panel of appraisers as its own which simply stoked the fire. Unintended consequences?

The Appraisal Institute (AI) immediately engaged the ACLB in a dialogue to discuss the merits of its accusation that not meeting a due date is in fact a USPAP violation and on October 15th the AI posted its concerns publicly on The Appraisal Institute’s Washington Report and State News (<http://www.appraisalinstitute.org/advocacy/washington-report/washington-report-state-news-current-issue/>). The discussion and debate is ongoing.

The Appraisal Foundation opined in a recent Appraisal Standards Board (ASB) webinar to state that the issue of due dates is a contractu-

al issue and advised that they would address it specifically in a Q&A this calendar year.

Appraiser’s in the meantime are left guessing as to which is the right answer. Oregon appraisers are reacting by pushing due dates further out just to ensure compliance. Comments on the forums and blogs, especially from appraisers, are also colorfully expressive to say the least.

In the email the ACLB references that “when an appraiser is unable to meet an agreed upon delivery date, it could cause harm to several parties”. It is this issue that we implore, like the ACLB, the appraiser to 1) read the engagement letter carefully, 2) consider asking for extended due dates when necessary, 3) communicating to your clients when there are delays and what those delays are, and 4) maintaining the professional decorum your clients (and yes, your peers) expect.

The mere mention of turn-times and due dates cause heartburn amongst us all. It seems like expected turn-times are decreasing with the Scope of Work increasing. Technology is and has been our friend in meeting

some of the demands, but it is not the one and only answer. If we take a moment to listen and digest the issue in its entirety, then maybe we can understand.

There are inherent and secondary costs to the mortgage finance transaction that may include moving trucks, movers, rent, insurance, PMI, and points to name a few; all of which can be quantifiable. Who pays for these and how much depends. If the consumer knew in advance that they were not going to be able to close the transaction as expected they could conceivably reschedule the moving truck or movers without penalty. Real estate agents could negotiate new terms for rent

on the existing property and the people moving in could make arrangements as well. MLO’s could request a rate lock extension at no cost to either the lender or the consumer. We neither ensure that a deal is consummated nor do we kill deals; but we do have an impact well beyond our opinion of value.

We all have the greatest of intentions as appraisers and as people in general. Usually, the masses pay for the sins of a few. We can all learn to manage our lives and our businesses more effectively every day. The consumer, the real estate agent, the MLO, the lender and the AMC can all be clients and referrals for one another and this will only happen if we too offer the best customer experience. I have valued properties over-and-over well below the perceived opinion of another while retaining their future business because of



“consumer confidence” in what I do. The time spent advising my client (whomever that may be) on any delays with the city, county, verification of data, etc. is well worth it and for most it saves time in the long run.

I have had clients from all sectors, AMCs, direct lenders, attorneys, accountants, real estate agents, and homeowners and all share the same desire for a quick turn-time and all demonstrate a certain level of impatience. So, if you think you need extra time or there is going to be a delay - communicate it. If you think your current workload is at capacity - resist the temptation to overbook. If you request an extended due date from your client – keep it. It is what we do to build and maintain our business as professional appraisers. If we can do that, then an email like the one shared from the ACLB most likely never occurs!

Stay safe and happy appraising.

Appraisal Board Complaints: You Can't Fight City Hall...Or Can You?



**Bob Keith, MNAA
NAA Treasurer**

You're in a hurry, trying to meet the next deadline, and you stop by the mailbox to pick up the mail before grabbing a quick bite to eat for lunch on your way to your next inspection.

There is the usual junk mail, a few bills, a birthday card from aunt Martha and a certified letter from...your state licensing Board. Uh oh, they don't normally send birthday cards, especially not by certified mail! As panic starts to well-up you set the envelope down on your desk and think, what possible good news could be contained herein? Sure enough, a complaint has been filed against you and you think, "Now what?! I can't fight City Hall!"

For 13 years, I was the guy sending those certified letters to appraisers and during that time I interacted with hundreds of appraisers who found themselves in the unenviable position of being on the receiving end. I am no longer a state appraiser regulator, and I would like to offer a few suggestions in case you are ever notified by your state board that a complaint has been filed against you. The three most important things for you to know (in order of importance) are:

1. Don't panic.
2. Don't procrastinate, and
3. Immediately begin seeking resources to assist you.

The dismissal rate of complaints across the country is much higher than you might think; some estimate it to be close to 50%. A well-written response to allegations is your first and best opportunity to have a com-

plaint dismissed, but this can be time-consuming. Therefore, you need to take immediate action to increase your chances of a positive result. Just as non-appraisers often have misconceptions and misunderstandings about the appraisal process, likewise, most appraisers lack experience and understanding in the legal process they are thrust into when facing a complaint. Having a complaint filed against you can be embarrassing, but don't let that interfere with effectively defending yourself. You must immediately start identifying resources that can assist you through this unfamiliar process.

Let's face it, appraisers are not necessarily "experts" in USPAP. Must they be? Well, no! All appraisers know the Uniform Standards of Professional Appraisal Practice (USPAP) are the minimum requirements governing an appraiser's ethical conduct and (appraisal) performance obligations. While portions of USPAP are clear and easy to understand, some would argue that the application of Uniform Standards of Professional Appraisal Practice in disciplinary matters is neither Uniform nor Standard.

What many appraisers don't realize is that not all state board appraiser---investigators are trained appraisers and are not actually experts in USPAP either. For example, a recent job posting in a Northwest state for an open appraiser "Investigator 3" position states... "This position supports the Department of Licensing, Business and Professions Division Real Estate, Real Estate Appraisers, Appraisal Management Company, Timeshare Licensing, Home Inspector Licensing, Camping Resort Programs." This means those who are investigating YOU for USPAP compliance could also be investigating alleged violators of time share, AMC, home inspection and camping resort requirements. In my tenure as the President of the Asso-

ciation of Appraiser Regulatory Officials, I also heard tales of investigators who worked on cases involving a bad embalming on Monday, a bad haircut on Tuesday and a bad appraisal on Wednesday.

Worse than that, most appraiser licensing Boards, who are charged with the responsibility of identifying USPAP violations, do not have a qualified USPAP expert serving on their Board or on their staff. There are roughly 80,000 licensed and certified appraisers in the United States and only 500 +/- are AQB Certified USPAP Instructors. In other words, only slightly more than one-half of 1% of all credentialed appraisers are qualified as experts in the minimum Uniform Standards of Professional Appraisal Practice. As a result, those making decisions about your professional license and career may be no more of an expert in USPAP than you are!

As appraisers know, USPAP addresses issues regarding an appraiser's minimum ethical and (appraisal) performance standards. When you face a complaint, are your interests protected from the standpoint of minimum compliance with standards? Or are you being judged by those who are not qualified USPAP experts or make compliance decisions based upon their personal standards of "best practices", regardless of what are the USPAP minimum standards of practice? This makes it that much more important to consult with your own expert.

Appraisers often feel intimidated when dealing with their State appraiser board during the complaint investigation and/or settlement process. On its face these feelings are natural, but they are compounded by the fact that the appraisal board appears to be holding all of the cards. Compared to a lone-appraiser, they have a seemingly disproportionate amount of financial and personnel resources and they ultimately have the power to decide what is (and what is not) a violation of USPAP.

*Let's face it,
appraisers are not
necessarily
"experts" in USPAP*

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What Does Your Appraisal Business Look Like in Three Years?



Dustin Harris, The Appraiser Coach

If I were to ask you to paint an accurate picture of what your appraisal business looks like three years from today, could you do it? If you can't answer this question, perhaps you are getting hung up on the word "accurate". Any

individual can guess what the future might look like, but can you make that prediction with some sentiment of reality?

In an exercise such as this, it is easy to get paralyzed by so many unknowns that are outside of our control. What will the markets do? Will Fannie/Freddie come up with additional requirements? What will my state board decide with that proposed rule change? Meanwhile, the things we do have some control over can equally stump us. What will my family dynamic look like in three years? Will that great new assistant I just hired stick around? Will my health hold up that long? There are always the 'what ifs' of life. The question is: can you create some sort of game plan despite the hurdles that will surely come?

As I have studied the Greats, I have found a common theme; successful people have vision. Those who find achievement in this life do not just sit back and allow it to happen. Rather, they take the proverbial bull by the horns. They look to a point in the future, spend some time visualizing what it looks like for them, and create a roadmap to get from here to there.

On the other hand, 98% (Brian Tracy's number, not mine) of all people have no vision beyond what they are planning to have for their next meal. Indeed, most people could not tell you what their business and/or life looks like one year from now, much less three years down the road.

As I interact with appraisers in person and online, I find a common theme, we appraisers in general are discouraged and generally fearful of the future. It is not surprising given what we have been dealt over the past few years. Scope creep, lower fees, challenges beyond our control, and hints of being replaced by some super-special Zillow matrix make it difficult to keep the old chin up on our present condition, much less our future. Despite this doom and gloom, there are plenty of appraisers who are making a decent living and loving what they do. How?

Though there is no one, single success model that fits all achievers, there are some general patterns that I have noticed. Firstly, they keep mostly to themselves. Rather than paint a bulls-eye on their chest, they go about doing their jobs and running their businesses quietly.

Secondly, they generally have a good attitude. I have heard the axiom "attitude is altitude" ad-nauseum, but there is still merit to its overall sentiment. I notice some appraisers spend so much time and energy complaining that I have a hard time figuring out how they have time to do any appraising. Successful appraisers have a system. They are continually refining and making their models better, and it works... consistently. Finally, business owners who have vision last. Not only are they setting goals (which is better than setting no benchmarks at all), but they can tell you exactly what their business looks like at the end of this year, next, and three years from now. It is not a vague "I hope I am still around in 36 months," but an illuminating "I will be doing 60% non-lender business, working 35 hours per week, have three employees, and netting \$145,000 per year." The more specific the plan, the more focused one can be on its achievement.

The problem with most of us is that we either don't stay focused on our plans or have no plans to begin with. Frankly, the latter is probably the case more than the former. We work day-to-day and paycheck-to-paycheck. A house does not get built without a blueprint and a business does not change without a plan for doing so.

We should all be actively involved in changing our current appraisal climate on a grand-scale. Join a professional organization. Be active in what is going on at your state

board. Write letters. Attend think-tank organizational meetings. Speak up! Do not be satisfied with the status quo, but real change is faster and more effective within the walls of your own office. What are you doing to make your life easier tomorrow than it is today? What will your business look like in three years? If the

answer to that question is, "About the same as it looks today, I suppose," perhaps it is time to sit down and create a vision.

Dustin Harris is a self-employed, residential real estate appraiser. He has been appraising for nearly two decades. He is the owner and President of Appraisal Precision and Consulting Group, Inc., and is a popular author, speaker and consultant. He also owns and operates The Appraiser Coach where he personally advises and mentors other appraisers helping them to also run successful appraisal companies and increase their net worth. His free podcast can be listened to on iTunes and Stitcher. He and his wife reside in Idaho with their four children. He has recently given up his addiction to Swedish Fish... at least for a few days.

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Be active in what is going on at your state board. Write Letters ...Speak Up!

Appraisal Board Complaints: You Can't Fight City Hall...Or Can You? con't

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They also have the advantage of being able to hold the most serious violations over the appraiser's head as leverage in order to encourage a "plea deal" in settlement negotiations. Failure to accept a settlement offer can result in an administrative (disciplinary) hearing that could cost an appraiser many thousands of dollars for a legal defense.

There are resources available to help you "Fight City Hall" when faced with a complaint. First, you should immediately notify your E&O insurance carrier to allow them opportunity to protect your interests, which is precisely why you carry that insurance. Failure to provide them timely notification of your complaint could negate benefits otherwise available to you under your policy.

Second, visit your State board's website and read all of the statutes and administrative rules/regulations that pertain to investigation of complaints and the enforcement and sanction process. It is imperative that you understand the legal process in which you've been injected. Also, most State boards have policies and standard operating procedures that supplement their statutes and rules/regulations. You should obtain all of this information and

study it as soon after being notified of a complaint as possible.

Find out whether any provisions exist to obtain an extension of time to satisfy any of the requirements placed on you for submitting a written response to the complaint or to produce copies of records demanded by the board in the complaint notice.

Third, you should carefully read the appraisal report that is the focus of the complaint and its corresponding workfile and then carefully read everything in the USPAP book from the Ethics Rule through Standard 2; include Standard 3 if the complaint against you involves an appraisal review assignment. This USPAP refresher will assist you in writing your written response to the complaint.

Finally, and perhaps most importantly, you should consult with another appraiser to review the allegations contained in the complaint filed against you and your appraisal report. Use the information from your consultant-reviewer to assist you in writing your response to the complaint. The state licensing board will conduct an investigation that will likely result in an investigative report; you should do no less. In light of comments made earlier in this article, I strongly recommend that your consultant-

reviewer be an AQB Certified USPAP Instructor.

Having a complaint filed against you is a frightening experience, but it does not automatically mean that you're going to be disciplined by your state licensing board. Don't panic, but don't delay either. You "Can Fight City Hall", but must be willing to utilize resources that are readily available.

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Having a complaint filed against you is a frightening experience

About the author: Bob Keith, MNAA, IFA is an AQB Certified USPAP Instructor, Certified General Appraiser, former Executive Director of the Oregon Appraiser Certification and Licensure Board, past President of the Association of Appraiser Regulatory Officials, past Chair of The Appraisal Foundation Advisory Council, has served as a subject matter expert for two national exam providers and is an experienced appraiser educator. Mr. Keith currently serves as a board member and Treasurer of the National Association of Appraisers, is CEO of Valuation Compliance Resource and is the Compliance Officer for First Choice Appraisal Management. Keith also offers consulting to appraiser's nationwide facing state board complaints.

Personal Property Corner



Edward Scott Bales, MNAA, NAA
Personal Property Committee Chair

On September 2, 2015 the first Personal Property Committee Meeting was conducted via teleconferencing. Each member presented a brief introduction.

Ed Bales of course is the Committee Chairman

and Ron Allan is his assistant. Judy Pearson is co-founder of Aristitle Insurance Corporation providing insurance for fine arts, cars, wine collections, memorabilia, etc.

Valerie McAleenan owns two businesses and her specialty is needle work.

These varied perspectives will prove to be valuable assets for the newly formed Personal Property Committee. We discussed the alli-

ance between NAA and

Asheford Insti-

tute, the details of which will be presented at the next board meeting. We are excited about the formation of the new committee and the start of our formal meetings. Stay tuned for more information and updates. Anyone wishing to join the Committee please contact

ron@edwardscottappraisals.com.



Still not sure about FHA's Handbook 4000.1?



Bobby W. Crisp, MNAA

The Department of Housing and Urban Development (HUD) released the long awaited consolidation of all its

Handbooks and Mortgage Letters by publishing the FHA Single Family Housing Policy Handbook 4000.1, which became effective September 14, 2015.

Although there have been courses taught, appraisal group discussions on forums, blogs across the internet, Facebook pages, and tons of other media formats regarding the new Handbook 4000.1, there are those that are still "on the fence" or "just not quite sure" about this new Handbook.

I receive emails and phone calls almost every day since the new Handbook 4000.1 was released. Many appraisers from all over the country are asking several of the same questions. So, I thought I would try to shed some light regarding those most frequently asked.

Attic Space –

- FHA wants appraisers to observe the interiors of all attic spaces. If there are 3 separate attic spaces (one in the garage, one in a hallway, and another in the owner's bedroom closet), look in all three.
- Don't do anything that is unsafe. Do not disturb insulation. Do not move personal items. Don't move furniture, equipment or anything that obstructs access or visibility. If unable to view the area safely in their entirety, the Appraiser must contact the lender and reschedule a time when observation can be performed OR complete the appraisal subject to inspection by a qualified third party.
- In cases where access is through a scuttle and is limited where the appraiser cannot fully enter the attic, at least a head and shoul-

ders view will suffice. If there is no access at all, then the appraiser is to report lack of accessibility in the report. Do not cut open walls, ceilings or floors.

Appliances –

- Cabinets and built-in appliances that are considered real property must be present and operational.
- Appraisers must note the appliances present at time of observation and indicate whether that appliance is considered personal property or real property.
- Appraisers must operate all conveyed appliances and observe their performance. Notify the lender if any conveyed appliances are inoperable.

Many appraisers have claimed that this is "new".

Actually, it isn't. FHA has always wanted to know the property's Condition.

Appliances are part of the property. Appraisers have always identified those appliances that were present on the effective date. How can the condition of something be determined if we don't test it? Appraisers have always been required to test the hot water – to see if the water heater operates and that the plumbing system operates properly. Appraisers have always been required to test the heat & air – to see if the heating & air conditioning unit operate. Same goes for the appliances.

With today's technology, some appliances have more buttons and controls than a cockpit of an airplane. If you are unable to operate an appliance, require an inspection by a qualified third party.

Electrical System –

- No visible frayed wiring
- No exposed wiring
- Includes garages and basement areas
- Report if the amperage and panel size appears inadequate for the property
- Operate a sample of switches, light fixtures, outlet receptacles
 - Inside the house
 - Garage
 - Exterior walls
- Report deficiencies
- Appraiser is not required to insert any tool, probe or testing device inside the electrical panel (breaker box) or to dismantle any electrical device or control.

Final Inspection –

When is the 1004D to be used for finals vs. the Compliance Inspection Report (CIR)?

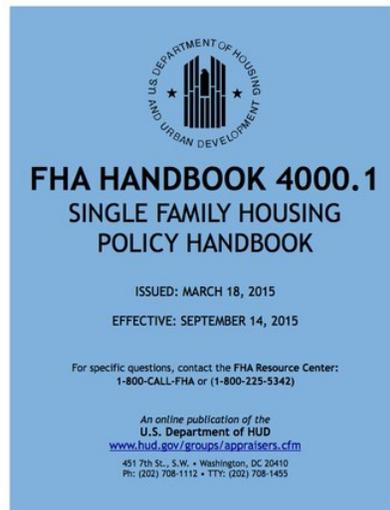
- If your client is requesting a Final for a property that is New Construction or Manufactured Housing – Appraisers are to provide the HUD-92051 Compliance Inspection Report (CIR) in a pdf format.
- If your client requests a Final for an Existing Property (repair items) – Appraisers are to provide

the Fannie Mae Form 1004D/ Freddie Mac Form 442 Appraisal Update and/or Completion Report in MISMO 2.6 Errata 1 format

Many have replied to me that "my client requires the 1004D for new construction finals." That may very well be so. But, FHA wants the CIR.

These are the areas that appraisers ask about most often. For those appraisers that have performed appraisals for FHA-insured transactions in the past, the most important thing to remember is that FHA has not changed their stance on any exami-

(Continued on page 10)



Still not sure about FHA's Handbook 4000.1? con't

(Continued from page 9)

nation items. They may have added some commentary for clarification and so that appraisers understand what exactly FHA wants us to observe. I know there will be those that do not agree, but nothing has "changed". If you feel that FHA has changed the way they want appraisers to examine a property, maybe you haven't been doing it correctly all along.

Here is a link to the Single Family Policy Handbook 4000.1:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/handbook_4000-1

At the right side of the webpage, there is an on-line version and a pdf version that can be downloaded. At the bottom right, there is a link to subscribe to FHA INFO announcements and SF NEWS.

Also on this page there is a link called "Supplemental Documents" that will provide a list of documents that supplement the Handbook 4000.1. On the Supplemental Documents webpage, there is a link to the **Appraisal Report and Data Delivery Guide**, which provides line-by-line instruction on how to complete the URAR for FHA.

Food for thought!

Bobby Crisp, MNAA is the owner of Crisp Appraisal Service currently located in Schertz, TX (just northeast of San Antonio) and has been appraising real estate since 1992. He is

Appraiser is not required to insert any tool, probe or testing devise inside the electrical panel (breaker box) or to dismantle any electrical devise or control.

a Certified Residential Appraiser in the State of Texas. He is an AQB Certified USPAP Instructor (Uniform Standards of Professional Appraisal Practice) and has taught a variety of qualifying and continuing education appraisal courses, as well as making presentations at national appraisal conventions and to local lenders, underwriters, Realtors and agents over the past 15 years.

He is one of the founding members of the National Association of Appraisers and the Association of Texas Appraisers (ATA) where he is currently serving as its Chairman of the Board.

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NAA Welcomes New Board of Governors Member



Jay Proost, ASAA
Executive Director

NAA welcomes Board of Governors Member, American Society of Agricultural Appraisers. The American Society of Agricultural Appraisers (ASAA) is an organization of appraisal professionals and other parties interested in the appraisal profession. Founded in 1980, the ASAA is the nation's only appraisal association exclusively for livestock and farm equipment appraisers.

The NAA board created this category of membership to unify state organization and to allow them to have a voice on a national level.

BOG membership includes:

- Members of the organization automatically become Affiliate Members of NAA (\$50 value)
- Access to timely information affecting appraisers via the 4-1-1 publication
- Representation at regional and national events that affect appraisers
 - ◆ ASB/AQB/APB Meetings
 - ◆ NACAO
 - ◆ ASC Meetings
 - ◆ AARO Meetings
 - ◆ TAFAC Meetings
 - ◆ NAR Meetings
- A voice in national and state Legislative and Policy issues that affect appraisers
- A seat on the Board of Governors of NAA – allowing influence on the policies and direction of the NAA
- Special offers on Continuing Education classes/seminars/events

that your Organization can use to increase membership and revenue

- Members receive a discount on the Appraisal Summit conference held annually in Las Vegas (\$30 Value)
- Discounts on Disto Products (Up to \$100 value)
- Discounts on a la mode events
- Discounts on background checks via our partnership with Comergence

If you know a member of a state organization, encourage them to join NAA as a BOG member.

For more information on the Board of Governors, contact NAA BOG Membership Chair Mike Brunson at mike@redamages.com or membership@naappraisers.org.



2016-2017 USPAP Changes

Don't forget the 2016-2017 USPAP is now in effect. Please make sure you are familiar with the significant changes which were adopted with an effective date of January 1, 2016:

- Revisions to the RECORD KEEPING RULE
- Revisions to STANDARD 3
- Revisions to the Definition of Assignment Results and Confidential Information and to the Confidentiality section of the ETHICS RULE (Note: this change included language that appeared in the Third Exposure Draft, but not in the Fourth Exposure Draft.)
- Revisions to Reporting Standards
- Other USPAP Edits
- Retirement of all STATE-

MENTS ON APPRAISAL STANDARDS

(The requirements of the statements were essentially replaced by the following Advisory Opinions.)

- ADVISORY OPINION 33: Discounted Cash Flow Analysis
- ADVISORY OPINION 34: Retrospective and Prospective Value Opinions
- ADVISORY OPINION 7: Marketing Time Opinions
- ADVISORY OPINION 35: Reasonable Exposure Time in Real and Personal Property Opinions of Value
- ADVISORY OPINION 36: Identification and Disclosure of Client, Intended Use, and Intended Users

In closing, perhaps the most pressing change was to the Confidentiality Rule which clarifies the appraiser's responsibility in maintaining files.



On the road to success, the rule is to always to look ahead. May you reach your destination, and may your journey be wonderful. Happy New Year.

NAA-Action -

Advocacy – for the best interests of appraisers and the public

Challenge – any action or proposal that would disadvantage appraisers

Timely – commitment to issues

Information – provided that's both accurate and current

Objectivity – in analysis, reporting and education

Now – forward to a better future



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2015-16 NAA Board of Directors (Nov. BOD meeting): left to right—Bob Keith, MNAA (Treasurer), Marty Molloy, MNAA (Secretary), John Dingeman, MNAA (Vice President), Laurie Egan, MNAA (President), Craig Morley, MNAA and Mike Brunson, MNAA (Past President)



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