From the President

A few months ago I had an exchange with another NAA member who expressed concern about the poor public perception of appraisers. He pointed out that appraisers were “blamed for a lot of the past mortgage debacle.” The recent economic crisis is not the fault of appraisers, of course, but we were easy targets for those who wished to simplify the problems leading up to the meltdown – and it’s true that this has contributed to the poor perception of appraisers.

On that note, a few weeks ago I visited with a friend (a non-appraiser) who related to me a story about recently refinancing four rental properties and a primary residence. The portion of the story that related to the appraisal and appraisal process made me wince.

It was through the eyes of a non-appraiser that I realized one of the most effective ways to improve public perception of appraisers is to remember that behind each and every appraisal performed for mortgage lending purposes, there are real people with real (and often very stressful) circumstances. I’m not suggesting that an individual’s circumstances should compromise our independence, objectivity or impartiality, but employing some empathy and being mindful of the importance we play in an individual’s life each time we accept an assignment can go a long way.

As an example, when it’s 10:00pm and you’ve got three open files due by midnight it’s often easy to say, “What difference does it make if the appraisal is late? Just move the closing date.” A true-life illustration which happens frequently in appreciating markets are sellers who would gladly walk away from a transaction in order to accept a higher offer - and a missed contract date is a perfect excuse to do so. Can you imagine losing your dream home (and potentially your earnest money) because the appraisal was late? There are also interest-rate locks to consider. As you know, when rates go up, so do mortgage payments. It often happens that a lost rate-lock results in borrowers no longer qualifying for the mortgage. Again, visualize yourself in that situation.

We all dislike reconsideration of value requests (ROVs), but the way we handle them can go a long way to improving (or perpetuating) poor public perception. In most cases, the parties to the transaction sincerely believe there is something we haven’t considered and they are not simply attempting to compromise our independence. As you know, most ROVs are written by folks who don’t understand appraisal methodology, but even in these instances, we need to be professional and courteous in our responses. Even when ROVs are unsuccessful, when parties feel that they’ve been heard and actual consideration was given to their concerns, they are usually left with a good perception (even if they don’t like the answer – just ask my accountant about that.) On that note, we actually do need to give consideration to their requests. I doubt there’s one among us who has never made a mistake – and far better for public perception to correct our mistakes!

My BFF, Dori Davis, MNAA (a fellow appraiser) and I had lunch together last weekend and with some trepidation about the appraisal, she told me she is

(Continued on page 2)
Highlights from the Recent TAFAC Meeting

First of all. I want you to know that I consider it an honor to represent the NAA before The Appraisal Foundation Advisory Council (TAFAC). Thank you for your trust. It surprises me how much information is covered in two days. My intention here is to give you a general overview so that you can be both aware of and prepared for changes that are on the horizon.

Day one of the TAFAC meetings consists of committee meetings. The NAA was assigned to the ASB committee for 2016. That means that we will be communicating mostly with the ASB Issues committee. The NAA Board of Directors responded to the recent Discussion Draft – Potential Areas of Change for the 2018-2019 edition of the USPAP (available at http://www.naappraisers.org/2018-2019 USPAP Comments.pdf).

Not surprisingly, the discussion draft was the focus of the APB committee. Diana Jacob (Co-Chair and representative of ATA) prepared a spreadsheet with the ten topics from the draft. Using Diana’s form as a template, the committee voiced their opinions and then presented advice to TAFAC to be forwarded to the Issues Committee. The APB committee suggestions were similar to those expressed by your NAA board and have been well-received by the ASB Issues Committee.

Day two of TAFAC is the general meeting. At this time, all of the representatives for all of the organizations come together and listen to reports from the various Appraisal Foundations boards and the individual TAFAC committees. Randall Kopfer, TAFAC chair, opened the meeting indicating that it is likely to be a busy year and encouraged the group to continue to provide productive and constructive advice.

David Bunton, President of TAF, brought us up to speed on the broad focus of TAF so far in 2016.

- This year finds several board positions open. Interested parties should sign up to be included in email notices for information from the Foundation. You can do that by logging on to http://tafzone.org/tafforms/tafnews/taf-signup-form.html

- The first “major topic” was that the Appraisal Institute issued a discussion draft that proposes significant changes to the appraisal regulatory structure. Both sides were present and a passionate, but respectful exchange took place. For now, my personal advice is to listen closely to both arguments; engage in some passionate and respectful discussions within your personal sphere of influence; and decide which side of the debate (possibly which parts of both sides) make sense to you. Once you get that far, please share your insights with your Board. Be assured that the NAA is watching this closely.

The second “major topic” was alternative standards to USPAP. Once

From the President (con’t)

(Continued from page 1)

looking at refinancing her house. We both laughed and decided it should be a law that residential appraisers either buy or refinance a property every five years to remind us what the process is like — and throw in a complexity like a forced relocation or like my friend experienced, four balloon payments coming due. We weren’t serious of course, but it’s true that we often encounter strong emotions from market participants and while we cannot let them impact our independence, we need to empathize and remember the important role we are playing in those individuals’ lives for a moment in time. It only takes a little effort and I sincerely believe this would go a very long way toward improving public perception of our shared profession.

Happy Appraising!

Laurie
Support vs. Proof for Adjustments

As time goes by, the appraisal profession is subjected to the latest notions or fads; one such notion recently is appraiser support for adjustments. There are many ways to support adjustments such as paired sales, depreciated cost, and statistical/regression analysis, to name a few. Recently, it seems lenders, their investors and/or state appraiser regulatory boards have been placing more emphasis on the appraiser’s support for adjustments in the sales comparison approach.

In response, there has been a number of statistical/regression tools designed to help support adjustments that have hit the market.

Unfortunately, “support” for adjustments is morphing into “proof” for adjustments and more and more state boards are leaning towards the latter. The current edition of USPAP states, “When a sales comparison approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion (SR 1-4(a)) and that an appraiser, “must at a minimum, summarize the information analyzed… and the reasoning that supports the analysis…” (SR 2-2(a)(viii)).

Note that USPAP does not say appraisers must “prove” all of their adjustments.

We would be well served to remember that appraisers are in the judgment business and that judgment is the result of the appraiser’s analysis of data. The Oxford dictionary defines “judgment” as, the ability to make considered decisions or come to sensible conclusions. The same dictionary defines “analyze” as, “examine methodically and in detail the constitution or structure of (something, especially information), typically for purposes of explanation and interpretation.

Neither of these definitions contain an element of “proof.”

USPAP’s Standard Rule 1-1(a) states, “In developing a real property appraisal, an appraiser must be aware of, understand and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.”

One of the most widely recognized and respected appraisal text books in the country is the Appraisal Institute’s (AI) The Appraisal of Real Estate. On pages 426-427 of the Twelfth Edition it states:

“Sales adjustment processes require a sufficient number of sales from which to extract the adjustments. Often there may not be enough sales to provide a basis for all adjustment calculations. The appraiser should recognize and explain in the appraisal report that a lack of supporting data may either reduce the validity of the adjustments made or eliminate the possibility of applying any direct sales adjustment process. When these conditions exist, the appraiser distinguishes any adjustments that are made as explanatory or judgment factors from those that are drawn from market data. In such situations appraisers commonly look to a broader array of market sales for bracketing and indirect market support.” (italics mine.)

Clearly, there are occasions when an appraiser cannot “provide a basis” for all adjustments, that there may be a “lack of supporting data” or that there is no “possibility of applying any direct sales adjustment process” and that relying on “judgment factors” sometimes is necessary.

Just as clear is the fact that appraisers cannot be expected to prove all of their adjustments in an appraisal report. Accordingly, why couldn’t a competent, ethical appraiser rely on her/his judgment (when making some adjustments) which is the product of their accumulated professional appraisal experience and knowledge? In doing so, however, the appraiser should heed the AI’s advice and “recognize and explain in the appraisal report that a lack of supporting data may reduce the validity of the adjustments.”
When asked why appraisers don’t take on trainees, many say there is no economic incentive to do so. A primary obstacle is that many lenders and AMCs do not allow the use of trainee assistance and those that do often require the supervisory appraiser to inspect the subject and comparable sales. Some state laws require this as well.

The good news is that the tide is turning in a positive direction. As an example, an Oregon administrative rule prohibiting trainees from signing reports was recently reversed. This rule did not specifically require trainees to be accompanied on inspections, however, due to the certification page on Fannie Mae appraisal forms, the effect was that supervisors always had to inspect the property and exterior of the comparables for any appraisal reported on a Fannie Mae form. With the reversal, trainee appraisers can now sign “on the left” with the supervisory signing “on the right” indicating that they did not inspect the subject or comparables.

Another positive change is that, largely due to the efforts of members of the National Appraisal Congress (NAC), the Arizona legislature is currently considering a bill which would remove the requirement for supervisors to inspect properties with their trainees throughout the entirety of their training.

Many lenders have been under the mistaken impression that Dodd Frank prohibits the use of trainee appraisers. This is simply not the case. After passage of the Dodd-Frank Act in 2010 the regulators realized the oversight that trainees were omitted by the legislators when the language was being drafted. It was never their intent to exclude trainees and to correct the unintended consequence, the agencies specifically referenced the use of trainees in the AMC Regulations published in 2015.

As a result, many lenders have begun allowing trainees to inspect properties without being accompanied by a supervisory appraiser and even more are considering it. NAA is actively seeking to develop a list of lenders who allow this practice which we will distribute to NAA members.

In addition to seeing some movement on the topic of trainees performing inspections without their supervisors physically present, we also are watching as the Appraiser Qualifications Board examines the experience requirements for trainees to qualify to become Certified. Adding some alternatives to the 2,000 hour requirement could make the prospect of entering a career as an appraiser much more attractive while preserving the quality training needed.

Training a new appraiser can be one of the most satisfying experiences of an appraiser’s career and barriers that make it economically infeasible are coming down. We encourage all qualified appraisers to begin to think about whether the time has come to begin looking for good prospective appraisers in need of a great mentor.
This article is to give some insight of what I see as a Trainee in the field and some recommendations for all who are wanting to make an impact to preserve the integrity of the profession. I came from a health care background with a Bachelor’s Degree in Health Care Administration. After 14 years in this field, I felt it was time for a change. The question was, where next? I had the persistence of a certain someone who really pushed me towards the appraisal field. I am definitely a nerd, so the numbers and statistics were right up my alley. So I decided to shadow my current Supervisor, Stacey Lee Cartwright, for a month to see what this appraisal field was all about.

A month passed by of going into the field and assisting with the detailed work of measuring the subject houses and sites. Needless to say, I had some work to do handling all the gadgets, but I had amazing training and support from my supervisor. The education required for Trainees was very helpful and gave me insight into what the future will hold as a certified or licensed appraiser. I had the opportunity of attending the annual meeting of the Association of Texas Appraisers (ATA - ATA is a member of the Board of Governors of NAA), as a member in New Braunfels. All the experience in the field with my Supervisor, college courses and real life questions in this meeting assured me I was in the right field!

My goal is to become a general appraiser. Currently, I will obtain my License as an appraiser through the state and continue on to obtain residential certification. I think the education requirements are on point for the general appraisers but not so for certified residential. I suggest that the licensed and certified residential require associates degrees with the continuance of the certified requiring more experience/supervised hours. There are things in the field that a college course cannot teach you no matter how highly academically credentialed you may be. I think the requirements for the number of supervised hours are excessive and hopefully will decrease in the future.

Our future generation of professionals in the appraisal field have big shoes to fill. I hope more qualified sponsors consider taking on trainees and guide them with their real-world knowledge. This will positively impact our future considerably. If we do not take on this responsibility, our future will be adversely affected by a younger generation with no “real-world” experience. Though this might not affect you immediately, consider your children and grandchildren who will be affected by a market of skewed and inaccurate numbers. We do not want the negatives in the history of the appraisal field to repeat itself.

In conclusion, my goal for this article is to emphasize the importance of more experienced sponsors supervising trainees to preserve the integrity of the appraisal field. My opinion of value for trainees and preserving integrity of the profession...priceless!

NAA Welcomes Another New Board of Governors Member

NAA welcomes Board of Governors Member, United Appraisers of Utah (UAU). UAU was formed in 2009 in the wake of the HVCC (home valuation code of conduct) legislation, as appraisers in Utah were striving to understand the new changes that were imposed on the residential valuation industry, which for many appraisers were challenging.

As the purpose and vision of the UAU began to take shape it quickly became apparent that appraisers in the state of Utah had very little representation. UAU began to give individual appraisers a united voice.

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

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.
Appraiser Expert Witness Issue: Discovery of Draft Expert Witness Reports (Draft Appraisals) in State Court - a Chart

Appraiser Michael Brunson, SRA, MNAA, and I recently wrote an article for the Appraisal Institute’s 4th Quarter 2015 edition of Valuation entitled “Getting Ready for Expert Witness Work: 10 Practice Pointers.” One of the pointers is that while the Federal Rules of Civil Procedure (Rule 26) now generally protect a retained expert witness’s draft reports (e.g., draft appraisals) from discovery by the opposing party, appraisers need to understand that if a litigation is pending in state court and thus subject to the state’s rules of civil procedure, the protection regarding drafts may be different or non-existent. We suggested that expert witness appraisers should have a specific discussion with the attorney retaining them about the preparation and retention of draft appraisal reports and about the potential for being required to produce them as part of the discovery process.

The following excerpt from the article discusses the importance of understanding the potential “discoverability” of a draft report:

Understand the “discoverability” of information in your workfile.

Attorneys and expert witness appraisers need to pay close attention to whether or not draft materials and other preliminary content in their workfiles will be available to the other side in discovery. In federal court, the discoverability of draft reports is pretty clear: under the revised version of Rule 26 of the Federal Rules of Civil Procedure that took effect in 2010, draft reports and communications with the attorney who retained the expert are not subject to regular discovery by the other side. However, there’s a catch: many states have rules of civil procedure that do not follow the federal rule, which means that if you are a testifying expert in a state court case in, say, California, any draft reports you’ve created and your correspondence with the attorney may be fully discoverable by opposing counsel. According to the California and states with similar laws, attorneys generally do not want their testifying experts to create drafts until their likely opinions and underpinnings to them are established.

The bottom line for appraisers hired as experts with respect to draft reports and written communications with the attorney? Get the attorney’s specific direction on this matter at the beginning of the engagement (different attorneys will have different points of view) and maintain your workfile as if everyone in the case — including the opposing side — will see it.

We have researched and prepared the chart (go to http://www.appraiserlawblog.com/2016/01/appraiser-expert-witness-issue.html for a copy) in an attempt to summarize whether draft reports may be discoverable under the rules of civil procedure or case law in particular states. It should be noted that this information is for the purpose of initiating a discussion between the appraiser and retaining legal counsel about whether drafts should be created in the course of the assignment and how they should be handled.

The summary below is general to civil litigation in each state. Some states have different rules for certain types of litigation — in particular, states often have special rules for condemnation action appraisals (and drafts thereof).

“Discoverable” in the chart means that an opposing party potentially could obtain an expert’s draft report through proper discovery methods (such as by document demand or subpoena). Where the issue was not clearly determined by a state’s rules, it has been noted as “undetermined” in the chart. It is also important to understand that most states which deny discovery of draft reports have limited exceptions to the rule — another reason to have a specific discussion with the attorney retaining you as an expert witness.

Peter Christensen is the general counsel of LIA Administrators and Insurance Services in Santa Barbara, California. As general counsel of LIA, Peter responds to the claims, lawsuits and disciplinary matters affecting LIA’s insured appraisers and provides instruction to appraisers on liability prevention. Peter also maintains a law practice oriented to providing legal, regulatory and risk management services to appraisal firms, appraisal management companies and other valuation-related businesses.
again, both sides were present and a passionate but respectful exchange took place. If you are not familiar with this topic, you should take a moment and read up. Again, there are good points on both sides of the issue. Again, your NAA board is interested in your feedback.

The APB (the newest board of the foundation that offers voluntary guidance to appraisal professionals) reported that they have 11 projects pending. If any of you have read prior Valuation Advisories, you may have noticed that they can be a bit large and difficult to digest. The APB has made it a goal to produce smaller “magazine style” exposures that will encourage more appraisers to participate in the process.

The AQB reported that they are focused on the discussion draft regarding alternate qualifications. You can read a copy of that draft on the Foundation’s website. The committee finds little support for allowing an alternative track from Licensed to Certified. They indicate that most believe there was adequate time to upgrade prior to 2008. That said, they want to see some sort of study on the “shortage of appraisers” before making a final decision. The AQB is looking into ways to encourage the use of practicum courses for required experience. They are also considering the concept of alternative experience credit. Defining the “what and how” is on their agenda.

This article is much longer than I intended – and it only begins to paint the picture of all the information that was discussed at the meeting. I sincerely believe that representation in TAFAC has increased the NAA’s ability to participate in the refining of our profession. For those of you that are already active on one or more of the NAA standing committees, thank you so much for your participation! For those of you that would like to participate, I invite you to join us in bettering the profession. Please take a moment to fill out a committee volunteer form at www.naappraisers.org/CommitteeVolunteerForm.pdf. NAA is a volunteer organization that works best when many members come together.

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Highlights from the Recent TAFAC Meeting

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You will see less and less the type of financing for a transaction in MLS, thanks to TRID (Truth in Lending Disclosures).

Changes implemented in October of 2015. Prior to this, we had the old HUD-1 Settlement Statement. Both the Buyer and Seller got the same form, and the type of financing was shown at the top of the form. The Listing agent would use this to update the MLS listing. Now, the Buyer and Seller each get a separate Disclosure form. The Seller’s Disclosure has no information on it about the Buyer’s transaction; the Seller’s agent does not know the type of financing, the terms, interest rate, or anything else. You would think an agent would know from the time the contract was executed what kind of financing would be used, but apparently that is not the case. A lot of agents have assistants that put the data into the MLS, and they don’t have a clue as to how a house was sold; all they have to go by is the Disclosure statement, and that is also the way most larger builders operate. If you call the Builder’s corporate office to get that information, they don’t even know what you’re talking about, and they simply do not have the Buyer’s Disclosure statement on file. But wait, there’s more!

You might think the listing agent could just grab a copy of the Buyer’s Disclosure, but no, they can’t, at least not without express written permission from both, the Lender and the Borrower. The MLS system is aware of this. New MLS rule (at least for the Houston Association of Realtors): Terms of financing is no longer a required data entry field when changing status to Sold. Agents see they don’t have to fill it in, so even if they know the terms, they’re not going to spend that extra half of a second doing it. So we’re left out in the cold. I have called listing agents, and they tell me to call the Selling agent. I call the Selling agent, and they say they don’t know. I got my first “I’m not allowed to give out that information” a couple of days ago.

We are expected to have this information in the grid, and even make adjustments based on it, if there is support for such an adjustment. How to deal with this in UAD? Well, in the grid, under Type of Financing, I click on “Other”, then under “Description” type in “Unk”, then write about it in the comments. I state that while I do not know what type of financing was involved, it did go through a financial institution (if, of course, I have reason to believe this is the case), or words to that effect. I write in detail my efforts in obtaining this information. I’m still working on my official “canned” comment. If you have any ideas or suggestions, please email me at Ed@WoodruffAppraisals.com. Happy Appraising!
NAA’s Senior Member Retires

James McMorries

NAA’s oldest (and charter) member, James McMorries, MNA has retired. Jim is 96. A veteran of WWII, Jim formed McMorries and Company in October 1958, with an office in Amarillo, Texas, appraising for taxing entities in Texas. The company grew to be the largest firm in Texas doing appraisals for cities, schools, and counties. In 1966, New Mexico passed legislation to appraise real estate in the state and approved McMorries and Company as one of five companies to do the appraisals. Due to the 12 counties awarded, Jim moved to New Mexico to oversee the appraisals there as well as those in Texas. On completion in 1973 he moved to Deaf Smith County, Texas, and opened an office in Hereford. He operated out of Hereford until selling McMorries and Company in July 1987 and moving to Seymour, Texas where he owned real estate. In late 1987 he began doing residential appraisals for the then Farmers Home Administration. In 1988 he became a partner in the Dallas-based firm Otis Research and Report, doing commercial and agricultural appraisals. On the death of his partner in 1993 he took over the company and formed United Appraisal Research in March of 1993 with offices in Seymour.

Texas to Alaska to New York City, He sold United Appraisal Research to two experienced appraisers effective October 1, 2014, but continued to do some appraisal work for the new owners until November of 2015 at which time he retired.

In addition to appraising, Jim was a cattleman, pioneering the breeding of Chianina cattle as well as Boer goats. Both of these breeds are the largest of their kind. Good luck, Jim.
National Association of Appraisers (NAA)

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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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