STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-1166
615-741-1831

October 13th, 2014
Minutes
First Floor Conference Room (1-A)
Davy Crockett Tower

The Tennessee Real Estate Appraiser Commission met on October 13th, 2014, in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Mr. Johnstone called the meeting to order at 9:17 a.m. and the following business was transacted.

COMMISSION MEMBERS PRESENT
Mark Johnstone
Tim Walton
Norman Hall
Gary Standifer
Eric Collinsworth
Rosemary Johnson
Nancy Point
Dr. Warren F. Mackara
Randall Thomas

COMMISSION MEMBERS ABSENT
None

STAFF MEMBERS PRESENT
Nikole Avers, Keeling Gamber, Cody Kemmer, Dennis O'Brien

Mr. Johnstone read the public meeting statement into the record which indicated the agenda was posted to the Tennessee Real Estate Appraiser Commission website on September 30th, 2014. He welcomed newly appointed commission member, Randall Thomas.

ADOPT AGENDA
Mr. Hall made a motion to adopt the agenda. It was seconded by Mr. Collinsworth. The motion carried unopposed.

MINUTES
The September 15th, 2014 minutes were reviewed. Mr. Hall made the motion to accept the minutes as written. It was seconded by Ms. Johnson. The motion carried unopposed.

REPORT OF EXPERIENCE INTERVIEWS
Jeffrey B. Long made an application to upgrade from a licensed real estate appraiser to a certified residential real estate appraiser. Mr. Walton was the reviewer and recommended that his experience request be granted. Mr. Hall made a motion to accept this recommendation. This was seconded by Mr. Collinsworth. The motion carried unopposed.

Phillip W. Richardson made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Johnstone was the reviewer and recommended that Mr. Richardson's experience request be granted. Ms. Johnson made a motion to approve the recommendation. This was seconded by Mr. Collinsworth. The motion carried unopposed.

Marilyn K. Gray made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Ms. Point was the reviewer and recommended that her experience request be granted. Mr. Standifer made a motion to approve the request. This was seconded by Mr. Hall. The motion carried unopposed.

Timothy W. Walton made an application to upgrade from a certified residential real estate appraiser to a certified general real estate appraiser. Ms. Point was the reviewer and recommended that his experience request be granted. Mr. Hall made a motion to approve the request. This was seconded by Dr. Mackara. The motion carried unopposed.

Arthur P. Gray made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Standifer was the reviewer and recommended that his experience request be granted. Dr. Mackara made a motion to approve the recommendation. This was seconded by Mr. Hall. The motion carried unopposed.

Nicole K. Simpson made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Collinsworth was the reviewer and recommended that her experience request be granted. Mr. Standifer made a motion to approve the request. This was seconded by Mr. Hall. The motion carried unopposed.

Pamela G. Stanko made an application to upgrade from a registered trainee to a certified residential real estate appraiser. Mr. Hall was the reviewer and recommended that her experience request be granted. Mr. Thomas made a motion to approve the request. This was seconded by Dr. Mackara. The motion carried unopposed.

OCTBER 2014 - EDUCATION COMMITTEE REPORT
Dr. Mackara reviewed the submission and read his recommendation into the record as below:

Individual Course Approval

Licensee	Course Provider	Course Name	Hours	Type	Recommendation
Betty L. Moses (CR 2144)	IAAO	Income Approach to Valuation	30	CE	Approve

Mr. Walton made a motion to accept the recommendation. This was seconded by Mr. Hall. The motion carried unopposed.

DIRECTOR'S REPORT
Director Avers requested members of the board to contribute articles of interest for the upcoming newsletter that was being prepared by team member, Cody Kemmer, who passed around his current draft of the newsletter for the members.

The appraiser commission budget, licensing numbers and complaint status summary was presented.

A letter to the commission from Cathy Lynn Hall, requesting that she be allowed to take the licensed appraiser examination again without a second experience interview, was brought to the board's attention. Ms. Hall had written that she felt more confident of passing the examination this time, as she had taken a number of residential courses, the Super Crash Review and used the CompuCram exam software to prepare herself better for this attempt. **Vote:** Mr. Collinsworth made a motion to grant her request to take the Licensed Appraiser examination again without another experience interview. This was seconded by Mr. Hall. The motion carried unopposed.

Given that the office expected an influx of upgrade applications for the licensed and certified residential credential upgrades before the year end, Director Avers requested that the board put into place a temporary policy by which she could conduct experience interviews for those upgrade applicants in the office as the applications came in. This would make time at the November and December board meetings, for the board members to conduct other upcoming board business such as formal hearings and the rule making hearing, rather than spend the better part of the day conducting experience interviews, as was the case the last time the rules changed in 2008. This temporary measure would allow the Director to conduct interviews for the licensed and certified residential upgrade applicants in-house and then make recommendations for examination approval to the board at the next meeting. If an applicant was found to have any issues identified in the reports submitted, a second interview could be scheduled with a board member. **Vote:** Mr. Collinsworth made a motion to put the temporary measure for Director Avers to conduct experience interviews for licensed and certified residential upgrade applicants in-house and then make recommendations for commissioner approval at the next board meeting. This was seconded by Mr. Walton. The motion carried unopposed.

Director Avers ended her report with a synopsis of the September AQB meeting she had attended in Memphis.

RULEMAKING HEARING DRAFT, FINAL REVIEW
Ms. Gamber presented the final draft of the proposed rules for the upcoming rule making hearing which had been sent to the Attorney General’s office for review. She outlined some minor changes to language and fee structures that had been made in Rule 1255-01-.04 and Rule 1255-06-.03 for approval by the board. The hearing had been scheduled for December 15th if all went according to schedule.
Vote: Mr. Thomas made a motion to approve the changes as outlined. This was seconded by Ms. Point. The motion carried unopposed.

LEGAL REPORT

1. 2014014951, 2014014952
This complaint was filed by a consumer and alleged that Respondent supervisor and trainee over-valued a property and said that the Respondent supervisor was on vacation at the time of the appraisal, and the trainee was not supervised.

Respondent sent a response to the complaint, indicating that the Complainant attempted to influence his value opinion, indicating the contract price was too high and told him that the Complainant was a licensed appraiser in Texas. The subject property is a mixed-use property which consists of an older three-bay strip center on the front of the tract with multiple storage improvements situated on the rear of the tract. He indicated the prior owner had passed away and the property was under managed and underperforming. The supervisor appraiser indicated he did not discuss or disclose any of the conversations with the buyer or the client with his trainee, as he did not want him to be influenced by Complainant’s attempts to influence value. He indicated when the appraisal was delivered the Complainant was unhappy with the appraised value and was totally unfamiliar with a DCF and did not seem to know that the income approach is based on the current value of future earnings. The value at stabilization which we provided was, of course, even higher. He wanted the property valued based on the current occupancy, which we did not consider appropriate. The Respondent indicated he was at a total loss as to how the Complainant being in Texas during this entire process, could ascertain that Respondent was on vacation for 10 days. On May 20, 2014, the registered trainee appraiser met a representative of the owner at the property. The representative unlocked the property and left immediately afterwards. The Respondent-supervisor met the Respondent-trainee shortly after the representative left and they spent approximately two hours inspecting the property. He indicated the Complainant’s statement is totally untrue and he questions how he would have any knowledge as to the extent of the inspection, as he was not present. After assisting in the overall preparation of the report and reviewing the final product, the Respondent-supervisor placed his signature on the report. He questioned how the Complainant would have any knowledge of my whereabouts or activities while this report was being prepared or when it was signed.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- Scope of Work: The report fails to properly identify the problem to be solved. The property was appraised Fee Simple, while encumbered by a twenty month lease at below market rates identified in the report as below market, creating both Leased Fee and Leasehold considerations. Neither Leased Fee nor Leasehold positions were addressed in the report nor were any extraordinary assumptions or hypothetical conditions employed regarding the leases in force at the time of the appraisal stated. [SR 1-1(a)(b)(c); 1-2(h); 1-4(d); 2-2(a)(iv)]
- Improved Sales Comparison Approach: The comparison of improved sales was not included as an approach to value in this report. The reasoning behind this decision was based on the limited amount of comparable sales and the inability to verify an adequate number of sales with at least 1 principal participant. The omission of the sales comparison approach on this basis would not meet the expectations of parties who are regularly intended users for similar assignments and is not what an appraiser's peer's actions would do in performing the same or similar assignment. The scope of work should have been expanded to allow normal verification of sales, the sales presented in the appraisal report and the completion of the sales comparison approach.
  There was no evidence in the workfile of improved sales research. [SR 1-1(a)(b)(c); SR 1-2(h); SR 1-4(a); SR 1-6; SR 2-1(a)(b); SR 2-2(a)(vii)(viii); Record Keeping Rule, Lines 321-323]
- Land Sales Comparison Approach: The report includes a sales comparison approach for land sales used for developing the opinion of site value used in the cost approach. However, there is no discussion or support in the report or workfile for the development or application of comparable land sale adjustments – only statements regarding adjustment amounts and the feature. [SR 1-4(a); SR 2-2(a)(viii)]
- Cost Approach: Cost approach narrative refers to reproduction cost, but the cost analysis appears to use replacement cost. Also, given the significant difference in the value indication yielded by the cost approach versus the income approach indicates that there is likely some functional and/or external obsolescence present that might be accounted for in the as-is value of the cost approach. [SR 1-1(c)]
- Income Approach: On page 46, six comparable sales were provided with a rental range from $6.72 to $10.56 per square foot and an average rent of $8.90 per square foot. The analysis lacked comparative support as there was no comparison of physical similarity, building tenant mix or age of construction in the development of estimated market rent produces. The report indicated a market rent of $6.75 per square foot which is substantially higher than current contract rent of $4.00 per square foot creating a positive leasehold position for the tenant of $2.75 per square foot for the remainder of the lease. During this period, the value of the landlords leased fee estate combined with the tenant's positive leasehold position produces the indicated fee simple market value for the subject property. These values are not addressed in the report.
  The rent adjustment to $5.40 per square foot remains below market rents and perpetuates the leased fee/leasehold positions in the subject property. There is no explanation as to why the subject does not negotiate to market rent.
  The hypothetical conditions applied to the property in order to raise income levels are not actually present at the time of inspection and directly impact the as-is estimate of value. In taking this approach, a timeline detailing the cost of implementing these improvements and when they took effect should be reflected in the discounted cash flow model. [SR 1-1(a)(b)(c); SR 1-6; SR 2-1(a)(b); SR 2-2(a)(viii)]
- Market Rate Indication: The expense ratio is ignored as a crucial unit of comparison for the subject property. The subject buildings are significantly older than the comparables and as

a result have a higher expense ratio (exceeding 50%) which directly impacts the cap rate for the property. Rather than using a blended cap rate, the lower cap rate was used in the discounted cash flow model which would produce higher values. [SR 1-1(a)(b)(c); SR 1-6; SR 2-1(a)(b); SR 2-2(a)(viii)]

- Debt Coverage Ratio Method: The debt coverage ratios listed on page 51 for the average retail and self-storage market range from 1.41 to 1.67. The history and condition of the subject property indicates the property would struggle to be average and as a result, how the local lenders would view this property in regard to the debt recovery margins. The mean debt coverage ratio for the retail and self-storage average markets indicated by the data source is 1.55. Employing this figure in the DCR formula would elevate the cap rate to 13.37% as compared to the 10.79% rate used in the report. [SR 1-1(a)(b)(c); SR 1-6; SR 2-1(a)(b); SR 2-2(a)(viii)]
- Discounted Cash Flow Analysis "As-Is": The retail income in year 1 for this two tenant building is presented as $28,800. There is an inadequate explanation in the report as to the origin/development of this figure and it could not be substantiated using the information provided in the report.
  In the discounted cash flow analysis on page 57, retail market rent indicated by the comparable rent analysis was never achieved in years 2, 3, and 4. The highest annual income for the retail space appears in year 3 as $38,604 which remains below market rents. If the subject is not leased at market rents then by definition the interest appraised is an as-is leased fee estate with a leasehold position, not fee simple estate.
  Historical data supporting vacancy analysis is lacking in the workfile. Data supporting narration regarding expenses, maintenance, management, etc. is missing from the workfile. [SR 1-1(a)(b)(c); SR 1-6; SR 2-1(a)(b); SR 2-2(a)(viii)]
- Reconciliation: The application of stringent data verification requirements on the sales comparison approach only resulted in its omission. The omission of the sales comparison approach based on sale verification is not considered acceptable when a lower verification was used to develop the income approach.
  There is a very significant variation between the value indicated by the cost approach and the income approach that is not accounted for in either approach or the reconciliation. Given the weakness of the data in the income approach and the omission of the sales comparison approach the opinion of value may have been compromised. [SR 1-1(c); SR 1-2(h); SR 1-4(a); SR 1-6; SR 2-2(a)(viii)]

Respondent's Response to Reviewer's Conclusions:

The Respondents indicated in response to the reviewer's conclusions that they believed the scope of work was properly defined for the assignment considering the uniqueness of the property which is 24,990 square foot property of which 6,510 was a mostly vacant strip center and the remainder a mix of storage buildings. They indicated that they attempted to get a written lease multiple times, but according to the response the lease was verbal. They indicated the leases were typically month to month or almost always less than a year and that mini warehouse appraisals are almost always developed as fee simple. They further indicated that any attempt to provide a leased fee estate on a property in which the overwhelming amount of income steam is typically based on fee simple is not considered appropriate and that they never use this approach when appraising mini warehouse properties.

In response to the allegation that the Respondents failed to include the sales comparison approach which may have been necessary for credible assignment results, the Respondents indicated that because of the uniqueness of the property they just could not find sales of properties similar enough to the subject to compare for a credible analysis. They indicated they would have verified the sales if there had been any, but responded there had been none that were similar.

In the response to the allegation that they failed to analyze such land sales necessary to support adjustments made in their site value opinion, they indicated that there were no nearby land sales.

The most proximate land sales were 1.23 miles to 10.53 miles from the subject. They indicated that adjustments were subjectively applied to sales based on market experience, not pair sales. They indicated that they made an error in the report by referring to reproduction cost; it should have read replacement costs new. They admitted they should have applied some form of obsolescence in the cost approach, but indicated the cost approach was given no weight in the final analysis.

They disagreed with the reviewer's conclusions about the income approach because of the subject being a unique property mixed use improvement which was neglected and underperforming. They stated with no similar rents in the immediate area, they were forced to use comparable rents of properties that could be rationally considered a reflection of market rents. They disagree that the subject's $4.00 per square foot contract rent could be considered as they could not verify it in writing. They indicated that the rent was low due to the deceased seller's neglecting the property for three year's due to declining health prior to his death. They provided additional support from their workfile for the indicated $5.40 per square foot and adjustment for unfinished area which was inadvertently not sent previously. The Respondents indicated they didn't know what they reviewer was alluding to with regards to the hypothetical conditions applied to the property. They indicated in their response that they considered this essentially as a new facility with market rents and expenses developed from admittedly limited and marginally representative data. They indicated the market rated was a "blended" cap rated developed from a lender survey. They disagreed with the reviewer's conclusion that the subject property would struggle to be considered "average" and they said they reflected the subject in their choice of market rents and expenses they developed.

They concur with the reviewer conclusion that they income from the retail building should not have been reported as $28,800. They indicated the correct number should have been $33,204. They said this changed would not have significantly affected the value opinion.

The Respondents dispute that the retail market resents would not be achieved in years 2, 3, and 4. They admitted that the reviewer was correct that historical data regarding expenses was missing from the workfile as they just do not exist. They said they data was developed from scratch based on verbal information and market data.

Licensing History (Supervisor):	Certified General	9/18/1991-Present
Disciplinary History:	(199901754-Closed with no further action)	
Licensing History (Trainee):	Registered Trainee	5/4/2011-Present
	Certified General	9/23/2014-Present
Disciplinary History:	None	

Reasoning and Recommendation: The reviewer found several significant deficiencies within the report prepared by Respondent, including multiple development and reporting violations. Neither the supervisor nor the second Respondent has been disciplined in the past; however, there were numerous violations noted especially in the development of the approaches to value. As such, Counsel recommends the authorization of Consent Orders, which require each Respondent to complete a thirty (30) hour General Appraiser Sales Comparison Approach course **OR** a thirty (30) hour General Appraiser Income Comparison Approach course to be completed within one-hundred eight (180) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

Vote: Mr. Hall made the motion to have Mr. Standifer perform a board member review of this report with Ms. Gamber, who would present a recommendation at the next meeting. This was seconded by Mr. Collinsworth. Mr. Walton recused himself from the vote. The motion carried unopposed.

Mr. Stan Hunter, a staff appraiser with LandSafe and does appraisals for Bank of America, was invited to share his views on appraiser distanced education versus classroom experience with the board. He mentioned that in his personal experience and from recent peer reviews, he had become concerned that some instructors who were conducting classes in Tennessee were not conducting/facilitating classes as expected. He detailed some instances in which the instructors were found to be lacking in material preparation and overall competence as facilitators. As such, he advocated for more on-line education as in his opinion, on-line courses were much better structured and carried the proper content as required to gain competence in the subject covered by the class. Mr. Johnstone thanked him for sharing his views on appraiser education and time spent in meeting the board.

Having no further business, Chairman Johnstone adjourned the meeting at 11:20 a.m.