



**REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243
615-741-1831**

**Meeting Minutes for April 19, 2021
Telephonic Meeting**

The Tennessee Real Estate Appraiser Commission met on April 19, 2021, thru a telephonic meeting. Director Michael Schulz called the meeting to order at 9:01 a.m. and the following business was transacted:

BOARD MEMBERS PRESENT: Michelle Alexander, Jason Bennett, Jim Atwood, Rex Garrison, Brett Mansfield, Pankaj Jain

BOARD MEMBERS ABSENT:

STAFF MEMBERS PRESENT: Michael Schulz, Anna Matlock, Caleb Darnell, William Best, Shilina Brown, Carol McGlynn, Morgan Calles

CALL TO ORDER / ROLL CALL / NOTICE OF MEETING

Rex Garrison called the meeting to order at 9:00 am and Director Michael Schulz took roll call.

AGENDA

Rex Garrison added PAREA to the new business.

Michelle Alexander made a motion to adopt the agenda. This was seconded by Jim Atwood. The motion was carried by roll call voice vote.

MINUTES

Jim Atwood made a motion to adopt the minutes from January 21st, 2021. This was seconded by Michelle Alexander. The motion was carried by roll call voice vote.

Brownell Review

Frank Brownell, IV is requesting to have the opportunity to be a Tennessee Real Estate Appraiser Trainee.

Frank Brownell, IV made a statement that he made a mistake in the past and wanting to move forward with his life. He applied back in 2009, with the application being denied, he

was just charged with his crime. It now has been 13 years since he was charged with his crime.

Jason Bennett made a motion to approve Frank Brownell IV to be eligible to become a Real Estate Appraiser Trainee. This was seconded by Brett Mansfield. The motion was carried by roll call voice vote.

LEGAL REPORT

See attached

EXPERIENCE INTERVIEWS

Mr. Garrison conducted the experience interview of **Lora Yant** and recommended that his experience be accepted toward the Certified Residential Upgrade.

Mr. Garrison conducted the experience interview of **Charles Seagle** and recommended that his experience be accepted toward the Certified General Upgrade.

Mr. Garrison conducted the experience interview of **Charles Wallace** and recommended that her experience be accepted toward the Certified Residential Upgrade.

Mr. Garrison conducted the experience interview of **Aaron Anderson** and recommended that her experience be accepted toward the Certified Residential Upgrade.

Mr. Atwood conducted the experience interview of **Semeh Hamaia** and recommended that his experience be accepted toward the Certified Residential Upgrade.

Mr. Atwood conducted the experience interview of **Tom Blankenship** and recommended that her experience be accepted toward the Licensed State Upgrade.

Mr. Atwood conducted the experience interview of **Roy Marlin** and recommended that his experience be accepted toward the Certified Residential Upgrade.

Mr. Atwood conducted the experience interview of **Kyle Harmon** and recommended that his experience be accepted toward the Certified Residential Upgrade.

Mr. Atwood conducted the experience interview of **Christopher Mikolon** and recommended that his experience be accepted toward the Certified Residential Upgrade.

Mr. Atwood conducted the experience interview of **Ella Cutler** and recommended that her experience be accepted toward the Licensed State Upgrade.

Mr. Mansfield conducted the experience interview of **William Hamby** and recommended that her experience be accepted toward the Certified Residential Upgrade.

Michelle Alexander made a motion to accept the above Interviews. This was seconded by Pankaj Jain. The motion was carried by roll call voice vote.

EDUCATION REPORT

April 19, 2021 - Education Committee Report

Course Provider	Course Number	Course Name	Instructor(s)	Type	Hours	Recommendation
ASFMRA	2418	Appraising Agricultural Land in Transition	Brent Stanger & Jaxson Love	CE	8	Approve
Appraiser eLearning	2439	Appraisers Guide to Appraisal Inspections	Bryan Reynolds, Hal Humphreys, Diana Jacob, et al	CE	7	Approve
Appraiser eLearning	2440	Measuring with ANSI ...	Bryan Reynolds, Hal Humphreys, Diana Jacob, et al	CE	7	Approve
Appraiser eLearning	2441	Appraisers Guide to Income Approach	Bryan Reynolds, Hal Humphreys, Diana Jacob, et al	CE	7	Approve
Melissa Bond	2442	Highest & Best Use	Melissa Bond	CE	4	Approve
Melissa Bond	2443	Foreclosure Properties	Melissa Bond	CE	4	Approve
Melissa Bond	2444	Challenging Repairs	Melissa Bond	CE	4	Approve
ASFMRA	2449	Report Writing	Mark Williams	CE	8	Approve
ASFMRA	2447	National Best Practices...	JoAnn Wall	CE	8	Approve
IRWA	2448	506 Advanced Business ...	Tanya Johnson	CE	16	Approve
Bryan S. Reynolds & Associates	2452	Appraiser's Guide to the Income Approach	Bryan S. Reynolds, Stephen Forrester, Bobby Fischer, et al	CE	7	Approve

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Individual Course Approvals

Licensee	Course Provider	Course Name	Hours	Type	Recommendation

Additional / Course Instructor Approvals

Licensee / Instructor (Qualifications)	Course Provider	Course Listings (all previously approved)	Recommendation

Jason Bennett made a motion to approve the education committee’s recommendations. This was seconded by Michelle Alexander. The motion was carried by roll call voice vote.

DIRECTOR’S REPORT

Budget

Director Michael Schulz Presented the Budget Report.

Announcements

Karey Haisten will be our new board member, she is from Chattanooga. Once she can join us, we will allow her to introduce herself.

Michael Schulz advised that the next meeting would begin the in-person meetings. There will still be an option for individuals to attend the meeting virtually, but legal will need to have a new def for a quorum. The next meeting will be on July 19th, 2021.

New Business

PAREA

PAREA is a practicum side of the experience, that Appraiser Qualification Board has passed.

Rex Garrison questions if the board is ready for this in our rules, or what action we would need to take as a commission for potential trainees. Anna Matlock advised we would need to make amendments to our rules. Also advised only five states have created a program. California is up to 1,000 hours approved, Colorado, Iowa and Montana are full approval, and Pennsylvania is up for 25 percent for certificated residentials and up to 15 percent for certified general. This is a decision made based on the state. Jim Atwood advised that he thought he read it as AQB only allows 50 percent of the total experience, not 100 percent. Anna Matlock advised that this is correct. PAREA is optional and would not affect our rule that states we can not be more stringent than the federal rules.

Michael Schulz advised he will continue to put this on the next agenda in the old business.

Jason Bennett advised the Federal Trade Commission (FTC) just settled with a consent agreement with the Louisiana Real Estate Appraisal Board based on how they handed

down discipline. This was done on April 14th, 2021. Anna Matlock will try to get the documents on this if it is public record in time for the next board meeting in July.

ADJOURNMENT

Jason Bennett made a motion to adjourn the meeting. This was seconded by Michelle Alexander. Meeting adjourned at 10:20 am. The motion was carried by roll call voice vote.



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TO: Tennessee Real Estate Appraiser Commission

FROM: Shilina B. Brown, Esq.
Associate General Counsel

DATE: April 19, 2021 APP Legal Report

SUBJECT: Real Estate Appraiser Commission (APP) Legal Report

**Any consent order and penalty authorized by the Commission should be signed by Respondent and returned within thirty (30) days of the date of issuance. If said Consent Order is not signed and returned within the allotted time, the matter may proceed to a Formal Contested Case Hearing before the Commission.*

- 2020094221**
Opened: 12/28/2020
Type of License: Certified General Real Estate Appraiser
First Licensed: 10/4/1991
Expires: 9/30/2021
Disciplinary History: 2010 Final Order

The Complaint was filed by the Complainant, a Real Estate Appraisal Management Company against the Respondent, Appraiser.

The complaint alleges the Respondent's appraisal report is substantially non-compliant with USPAP, state laws or federal laws pertaining to appraisals. The Respondent alleges the following issues with the appraisal:

- The description of the proposed improvements and potential uses is not discernable, which makes understanding the analysis difficult.

- The improvements appear to be a multi-tenant office-warehouse facility, but the valuation refers to other property types and uses.
- The highest and best use is not clear and does not correctly address the financial feasibility of the proposed development. The report states in the highest and best use that a portion of the building is preleased, but the contract leases are not included in the income approach.
- The Cost approach has the highest value indication and is higher than the value conclusion of the appraisal. This indicates that the proposal is not financially feasible.
- The Cost Approach includes data from MVS and the developer's budget. The MVS data is based on an office building, which is not like the subject's proposed. The appraiser uses the developer's budget for the building costs and site improvements costs that are not consistent with the actual budget. This analysis is not credible. The sales comparison approach is based on an analysis of three office building sales
- The size adjustments appear to be backwards and the explanation is inconsistent.
- The comparables have such a wide range of value, the conclusion does not appear well supported.
- The comparables do not have a significant amount of warehouse space and do not appear to provide credible support of the conclusion.
- The income approach uses the three sales comparables as rent comparables, however these are office buildings and are not physically like the subject, rendering the estimate of market rent unsupported.
- The cap rate calculation on page does not appear reasonable or well-supported and the data on page 53 is not applicable to the subject. If the NOI calculation and cap rate are not supported; the conclusion appears unreasonable and unsupported.

EXPERT REVIEWER: The appraisal was submitted to the expert reviewer for review and analysis of the appraisal report and the allegations contained in the complaint. The expert reviewer determined there were deficiencies with the appraisal report and the Respondent has not complied with the Uniform Standards of Professional Appraisal Practice ("USPAP").

The expert determined the appraisal was not credible for several reasons. The expert reviewer found the following USPAP violations:

Standard Rule 1-1 General Development Requirements: In developing a real property appraisal, an appraiser must:

(a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.

The property improvement description is limited and does not reflect the amount of square footage applicable to the different proposed finishes. The sketch indicates certain areas as proposed offices with only one area shown as a dedicated anticipated finished office area. The appraisal however uses the main level gross

area and office building data to include sales and rentals and applies that to the gross building area.

(b) not commit a substantial error of omission or commission that significantly affects an appraisal

The failure to include analysis of the various areas of proposed building coupled with the application of the gross area to office metrics is a substantial error as to credibility of the results. It is unclear the make-up of the structure at time of development, completion proposed by the owner.

(c) not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.

There were a series of errors provided by the expert in an attached page by page listing. Many of the errors are not significant but the overall number of these leaves the reader with doubt as to the credibility of the work.

Standard Rule 1-2 Problem Identification: In Identifying a real property appraisal, an appraiser must:

(e) identify, from sources the appraiser reasonably believes to be relative, the characteristics of the property that are relevant to the type and definition of value and intended uses of the appraisal, including:

(i) its location and physical, legal, and economic characteristics

The property's location and physical aspects in relation to the neighborhood description appear to be limited. A review of the area indicates the location to be primarily finished with warehouses, mini-warehouses, industrial and warehouse uses. There are some intermittent commercial uses however the area does not possess the primarily commercial orientation described in the neighborhood. In addition, the neighborhood description is very generic, and it is difficult to determine the property's location of characteristics by reading the neighborhood data. No neighborhood boundaries are set out leaving the reader unconvinced of the neighborhood description.

This is followed by photos of the subject property which do not appear to be correct and must be of some other property.

(ii) the real property interest to be valued.

The property interest is described as fee simple, however statements indicate that a significant portion of the property is proposed to be leased.

Standard 1-4 Approaches to Value: In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

(a) 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.

The sales comparison approach uses office sales approximately half the size of the subject property and makes no consideration for square footage being other than office. Other descriptions within the appraisal indicate that the development will consist of office and warehouse uses.

(b) When a cost approach is necessary for credible assignment results, an appraiser must:

(i) Develop an opinion of site value by an appropriate appraisal method or technique.

No local land sales are used. The sales used are in Cleveland and appear to be more commercial type locations. Size adjustment for land appears to be opposite normal conduct.

(ii) Analyze such comparable cost data as are available to estimate the cost new of the improvements (if any).

The cost data utilized reference Marshall Valuation service building type C. Based on the description of the C building within the Marshall Valuation as to this selection. The proposed improvement is a shed roof pre-engineered building. Additionally, there is a contractor cost estimate, however it is difficult to tell what extent of construction finish the cost estimate represents. A sketch for the property shows several areas of proposed office but not hard line. Only one suite was shown with office hardline. It is difficult to tell from the improvement description enough detail to rely on the cost approach as presented.

(c) When an income approach is necessary for credible assignment results, an appraiser must:

(i) Analyze such comparable rental data as are available and/or the potential earnings capacity of the property to estimate the gross income potential of the property.

Rental data discussion is listed for the improved sale properties. However adequate detail as to the services furnished, expenses related to owner/tenant and similar items are not addressed.

A major concern in the report is that three of the units are pre-leased however no information was provided based on the anticipated lease rates, expenses, etc. that would be generated by these pre-leased units.

- (ii) ***Analyze such comparable operating expense data as area available to estimate the operating expenses of the property.***

Comparable operating expenses are not reported. Expenses are only stated as a percentage of rent.

- (iii) ***Analyze such comparable data as are available to estimate rates of capitalization and/or rates of discount.***

The cap rate is based on national data. No illustration is indicated for developed cap rates from the reported rental properties. All of the rental properties are reported as sales so that it is reasonable to anticipate that a capitalization rate either for use with net operating income or as a gross rent multiplier could have been developed from this local data which was reported as comparable. Again, these rates are based on 100% office buildings as opposed to the subject property which is reported to be reported to a mixture of office and warehouse space.

- (iii) ***Base projections of future rent and/or income potential and expenses on reasonably clear and appropriate evidence.***

The projected income required by this standard is that the future rent be based on potential income and expenses that are reasonably clear and appropriate evidence. The failure to report the rent, expenses, terms, etc. for the reported pre-leased units fails this standard.

- (d) ***When developing an opinion of the value of a leased fee estate or a leasehold estate, an appraiser must analyze the effect on value, if any, of the terms and conditions of the lease(s).***

This requirement relates to the same issue. The proposed pre-leased units were not reported and not considered.

Standard Rule 1-5 Sale Agreements, Options, Listings and Prior Sales: When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:

- (a) ***Analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal; and***

- (b) ***Analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.***

*The sales history as to the lot is reported however the ownership differs from that of the title page of the report. This begs the question as to whether there is remaining a pending sale or other explanation for this difference in ownership indications.

Standard Rule 2-1 General Reporting Requirements: Each written or oral real property appraisal report must:

(a) Clearly and accurately set forth in the appraisal in a manner that will not be misleading.

The reader is unable to determine a reliable description of the improvement as of the valuation date. The use of full office buildings as comparables for both direct comparison and income appears to be misleading since the building is reported to not be all office space.

(b) contain sufficient information to enable the intended user(s) of the appraisal to understand the report properly.

The report does not contain adequate information to be understandable by the user.

(c) Clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetically conditions, and limiting conditions used in the assignment.

There is a statement in the appraisal that indicates that if things are different, the appraiser has the right to adjust the appraisal. However, based on the descriptive data it is unclear what is the proposed finishes, etc.

Standard Rule 2-3 Certification: A signed certification is an integral part of the appraisal report.

The appraisal includes a certification however the appraiser is a member of the Appraisal Institute. The Appraisal Institute requires the certificate to indicate whether the appraiser has completed the required continuing education.

Recommendation: Authorize a contested case proceeding and authorize settlement by Consent Order and payment of a civil penalty in the amount of \$1,500 for violations of USPAP *Standard Rule 1-1(a), Rule 1-1(b), Rule 1-1(c), Rule 1-2(e)(i), Rule 1-1(e)(ii), Rule 1-4(c)(iii), Rule 1-4(c)(iv), Rule 1-4(c)(v), Rule 1-4(d), Rule 1-4(e)(iii), Rule 1-4(e)(iv), Rule 1-5(a), Rule 1-5(c), Rule 2-1(b), Rule 2-1(c), and Rule 2-3.* Additionally, the Respondent shall take fifteen (15) hours of USPAP continuing education to be completed within 180 days of execution of the Consent Order and this CE will be completed in additional to the minimum CE for license renewal.

Commission Decision: The Commission accepted counsel's recommendation of the \$1,500 civil penalty and fifteen hours of USPAP CE, but also voted to add four additional courses as follows: 30 hours sales comparison approach course, 30 hours

income approach, 30 hours general report writing and 30 hours cost approach course to be completed within one year in addition to the annual CE licensure requirement.

2. 2020084481

Opened: 12/7/2020

License Type: Certified Residential Real Estate Appraiser

First Licensed: 3/15/2001

Expires: 7/31/2021

Disciplinary History: 2016 Consent Order

This complaint was administratively opened by the Tennessee Real Estate Appraiser Commission. The Respondent is a licensed Tennessee Residential Real Estate Appraiser.

The Fannie Mae Loan Quality Center conducted a review of the Respondent's appraisal report dated February 25, 2019 and concluded there were substantial errors which led to a noncredible result. The Fannie Mae review found the following issues: failure to adjust comparables, use of dissimilar comparable sales due to the site characteristics, use of physically dissimilar comparable sale(s) – design/appeal.

The Respondent provided a response and stated the subject property is a log home and there were very few log houses in the subject's market area. The comparables that were used were the most locationally and physically like the subject property that were available. The comparables were not all log houses, but are similar in market area, effective age, site value and are bracketed for GLA. The comparables differ in site sizes but are similar in site value. There were no site adjustments that were necessary. They are slightly larger in site size, but do not have city sewer like the subject and comparable site. The comparables differ in actual age but are considered similar in effective age. There were no age adjustments warranted. Comparables 4 and 5 were the most heavily adjusted but were used because they were log houses like the subject property and provided support of the market's acceptance of log style houses within the market. The comparables were much smaller than the subject and on a much larger site but was used because it was a log house. It was adjusted for site value differences. Comparable 4 is a log house from an adjacent county ad also adjusted for site value differences. The Fannie Mae guidelines allow for the use of sales in lieu of comparable sales as well as sales from different neighborhoods when there is a limited number of sales available for use. The scarcity of comparable log home sales forced the Respondent to use some sales that were not considered ideal. The Respondent stated the sales utilized were sufficiently comparable to warrant their use. No better sales were found upon which a meaningful comparison could be made. The appraiser is responsible for determining which comparables are the best and most appropriate for the assignment. The comparable does not have to be identical to the subject property, but it should be competitive and appeal to the same market participants that would also consider purchasing the subject property. Comparables that are significantly different from the subject property may be acceptable; however, the appraiser must describe the differences, consider these factors in the market value, and provide an explanation justifying the use of the comparable(s). Comparable sales from within the same neighborhood (including

subdivision or project) as the subject property should be used when possible and must be used in certain instances. Sale activity from within the neighborhood is the best indicator of value for properties in that neighborhood as sales prices of comparable properties from the same location should reflect the same positive and negative location characteristics. Fannie Mae does allow for the use of comparable sales that are in competing neighborhoods, as these may simply be the best comparables available and the most appropriate for the appraiser's analysis. If this situation arises, the appraiser must not expand the neighborhood boundaries just to encompass the comparables selected. The appraiser must indicate the comparables are from a competing neighborhood and address any differences that exist. The appraiser must also provide an explanation as to why he or she used the specific comparable sales in the appraisal report and include a discussion of how a competing neighborhood is comparable to the subject neighborhood. If a property is located in an area in which there is a shortage of truly comparable sales, either because of the nature of the property improvements or the relatively low number of sales transactions in the neighborhood, the appraiser might need to use as comparable sales, properties that are not truly comparable to the subject property. In some situations, sales of properties that are not truly comparable may simply be the best available and the most appropriate for the appraiser's analysis. The use of such sales is acceptable if the appraiser adequately documents his or her analysis and explains why these sales were used. When describing the proximity of the comparable sale to the subject property, the appraiser must be specific with respect to the distance in terms of miles and include the applicable directional indicator (for example, "1.75 miles NW"). The distance between the subject property and each comparable property is to be measured using a straight line between the properties. The opinion of value is supported by the most comparable properties available. All the allegations found in this complaint are subjective and are a mere difference of opinion. As stated in the Competency Rule in the current edition of USPAP "Perfection is impossible to attain, and competence does not require perfection." The Respondent develops opinions and conclusions in an independent, unbiased, impartial, ethical manner and strive to adhere to the requirements set forth in the Uniform Standards of Professional Appraisal Practice. I understand the reviewer at Fannie Mae's concern and would have been happy to provide more clarity to them and address their concerns directly regarding this complex assignment.

EXPERT REVIEWER: This appraisal report and the complaint were sent to an expert reviewer for a review and. The expert reviewer did not make any findings concerning the appraisal and there were no violations of USPAP. The appraisal was properly conducted and there were no errors. The Expert Reviewer determined the report to be generally acceptable. The report did provide adjustments for comparable sales. The sales sites did provide acreage like the subject and most of the comparable sales were like the subject property in style. There were two log homes like the subject even though they were an extended distance from the subject. The market value is supported by the data in the report.

Recommendation: Close.

Commission Decision: The Commission accepted counsel's recommendation.

3. **2021007951**
Opened: 2/8/2021
License Type: Certified Residential Real Estate Appraiser
First Licensed: 2/12/1992
Expires: 2/12/2022
Disciplinary History: 2017 Consent Order

The Complainant alleges the Respondent was engaged to complete an appraisal on December 16, 2020. The Complainant attempted to reach the Respondent on multiple occasions and the Respondent finally responded on January 6, 2021 and this was six days after the agreed upon delivery date for the report. The inspection was scheduled for January 13, 2021. From January 13, 2021 to January 28, 2021, the Complainant did not hear from the Respondent. On January 28, 2021, the Respondent indicated the report would be uploaded on the morning of January 29, 2021 and it instead was not delivered. On February 1, 2021, the Respondent refused to complete the report and by this point had wasted 45 days. The Complainant alleges the Respondent has engaged in gross negligence and has rendered services in a careless and negligent manner.

The Respondent provided a response and stated the inspection scheduling was delayed by the homeowner/borrower. The Respondent received a call on January 6, 2021 and requested the inspection be postponed until at least the end of the following week because of “family issues” due to a death in the family. On January 11, 2021, the Respondent was notified the Complainant was ready to proceed with the inspection and it was completed on January 13, 2021. On January 19, 2021, the Respondent notified the Complainant he was scheduled to be out of town to attend a funeral and would return on the evening of January 21, 2021. Also, it should be noted, the dates were also around the holiday time when many people are off from work and unavailable.

EXPERT REVIEWER: This appraisal report and the complaint were sent to an expert reviewer for a review and analysis of the appraisal and the allegations contained in the complaint. The expert reviewer determined there were no violations of USPAP. The Expert Reviewer determined the report was not completed and not delivered to the client/AMC and therefore, the assignment was not completed. There is no violation of the Uniform Standards of Professional Appraisal Practice (USPAP) violation as there was no report, written or oral. Per USPAP an appraiser can withdraw from an assignment at any time. Therefore, the expert opined this complaint falls under a under a “business practice” decision.

Recommendation: Close.

Commission Decision: The Commission accepted counsel’s recommendation.

4. **2021011351**
Opened: 3/8/2021
License Type: Certified Residential Real Estate Appraiser
First Licensed: 11/13/2002
Expires: 10/31/2021
History: 2012 Letter of Warning; 2014 Consent Order; 2015 Consent Order; 2017 Letter of Warning

Complainant hired the Respondent to complete an appraisal at the request of the lender. The appraisal was dated January 15, 2021 and submitted to the lender. After the appraisal was submitted to the lender, the Complainant was advised the lender would not refinance the loan. The appraisal had listed the "Specific Zoning Classification" as "9-A1" and this indicated the home was Section 8, Affordable Housing or Government Housing. The Complainant contacted the Property Assessor's Office and advised there was no code 9 in the county and the home should be zoned A1, which is Agriculture and Forestry and there is no code 9 on the tax card. The Complainant contacted the Respondent and explained the issue and the lender had refused to fund the loan and refund the \$500 paid for the appraisal. The Respondent would not provide any assistance because the Respondent claimed the courthouse records had it on file. The Complainant also checked with another appraisal firm and confirmed the property is zoned A1. The Complainant learned that often appraisers use a tool called CRS Powertool Appraiser and it is widely used in the appraisal field and known for making mistakes and supplying incorrect information. The appraiser must do their due diligence to confirm information that is gathered from the CRS system. Also, the Respondent is using an older version of the CRS appraisal tool that has not been updated. The Complainant has attempted on several occasions to get the zoning code corrected by the Respondent or refund the \$500, however, the Respondent has refused. The Complainant alleges the Respondent failed to engage in due diligence in the performance of the appraisal.

The Respondent provided a response and stated the appraiser provided information from the courthouse system the appraiser uses when doing research. The research includes previous sales, owner of public record, tax information, site size, and zoning. The appraiser found no website that has all-inclusive information for all these searches and these items are not available. The appraiser must look at other websites to find the information or call the Property Assessor or Deed's office. The copy of the courthouse record was provided within the appraisal report and clearly states "9-A1" as the zoning. The appraiser reported the "9-A1" zoning in the report. This is like many rural counties in Tennessee. The Respondent does not understand why the lender did not reach out to the Respondent to question or discuss the zoning issue if it was flagged in their system.

There was no specific zoning in this area or in the State of Tennessee that says "9A1" is for Section 8 housing and the loan was merely dismissed without the Complainant or the lender following up with the appraiser. The Respondent appraiser has a working relationship with both lenders referenced by the Complainant for several years and has had stipulations sent over on other files that the Respondent has provided explanations or

changed if new information is provided. There was no information provided in this matter or any questions by the AMC/Lender. The complaint suggesting that “9A1” is Section 8 housing and caused the loan to be denied is unfortunate and the lender should be contacted and explained that in Tennessee “9A1” does not indicate Section 8 housing. The Respondent did not set out to defraud the Complainant. When the Respondent’s office spoke with the Complainant, the appraisal was explained to him in detail and the Complainant was advised to follow-up with the loan officer and have them contact the Respondent. The zoning code was reported correctly as agricultural and there should have been no problem with being able to close on the loan. The appraiser does not decide in the closing of the loans and is unaware of factors that would allow the loan to close. The Respondent is willing to refund the Complainant the appraisal amount paid since it was not used to obtain the financing.

EXPERT REVIEWER: This appraisal report and the complaint were sent to an expert reviewer for a review and analysis of the appraisal and the allegations contained in the complaint. The expert reviewer did not make any findings concerning the appraisal and there were no violations of USPAP. The appraisal was properly conducted and there were no errors. The Expert Reviewer determined there were no issues with the appraisal. Zoning code indication was mislabeled as “9 A-1” as opposed to “A-1”. This single error is not adequate to violate Standard Rule 1-1 (b) or (c). The expert found no information that a county or city zoning designation has an indication as to federal property program classifications.

Recommendation: Close.

Commission Decision: The Commission voted to authorize a contested case proceeding and authorize settlement by Consent Order with a \$1,000.00 civil penalty for the following USPAP Standards violations: SR-1-1(b), 1-2(e), 1-3(b), and 2-1(a).

5. **2020041821**
Opened: 7/20/2020
License Type: Certified Residential Real Estate Appraiser
First Licensed: 6/13/2002
Expires: 7/31/2022
History: 2007 Consent Order; 2009 Consent Order

The Complainant is a Tennessee resident and the Respondent is a licensed Tennessee Certified Residential Real Estate Appraiser.

The Complainant alleges the Respondent came to conduct an appraisal of the Complainant’s home on March 27, 2020. The Respondent’s appraisal was below the offer price and the Complainant stated the square footage was incorrect on the appraisal and the Respondent had failed to include two fireplaces. The Respondent refused to make any changes to the appraisal and the lender would not allow the Complainant to retain the services of another appraiser.

The Respondent provided a response and stated the Buyer's representative contacted the Respondent to discuss the results of the appraisal and disputed the Respondent's findings. The Respondent indicated the appraisal could not be discussed with anyone other than the client and would be happy to reevaluate and consider if there was new information presented to the Respondent. The Respondent is aware builder plans are not always reliable and can change. The GLA provided by the Respondent was the Respondent's own measurements at the time of the appraisal and only 59 square feet less than the MLS listing and the agent records. The Respondent's GLA was only 123 more than the tax records. The Respondent is not sure why the GLA is being disputed. The fireplace count is understandable. The Respondent included both fireplaces in the sketch. The Respondent did not include the fireplaces in the sale comparison approach. The home had one indoor fireplace and this fireplace was included in the valuation and sales comparison grid. The value was not too low as it was supported by the best comparable sales. The Respondent was very professional during the entire process and with all communications. The client was satisfied with the report and the Respondent did not hear from any of the parties after the initial contact by the Complainant.

EXPERT REVIEWER: The appraisal was submitted to the expert reviewer for review and analysis of the appraisal report and the allegations contained in the complaint. The expert reviewer determined there were deficiencies with the appraisal report and the Respondent has not complied with the Uniform Standards of Professional Appraisal Practice ("USPAP"). The Reviewer concluded there were concerns with the Site/Highest and Best Use. The site dimensions reported 121' X 210' result in a site size of 25,410 square feet not 16,988 as reported in the appraisal. There was no explanation for the discrepancy. The shape of the site is irregular. This results in non-compliance of USPAP Standards SR 1-1(c), SR 1-2(e)(i) and SR 2-1(b). The sales comparables and the analyses, opinions, and conclusions in the Sales Comparison Approach, including adjustments, are not adequately supported, or based on accurate information. The appraisal provides five comparables and they are within the neighborhood boundaries. The lack of inclusion of the outdoor fireplace results in non-compliance with USPAP Standards SR 1-4(a). However, the lack of inclusion in subject's valuation is minor and does not affect the credibility of the appraisal.

Recommendation: Authorize a contested case proceeding with authority to settle by Consent Order and payment of a civil penalty in the amount of \$1,000 for violations of USPAP Standards SR 1-1(c), SR 1-2(e)(i), SR 1-4(a), and SR 2-1(b).

Commission Decision: The Commission accepted counsel's recommendation.