



Texas Real Estate Commission
Texas Appraiser Licensing and Certification Board
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Neal Fenochietti
2000 K Street NW
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Mr. Fenochietti:


I am writing on behalf of the Texas Appraiser Licensing and Certification Board regarding a question that has arisen recently regarding opening certain complaint files. The Board would appreciate the Appraisal Subcommittee's insight on this issue.

As I am sure you are aware, appraisals that form the basis of complaints to the TALCB are also sometimes the subject of litigation. In some cases, the complaint may be filed for no purpose other than to call into question the credibility, competence, and reputation of the adverse party or of an appraiser testifying as an expert witness. (As you may know, for this reason, several major appraiser trade organizations do not accept complaints about potential ethical standards violations while litigation is pending.) Another concern is that the work of the Board's investigator may be discoverable and might be used to bolster one party's contention of negligent behavior. Because of these concerns about unintentionally giving one side the "upper hand" in court, the Board is skeptical about opening complaints in cases involving pending civil litigation; some Board members would prefer a policy or rule that complaints will not be considered until the litigation is complete. The two-year statute of limitations in Texas on filing complaints begins to run upon discovery or upon the completion of litigation, whichever is later.

Recognizing the importance of compliance with not only the letter but also the spirit of Appraisal Subcommittee requirements, we are requesting your guidance on this issue. Please let us know if you believe it would be permissible for the Board to decline to open a complaint while litigation is pending, or in the alternative, to open the complaint but decline to investigate it in the normal course until the outcome of any related litigation is known.

Thank you in advance for your attention to this matter.

Sincerely,


Devon V. Bijansky
General Counsel/Deputy Commissioner
Texas Appraiser Licensing and Certification Board