

Sam E. Blackburn  
Executive Director  
Larry Disney  
Chief Investigator  
Angie Thomas  
Principal Assistant  
Mary Zagale  
Executive Secretary



George H. Cook, Chairman  
Judy P. Walters, Vice Chairman  
Jed Deters  
Carol Dupont  
Maxine Lee Smith

## Kentucky Real Estate Appraisers Board

January 30, 2002

Mr. Ben Henson, Executive Director  
Appraisal Subcommittee  
2000 K Street, N.W., Ste. 310  
Washington, D.C. 20006

Mr. David Bunton, Executive Vice President  
The Appraisal Foundation  
1029 Vermont Avenue, N.W. Ste. 900  
Washington, D.C. 20005

RE: Requiring Standard III Review on Appraisal  
Complaints filed with a State Regulatory

Board Gentlemen:

The Appraisal Subcommittee and The Appraisal Foundation are advising state regulatory boards a Standard III Review should be required on complaints that involve alleged violations of USPAP. I strongly disagree with this advice and offer the following observations for your review and comment.

When a complaint is filed with a state regulator board, the only issue on the table is whether or not the appraisal in question meets the minimum USPAP requirements and applicable state licensure laws. After an investigator has analyzed the complaint and appraisal, he/she should address those concerns listed in the complaint and any other significant violations of the Uniform Standards. It is not an investigator's charge to nitpick the appraisal for every conceivable USPAP violation or offer his/her version of how the appraiser could have done better. An investigator should report his/her findings of USPAP violations to the Board for their review and consideration. The Board, not the investigator, makes the final determination of alleged USPAP violations. At no time should the investigator or the Board attempt to determine their opinion of value or a third parties opinion of value is more credible than the value of the appraisal in question. The only issue, as it pertains to USPAP, is whether or not, the techniques, analysis, methods and conclusions were appropriate and reasonable. If the process is deemed to be reasonable, the opinion of value should be reasonable. If the process is deemed to be flawed, in most cases, the opinion of value will also be flawed. Arguing value is subjective and arbitrary and an argument we will most likely lose in a court of law. Arguing the process is flawed; supported and substantiated by core appraisal courses and industry accepted methods, is an argument we will seldom lose.



There is no such thing as one value and one value only for a specific property; that's why it's called an opinion of value. Removing value from the complaint leaves only the process to be addressed. Should an investigator conclude the techniques, methods, analysis, opinions and conclusions do not conform to the minimum standards and a regulatory board concurs; it is reasonable to assume an administrative law judge or appellate court will arrive at the same conclusion. Arguing my value is better than your value is a no win situation.

Completing a Standard III Review takes the heat off the appraiser to defend his appraisal and affords the respondent the opportunity to attack the Standard III Review. Heaven help us if the Standard III Review contains even one small error.

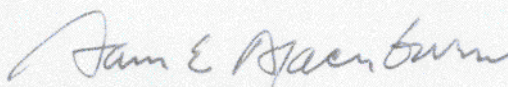
Give this some thought: If an Appraiser Board Member concurs with an opinion of value in a Standard III Review and relies on the value stated in the Standards III Review to determine disciplinary action, does not the Appraiser Board Member, under USPAP, have to perform a Standard I development to support his/her opinion of value? USPAP does not exempt Appraiser Board Members from complying with Uniform Standards when rendering an opinion of value.

The exception would be when a regulatory board has a jurisdictional exception, adopted in regulation, that states an appraiser board member and/or staff may conclude an opinion of value, for disciplinary purposes, without performing a Standard I development. My question would be the same as any prudent judge, 'Mr. Appraiser Board Member, what recognized methods did you employ to conclude your opinion of value or did you rely on the work of someone else?' And, 'Are Standard III Reviews always correct?' We have all reviewed appraisals where the appraisal in question was correct and the Standard III Review was inept and a complaint should be filed against the review appraiser.

We are soon approaching the day when an appellate court is going to rule USPAP, written with its ambiguity and imprecise language, is too vague to be understood by appraisers and regulatory boards and in its present form is unenforceable. An appellate court is not going to allow a regulatory board to deprive someone of their livelihood based on a document that state regulatory boards are interpreting many different ways, instructors are teaching many different versions, and not even members of the Standards Board can agree upon its interpretation.

I believe The Appraisal Subcommittee and The Appraisal Foundation would be well served if they channeled their efforts towards having the Uniform Standards written in simple, concise English that can be understood by appraisers, regulators, educators and users of appraisal services. The time is fast approaching that if we don't change the manner in which we regulate the appraisal industry; Congress and the courts are going to do it for us. Should the courts rule USPAP unenforceable, the ramifications to past and future disciplinary actions is going to be catastrophic.

Sincerely,



Sam E. Blackburn  
Executive Director

SEB:mlz