

MEMORANDUM


3.

APR 25 2007

Date April 23, 2007

:

To: Chairperson and Members, The Appraisal Subcommittee

From: Ron Smith, Education Coordinator 
Property Tax Division, Utah State Tax Commission
210 North 1950 West, Salt Lake City, UT 84134
Phone (801) 297-3691 Fax (801) 297-3699
E-mail: ronsmith@utah.gov

Re: Considerations for the May 10, 2007 Utah Audit Report

Vicki Ledbetter, Jenny Howard Tidwell and Kristi Klamet are accustomed to my "memo" writing style responding to their information requests, so here is one last memo with observations for consideration at your May 10 Utah Division of Real Estate and Appraiser Licensing and Certification Board audit report. I am a member of the Utah Appraiser Licensing and Certification Board and employee of the Utah State Tax Commission; however, this memo represents only my own opinions and not those of the board or commission.

Utah mass appraisers recently gained a new "awareness" of the Appraisal Subcommittee by assisting in drafting a Utah mass appraiser experience documentation rule, by reading your Arkansas and Colorado audit reports, and reviewing your March 2007 proposed amendments to ASC Policy Statement 10. I haven't yet met an appraiser who objects to going forward with quantifiable, documented parcel-by-parcel experience instead of the former experience description letters submitted by appraiser supervisors. There is resistance to assembling the same documentation from archived or (in some cases) discarded records. From my own observations and listening to others, I learn the following:

- J. **The "We weren't hiding anything" argument:** The former method of experience documentation was not hidden, but rather adopted in open meeting with weeks of public comment under Utah's rule making process. The Appraisal Subcommittee has audited the written minutes and record at least twice. Surely this federal and state scrutiny should give Utah some presumption of correctness.

A counter argument can always be made, "Utah knew or should have known." Unless the Appraisal Subcommittee is alleging fraud, this appears to be a two-way street. Utah's Division of Real Estate acted openly and above-board in good faith. Must the Appraisal Subcommittee now challenge existing certifications three audits later?

2. **The "Utah tries to play by the rules" argument:** The Utah Division of Real Estate staff informed me that the first time they became aware of the inadequacy of appraiser "experience letters" was at the 2006 AARO conference. The DRE immediately stopped licensing and certification based on experience letters. This wasn't the result of an ASC audit finding, but rather state initiative. With Utah's history of trying to play by the rules, should this give rise to an adverse ASC ruling affecting the entire history of mass appraiser certifications?

4. **The "It's a Crazy World" argument:** I participated as a committee member in an AQB Subject Matter Expert (SME) meeting in Chicago, November 28 and 29, 2006. On April 3, 2007, I submitted a reimbursement request. April 13, I received this Appraisal Foundation response:

"The books have long been closed and audited for 2006. Also, this was a grant reimbursable expense that had to be turned into the Appraisal Subcommittee prior to the end of the year. We will not be able to get reimbursed for it now; therefore, we will not be able to reimburse you."

Apparently, I'm prohibited from reimbursement after four months and an audit. However, my mass appraiser colleagues are still at risk after 15 years and your multiple audits. Shall we both agree to a limitation of four months?

4. **The "Do certification troubles result in more regulatory discipline?" argument:** If mass appraisers were awarded certification under questionable circumstances, then surely a high percentage would eventually be disciplined by the state regulatory agency for violations of law, rule or USPAP. 140 appraisers (mass and fee) have been disciplined from] 1994 to the present. All 140 have now been reviewed to determine if any of the experience was based on mass appraisal (whether or not the violation involved mass or single-property appraising).

Of the 140, three appraisers were found to have at least some mass appraiser experience. Unless mass appraisers comprise less than two percent of the Utah appraiser population, it appears that the mass appraisers are disciplined far less for violations than "fee" appraisers, rather than more.

5. **The appraisal supervisor/manager dilemma:** A possible compromise for those appraisers who certified in the early years (five years plus) with now-discarded experience documentation is to allow more current experience to justify an earlier certification. That still won't solve the problem of those certifying early on, later transitioning to higher-level positions of managing and supervising (assessors, department heads, commissioners etc.). The older experience may now be discarded, and they have no current quantifiable appraisal experience. It is so much easier to start afresh rather than create "if/then" scenarios.

6. **The "Who's in the same cellblock?" argument:** An appraiser and deputy county attorney were discussing the possibility that the ASC might require re-certification of all mass appraisers back to the beginning of licensing. The attorney commented: "Well, I guess that means that there is no statute of limitations in Utah for first degree murder, child abuse homicide, child kidnapping, and delinquent mass appraisers."

7. **The "Maybe Utah isn't like all other states" argument:** Your audit team of Vicki, Jenny and Kristi can verify that Utah mass appraisal administration hasn't ignored USPAP.
 - A. Utah law requires mass appraisers to be licensed/certified.
 - B. Utah law requires USPAP compliance.
 - C. Agency rule requires USP AP compliance.
 - D. Division Standards of Practice requires USPAP compliance.
 - E. Upon learning of the experience rule deficiency, Utah's DRE has adopted what may well be the most comprehensive, detailed and quantifiable mass appraiser experience rule in the country. (If there are better rule examples, please let me know so I can recommend a Utah upgrade.)
 - F. Supervisor "experience letters" are evidence of both supervision and USP AP compliance, assuming the parties simply followed law, rule and standards.

When it is finally adopted, the March 28, 2007 Proposed ASC Policy 10 (G) appears reasonable and enforceable. Enforcement from the Fall 2006 AARO conference appears reasonable. An argument can even be made for certification enforcement from the published (but obviously not widely known) January 1, 2005 ASC Policy 10 (F) (2). However, reviewing the universe of mass appraisers to 1991 appears inappropriate.

Thank you for your review and consideration.