



**The Ohio
Department
of Commerce**

Summer 2001

Division of

Real Estate and Professional Licensing

◆ N E W S L E T T E R ◆

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◆ *Jurisdiction, Confidentiality Also Discussed*

Division Explains Informal Meeting In Complaint Cases

No one likes to see a complaint made against a licensee, but this unpleasant event does sometimes occur. When a complaint is filed, the licensee should know what to expect from the investigative procedure.

To begin with, complaints must be filed in writing and not over the phone. The Division initially reviews the complaint letter to verify that it has jurisdiction in the case. The Division will only deal with cases involving license law.

Not all cases will be investigated. For instance, if the complaint letter alleged that the licensee used adult language around the complainant or that the licensee did not return the complainant's phone calls, the Division would not take the case further. While the Division does not condone such conduct, this kind of complaint does not represent a possible violation of license law.

Of course, the Division will investigate complaints that do allege a violation of license law. Some examples of cases where the Division does have jurisdiction include a licensee withholding information, making misrepresentations, or not acting in a client's best interests.

Should the Division find it has jurisdiction in the complaint, it will notify the licensee in writing that it is conducting an investigation. This notification will include a copy of the complaint letter in order to show the licensee exactly what charges the complainant made. On the other hand, the notification will not include copies of any documents that the complainant has produced,

or any other documents investigators uncover during the process. By statute, any documents procured during an investigation, including those introduced by the licensee, are held in confidence.

At this initial phase in the complaint procedure, both parties will be given the opportunity for an informal meeting. This meeting is not an administrative hearing or a trial of any kind; instead, it is considered an investigative tool. Because the meeting is not a trial or deposition, the parties involved may choose to have their attorneys present, but attorneys have a limited role at the informal meeting. Additionally, either party may turn down this opportunity. The informal meeting is an option, not a requirement, and the Division will not negatively construe the licensee's rejection of the meeting.

Should both parties consent to attend, the informal meeting is scheduled. In the meeting, which is tape recorded, the investigator confers with the parties involved face to face in order to gather information about the case. At all stages of the investigation, the licensee is expected to act professionally and to cooperate with the investigator, as well as to provide requested information in a timely manner. Failure to act in this regard may result in the issuance of a subpoena.

The informal meeting also offers the parties a chance to resolve their differences. Many complaints are the result of miscommunication or personality clashes, and simply taking the time to sit down and discuss the issues calmly may help clear up

the problem.

While the Division is grateful when parties involved in a complaint can resolve their problems on a personal level, if the complaint involves a license law issue, it may still be an issue for the Division. Even if the licensee has satisfied the complainant through a financial settlement, the complaint itself cannot be withdrawn if it appears that a license law violation may have occurred. If this is the case, the investigation will continue.

After gathering all necessary information and documentation, the investigator prepares a written report of the findings which will be reviewed by the investigator's supervisor and an attorney for the Division. At this stage, further information may be gathered and the report resubmitted for review.

Then the Superintendent reviews the report. If the Superintendent finds that there is reasonable and substantial evidence that the licensee has violated license law, charges may be filed and a formal administrative hearing will be held. Such cases will be turned over to the Attorney General's office, which represents the Division at the administrative hearing. After the hearing officer renders a decision, the case goes to the Real Estate Commission for final review and determination.

For further information about the entire complaint procedure, you may obtain a bulletin from the Division by calling (614) 466-4100 or from the Division's website at <http://www.com.state.oh.us>.

Payment of Fees Reminder

The Division receives over 400 checks daily as payment for fees. In order to expedite your payment, please include your file number on your check. Remember that the Division licenses industries other than real estate, such as private investigators, security guards, and auctioneers, so it is also helpful to attach a note to the check indicating the file number, type of license, and purpose of the check. Help us avoid delays in processing fees—delays that may keep you from doing business—by making all such information absolutely clear.

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OREC To Impose Stricter Penalties for Agency Disclosure Violations

At its May meeting, the Ohio Real Estate Commission expressed strong concern about the number of violations relating to agency disclosure law that it continues to see. The law has been in place for more than four years, yet licensees continue to commit violations.

The law pertaining to agency, dual agency, and required disclosures is contained in sections 4735.51 to 4735.74 of the Ohio Revised Code and can be located in the Division's publication Ohio Real Estate Laws & Rules (Red Book) or on the state website at www.state.oh.us/ohio/ohiolaws.htm.

The Commission would like all licensees to review and remember agency disclosure law, and it expects all licensees

to pay closer attention to this particular area of real estate license law. For instance, some licensees are under the misconception that the law does not apply in commercial transactions. A review of the Code will set licensees straight: the law *does* apply.

The Commission's level of concern about agency disclosure law violations is such that it has directed that this article serve as formal notice that the Commission intends to begin imposing harsher penalties for violations of agency disclosure law. This includes failure to timely obtain a signature on an agency disclosure form, failure to complete an agency disclosure form altogether, or improperly completing agency and/or dual agency disclosure forms.

Cease and Desist Orders Issued

Acting as a real estate agent without a real estate license violates Section 4735.99 of the Ohio Revised Code and is a first degree misdemeanor. Despite this prohibition, the Division still finds evidence that unlicensed people and companies engage in activities requiring a license. Most often the Division issues Cease and Desist Orders in these cases, but if offenders continue to engage in the unlicensed conduct, the Division may ask the appropriate local prosecutor to consider initiating criminal action.

Since the last newsletter, the following individuals/companies have been issued Cease and Desist Orders:

Charles E. Wagner
Millenium Property Mgt., Ltd.
5010 Mayfield Road
Cleveland, OH 44124

Kyle Rutkowski
5922 San Reno Drive
Sylvania, OH 43560-1130

Licensees May Carry Over Some Continuing Education Credits

If you have accrued more than 30 hours of continuing education credits during the last three year reporting period, you may be wondering if you can carry over those extra hours to the next reporting period. The answer is yes, with some qualifications.

According to Ohio Administrative Code Section 1301:5-7-02(H), you may transfer up to a maximum of 10 continuing education credits to the next reporting period, but you will not receive credit for more than eight classroom hours of continuing education instruction that you took in any one calendar day.

Additionally, the hours you carry over must come from complete classes. You

may not, for instance, transfer one hour of a three hour course if you have 31 hours of continuing education for your last reporting period.

Remember that for every reporting period, you must complete three hours each in the so-called "Big Three" classes (Civil Rights, Core Law, and Canons of Ethics). If you have taken a Big Three class that puts you over the 30 hour requirement, you may carry over the hours, but it will count only as an elective course. No matter how many times you complete a Big Three course during a given reporting period, you will always have to take it again during the next reporting period.

Licensing Section Update

The Licensing Section is currently completing the final phase of the conversion to the new computer licensure software system. As in any computer conversion, we have experienced some “hiccups” and “glitches.” The conversion has been extremely time consuming. The licensing staff has been working overtime since November of last year, both evenings and some weekends, to continue to meet the needs of our customers. The Division regrets delays the real estate industry and public may be experiencing and asks for your patience as we continue our progress. Rest assured that licensing staff are making every effort to process all applications and transactions in a timely manner.

In this regard, please help us to be more efficient and provide you with

timely service. If you have recently moved, please verify that the Division has your correct home address. Remember all renewals will be mailed to the home address of every licensee, 60 days prior to the licensee’s date of birth. You can also help by submitting current forms which can be obtained from our website, www.com.state.oh.us. Take an extra moment to review any forms that you submit to make sure they are properly completed, signed and accompanied with the appropriate fee. For your convenience, detailed instructions are listed on each form.

By continuing to work together we can make sure all licensing activities are handled in an accurate and timely manner. Thanks again for your patience and understanding.

Salespersons Can Handle License Transfers

It is common practice for licensed real estate brokers and salespeople to transfer their licenses from one brokerage to another. If you find yourself needing a license transfer, there are a few important things to remember.

There are two specific forms for transfers, one for brokers, Broker Transfer/Reactivation Application (Form R-3A), and one for salespeople, Sales Transfer/Reactivation Application (Form R-3). In order for the Division to complete the transfer, you must strictly abide by the instructions on the applications.

You may believe that because the broker is responsible for the salesperson’s license, the salesperson cannot handle the license during the transfer. However, there is no law or Division rule that says a salesperson can’t handle his or her own license for a transfer.

Remember that the Division cannot complete the transfer until the correctly completed form is received, the fee is paid, and the license is received. Only then can the Division complete the transfer. Many times the Division receives transfers and fees without the license being returned. As you know, a license cannot be issued until the former license is in the hands of the Division.

Most licensees wish to have the transfer issued immediately. If you want same day service, you may bring in your transfer to the Division and the transfer will be issued at the time you walk in, so long as everything required is received. Otherwise, please allow some time for your new brokerage to receive the license.

With the new law changes, when transferring or reactivating, it’s important to also remember if your license is due to be renewed or if education is due within the next 60 days.

Tips For Real Estate Teams, Advertising

Licensees who band together with other licensees or non-licensed professionals such as lawyers, administrative assistants, and mortgage bankers often form a team as a self-promotion tool. If you form such a team, there are several key points to keep in mind.

- For your team name, the Division prefers that you use at least your last name (“Team Smith” for example, as opposed to “Team Buckeye”). The idea is not to mislead the public into believing your team is a brokerage. Further, the licensee’s full name must also appear in any advertising.

- The name of the broker must also appear in any advertising, in equal prominence with the licensee’s name. The Division has seen examples of advertising that displays the team name but not the name of the entity that

actually holds the license. Such advertising is not consistent with Ohio Revised Code 4735.16(B)(1), which provides, “The name of the broker shall be displayed in equal prominence with the name of the salesperson in the advertisement.”

- If your team has any unlicensed members such as support staff, attorneys, or insurance agents, remember that these members must not engage in any activity that requires a real estate license.

- You may not collect commission through the team name. Commissions are always paid to the broker and can only be collected through the broker, whether or not you have formed a team.

The bottom line in any team activity is not to mislead the public. The team is not a licensed entity, and it should never imply that it is.

ATTENTION BROKERS!

If you have a branch office not receiving this newsletter, please notify Customer Service at (614) 466-4100

Foreign Real Estate: Out of State Timeshare and Land Sales

According to the American Resort Development Association, over 5,000 vacation ownership resorts now exist worldwide, in over 150 countries. In 1999, the sales volume in the U.S. rose to an estimated \$3.7 billion. In Ohio, there are currently 193 resorts, comprised of either lots or timeshares, registered with the Division for sale in Ohio. Additionally, there are another 183 foreign real estate dealers licensed in Ohio.

Many licensees aren't aware of a small section of real estate license law that relates to the marketing and sale of out of state timeshares or land to Ohio residents. Although dealing in "foreign real estate" sounds intriguing, like listing a villa on the French Riviera, it actually refers to dealing in any real property that is located outside of Ohio. Revised Code sections 4735.25 through 4735.29 outlines how foreign real estate may be marketed and sold in Ohio.

Before a timeshare may be marketed for

sale in Ohio, the property must be qualified for sale by the Division. The "qualification of foreign real estate" describes a process by which transactional documents relating to the advertisement and sale of foreign real estate are reviewed by the Division for compliance with Ohio law. Once a property is qualified for sale in Ohio, it may be marketed to Ohio residents.

Only the developer or an Ohio licensed foreign real estate dealer may market foreign property in Ohio. Becoming a licensed foreign real estate dealer is quite easy. The examination is waived for applicants who maintain a current brokers license in any jurisdiction and present a certification of licensure with the application. Additionally, dealers may hire foreign real estate salespeople to assist with the sale of foreign property. Again, the examination is waived for a licensed salesperson in any jurisdiction, provided a certification of licensure is presented with

the application.

If you are interested in learning more about selling foreign real estate in Ohio, reference the publications and bulletins section of the Division's website. All dealer and salesperson applications can be found in the forms and applications section of the website.



One of Ohio's Registered Properties: Marriott's Grande Vista in Orlando. Copyright Marriott Vacation Club International, 2001.

Two Unusual Cases Highlight Important Issues for All Licensees

Some of the more common charges brought against licensees include trust account violations, advertising improprieties, and problems with fair housing language. Occasionally, though, the Division sees unique cases that graphically demonstrate for all licensees the importance of adhering to license law.

One such case involved the H.E.R., Inc. brokerage. A property was advertised to be sold at an absolute auction, which most people believe means that the highest bid wins. At the auction, though, the seller felt the bids were too low and pulled the property from auction. As a result, the brokerage was charged with misleading advertising that did not consider the actual auction bid terms. The brokerage was found to be in violation of Ohio Revised Code 4735.18(A)(21) and was fined \$1000.

As more and more properties are being sold at auction, licensees need to realize that they still need to comply with all license laws when dealing with auctioned properties. Advertising of auctions must not be misleading, but licensees should

be attentive to other issues as well. For example, trust funds must still be handled properly.

Licensees must also handle agency disclosure properly at an auction. Before the auction, the licensee must verbally disclose to the auction audience that he or she represents the seller. After the auction, the licensee must give the agency disclosure form to the successful bidder before that person signs the purchase agreement for the property.

Another case illustrates what can happen when licensees are convicted of a felony. Michael Lindahl was convicted in federal court of bank fraud. Lindahl was found to have defrauded the bank at which he was an officer by falsifying certain loan applications taken for his own personal benefit in the management of his mother's financial affairs. As a result of the conviction, Lindahl's real estate license was revoked.

While it is a bit unusual for a real estate license to be revoked, it is a definite possibility in the case of criminal convictions. If a licensee is convicted of a felony,

he or she must report the felony to the Division within 15 days of the conviction. Failure to do so may result in the automatic and immediate revocation of the license, as allowed by Ohio Revised Code 4735.13(C).

When the felony conviction is reported, the Division examines the report for the potential of disciplinary action against the license. The Division weighs such factors as the nature and seriousness of the offense and the penalty imposed by the court when making the decision. In Lindahl's case, it was determined that the offense was serious enough to justify the license revocation.

It's important to note that no action is taken against a license held by a person who has only been indicted on a felony count; the licensee is, of course, considered innocent until proven guilty, and the Division will not take action unless there is a conviction.

No one likes to see disciplinary action taken against a licensee, but the Division hopes that all licensees can learn from the mistakes of others and avoid disciplinary action themselves.

Appraisal Subcommittee National Registry Link

Our web page www.com.state.oh.us now has a link to the Appraisal Subcommittee national Registry that contains the name, business address, phone number, license number, license expiration date and original issue date. When you arrive at the Ohio Department of Commerce WebPages click on the option box then click on "Appraisers" and then click on "Accessing data

base of appraisers" and follow the instructions for a query. This ASC National Registry link should be used to verify the license status of a licensed or certified real estate appraiser or to obtain a business address or phone number. If you find that the Registry contains inaccurate information about your license or certification please contact our Appraiser Section at 216-787-3100.

ATTENTION BROKERS!

*Are you forwarding
copies of this newsletter
to your salespeople?*

Appraiser Disciplinary Actions

ROBERT RUDOLPH RUCKSTUHL (RA) a state licensed residential real estate appraiser from Mayfield Village, Ohio was issued a written reprimand, admonishing him to comply with the Uniform Standards of Professional Appraisal Practice when developing and communicating an appraisal report. He failed to comply with Ohio Revised Code Section 4763.11(G)(5) as it incorporates Uniform Standards of Professional Appraisers Practice Standards Rule 2-2 in communicating an appraisal report. He also was required to complete 45 hours of appraisal education courses within 120 days that must include the following: (15) fifteen hours of Uniform Standards of Professional Appraisal Practice; (15) fifteen hour seminar on conducting the sales approach to value and (15) fifteen hour seminar on highest and best use analysis, which can be used for annually required continuing educational credits.

CHARLES G. SNYDER (GA) a state certified general real estate appraiser from New Philadelphia, Ohio was issued a written reprimand, admonishing him to exercise due diligence in preparing an appraisal report for conduct that violated Ohio Revised Code Section 4763.11(G)(5) as it incorporates the Uniform Standards of

Professional Appraisers Practice Standards Rule 2-5. While acting as a review appraiser he approved an appraisal report that contained material omissions, failed to identify, explain, and analyze the impact, if any, of financing concession made to the buyer by the seller.

MICHAEL BARNETT (RA) a state licensed residential real estate appraiser from New Philadelphia, Ohio was issued a written reprimand, admonishing him to exercise due diligence in preparing an appraisal report for conduct that violated Ohio Revised Code section 4763.11(G)(5) as it incorporates the Uniform Standards of Professional Appraisers Practice Standards Rule 1-1(b). He developed and communicated an appraisal omitting material information, failed to identify, explain, and analyze the impact, if any, of financing concession made to the buyer by the seller.

LACENYYA NICOLE COBB (RA) a state certified residential real estate appraiser from Cleveland Heights, Ohio was issued a written reprimand, admonishing her to comply with Uniform Standards of Professional Appraisal Practice. The respondent appraiser in three different appraisal reports failed to appropriately disclose the reporting options utilized in each report as required by Uniform Standards of Professional Appraisal Practice, Standards Rule 2-2 which also

violated Ohio Revised Code Section 4763.11(G)(5). She also was required to submit proof that she completed a seminar on the sales comparison approach to value, a Uniform Standards of Professional Appraisal Practice Course; and a (30) thirty hour course covering the Income Approach to Value within 120 days of the date of the Appraiser Board's Order. The education completed also can be credited for the annual continuing educational credits.

NICHOLAS VILLELLA (RA) a state licensed residential real estate appraiser from Lyndhurst, Ohio was issued a written reprimand admonishing him to comply with Uniform Standards of Professional Appraisal Practice when developing and communicating an appraisal report. He also must complete a (30) thirty hour course in the sales comparison approach to value and a (15) fifteen hour course in the Uniform Standards of Professional Appraisal Practice. The respondent appraiser failed to cite the reporting option as mandated by the Uniform Standards of Professional Appraisal Practice, Standard Rule 2-2. He also failed to analyze a current agreement of sale and listing of the subject property or explain and reconcile any discrepancies between the sale price and listing agreement sufficiently within the approaches used.

Real Estate Disciplinary Actions

SUSPENSIONS, FINES, EDUCATION

TIM L. STANFORD, broker, Lima, Ohio, had a \$100.00 fine levied against his license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Mr. Stanford received a proceeds check from a closing. The money was earmarked to cover the costs of a home warranty plan his seller had agreed to furnish the buyer. The selling agent had already called in for a policy, of which Mr. Stanford had no knowledge. There was an ensuing dispute over the duplicative placement of the policies by the two associates. Mr. Stanford continued, for several months, to retain in his possession the proceeds check, rather than return it to the title company or to the other realtor. The other agent, in the eyes of the warranty company, had first placement rights. Mr. Stanford did later remit the check to the warranty company.

KAREN SUE RAMUNDO, sales associate, Cincinnati, Ohio, had a \$500.00 fine levied against her license and she was required to complete and to submit proof of completion of the ten (10) hour sales post-licensure course for violating Ohio Revised Code Section 4735.18(A)(6) as that section incorporates Ohio Revised Code Section 4735.58(A). Ms. Ramundo marketed property for sale, without first preparing and submitting an Ohio agency disclosure form to the sellers.

ERNEST R. GIBSON, broker, Englewood, Ohio, had a \$100.00 fine levied against his license and he was required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course, for violating Ohio Revised Code Section 4735.18(A)(24). Mr. Gibson failed to keep complete and accurate records, by not maintaining copies of all necessary and required agency disclosure forms involving several properties.

JERI L. DREW, sales associate, Xenia, Ohio, had a \$100.00 fine levied against her license for violating Ohio Revised Code Section 4735.18(A)(6), as that section incorporates Ohio Revised Code Section 4735.58(B). Ms. Drew presented purchasers with an Ohio agency disclosure form in connection with their offer to purchase a property. However, the agency disclosure form should have been provided to the purchasers in a more

timely manner, and at least, prior to her first showing them the property. She failed to timely provide the Ohio agency disclosure form.

KIRSTEN A. BOWIE, sales associate, Powell, Ohio, had a \$200.00 fine levied against her license and was required to complete and to submit proof of completion of three (3) hours of additional continuing education, for violating Ohio Revised Code Section 4735.18(A)(6), as that section incorporates Ohio Revised Code Section 4735.55. Ms. Bowie listed property for sale; however, the written agency agreement did not contain the specific fair housing language required by Ohio Revised Code Section 4735.55.

FRANCINE GUGGER, sales associate, Centerville, Ohio, had a \$500.00 fine levied against her license and she was required to complete and to submit proof of completion of the ten (10) hour sales post-licensure course for violating Ohio Revised Code Section 4735.18(A)(6), as that section incorporates Ohio Revised Code Section 4735.58(B). Ms. Gugger, prior to showing a property, failed to provide the buyers with an agency disclosure form indicating whom she would be representing. She failed to timely provide the buyers with an agency disclosure form.

THOMAS B. HILL, sales associate, Dublin, Ohio, had a ten (10) day suspension of his license, to commence on April 20, 2001, a \$500.00 fine, and he was required to complete and to submit proof of completion of the ten (10) hour sales post-licensure course, for violating Ohio Revised Code Section 4735.18(A)(6), as that section incorporates Ohio Revised Code Section 4735.21. Mr. Hill acted on behalf of a real estate company; while licensed with another real estate company, by preparing a document authorizing a 3% commission be paid to the company he was not associated with.

RUSCHELE R. LORIMER, sales associate, Worthington, Ohio, had a \$500.00 fine levied against her license and she was required to complete and to submit proof of completion of the ten (10) hour sales post-licensure course, for violating Ohio Revised Code Section 4735.18(A)(24). Ms. Lorimer failed to maintain complete and accurate records relating to a property, including a copy of

the offer prepared on behalf of the purchasers.

MYRA L. RAMSEY, sales associate, Parma Heights, Ohio, was required to complete and to submit proof of completion of the ten (10) hour sales post-licensure course for violating Ohio Revised Code Section 4735.18(A)(2). Ms. Ramsey, in a sale she sponsored, promised the sellers a credit on a commission due her brokerage, representing her broker had approved this concession. In actuality, Ms. Ramsey did not confer with her broker about the concession until the time of the closing.

IT'S A FEDERAL OFFENSE

Did you know that misconduct of real estate licensees may subject them to liability under federal law as well as state laws and commission rules? Licensees should be aware that if either the buyer or the real estate agent has made, or aided in, the falsification of a loan application to a federally insured lender, those involved may be charged with felonies punishable by up to five (5) years in prison and a \$10,000 fine. Falsification includes misstatements of purchase price, amount of the down payment, or credit worthiness of the loan applicant.
(See 18 U.S.C. Section 371.)

ATTENTION BROKERS!

Are you forwarding copies of this newsletter to your salespeople?

Appraiser Board Identifies USPAP Standards Frequently Violated

The Ohio Appraiser Board has identified frequently violated Sections of the Uniform Standards of Professional Appraisal Practice during real property appraisal development. During development of appraisal reports and communicating any appraisal assignments, appraisers are well advised to reconcile their work product against these Uniform Standards of Professional Appraisal Practice, Standards Rules, which some appraisers fail to adequately satisfy.

Standards Rule 1-1 (a) provides that when developing a real property appraisal report, an appraiser must be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal report.

Standards Rule 1-1 (b) provides that when developing an appraisal report an appraiser must not commit a substantial error of omission or commission that significantly affects an appraisal.

Standards Rule 1-1 (c) provides that when developing an appraisal report, an appraiser must not render appraisal service 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.

Standards Rule 1-1 (e) requires an appraiser to identify the characteristics of the property that are relevant to the purpose and intended use of the appraisal, including:

- (i) Its location and physical and economic attributes;
- (ii) The real property interest to be valued;
- (iii) Any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal;
- (iv) Any known easements, restrictions encumbrances, leases, reservation, covenants, contracts, declarations, special assessments, ordinances, or items of a similar nature; and
- (v) Whether the subject property is a fractional interest, physical segment, or partial holding.

Standards Rule 1-2 (f) requires that an appraiser identify the scope of work necessary to complete the appraisal assignment.

Standards Rule 1-4 requires that an appraiser when developing a real property appraisal collect, verify and analyze all information applicable to the appraisal problem, given the scope of work identified in accordance with Standards Rule 1-2 (f).

Standards Rule 1-4 (a) provides that when a Sales Comparison Approach is applicable, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion.

Standards Rule 1-4 (b) provides that when a Cost Approach is applicable, an appraiser must:

- i) Develop an opinion of site value by an appropriate method or technique;
- (ii) Analyze such comparable cost data as are available to estimate the cost new of the improvements if any; and
- (iii) Analyze such comparable data as are available to estimate the difference between the cost new and the present worth of the improvements (accrued depreciation).

Standards Rule 1-4 (c) provides that when an Income Approach is applicable, an appraiser must:

- (i) Analyze such comparable rental data as are available to estimate market rental of the property;
- (ii) Analyze such comparable operating expense data as are available to estimate the operating expenses of the property;
- (iii) Analyze such comparable data as are available to estimate rates of capitalization and/or rates of discounts; and
- (iv) Base projections of future rent and expenses on reasonably clear and appropriate evidence.

Standards Rule 1-5 provides that in developing a real property appraisal, an appraiser must:

- (a) Analyze any current agreement of sale, option, or listing of the property, if such information is available to the appraiser in the normal course of business.
- (b) Analyze any prior sales of the property that occurred within the following minimum time periods:
 - (i) One year for one-to-four family residential properties; and
 - (ii) Three years for all other property types; and
- (c) Reconcile the quality and quantity of data available and analyze within the

approaches used and the applicability or suitability of the approaches used.

Standards Rule 2-1 states that each written or oral real property appraisal report must:

- (a) Clearly and accurately set forth the appraisal in a manner that will not be misleading;
- (b) Contain sufficient information to enable the intended users of the appraisal to understand the report properly; and
- (c) Clearly and accurately disclose any extraordinary assumption, hypothetical condition or limiting condition that directly affects the appraisal and indicate its impact on value.

Standards Rule 2-2 provides that each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal report, Summary Appraisal report or Restricted Use Appraisal report.

Examples of the type of appraiser conduct within the Sales Comparison Analysis Approach to value that doesn't comply to the Standards, are as follows;

Information concerning the prior sales history for the subject property and the comparable properties used in the report are not thoroughly and accurately reflected in the appraisal report. **Standards Rule 1-1 (b), (c) and 1-5 (a), (b), (i).**

The physical characteristics and condition of the subject property and that of the comparable properties listed within the appraisal report are not accurately disclosed. The failure to appropriately disclose this information contributes to improper adjustments being made within the sales comparison analysis section of the appraisal report that renders the report highly inaccurate and misleading. **Standards Rule 1-1 (a), (b), (c), 1-2 (e), (i).**

The distances indicated for the location of the comparable properties used in the report from the subject property are not accurately reflected which renders the report misleading. **Standards Rule 1-1 (a), (b), (c), 1-2 (e), (i).**

The selection of comparable properties that are not located within the subject properties marketing area and that are not similar in size, style, age, design and amenities to the subject including its condition. That even with adjustments

fails to accurately reflect the value of the subject property thus rendering the appraisal report as a misleading one or one that is not credible. **Standards Rule 1-1 (a), (b), (c) and 2-2 (a), (b), (c), (iii).**

The appraiser's failure to include supporting comments and explanations that justifies exceeding well established guidelines for the Sales Comparison Approach regarding the comparable properties selected, their location, sales dates, size, age and conditions as it relates to the subject property. **Standards Rule 1-1 (a), (b), (c), 1-2 (e) and (i).**

Appraiser's failure to identify the source of the site value within the Cost Approach to value or the per square foot costs for the improvements when new. Also their failure to appropriately indicate any accrued depreciation. **Standards Rule 1-1 (a), (b), (c) and 1-2 (e).**

The appraiser's failure to include additional documentation for the appraisal report communicated such as: sketch page with dimensions, photographs, location map and the appraiser Certification and Statement of Limiting Conditions. **Standards Rule 1-1 (a), (b), (c) and 2-3.**

Appraisers within the Income Approach to Value, fail to analyze comparable rental

data available to estimate the market rent of the subject property, and to analyze comparable operating expenses, to estimate the operating expenses of the subject property. Also, the appraiser must analyze comparable data that are available to estimate rates of capitalization and or discount rates. Appraisers also failed to offer well reasoned and appropriate information for future rent projections. **Standards Rule 1-1 (a), (b), (c) and 1-4 (c), (i), (ii), (iii) and (iv).**

Ethics Rule, Conduct Section:

Appraisers must perform assignments ethically and competently, in accordance with USPAP and any supplemental standards agreed to by the appraiser in accepting the assignment. Appraisers must not engage in criminal conduct. Appraisers must perform assignments with impartiality, objectivity, and independence and without accommodation of personal interests.

Appraisers can obtain Subscription Service for the 2001 Uniform Standards of Professional Appraisal Practice publication by contacting the Appraisal Foundation, Publication Department at 1-202-624-3056 or 1-202-624-3062. Mail orders to:

The Appraisal Foundation
P.O. Box 96734
Washington DC 20090-6734
Fax Number: 1-202-347-7727
Web Site: www.appraisalfoundation.org

IMPORTANT INFORMATION FOR LICENSEES!

The Division has received numerous returns of annual renewals due to incorrect addresses on file.

Remember, it is your responsibility to ensure the Division has your current home address at all times. The Division will send your annual renewal form to this address only.

When notifying the Division about address changes, please include your file number.



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Department
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**State of Ohio
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Division of Real Estate and Professional Licensing
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