

Connections

Official Publication of the Association of Texas Appraisers, Inc.

From the President

I'd like to start off by thanking everyone who joined us in New Braunfels this past February for our mid-year meeting. We had quite a turnout and it was good visiting with all of you. It was also very nice to see so many new faces this time around. I've always felt that we have such a friendly and knowledgeable group. And I hope the newcomers felt the same and will continue to join us.



There was a topic brought up to us at our Friday evening Board of Directors meeting that really touched home to me and probably to most of you as well. One of our members had a concern regarding the incorrect and/or lack of data being published in the MLS regarding the sale of a property. We as appraisers are being watched ever so closely during these trying economic times and are taking the heat for many of the problems in the real estate industry. However, who are our sources for most of our data? We must rely on proper data recording by Realtors/Brokers who, in many cases, probably don't truly understand what we need and why. I have called brokers on several occasions and have asked them for additional information that was not listed in the MLS regarding a particular sale. And so many times I get the response, "and why do you need to know that?" At first I thought they were just being stubborn, but then over time I have realized that they just don't understand. They sell real estate; we appraise real estate. We cannot expect them to know the ins and outs of our profession, just as many of us do not know theirs. We can, however, educate them in the areas that can benefit us all. We can get the proper data we need and they can get a quality appraisal. And, in most cases, a more prompt appraisal because we will not be spending so much time tracking down data that should already be available to us.

At the request of the Board, Diana Jacob agreed to assist in composing a letter to the Texas Association of Realtors (TAR). After it is reviewed and approved by the Board, the letter will be posted on the ATA website (probably within the next month.) I strongly encourage each of you to e-mail, fax, or hand deliver (with a smile) a copy of this letter to your local Board of Realtors and ask them if they would please review the document. We will be mailing the letter to TAR shortly and they will disperse it as they see fit. But it is still our job, as appraisers, to make these requests more personal. I hope that when they (the local boards) see that an appraiser, who is working directly with their members, has a request of this sort, they will be willing to help the cause.

Mission Statement of the Association of Texas Appraisers

The Association of Texas Appraisers was organized to provide opportunities for continuing education and professional association for real estate appraisers and other interested parties within the State of Texas; to establish and maintain minimum requirements for membership; to confer membership designations to properly qualified appraisers; and to provide and maintain an organization that serves the needs of its members.



Bridgett Blankenship
President
361 777-1200



Tom Shirley
Vice
President
830 609-3629



Candy Cooke
Director
512 925-7329

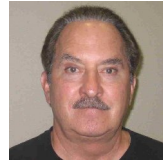
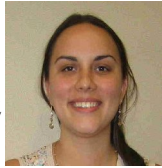


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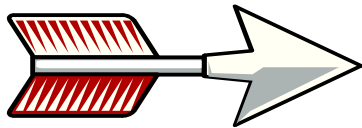


**Officers & Directors
2008-2009**

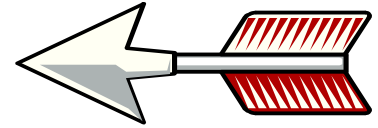
John Macy
Director
281 242-8863



Bobby Crisp
Past President
210 651-3291



Designations Pending



The following members have applied for designation: Wade H. Gibson, Devine, has applied for the Associate of Texas Appraisers - General (ATA-G) designation and Buster L. Sherry, San Antonio, and Ed Shuman, Houston, have applied for the Associate of Texas Appraisers - Residential (ATA-R) designation. Their applications will be considered for approval by the Board of Directors. Per ATA bylaws, notice of application is posted here so that members may advise the Board of Directors if they have an opinion as to whether the awarding of a designation should be approved or not for these members. Deadline for comments on these designations is April 15, 2009, to info@txappraisers.org.

If you are interested in applying for a designation with the ATA, please go to our website www.txappraisers.org and click on the "Membership" tab, where you will find the Designation Application, which includes information on designation requirements.

**A great big thumbs up and an even bigger
THANKS**



to the following ATA members who contributed to the success of our recent meeting by giving informative and interesting presentations: Bernie Boarnet, Ethics Course for Real Estate Lincensees; Diana Jacob, A Brief Look at the Appraiser's Role in the Housing Crisis; Raulie Irwin, Jr., The Mineral Estate and Expert Witness and Courtroom Testimony and finally, Panel Members Bobby Crisp, Diana Jacob, Renee Latham and Frank Carns, Manufactured Housing Issues.



The continuing success and growth of the ATA is due in large part to our members who are willing to give of their time and skills to make this the best thing going!

Thanks everyone!!!!

The opinions and statements expressed herein are those of the individual authors and do not necessarily reflect the viewpoints of the Association of Texas Appraisers or of its individual members.



ATA Mid-Year
Educational Conference
Feb. 13-14, 2009
Holiday Inn
New Braunfels



USPAP ISSUES
Receiving the Contract...or Not
By: Bobby Crisp
AQB Certified USPAP Instructor #10287



We've received an assignment to appraise a property that is being sold. The client/lender does not want to provide a copy of the contract. Can we appraise the property anyway? Or should we turn down the assignment?

USPAP Standards Rule 1-5 requires an appraiser to analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal, "*if such information is available to the appraiser in the normal course of business*". Since the contract is not being made available, you can complete the assignment and be in compliance with USPAP.

But, it doesn't stop there. The *Comment* to SR 1-5 refers the appraiser to Standards Rule 2-2(a, b, or c)(viii) where he/she is to summarize the results of analyzing the subject sales, options, and listings. If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. The appraisal report must disclose the steps taken by the appraiser to obtain the contract.

Advisory Opinion (AO-24) addresses "*normal course of business*" which is determined by the actions of an appraiser's peers and the expectations of parties who are regularly intended users for similar assignments. It is not any one appraiser's practice or policy.

Now that we know where USPAP stands, let's take it one step further. In our scenario, a property is being sold. What is the intended use and who is the intended user? If for a mortgage transaction, then we have more to deal with here. Are there specific guidelines that we are to utilize such as Fannie Mae, Freddie Mac, FHA, VA, or lender specific guidelines?

Fannie Mae issued Announcement 08-30 dated November 14, 2008. Page 5 of the announcement states: "Fannie Mae is adding the requirement that lenders must provide the appraiser with the sales contract and all addenda, therefore insuring that the appraiser has been given the opportunity to consider the financing and sales concessions in the transaction and their effect on value."

In just a few weeks (May 1), the HVCC is scheduled to go into effect for loans being sold to Fannie Mae or Freddie Mac. In Section I, Item 10, it states:

"No employee, director, officer, or agent of the lender, or any other third party acting as joint venture partner, independent contractor, appraisal company, appraisal management company, or partner on behalf of the lender, shall influence or attempt to influence the development, reporting, result, or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery, or in any other manner including but not limited to:

(10) any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality or violates law or regulation, including, but not limited to, the Truth in Lending Act (TILA) and Regulation Z, or the USPAP." Remember, "objective" is defined as: an opinion of what exists and what is known rather than preconceived or a personal view. By denying a copy of the sales contract, the appraiser cannot know what exists and the appraiser's objectivity would be impaired. Thus, the lender would be violating the HVCC.

(Continued on Page 5)

USPAP Issues (Continued from Page 4)

HUD/FHA requires the contract be provided to the appraiser. Mortgagee Letter 2005-02 dated January 4, 2005 has Mortgagee Requirements. Item #1 says:

“On any real estate purchase transaction, the mortgagee must provide the appraiser with a complete copy of the ratified sales contract, including all addenda, for the subject property that is to be appraised.”

HUD Handbook 4150.2 revised Appendix D was attached to Mortgagee Letter 2005-48 dated December 19, 2005. Page D-16 of the revised Appendix D says:

“FHA requires that the appraiser be provided with a complete copy of the ratified sales contract, including all addenda, for the subject property.”

VA requires the contract be provided to the appraiser. The Fee Appraiser Training Guide For The Houston Regional Loan Center states in Section B2(1):

“For origination (new loan) cases a completed VA Form 26-1805 (Appraisal Request Form) and ratified sales contract (if purchase) are forwarded directly to you from the lender/sponsor upon assignment.”

What if the lender/client is a bank and they want to have it as a portfolio loan? We’ve determined that USPAP allows us to appraise a property without a copy of the contract. So there is no confusion, the report should state that the appraisal does not conform to Fannie Mae guidelines. That means you don’t have to be so concerned with Fannie Mae’s comparable sale selection protocol (you pick the best sales available), no 1004MC form, etc. You may not even want to use the Fannie Mae 1004 form, to be honest. Communication with your client is paramount. Find out what it is that they want! Know how deep the water is before you go divin’ in!!!

The thing is, ask for a copy of the contract. If they will not provide one, press on. All you can do is ask the question. Perform the appraisal, state in your report the steps that you took to gain a copy of the contract, who you talked with, etc., and be done with it. It is not your responsibility to make sure everyone else follows specific guidelines. Your responsibility is to make sure that you do!

Food for thought!!

Bobby Crisp

A Brief Look at the Appraiser’s Role: Housing Crisis and the 1004MC

Diana Jacob started her presentation of the above subject at our February meeting with the following: “Will Rogers said that everyone is uneducated; some just more than others in certain subjects.” If you sat in on Diana’s presentation on this important subject, you are hopefully feeling less uneducated about the 1004MC. However, if you would like a little refresher course, Diana has made her power point presentation available to our members. Just drop a note to info@txappraisers.org and ask to be sent “Diana’s 1004MC Presentation” and a copy will be e-mailed to you.



Also Diana extends her apologies for not having enough copies of her book on the 1004MC available at the February meeting. If you didn’t get a copy and still want to order one, you can order this publication from her partner Rich DeHeer at deheer@iowatelecom.net.

Minutes
Board of Directors Meeting
February 13, 2009

President Bridgett Blankenship called the meeting to order at approximately 5:11 p.m. at the Holiday Inn Hotel in New Braunfels, TX. Directors present were Bridgett Blankenship, Frank Baker, Michael Braught, John Macy, Bill Render, Bobby Shafer, Tom Shirley, Eileen Brown, Candace Cooke, past president Bobby Crisp and Executive Director Gale Pospisil.

The minutes of the last meeting on August 8, 2008 were read to the board as a reminder of our last meeting. They had been previously approved by the board via email.

Financial Reports:

Treasurer Michael Braught presented the Income/Expense Report for the period 9-1-2008 through 2-10-2009, copy of which is attached to the minutes. \$50 directors fees were distributed to all board members.

Old Business:

Chairman Bobby Crisp then discussed the Professional Standard Committee and all members acknowledged the fact that Tom Shirley is no longer eligible to serve on Professional Standards Committee due to his serving on the board. Bobby Crisp offered to provide Bridgett Blankenship with a list of members of ATA that could be considered to serve on the Professional Standards Committee.

The board then discussed the success of Pay Pal and its providing for approximately half of the registration for the February 2009 meeting.

New Business:

Bridgett Blankenship made the board aware that a new board member must be appointed to audit the ATA bank account as Tom Shirley has done it the last two years. Candace Cooke accepted that task. Next the board discussed the sites and dates of the upcoming August 2009 meeting. Gale Pospisil delivered a report on the options that were available for the meeting sites. She relayed that Holiday Inn Airport in Corpus Christi, TX seemed to be the best option for the association. Motion was made to hold meeting August 7-8, 2009 at Holiday Inn Airport in Corpus Christi, TX. Motion seconded and passed.

Course topics were then discussed for Saturday the 8th. The possibility of offering the USPAP update was discussed and then dismissed due to the fact that many members depend on it being offered every two years in New Braunfels and moving it might disrupt many people's CE schedule. It was decided that although the Fannie Mae form would have already been in use for a few months that it would still be a timely and useful course to offer. Motion was made by Bobby Shafer to offer FNMA course, seconded and passed. Candace Cooke suggested the board consider a "How Green Effects Value" course she herself can provide on Friday the 7th. She will be checking for approval on course and will keep the board updated so that we have time to find alternatives in the case that it is not approved for CE in time.

(Continued on Page 7)

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The board then discussed the MCE Ethics/ Legal courses that the association offers on Friday mornings. Gale Pospisil explained that it has not resulted in the level of enrollment that was originally expected therefore causing the association to lose revenue due to the cost of holding class (i.e. instructors cost). One suggestion was the association offer the 3 hour MCE course only at the February meetings while in New Braunfels. A second suggestion was made by Candace Cooke that she herself instruct the course and due to membership charge a lower fee. The board decided both suggestions were acceptable and John Macy motioned for the MCE courses to only be offered in February and Candace Cooke to be instructor. This was seconded and passed.

The Nominating Committee for the upcoming year will be Bobby Crisp-Past President, Bridgett Blankenship-President & Tom Shirley-Vice-President. There will be three positions to be filled as Bridgett Blankenship, Michael Braught and Candace Cooke's term will expire. There are no term limits and no restrictions from running again. Michael Braught mentioned that he will be running again and would be interested in serving as Treasurer again. The Nominating Committee will have a report to Executive Director Gale Pospisil so that she may include the nominees in the June newsletter.

The dates and location for the February 2010 meeting were discussed. Candace Cooke made a motion to hold the meeting in New Braunfels as usual. This was seconded and passed. The dates discussed were 12-13 and 19-20 with preference for the latter. The availability will be researched and it will be determine which weekend it will be held. It was moved by Eileen Brown to offer the USPAP Update course for Saturday, this was seconded and passed. A quote will be obtained from Columbia Institute for USPAP course. Friday's course is still undecided.

The location of the August 2010 meeting was discussed in order for the Executive Director to have a place to start researching meeting sites. It was suggested in order for the association to appeal to Houston/Bay Area members or potential members that we consider Katy as a possible site. Executive Director with the assistance of Director John Macy will research the Katy area.

Gale reported we may be doing some updating to the ATA website.

Candace Cooke agreed to write the article for September (Note: This should have been for March) newsletter. John Macy agreed to write article for December (Note: This should have been for June) newsletter.

Tony Palacios, ATA member, then addressed the board with concerns that many Realtors are not being held responsible for the information they are providing on MLS, some by being negligent and some by being fraudulent. He suggested that we write a letter from ATA to TAR letting them know that as an association we will hold any agents responsible for false information that attributes to any disciplinary action against a member of ATA. Candace Cooke moved for a letter to be drafted on behalf of ATA, this was seconded and passed.

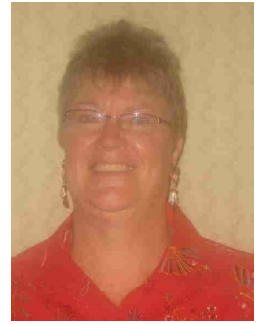
With no further business to discuss the board was adjourned at approximately 6:22 p.m.

Respectfully Submitted,
Eileen Brown, Secretary



Appraiser Competency

By Candace Cooke



As our workload has decreased over the previous several months, we all have accepted assignments that we normally would have refused in the busier times. Many appraisers are accepting assignments in areas that they have never worked or have not worked in several years. When agreeing to complete these assignments, we should take stock of our experience, knowledge and abilities.

According to the Texas Appraiser Licensing and Certification Board (TALCB), numerous complaints are based on appraiser competency. In addition, many of the Realtor organizations also are receiving negative reports about appraisers.

So let's take a look at the USPAP 2008-2009 Competency Rule:

Prior to accepting an assignment or entering into an agreement to perform any assignment, an appraiser must properly identify the problem to be addressed and have the knowledge and experience to complete the assignment competently; or alternatively, must:

1. Disclose the lack of knowledge and/or experience to the client before accepting the assignment;
2. Take all the steps necessary or appropriate to complete the assignment competently; and
3. Describe the knowledge and/or experience and the steps to taken to complete the assignment competently in the report.

The above rule requires that we recognize and comply with laws and regulations that apply to both the appraiser and/or the assignment. Our background and experience vary widely. A lack of experience (even for us "old-timers") can lead to inaccurate or inappropriate valuations.

Geographic competency requires us to be sufficiently familiar with an area that we understand the local market as well as the supply and demand of the property type being considered. This type of knowledge and understanding is not only drawn from specific data (i.e. demographics, listings, sales, cost data) but also from understanding the relationship of the subject to the comparables available using this data. This requires that the appraiser spend enough time in researching the area to be able to appropriately analyze the data that was located.

Quite often there is more than one multiple listing system that covers a particular area. Research indicates that there is typically one system that is more comprehensive than the others. This has been noted in the New Braunfels/Canyon Lake area where the area is covered by both the New Braunfels/Canyon Lake MLS as well as the San Antonio MLS. In addition, it is seen in the Marble Falls area that is served by both the Highland Lakes MLS as well as Austin MLS. Without access to all the data available, an appraiser may not have all the data needed to properly complete the assignment. Those appraisers, who are competent to appraise in some of these areas, have opted to be a member of multiple systems. They have expanded their knowledge and experience through different sources to ensure that they have the "best" data available.

According to our Competency Provision, we are required to inform our clients prior to accepting an assignment if we don't have the knowledge or experience. In addition, we must take the necessary steps to be able to

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complete the appraisal competently. This can be accomplished by allotting the time needed to study and learn the data or by associating with another appraiser who has the knowledge and/or experience. But what happens if we discover that we don't have knowledge or experience after we are part way through the assignment? We must comply with Items 2 and 3 of the Rule.

To further complicate the matter, Fannie Mae guidelines may be subject to misinterpretation by lenders. Sellers Guide Section XI, 101.02, "Knowledge and Experience Requirements states "We *expect* a lender to use an appraiser who not only has the knowledge and experience that is required to perform a professional quality appraisal..." Furthermore, the only stated lender requirement in Section XI in the Fannie Mae Guide is for the use of state licensed or certified appraisers.

A narrow reading of this could lead a lender to believe that they are complying by hiring a licensed or certified appraiser. It would be much stronger if it stated. "We *require* a lender to use an appraiser who not only has the knowledge and experience that is required to perform a professional quality appraisal."

Until such time that we have lenders that truly understand the Competency Rule, it once again falls on the appraiser to determine if they actually are qualified to take on an assignment. Rather than exposing ourselves to the liability of producing a misleading valuation, it would seem that we can use our affiliation with ATA to refer out work to other members who might be more competent to appraise in a particular area. By meeting each other and getting familiar with our members, we are building a network of appraisers that we will be able to promote when a client needs work to be completed in an area outside our expertise.

By Candace Cooke, Director

Mark Your Calendar for August 7-8 in Corpus Christi

You won't want to miss the Fourth Annual Meeting and Educational Conference to be held August 7-8 at the Holiday Inn Airport in Corpus Christi. While the class for Friday afternoon has not yet been finalized, we are happy to announce that we have contracted with Columbia Institute to present their new course - Fannie Mae Today, No. 116 on Saturday. This course will provide eight hours of ACE and MCE. And provide all you need to know about Fannie Mae in one course: Where we are and how we got here; The New Market Conditions Form 1004MC; The Home Valuation Code of Conduct; and the 2009 Fannie Mae Appraisal Guide. Course materials will include a 114-page text prepared specifically for the course, including copies of specific guidance from Fannie Mae as well as two case studies and a hands-on exercise using the 1004MC. This course is designed to give the practicing appraiser the confidence necessary to thrive in an increasingly competitive world of AMCs and increased requirements. And we're importing a new and exciting instructor to provide a little variety for our members. We know you won't want to miss it.

And don't forget, we will be conducting our annual general membership meeting and electing three new Directors. If you are interested in running for director, please contact Nominating Committee Chair Bobby Crisp at crispappraisal@satx.rr.com.



Income/Expense by Category - YTD

8/1/2008 through 2/10/2009

2/10/2009

Page 1

Category Description	9/1/2008- 11/30/2008	12/1/2008- 2/10/2009	OVERALL TOTAL
INCOME			
Designation Fees	25.00	-25.00	0.00
Interest	175.12	0.00	175.12
Meeting Fees	0.00	8,050.00	8,050.00
Membership Dues	5,800.00	2,250.00	8,050.00
TOTAL INCOME	6,000.12	8,275.00	14,275.12
EXPENSES			
Equipment	505.47	38.29	543.76
Executive Director	900.00	900.00	1,800.00
Meeting Expenses	18.22	39.66	57.88
Misc	0.00	54.07	54.07
Pay Pal	40.55	121.38	161.93
Postage	20.00	0.00	20.00
Website	0.00	100.00	100.00
TOTAL EXPENSES	1,484.24	1,253.40	2,737.64
OVERALL TOTAL	4,515.88	7,021.60	11,537.48

**Meeting Income & Expense
Feb. 13-14, 2009**

INCOME:

Registration \$7,030.00

EXPENSES:

Columbia Institute \$ 690.00
 Holiday Inn - Food & Meeting Room 2,638.22
 Speaker Gifts 266.00
 Doorprizes 57.88

Total Expenses: 3,652.10

Net Profit \$3,377.90