



TREC Advisor

The agency exists to safeguard the public interest and protect consumers of real estate services. In accord with state and federal laws the agency oversees real estate brokerage, appraisal, inspection, home warranty and timeshare interest providers. Through education, licensing and regulation, the agency ensures the availability of qualified and ethical service providers, thereby facilitating economic growth and opportunity in Texas.

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WHAT ARE THE CHANGES AFFECTING CORE & MCE PROVIDERS?

Rules were adopted at the November Commission meeting that will affect proprietary schools (providers of Core real estate education) and Mandatory Continuing Education (MCE) providers. Changes will be effective January 1, 2013 for the following education related applications.

- The fee to file a Core course application will be \$50 plus \$20 per classroom hour for the review and approval of each Core course. Each approved Core course will be approved for a period of four years. Prior to January 2011 Core courses were approved without a specific expiration date. All Core courses approved without an expiration date will expire effective December 31, 2014. The expiration date is the same for any school other than the original applicant which obtained approval from the commission prior to January 2011 to offer the same course.
- The fee for MCE course approval will be changed from \$100 per course approval to a fee of \$50 plus \$10 per classroom hour for a two-year approval. This will result in a savings for MCE providers who offer courses in increments of 4 credit hours or less.

- The application fee to become approved as an instructor of Core or MCE courses will change from \$25 to \$150 for a two-year term. As the approval period for current instructors ends, the new application and fee must be submitted.
- Application forms for the above related transactions have been developed or revised and will shortly be available at the TREC website. Applications filed on the old forms will be rejected if received with a postmark date that is on or after January 1, 2013. We recommend that old forms be discarded prior to this date.

The first meeting of the Education Standards Advisory Committee (ESAC) is scheduled for December 5, 2012. The function of the ESAC will be to review and revise curriculum standards, course content and instructor certification requirements for both Core and MCE courses. We look forward to working with the ESAC in its development of curriculum standards for Texas real estate licensing education. Additional information concerning the ESAC meeting can be found in this issue of the Advisor.

From the Chair...

The Commission met on November 5th for its regular quarterly meeting in Austin. Staff updated the Commission on ongoing agency improvements in technology matters and introduced two new Directors – Melissa Huerta for Staff & Support Services and Mark Moore for Standards & Enforcement Services. Both are very welcome additions to the staff team of the agency. In addition to routine budget, Recovery Fund cases and disciplinary matters presented for approval, several major items were considered and acted upon by the Commission at this meeting.

One key enhancement that we are very proud of is the new Relationship Management Tool that allows brokers and salespersons to manage their sponsorships online via an innovative new piece of software. I personally have used it and was very impressed with how easy it was. The same tool allows brokers to electronically designate sponsored agents as “supervisors”, providing notice that these agents have been delegated responsibility by a broker and should take the Broker Responsibility MCE course prior to the next renewal of their license. What a great time saver this is! Thank you to all the staff people who worked hard on this great enhancement!

We appointed Rick Albers of Austin and Rita Klein of Houston to each serve a two year term on the Education Standards Advisory Committee. This important new committee will soon begin its review of curriculum guidelines, course delivery methods and instructor qualification matters. Over the next two years, we expect to see a steady stream of well-considered recommendations from this talented group of educators, brokers and attorneys to improve licensee education.

Michael DeHart was appointed to fill an unexpired term until 2015 as a public member on the Inspector Committee; and we extended the service of

the screening committee to consider additional candidates for Inspector and public member openings scheduled to be filled in February 2013. We encourage any interested parties to make their interest known no later than January 31, 2013.

The Commission also approved for proposal the updated Standards of Practice and inspection report form as recommended by the Inspector Committee. This major proposal has been under review and revision for over 18 months and has gone through several drafts and significant discussion. Now is the time for inspectors, consumers and other realty professionals to weigh in with their comments. Send your input via email to general.counsel@trec.texas.gov.

Due to the fact that the Legislature will start its 2013 session in January, we deferred action on any proposed changes to the standard contract forms until after the legislative session results are known and the Broker Lawyer Committee has a chance to review the new laws for any impact.

Our next regularly scheduled meeting is on Monday February 11th at 10 am. If you can, please feel free to stop by and meet the Commissioners and staff. We are happy to welcome you.



Avis Wukasch, Chair

Important Dates to Remember

TREC Education Standards Advisory
Committee Meeting—Dec 5

TREC Commission Meeting—Feb 11

Can Criminal Matters Affect My License Status?

CAN THIS CRIMINAL MATTERS AFFECT MY LICENSE?

I've held a real estate license for many years and pride myself on my customer service. I've never been the subject of a TREC consumer complaint. I am active in my local professional association and enjoy a good reputation with my peers. However, a few years back a bad decision led to my arrest. My attorney told me it was easier for me to take the plea bargain offered to me by the district attorney: do a few years of community supervision/probation and the criminal matter will go away. Overall, the cost was lower so I took the deal. I'm almost off probation and now TREC's Standards & Enforcement Services (SES) has contacted me about the crime.

WHAT SHOULD I DO? Cooperate fully with SES. Respond promptly to requests for information and submit all requested documentation.

WHAT'S GOING TO HAPPEN? Depending on the criminal offense, you may not be fit to continue to hold a real estate license. Or your license may be placed on probation, allowing you to engage in real estate brokerage subject to certain terms. Because you did not timely self-report your criminal matter, you may also be assessed an administrative penalty.

HOW COULD I HAVE BEEN MORE PROACTIVE?

The Texas Real Estate License Act (License Act) requires a licensee to disclose certain criminal matters and submit additional documentation on applications for timely renewal, late renewal, and reinstatement. Read applications carefully and follow all instructions. Also, the License Act requires a licensee to notify TREC within 30 days of (1) a final conviction of a felony or any crime that involves fraud or (2) a plea of guilty or nolo contendere to a felony or any crime that involves fraud. TREC does not have a form for this notice. You may timely self-report with a brief statement and/or forward a copy of the criminal documents.

We understand this may be embarrassing and in your opinion not related to your real estate license, but the consequences for not following the law are serious. In the first 10 months of 2012, disciplinary action was taken against about (1) 20 licensees for criminal matters found to be directly related to the duties and responsibilities of a real estate licensee and (2) 14 licensees who failed to timely notify TREC of criminal matters although required to do so.

For more information and the latest on enforcement matters please read the FAQ's on the TREC website on the Enforcement tab.

TREC Office Holiday Hours

TREC's Offices will be closed on December 24, 25 and 26 for the Christmas holiday and December 31 and January 1 for New Year's.

Please be sure to make the proper preparations for license renewals and any other questions you might have.

As a reminder, if the last day of the month falls on a weekend or on a holiday TREC will accept applications through the next business day. All

license holders whose license expires December 31 will have until January 2 to renew timely. As always, the agency STRONGLY encourages you to renew online well before your expiration date to ensure no lapse in active licensure will occur.



Relationship Management Tool Up and Running

License holders have been able to request change of sponsorship online for over a month now and the effects of this new tool are already reflected at the agency. The tool enables us to redirect our efforts so that we can process applications faster and helps us provide better service to licensees and new applicants. We encourage each of you to become familiar with this new tool as it will change the way license holders do business with TREC!

The new Relationship Management Tool (RMT) is located on TREC's "My License Online

Services" which can be accessed from TREC's homepage.

License holders need to log on to their account and access the RMT by clicking the drop down menu under "Update License Information" and select manage my sponsorship for sales people, and manage my salesperson sponsorship for brokers. Below is a list of highlights to help license holders get acquainted with the new RMT:

- Both sales and broker licensees can initiate, accept and decline sponsorship requests.
- Invitations are not sent to recipient until the fee is paid by the initiator. No blanket invitations can be sent unless the initiator wants to pay for each one!
- This sponsorship process can be immediate. As soon as the requested party accepts the invitation sponsorship is effective immediately. License holders will receive a copy of their new license within 24 hours.
- The RMT can be used for designation of supervisory status, termination and inactive status as well as sponsorship.
- Status of sponsorship will be reflected in the licensee look up within 24 hours.
- Fees are not refundable, even when the invitation is not reciprocated!
- As of January 1, sponsorship requests submitted via paper will have an additional \$20 paper filing fee.
- License holders are required to have a current email address on file with the agency. License holders can update their contact information online through "My License Online Services".



To access this tool and the rest of TREC's online services, go to www.trec.texas.gov, click on the yellow button at the top of the home page and log in!

TREC Education Standards Advisory Committee Meeting

TREC's newly appointed Education Standards Advisory Committee is meeting for the first time this December. This committee has a large agenda and will be reviewing a wide variety of topics concerning TREC's education standards and curriculum.

The committee's first meeting will be held December 5th at TREC's headquarters. The very full agenda includes a general discussion of the

committee's responsibilities and an overview of real estate education standards in Texas.

This is a public meeting and members of the public are encouraged to attend. For a copy of the full agenda please go to www.trec.texas.gov and click on "Meetings and Materials".

TREC thanks the members of the committee for volunteering their time to give much needed attention to licensing education matters.

Employee of the Quarter



Amy Jasper

Congratulations goes to Amy Jasper for being named Employee of the quarter!

Amy has been a consistent leader in the Education and Licensing team and, during this period was essential in getting the new AMC registration program up and running smoothly! In addition, Amy was key in the testing of the AMC panel management tool AND the new relationship management tool.

Amy was born and raised in the Texas Panhandle. Prior to coming to the TREC she worked at Infinity Insurance in Dallas and for Angelo State University prior to that while earning my B.A. in Political Science. Amy enjoys spending time with family, cooking, and traveling in her spare time.

Amy, thank you for all you do for your team and this agency. You make us all look so good!

TREC Staffing Updates

Melissa Huerta joined TREC on November 1, 2012 as the Director of Staff and Support Services. Melissa comes to us from the Texas State Comptroller of Public Accounts where she was an Appropriation Control Officer for almost 10 years. Melissa lives with her husband of 26 years in central Austin and enjoys spending her free time reading, fishing, or just being out and about with family and friends.



Melissa Huerta

Adopted Rules November 5, 2012 Meeting of the Commission

ADOPTED RULES

Chapter 533, Practice and Procedure

22 TAC §533.4 Failure to Answer, Failure to Attend Hearing and Default; §533.7 Proposals for Decision; and §533.8 Final Orders, Motions for Rehearing, and Emergency Orders

The amendments are adopted with changes to the rule as published in the September 7, 2012, issue of the *Texas Register* (37 TexReg 7041). The difference between §533.4(d) as adopted and as proposed is the deletion of the phrase “contained in the petition” because agency practice is such that factual allegations may be filed with SOAH using various document titles not just petitions. No comments were received on the rules as proposed.

The amendments to §533.4 address situations in which a respondent fails to answer after receiving a notice of alleged violation or fails to attend a hearing. Failure to answer or attend a hearing will result in a default order against the respondent where findings of fact and conclusions of law set out in the notice of violation will be considered as admissions. If a case is dismissed from SOAH, the commission will be required to enter a default order against the respondent. If SOAH enters a default proposal for decision, the allegations contained in the petition filed with SOAH will be considered admissions.

The amendments to §533.7 clarify that while the commission welcomes SOAH judge recommendations regarding sanctions, the commission is responsible for imposing disciplinary action or assessing administrative penalties.

The amendments to §533.8 require the commission to explain why the commission did not follow the SOAH judge recommendations regarding disciplinary action or administrative penalties; amendments to subsection (f) describe the requirements for filing a motion for rehearing; and amendments to subsection (g) address situations in which new evidence may be presented. . . *effective date: 11/29/2012*

Chapter 535, General Provisions

Subchapter B General Provisions Relating to the Requirements of Licensure

22 TAC §535.2 Broker Responsibility

The amendments are adopted without changes to the rule as published in the September 7, 2012, issue of the *Texas Register* (37 TexReg 7042). The

amendment changes the terms “designate” and “designation” to “delegate” and “delegation” to more closely track other rule provisions in the same chapter. . *effective date: 11/29/2012*

Subchapter C Exemptions to Requirement of Licensure

22 TAC §535.32 Attorneys in Fact

The amendments are adopted without changes to the rule as published in the September 7, 2012, issue of the *Texas Register* (37 TexReg 7043). The amendment deletes the phrase “to be sold” to make it clear that an attorney in fact may buy, sell, or lease real property under the exemption in the Act. . *effective date: 11/29/2012*

Subchapter G. Mandatory Continuing Education

22 TAC §535.75 Education Standards Advisory Committee .

The amendments are adopted with changes to the rule as published in the September 7, 2012, issue of the *Texas Register* (37 TexReg 7043). The difference between the rule as proposed and as adopted is the name of the committee was changed to Education Standards Advisory Committee. The amendment changes the makeup of the committee to be composed of 7 brokers, 4 education related members, and one public member, and authorizes TREC administrator to issue licenses by endorsement. . *effective date: 11/29/2012*

Subchapter N. Suspension and Revocation of Licensure

22 TAC §535.145. False Promise.

The amendments are adopted without changes to the rule as published in the September 7, 2012, issue of the *Texas Register* (37 TexReg 7044). The amendment corrects a typographical error in the reference to the Act. . *effective date: 11/29/2012*

22 TAC §535.161. Failing to Provide Information.

The amendments are adopted without changes to the rule as published in the September 7, 2012, issue of the *Texas Register* (37 TexReg 7044). The amendment corrects a typographical error in the reference to the Act. . *effective date: 11/29/12*

Subchapter R. Real Estate Inspectors

22 TAC §535.215. Inactive Inspector Status;
§535.216. Renewal of License; and
§535.218. Continuing Education.

The amendments are adopted without changes to the text as published in the September 7, 2012 issue of the *Texas Register* (37 TexReg 7045). The amendments clarify the requirements and procedures necessary to renew an inspector license timely on active or inactive status and reinstatement after expiration or being inactive.

effective date: 11/29/2012

§535.224. Practice and Procedure.

The amendment are adopted without changes to the rule as published in the *September 7, 2012, issue of the Texas Register* (37 TexReg 7046). The amendment replaces the term “business” with “mailing” in subsection (a) to be consistent with the phrase “mailing address” as used in Chapters 533 and 535.. . *effective date: 11/29/2012*

Rule Actions proposed at the November 5, 2012 Meeting of the Commission.

PROPOSED RULES

Chapter 533 Practice and Procedure

22 TAC §533.3 Filing and Notice

The amendment to §533.3 changes the address to TREC’s current address and removes the limitation on the number of pages that may be sent to the commission via facsimile.

Chapter 535, General Provisions

Subchapter A. Definitions

22 TAC §535.1 Definitions

The amendment to §535.1 changes the definition of the acronym “ SAE” from “Salesperson Annual Education” to “Salesperson Apprentice Education” . .

Subchapter F. Pre-License Education and Examination .

22 TAC §535.64. Obtaining Approval to Offer a Course

The amendment extends the effective date for expiration of existing courses approved prior to the effective date of the previous revision to December 31, 2014.

Subchapter R. Real Estate Inspectors

22 TAC §535.223. Standard Inspection Report Form.

The amendments are proposed to track revisions to the inspector standards of practice as proposed under separate rule. The amendments also clarify how the form is to be used by an inspector and in what ways an inspector is authorized to modify the form. The

amendments provide an additional exemption for inspectors conducting inspections on single component systems, which are defined by the rule. The amendments adopt by reference a new Property Inspection Form (REI 7-3) and removes the requirements for the two current forms, REI 7A1 and REI 7-2. .

22 TAC 535.227-§535.233. Standards of Practice. (REPEAL).

The repeal of the sections is proposed because the subjects addressed in these sections will be covered in new §§535.227-535.233 TREC is simultaneously proposing as part of the Real Estate Inspector Committee comprehensive review and recommendations regarding inspector standards of practice.

22 TAC §535.227-§535.233. Standards of Practice. (NEW)

The Texas Real Estate Inspector Committee, an advisory committee of six professional inspectors and three public members appointed by TREC, recommended the proposal of the new rules following a comprehensive review of the Standards. The new rules update and clarify the current Standards of Practice (Standards) for real estate inspectors. The proposed rules make several non-substantive changes to the Standards by making them easier to read and providing a clearer understanding of what an inspector is and is not required to inspect and report. In addition, the rules make several substantive changes to the Standards to encourage a more performance-based approach to real estate inspections. The Committee recommends both the substantive and non-substantive revisions.

The substantive changes to the Standards are as follows:

•§535.227, paragraph (a) expands the definition of “Accessible; adds a definition for “Component”; expands the current definition of “Inspect”; and clarifies that an inspector is required to report deficiencies “as specified by these standards of practice”; expands the definition of “Performance”; adds a definition for “Substantially completed”; and adds a definition for “Technically exhaustive.” Paragraph (b)(3) clarifies the intent and limitations of the Standards; specifies that an inspector be not required to inspect sub-surface drainage systems; and determines compatibility, product lawsuits, listing, and testing or protocol authority. It also determines the presence, absence or risk of “Chinese drywall”; determines the cause or source of a condition; verify sizing efficiency or adequacy of a gutter or downspout system; or light a pilot light.

•§535.228, paragraph (a) amends current rule language relating to crawl space ventilation and drainage to focus on the performance of the item. It also removes and consolidates redundant exemplars found in the current Standards. Paragraph (b) amends current rule language relating to grading and draining around the foundation to focus on the performance of the item. Paragraph (c) removes the specific requirement that an inspector report as deficient a roof covering that is not appropriate for the slope of the roof. It also specifies that an inspector be not required to examine exhaustively all fasteners and adhesions. Paragraph (d) amends current rule language relating to attic space ventilation to focus on the performance of the item. In addition to those items currently required to be inspected relating to exterior walls and windows, Paragraph (f) requires an inspector to report deficiencies in weather-stripping, gaskets or other air barrier materials. It also specifies that an inspector be not required to provide an exhaustive list of locations of deficiencies and water penetrations. Paragraph (j) removes the requirement that an inspector report deficiencies in visible footings, piers, posts, pilings, joists, decking, water proofing at interfaces, flashing, surfaces coverings, and attachment points of porches, decks, balconies and carports.

•§535.229, paragraph (a) consolidates several redundant ground and bonding items. It also removes the requirement that inspectors report as deficient the absence of arc-fault circuit interrupters. Paragraph (b) requires an inspector to inspect installed carbon monoxide alarms. The new rule updates the ground-fault circuit interruption language and moves the doorbell

language from its current location under “appliances” to §535.229(b). It also removes and consolidates redundant exemplars found in the current Standards for switches and receptacles, and clarifies that an inspector is not required to remove the covers of junction, fixture, receptacle or switch boxes unless specifically required to do so by the Standards.

•§535.230, paragraph (a) clarifies the intent of the Standards regarding heating equipment, including expanding the current rule language relating to inadequate access and clearances, gas shut off valves, and gas appliance connectors, to provide more specificity. The new rules require an inspector to report deficiencies in the performance of a heat pump in electrical units. Paragraph (b) clarifies the intent of the Standards regarding cooling equipment and other evaporative coolers, including expanding the current rule language relating to inadequate access and clearances to provide more specificity. Paragraph (c) removes the requirement to report shut down, drained winterized units. It also consolidates several exemplars found in the current Standards. Paragraph (d) removes several items found in the current Standards, deemed unrealistic for an inspector to inspect. Paragraph (e) clarifies at what outdoor temperature an inspector is required to operate a heat pump and specifies that an inspector is not required to verify the tonnage match of indoor coils and outside coils or condensing units.

•§535.231, paragraph (a) removes the requirement that an inspector report on static water pressure and the lack of pressure reducing valves or expansion tanks. The new rule amends current rule language relating to fixtures and faucets not connected to appliances and fixture drains to focus on the performance of the item. The rule also removes and consolidates several exemplars found in the current Standards. Paragraph (b) clarifies the intent of the Standards regarding water heaters, including expanding the current rule language relating to inadequate access and clearances, gas shut off valves, and gas appliance connectors, to provide more specificity. The rule also removes and consolidates several exemplars found in the current Standards. Paragraph (c) clarifies the intent of the Standards regarding Hydro-massage therapy equipment, including expanding the current rule language relating to inadequate access and the performance and condition of components.

•§535.232, amends current rule language relating to several appliances to focus on the

performance of the item. The rule changes the titles of several subsections of current §535.232 to bring them in line with industry terminology. The rule also removes and consolidates several exemplars related to various appliances found in the current Standards. Specifically, the rule adds several new requirements for ranges, cooktops, and ovens, including requiring the inspector to report as deficient combustible material within a certain area of cooktop burners, certain limitations regarding gas shutoff valves or connectors, and deficiencies in mounting and performance. The rule removes the requirement that an inspector inspect trash compactors, adds a requirement under “Garage door operators” that inspector report as deficient installed photo electric sensors located more than six inches above the garage floor, and moves door bells requirements to new §535.229(b).

•§535.233 removes the Outdoor Cooking Equipment Section, Gas Supply Section, Other Built-In Appliance Section and Whole House Vacuum System section. Subparagraph (1) changes the titles of several subsection of §535.233 to bring them in line with industry terminology. The new rule clarifies the intent of the Standards regarding Landscape irrigation (sprinkler) systems, including requiring an inspector to report as deficient: inoperative zone valves), the absence of shut-off valves between the water meter and backflow device, and deficiencies in the performance of the water emission devices; such as, sprayer heads, rotary sprinkler heads, bubblers or drip lines. The new rules specify that an inspector is not required to inspect sizing and effectiveness of backflow prevention device. Subparagraph (2) require an inspector to report as deficient the presence of a single blockable main drain (potential entrapment hazard), the absence of ground-fault circuit interrupter protection devices and deficiencies in lighting fixtures. The rule specifies that an inspector is not required to disassemble filters, or determine the effectiveness of entrapment covers. Subparagraph (3) requires an inspector to report as deficient the absence of ground-fault circuit interrupter protection devices in grade-level portions of unfinished accessory buildings used for storage or work areas, boathouses, and boat hoists. Subparagraph (5) requires an inspector to report on the location of the distribution field in a private septic system. 22 TAC §535.224.Practice and Procedure.

Chapter 539 Rules Relating to the Residential Service Company Act

Subchapter D. Definitions

22 TAC §539.31. Residential Service Contract.

The amendments to §539.31 define Chapter 1303 of the Occupations Code as the Act.

G. Application for License.

22 TAC §539.61. Application and Licensing;

§539.62. Application to Approve Evidence of Coverage/ Schedule of Charges;

§539.63. Termination of Application;

§539.64. Mailing Address and Other Contact Information; §539.65. Change in Company Ownership or Officers and §539.66. Change in Operation.

•The amendment to §539.61, Application for Residential Service Company License, changes the title and deletes subsection (c) because it is moved to new §539.63. It also adopts a revised application form.

•New §539.62, Application to Approve Evidence of Coverage/ Schedule of Charges, requires that each approved evidence of coverage must include a form number and approval date, and requires that a company obtain the commission’s prior approval before offering discounts or other change in any amount to be charged a consumer.

•New §539.63, Termination of Application, authorizes the commission to terminate an application if the applicant fails to respond within 90 days after the commission notifies the applicant to provide additional information.

•New 539.64, Mailing Address and Other Contact Information, requires companies to provide a mailing address, telephone number and email address to the commission, report subsequent changes to such information within 10 days after a change, and deems the last known mailing address provided to the commission to be the address of the company if it fails to update the information.

•New §539.65, Change in Company Ownership or Officers, requires a company to report changes in its ownership or officers to the commission on a new form adopted by reference.

•New §539.66, Change in Operation, requires a residential service company to notify the commission within 30 days if the company wishes to begin issuing and administering contracts in affiliation with another company, and requires a company to provide additional

information regarding the relationship between the company and the affiliate.

H. Miscellaneous Forms.

22 TAC §539.71. Miscellaneous Forms.

The amendment to §539.71, Miscellaneous Forms, amends various forms adopted by reference.

I. Funded Reserves.

22 TAC §539.81. Funded Reserves and §539.82. Security.

The subchapter title is changed to Financial Assurances from Funded Reserves to more accurately reflect the contents of the subchapter.

- The amendment to §539.81, Funded Reserves, authorizes the commission to accept, with prior authorization, other types of assets as funded reserves such as government backed instruments, and requires companies to complete monthly reconciliations to prove that the company meets the minimum funded reserve requirements of the Act, and increase the funded reserve as required.

- New §539.82, Security, requires each company to confirm by February 1 of each year that the security required by §1303.154(b) of the Act is sufficient, or increase the amount to meet the minimum required.

Subchapter J. Annual Report

22 TAC §539.91. Annual Report.

The amendment to §539.91, Annual Report, adopts by reference a revised annual report form and requires companies to file an Annual Report by February 1 of each year for the preceding calendar year.

Subchapter N. Mid-year Report

22 TAC §539.137. Mid-Year Report

The amendment to §539.137, Mid-Year Report, adopts by reference amendments to the Mid-Year Report Form and changes the filing date from August 15 to August 1.

Q. Issues Affecting Consumers

22 TAC §539.160. Copy of Residential Service Company Contract and §539.161. Advertising

The amendments propose a new subchapter titled Q. Issues Affecting Consumers. New §539.160, Copy of Residential Service Company Contract, requires companies to provide a contract holder a copy of a residential service contract within 15 days after payment is made or the residential service contract becomes effective, whichever is sooner. New §539.161, Advertising, subjects companies to disciplinary action if they use a side-by-side comparison in advertising if the contracts being compared are not substantially the same.

Subchapter X. Fees

22 TAC §539.231. Fees

The amendments to §539.231, Fees, clarify that the filing fees for an application to approve an evidence of coverage and schedule of charges also applies to changes to an approved evidence of coverage and schedule of charges.

<p>Case#: 121218 GARDNER, JEFFREY WAYNE (license # 6564) Inspector-I ADDISON(DALLAS)</p> <p>Effective Date: 9/13/2012</p> <table border="1" data-bbox="110 422 373 611"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1102.101</td> </tr> <tr> <td>1102.102</td> </tr> <tr> <td>1102.103</td> </tr> </tbody> </table>	Violation(s)	1102.101	1102.102	1102.103	<p>Ordered to cease and desist all unlicensed real estate inspection activities; Assessment of an administrative penalty of \$10,000.00</p>	<p>Consumer Complaint Respondent's real estate inspector license expired in February 2006. In February 2012, Respondent, without being duly licensed as an apprentice inspector, a real estate inspector, or a professional inspector, conducted a real estate inspection on property for a client. Respondent prepared and completed Texas Real Estate Commission promulgated inspection report for the inspection of the property in February 2012 and provided the inspection report to the client in exchange for a fee.</p>			
Violation(s)									
1102.101									
1102.102									
1102.103									
<p>Case#: 120605 FUSCO, CAROL (license # 488255) Real Estate Broker / Salesperson-I KATY(FORT BEND)</p> <p>Effective Date: 9/14/2012</p> <table border="1" data-bbox="110 936 357 1192"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.652(b)(01)</td> </tr> <tr> <td>1101.652(b)(26)</td> </tr> <tr> <td>22 TAC 535.146(a)(1/11)</td> </tr> <tr> <td>22 TAC 535.154(e)</td> </tr> </tbody> </table>	Violation(s)	1101.652(b)(01)	1101.652(b)(26)	22 TAC 535.146(a)(1/11)	22 TAC 535.154(e)	<p>Agreed two (2) months suspension of broker license fully probated for twenty-five (25) months; Agreed administrative penalty of \$5,000.00</p>	<p>Consumer Complaint Respondent entered into a property management agreement with a client to manage multiple properties for a two year period. Respondent established an association with a person other than a license holder who formed a business entity to carry out the management of the properties. Respondent acted negligently or incompetently when she failed to obtain written authorization from the client to have the properties managed by the business entity. A business account was created for the management of the properties and not controlled and maintained by Respondent. The business entity and unlicensed person managed the properties that included, among other things, marketing the properties for lease and leasing the properties to tenants. The assumed name used by Respondent was not registered under Respondent's license or the corporate broker licenses sponsored by Respondent.</p>		
Violation(s)									
1101.652(b)(01)									
1101.652(b)(26)									
22 TAC 535.146(a)(1/11)									
22 TAC 535.154(e)									
<p>Case#: 120705,111764,110957,110912,120805 HOOVER, MELISSA (license # 451286) Real Estate Broker / Salesperson-I KILLEEN(BELL)</p> <p>Effective Date: 9/5/2012</p> <table border="1" data-bbox="110 1577 349 1908"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.652(a)(03)</td> </tr> <tr> <td>1101.652(a)(05)</td> </tr> <tr> <td>1101.652(a)(06)</td> </tr> <tr> <td>1101.652(b)(09)</td> </tr> <tr> <td>1101.655</td> </tr> <tr> <td>22 TAC 535.146(g)</td> </tr> </tbody> </table>	Violation(s)	1101.652(a)(03)	1101.652(a)(05)	1101.652(a)(06)	1101.652(b)(09)	1101.655	22 TAC 535.146(g)	<p>Revocation of broker license; Assessment of administrative penalty of \$45,000.00</p>	<p>Consumer Complaint Respondent failed to repay the Commission for payment of \$4,864.22 plus interest made from the real estate recovery trust account toward satisfaction of a judgment; Respondent conducted property management services for 4 owners and commingled funds and failed to timely account for and/or remit monies she was to hold in trust for others; Respondent while acting as a property manager leased the same, failed to pay rents, failed to render proper accounts, and falsely promised to repay by signing 2 promissory notes; Respondent failed to provide, within a reasonable time, information and documents requested by the Commission that related to 4 formal complaints to the Commission.</p>
Violation(s)									
1101.652(a)(03)									
1101.652(a)(05)									
1101.652(a)(06)									
1101.652(b)(09)									
1101.655									
22 TAC 535.146(g)									

TREC Enforcement Matters

<p>Case#: 110665,102260,90325,90324,83573 VELASQUEZ, MARK A (license # 503650) Real Estate Broker / Salesperson-I SAN ANTONIO(BEXAR)</p> <p>Effective Date: 9/5/2012</p> <table border="1" data-bbox="105 499 337 831"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.652(a)(05)</td> </tr> <tr> <td>1101.652(a)(06)</td> </tr> <tr> <td>1101.652(b)(01)</td> </tr> <tr> <td>1101.652(b)(02)</td> </tr> <tr> <td>1101.652(b)(09)</td> </tr> <tr> <td>1101.652(b)(28)</td> </tr> </tbody> </table>	Violation(s)	1101.652(a)(05)	1101.652(a)(06)	1101.652(b)(01)	1101.652(b)(02)	1101.652(b)(09)	1101.652(b)(28)	<p>Revocation of broker li- cense; Assessment of an administrative penalty of \$16,000.00</p>	<p>Consumer Complaint In the course of managing the properties of 5 owners, Re- spondent committed the following violations: Five (5) viola- tions for negligence and incompetence; Three (3) viola- tions for dishonesty, bad faith or untrustworthiness; Three (3) violations for failing to properly account for or remit money held in trust; and One (1) violation for failing to provide a copy of a document. By refusing to cooperate with the Commission's investigation of complaints from 5 property owners, Respondent committed the following violations: Five (5) violations for failure to provide documents in con- nection with an investigation; and Five (5) violations for failure to cooperate in an investigation.</p>
Violation(s)									
1101.652(a)(05)									
1101.652(a)(06)									
1101.652(b)(01)									
1101.652(b)(02)									
1101.652(b)(09)									
1101.652(b)(28)									
<p>Case#: 120421,120590 ROBERTS, BRADLEY (license # 599307) Real Estate Broker / Salesperson-I FORT WORTH(TARRANT)</p> <p>Effective Date: 9/5/2012</p> <table border="1" data-bbox="105 1146 349 1241"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.652(a)(01)</td> </tr> </tbody> </table>	Violation(s)	1101.652(a)(01)	<p>Revocation of salesperson license</p>	<p>Consumer Complaint Respondent entered a plea of guilty to Burglary of a Habita- tion, a 2nd degree felony offense that involved his use of a supra key to enter the property later burglarized and such felony directly relates to the duties and responsibilities of the occupation of a licensed real estate broker or salesper- son under 22 Tex. Admin. Code §541.1.</p>					
Violation(s)									
1101.652(a)(01)									
<p>Case#: 120271 ASHBY, JEFFERY MICHAEL (license # 550021) Real Estate Broker / Salesperson-I BROWNWOOD(BROWN)</p> <p>Effective Date: 9/18/2012</p> <table border="1" data-bbox="105 1549 355 1692"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.557(b)</td> </tr> <tr> <td>1101.652(b)(33)</td> </tr> </tbody> </table>	Violation(s)	1101.557(b)	1101.652(b)(33)	<p>Agreed administrative pen- alty of \$500.00; Agreed completion of thirty (30) hour agency law course on or before October 19, 2012</p>	<p>Consumer Complaint Respondent acting as a minimum services listing broker directed buyer's agents to submit all questions and offers directly to the seller, email executed offers to the Respond- ent; without clear authorization by sellers; Respondent di- rected buyer's agents there would be no negotiations, counter offers, amendments or addendums to an offer or sales contract and no re-negotiations after an inspection.</p>				
Violation(s)									
1101.557(b)									
1101.652(b)(33)									

TREC Enforcement Matters

<p>Case#: 121669 MAY, FRANK D (license # 280563) Real Estate Broker / Salesperson-I DALLAS(DALLAS)</p> <p>Effective Date: 9/21/2012</p> <table border="1" data-bbox="115 478 375 621"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(01)</td> </tr> <tr> <td>1101.652(a)(09)</td> </tr> </table>	Violation(s)	1101.652(a)(01)	1101.652(a)(09)	<p>Agreed eight (8) years suspension of broker license or until the end of his criminal probation, which-ever occurs first; Agreed administrative penalty of \$1,500.00</p>	<p>Administrative Complaint Respondent pled guilty to and the court adjudged him guilty to a felony offense. Respondent failed to notify the Commission within 30-days after the plea.</p>
Violation(s)					
1101.652(a)(01)					
1101.652(a)(09)					
<p>Case#: 121099 KELLY, KEITH ALAN (license # 581353) Real Estate Broker / Salesperson-I SAN MARCOS(HAYS)</p> <p>Effective Date: 9/12/2012</p> <table border="1" data-bbox="115 951 394 1045"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(06)</td> </tr> </table>	Violation(s)	1101.652(a)(06)	<p>Reprimand of salesperson license and assessment of an administrative penalty of \$1,500.00; Suspension of salesperson license until receipt of the requested information and the administrative penalty is paid in full</p>	<p>Administrative Complaint Respondent failed to provide, within a reasonable time, information requested by the Commission that relates to a formal or informal complaint to the Commission.</p>	
Violation(s)					
1101.652(a)(06)					
<p>Case#: 120805 GONZALEZ, SHAKIM (license # 517149) Real Estate Broker / Salesperson-I JACKSONVILLE(DUVAL)</p> <p>Effective Date: 9/12/2012</p> <table border="1" data-bbox="115 1377 391 1520"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(06)</td> </tr> <tr> <td>22 TAC 535.073(e)(5)</td> </tr> </table>	Violation(s)	1101.652(a)(06)	22 TAC 535.073(e)(5)	<p>Automatic suspension of salesperson license</p>	<p>Administrative Complaint Respondent failed to comply with terms of an agreed order entered by the Commission by failing to timely make administrative penalty payments to the Commission.</p>
Violation(s)					
1101.652(a)(06)					
22 TAC 535.073(e)(5)					
<p>Case#: 120805 GONZALEZ, SHAKIM</p> <p>(license #) Proprietary School Instructor -I JACKSONVILLE(DUVAL)</p>	<p>Automatic suspension of Approval of Mandatory Continuing Education Instructor</p>	<p>Administrative Complaint Respondent failed to comply with terms of an agreed order entered by the Commission by failing to timely make administrative penalty payments to the Commission</p>			

<p>Case#: 122019 ANDRADE, MELISSA IRENE (license # 522403) Real Estate Broker / Salesperson-I CORPUS CHRISTI(NUECES)</p> <p>Effective Date: 9/20/2011</p> <table border="1" data-bbox="116 436 370 529"> <tr> <th>Violation(s)</th> </tr> <tr> <td>53.021 (Broker/Sales)</td> </tr> </table>	Violation(s)	53.021 (Broker/Sales)	<p>Automatic revocation of salesperson license</p>	<p>Administrative Complaint Revocation of license by operation of law upon imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision pursuant to Tex. Occ. Code §53.021(b).</p>			
Violation(s)							
53.021 (Broker/Sales)							
<p>Case#: 121789 BURKE, GREGORY S (license # 434246) Real Estate Broker / Salesperson-I HOUSTON(HARRIS)</p> <p>Effective Date: 9/15/2012</p> <table border="1" data-bbox="116 789 376 1029"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(01)</td> </tr> <tr> <td>1101.652(a)(02)</td> </tr> <tr> <td>1101.652(a)(06)</td> </tr> <tr> <td>1101.652(a)(09)</td> </tr> </table>	Violation(s)	1101.652(a)(01)	1101.652(a)(02)	1101.652(a)(06)	1101.652(a)(09)	<p>Agreed one (1) year suspension of broker license fully probated for one (1) year; Agreed administrative penalty of \$2,500.00</p>	<p>Administrative Complaint Respondent pled guilty to and the court adjudged him guilty to a felony offense. Respondent failed to notify the Commission within 30-days after entry of the plea and failed to disclose the same in his renewal application. Respondent failed to provide, within a reasonable time, information requested by the Commission that relates to a formal or informal complaint to the Commission.</p>
Violation(s)							
1101.652(a)(01)							
1101.652(a)(02)							
1101.652(a)(06)							
1101.652(a)(09)							
<p>Case#: 120555 PENNINGTON, DAVID PERRETT (license # 453878) Real Estate Broker / Salesperson-I PLANO(COLLIN)</p> <p>Effective Date: 9/16/2012</p> <table border="1" data-bbox="116 1352 376 1537"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(01)</td> </tr> <tr> <td>1101.652(a)(02)</td> </tr> <tr> <td>1101.652(a)(09)</td> </tr> </table>	Violation(s)	1101.652(a)(01)	1101.652(a)(02)	1101.652(a)(09)	<p>Automatic revocation of probation and one hundred and six (106) months suspension of broker license</p>	<p>Administrative Complaint Respondent failed to comply with the terms of an agreed order entered by the Commission by failing to timely make administrative penalty payments to the Commission.</p>	
Violation(s)							
1101.652(a)(01)							
1101.652(a)(02)							
1101.652(a)(09)							
<p>Case#: 121793 PERCHES, LUIS GUILLERMO (license # 523343) Real Estate Broker / Salesperson-I HOUSTON(HARRIS)</p> <p>Effective Date: 9/4/2012</p> <table border="1" data-bbox="116 1839 367 1978"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(01)</td> </tr> <tr> <td>1101.652(a)(09)</td> </tr> </table>	Violation(s)	1101.652(a)(01)	1101.652(a)(09)	<p>Agreed fifty seven (57) months suspension of salesperson license fully probated for fifty seven (57) months or until the end of the period of his community supervision, whichever occurs first; Agreed administrative penalty of \$1,000.00</p>	<p>Administrative Complaint Respondent pled guilty to a felony offense. Respondent failed to notify the Commission within 30-days after entry of the plea and failed to disclose the same in his renewal.</p>		
Violation(s)							
1101.652(a)(01)							
1101.652(a)(09)							

<p>Case#: 120121 MCTIZIC, TOYA RENAYE (license # 540471) Real Estate Broker / Salesperson-I CYPRESS(HARRIS)</p> <p>Effective Date: 9/5/2012</p> <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th style="text-align: center;">Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.652(a)(04)</td> </tr> <tr> <td>22 TAC 534.2(a)</td> </tr> </tbody> </table>	Violation(s)	1101.652(a)(04)	22 TAC 534.2(a)	<p>Reprimand of broker license and assessment of an administrative penalty of \$500.00; Suspension of broker license until receipt of replacement and processing fees and the assessed administrative penalty</p>	<p>Administrative Complaint Respondent failed within a reasonable time to make good a check issued to the Commission. Respondent failed to pay the check processing fee within 15 days after the Commission had mailed a request for payment.</p>
Violation(s)					
1101.652(a)(04)					
22 TAC 534.2(a)					
<p>Case#: 121922 TYLER, TRACEY FABIAN (license # 622618) Real Estate Broker / Salesperson-I HOUSTON(HARRIS)</p> <p>Effective Date: 9/6/2012</p>	<p>Agreed 2 year probationary salesperson license issued</p>	<p>Applications Commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1. Applicant provided documentation addressing the factors outlined in Tex. Occ. Code §53.023 and, subject to reasonable terms and conditions of a probationary license, demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Tex. Occ. Code §1101.354(2).</p>			
<p>Case#: 121998 BENNETT, DONALD KEITH (license # 622710) Real Estate Broker / Salesperson-I MANOR(TRAVIS)</p> <p>Effective Date: 9/10/2012</p>	<p>Agreed 3 year probationary salesperson license issued</p>	<p>Applications Commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1. Applicant provided documentation addressing the factors outlined in Tex. Occ. Code §53.023 and, subject to reasonable terms and conditions of a probationary license, demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Tex. Occ. Code §1101.354(2).</p>			

<p>Case#: 102442 MCGUIRE, CARLA DENISE (license # 491971) Real Estate Broker / Salesperson-I RED OAK(ELLIS)</p> <p>Effective Date: 10/1/2012</p> <table border="1"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.652(b)(01)</td> </tr> <tr> <td>1101.652(b)(02)</td> </tr> <tr> <td>1101.652(b)(09)</td> </tr> <tr> <td>1101.652(b)(10)</td> </tr> <tr> <td>1101.652(b)(26)</td> </tr> </tbody> </table>	Violation(s)	1101.652(b)(01)	1101.652(b)(02)	1101.652(b)(09)	1101.652(b)(10)	1101.652(b)(26)	<p>Agreed 6 months suspension of salesperson license fully probated for 18 months; Agreed administrative penalty of \$3,000.00</p>	<p>Consumer Complaint Respondent conducted property management services without the authorization of her sponsoring broker and through a business entity not licensed as a real estate broker. Respondent failed to deposit with her broker funds she collected for others and the funds were not maintained in a trust or escrow account. Respondent listed property for sale and without seller's consent or knowledge marketed it as a short sale. Sellers relied on assurances of Respondent and accepted a sales contract with a temporary lease. The executed and supporting documents required from the Buyer/tenant were never received, the transaction never closed, and Sellers found tenants occupying the property who were not the Buyer and had paid rent to a 3rd party. Respondent failed to maintain documents for this transaction.</p>
Violation(s)								
1101.652(b)(01)								
1101.652(b)(02)								
1101.652(b)(09)								
1101.652(b)(10)								
1101.652(b)(26)								
<p>Case#: 110763 BAILEY, TUNITA RENA (license # 379054) Real Estate Broker / Salesperson-I DUNCANVILLE(DALLAS)</p> <p>Effective Date: 10/5/2012</p> <table border="1"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.652(b)(01)</td> </tr> <tr> <td>1101.652(b)(07)</td> </tr> <tr> <td>1101.652(b)(26)</td> </tr> </tbody> </table>	Violation(s)	1101.652(b)(01)	1101.652(b)(07)	1101.652(b)(26)	<p>Agreed 1 year suspension of broker license fully probation for 1 year; Agreed completion of application for a business entity license with the Commission on or before November 1, 2012; Agreed administrative penalty of \$2,100.00</p>	<p>Consumer Complaint Respondent failed to timely notify the Commission of her use of a business name and associated with an unlicensed business entity. Respondent acted as a Buyer's agent in a real estate sales transaction and attempted to also represent the Sellers as a property manager for a temporary lease between the Buyer and Sellers. Without the Sellers knowledge or consent, the Buyer paid required fees with checks payable to Respondent's company requesting the checks be held and post-dated. Later Buyer's checks were negotiated and returned for insufficient funds. Respondent permitted Buyer possession of the property before all fees were paid, documents were fully executed, and other required documents were received. The transaction never closed and Seller hired</p>		
Violation(s)								
1101.652(b)(01)								
1101.652(b)(07)								
1101.652(b)(26)								
<p>Case#: 120493 NEWMAN, JACK JOSEY JR (license # 329741) Real Estate Broker / Salesperson-I AUSTIN(TRAVIS)</p> <p>Effective Date: 10/24/2012</p> <table border="1"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.652(b)(09)</td> </tr> <tr> <td>1101.652(b)(10)</td> </tr> </tbody> </table>	Violation(s)	1101.652(b)(09)	1101.652(b)(10)	<p>Agreed 2 year suspension of broker license fully probated for 2 years</p>	<p>Consumer Complaint Respondent failed within a reasonable time to properly account for or remit money received that belonged to a property owner and commingled the owner's money with his own.</p>			
Violation(s)								
1101.652(b)(09)								
1101.652(b)(10)								

<p>Case#: 121669 MAY, FRANK D</p> <p>(license # 280563) Real Estate Broker / Salesperson-I DALLAS(DALLAS)</p> <p>Effective Date: 10/20/2012</p> <table border="1" data-bbox="110 478 305 621"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.652(a)(01)</td> </tr> <tr> <td>1101.652(a)(09)</td> </tr> </tbody> </table>	Violation(s)	1101.652(a)(01)	1101.652(a)(09)	<p>Automatic suspension of broker license until remaining balance of administrative penalty is paid in full</p>	<p>Administrative Complaint</p> <p>Respondent failed to comply with the terms of an agreed order entered by the Commission by failing to timely make administrative penalty payments to the Commission.</p>
Violation(s)					
1101.652(a)(01)					
1101.652(a)(09)					
<p>Case#: 120556 PEREA, ADRIAN R</p> <p>(license # 577712) Real Estate Broker / Salesperson-I SCHAUMBURG(COOK)</p> <p>Effective Date: 10/31/2012</p> <table border="1" data-bbox="110 957 305 1054"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.652(a)(06)</td> </tr> </tbody> </table>	Violation(s)	1101.652(a)(06)	<p>Agreed surrender of salesperson license and not renew, attempt to renew, or file an application to obtain any license or certificate issued by the Commission for 3 years</p>	<p>Administrative Complaint</p> <p>Respondent failed to provide, within a reasonable time, information requested by the Commission that relates to a formal or informal complaint to the Commission.</p>	
Violation(s)					
1101.652(a)(06)					
<p>Case#: 121983 MILLS, ANDREW KEVIN</p> <p>(license # 623270) Real Estate Broker / Salesperson-I KILLEEN(BELL)</p> <p>Effective Date: 10/1/2012</p>	<p>Agreed 5 year probationary salesperson license issued</p>	<p>Applications</p> <p>Commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1. Applicant provided documentation addressing the factors outlined in Tex. Occ. Code §53.023 and, subject to reasonable terms and conditions of a probationary license, demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Tex.</p>			

<p>Case#: 121702 JOUBERT, JOSEPH ROLAND</p> <p>(license # 623837) Real Estate Broker / Salesperson-I SUGAR LAND(FORT BEND)</p> <p>Effective Date: 10/25/2012</p>	<p>Agreed 5 year probationary salesperson license issued</p>	<p>Applications Commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1. Applicant provided documentation addressing the factors outlined in Tex. Occ. Code §53.023 and, subject to reasonable terms and conditions of a probationary license, demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be</p>
<p>Case#: 121516 BIGGERS, KENNETH</p> <p>(license # 623822) Real Estate Broker / Salesperson-I KILLEEN(BELL)</p> <p>Effective Date: 10/25/2012</p>	<p>Agreed 5 year probationary salesperson license issued or until released from criminal probation, whichever is longer</p>	<p>Applications Commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1. Applicant provided documentation addressing the factors outlined in Tex. Occ. Code §53.023 and, subject to reasonable terms and conditions of a probationary license, demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Tex. Occ. Code §1101.354(2).</p>

TALCB Bulletin



TALCB was created by an act of the Texas Legislature in 1991 to license, certify and regulate real estate appraisers in Texas under state and federal laws. In 2011, TALCB's jurisdiction was expanded to register and regulate appraisal management companies.

Inside this issue: New Appraiser Board Member Appointed (page 1) From the Chair (page 2) Verifying AMCs Status (page 3) TALCB Approves U&E Policy (page 4) AMC Advisory Board Member Needed (page 5) TALCB Rule Actions (page 5) TALCB Enforcement Matters (page 7)

New Public Member Appointed to Appraiser Board



Governor Rick Perry has appointed Mr. Keith Kidd from Reno, Texas to the Texas Appraiser Licensing and Certification Board for a term to expire January 31, 2014.

Mr. Kidd is currently the assistant district attorney for Lamar County. He is also an active member of the U.S. Army Reserve.

Kidd received a Bachelor's degree from Georgetown University in International Relations, and his law degree from Texas Wesleyan School of Law.

The Texas Appraiser Licensing and Certification Board is an independent subdivision of the Texas Real Estate Commission with a separate governing policy board. The agency exists to safeguard the public interest and protect consumers of real estate services. In accord with state and federal laws, the agency oversees real estate, and appraisal management companies. Through education, licensing and regulation, the agency ensures the availability of qualified and ethical service providers, thereby facilitating economic growth and opportunity in Texas.

The Board has a challenging agenda and welcomes the addition of Mr. Kidd's expertise. For more information on the Board and its programs, please go to www.talcb.texas.gov.

TALCB Office Holiday Hours

TALCB's offices will be closed on December 24, 25 and 26 for the Christmas holiday and December 31 and January 1 for New Years. Please be sure to make the proper preparations for license renewals and any other questions you might have.

As a reminder, if the last day of the month falls on a weekend or on a holiday TALCB will accept applications through the next business day. All license holders whose license expires December

31 will have until January 2 to renew timely. As always, the agency STRONGLY encourages you to renew well before your expiration date to ensure no lapse in active licensure will occur.



From the Chair ...

The Board met on November 9th and it was a very busy and productive meeting. The Commissioner reported on agency events and developments since our August meeting and staff provided routine progress reports on communications, technology, licensing, education and enforcement matters. Thanks to members and staff, we continue to make advances on all matters of concern to the Board.

Commissioner Oldmixon and I attended the Association of Appraiser Regulatory Officials (AARO) annual meeting in Washington DC and had the chance to interact directly with officials from other states and the federal agencies which regulate this industry, as well as many private sector industry members. With so much influx, it was very helpful to speak directly with those in positions of policy authority. Attending the many breakout sessions revealed to me that Texas is in a very good position relative to other states in dealing with both appraiser and AMC issues. The Commissioner was elected to the AARO Board of Directors and appointed to the Executive Committee. From this position, he should be able to both keep tabs on future developments and help shape sound policy.

The Board's Enforcement Committee also reported another series of very productive meetings with staff to review current enforcement policies and procedures and continue to make recommendations for improvements. At the Board meeting, we adopted several of those well-considered recommendations. Many thanks are due to both members and staff for their continued hard work on these important matters. We look

forward to continuing progress from the work of the committee and staff.

The Uniform and Equal Working Group also gave its report and made several recommendations for resolution of the issues surrounding this unique class of valuation studies

often completed by appraisers, but also authorized to be done by other licensed professionals. Although the matter still draws significant interest, the Working Group's recommendations attempted to resolve all the areas of strong opinions. The Board adopted the policy recommendations and proposed a disclosure rule. We expect to receive and welcome your additional input during the public comment period.

The Real Estate Center at Texas A&M University published its Appraisal Fee Survey Report and the Board received copies on November 1st when it was delivered to the legislative committees that commissioned it. This unique report can be found posted on the TALCB website and we encourage the industry to read it as it contains a serious set of data and some very interesting findings.

The Governor has appointed attorney Keith Kidd of Paris, Texas to fill a public member seat on the Board. We welcome him and look forward to serving with him to fulfill our mission of consumer protection.

The Board's next meeting will be February 15th and we invite you to attend and let your voice be heard. We appreciate the industry's support for what we do and promise to continue to find ways to be more efficient and more effective.



Luis De La Garza, Jr.

Important Dates to Remember

TALCB Enforcement Committee Meeting—
Dec 6

TALCB Board Meeting—Feb 15

Appraisers Should Verify an AMC's Status Before Accepting Assignments

The Board adopted an amendment to 22 TAC §153.20(a), Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure to clarify that sanctions could be assessed against an appraiser who accepts an assignment from an unlicensed and non-exempt Appraisal Management Company (AMC) that the appraiser knows or reasonably should have known is required to be registered with the Board to do business in Texas.

The amendment provides that the Board may seek sanctions against an appraiser, including suspension or revocation, if the appraiser:

(25) after conducting reasonable due diligence, knowingly accepts an assignment from an appraisal management company that is not exempt from registration under the Act which:

(A) has not registered with the board; or

(B) is registered with the board but has not placed the appraiser on its panel of appraisers maintained with the board.

Although currently sanctions could be taken for the same act under the general provision in §153.20 (a) (21), the Board adopted this new amendment under (25) to put appraisers and AMCs on notice that an appraiser who willingly assists an unlicensed and non-exempt AMC to circumvent the regulatory structure for consumer protection established by the Texas Legislature will be subject to sanctions. Most importantly, this amendment also provides a “safe harbor” for an appraiser who, when accepting an assignment, verifies that an AMC is either registered in the state or is exempt from registration requirements.

So what constitutes “reasonable due diligence” by an appraiser to verify that an AMC is registered in Texas or exempt from registration before accepting an assignment? The Board maintains an up-to-date list of all registered AMCs on its website (www.talcb.texas.gov). If an appraiser receives an assignment from an AMC, it takes very little time to go

to the website and check the list. If the AMC is on the list, the appraiser needs to be on that AMC's panel prior to accepting the assignment. The appraiser will know if the appraiser is on the panel because the appraiser will have received an invitation to join the panel via email and can accept with a click of the mouse. If the appraiser is not on the panel, the appraiser needs to ask the AMC to invite the appraiser to join its panel.

If the AMC is not on the Board's list of registered AMCs, the appraiser should ask for confirmation from the AMC that they are not required by law to be registered before accepting the assignment. Written confirmation (letter or email) is recommended since it provides evidence that the verification was performed. If the appraiser has some type of evidence verifying that the AMC is operating legally in Texas, the appraiser will not be sanctioned under this amendment because reasonable due diligence was performed. As one appraiser commented at the last Board meeting, the process of verifying whether an AMC is registered is a fairly simple process and a good business practice if for no other reason that it increases the likelihood of getting paid!

It should also be noted that the amendment does not require the appraiser to turn in a complaint on an AMC that is not licensed or exempt from licensure, although reporting unlicensed activity would be appreciated and helpful to the Board. The burden for enforcement action against AMCs is and will continue to rest with the Board. The Board will also have the burden to prove that an appraiser did not use reasonable due diligence before accepting an assignment if any action is brought against an appraiser.

Bottom line, if an appraiser uses reasonable efforts to verify an AMC's status before accepting an assignment, no sanctions will be sought against that appraiser by the Board if an AMC is later determined to have been operating in Texas without being properly registered.

TALCB APPROVES POLICY REGARDING CERTAIN PROPERTY TAX CONSULTING WORK DONE BY APPRAISERS

As has been frequently reported here, a Working Group composed of appraisers and other individuals involved in the tax valuation challenge process was appointed by the Board earlier this year to research the scope of the Board's authority over property tax consulting services performed by appraisers, in particular "Uniform & Equal" (U&E) studies, and provide guidance as to the most appropriate way for the Board to enforce that authority. The Working Group presented its findings at the Board's November 9, 2012 meeting, and the Board approved the following measures based on those findings:

Beginning December 1, 2012, the Board will assert jurisdiction over and investigate credible written complaints alleging violations of USPAP in connection with property tax consulting services performed by appraisers, acting as appraisers.

In addition, as of December 1, 2012, the Board will require the following actions be taken by its licensees when performing property tax consulting services:

An appraiser who prepares a property tax consulting report that is signed by the appraiser acting as an appraiser, must include the appraiser's license or certification number and must be USPAP compliant.

An appraiser who is dually licensed as an appraiser and a property tax consultant, performing property tax consulting services under a property tax consultant license, must provide a written disclaimer stating that the work

was prepared in his or her capacity as a property tax consultant, and that the resulting work may not be compliant with USPAP.

Finally, the Board proposed a rule for adoption at its November 9, 2012 meeting that requires the specific USPAP disclaimer language set out below to be included on the report whenever an appraiser dually licensed as a property tax consultant prepares work under a property tax consultant license. While this language will not be required until the rule is adopted by the Board (which could be as early as February 2013) the Board urges appraisers who are dually licensed to use this language on their U&E reports as soon as possible when applicable.

USPAP DISCLAIMER: I AM LICENSED OR CERTIFIED AS A REAL PROPERTY APPRAISER AND A PROPERTY TAX CONSULTANT. THIS REPORT WAS PREPARED IN MY CAPACITY AS A PROPERTY TAX CONSULTANT AND MAY NOT COMPLY WITH THE REQUIREMENTS FOR DEVELOPMENT OF A REAL PROPERTY APPRAISAL CONTAINED IN THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP) OF THE APPRAISAL STANDARDS BOARD OF THE APPRAISAL FOUNDATION.

TALCB Seeks AMC Representative for Advisory Committee

HB 1146 established an AMC Advisory Committee to make recommendations to TALCB regarding AMC regulatory matters. The Vice Chair of TALCB acts as the presiding member of this advisory committee and the Governor will appoint one public member with demonstrated business ability and one member who is a "controlling person" of an AMC registered with TALCB to do business in Texas. Any AMC principal or manager who meets the statutory definition of "controlling person" and who is interested in being appointed to serve on this advisory committee for a two-year term should make application to the Governor's Appointments Office. Details on the appointment process can be found at this website: <http://governor.state.tx.us/appointments/>

The statutory definition "controlling person" is contained at Texas Occupation Code Sec. 1104.003 (b)(6):

"Controlling person" means:

- (A) an owner, officer, or director of an appraisal management company;
- (B) an individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and the authority to enter into agreements with appraisers for the performance of appraisals; or
- (C) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

RULE AND FORM ACTIONS FROM THE NOVEMBER 9TH MEETING OF THE BOARD

ADOPTED RULES

The adopted rules will be effective December 4, 2012 and can be found on our website at <http://www.talcb.state.tx.us/ActAndRules/TALCB-Rules.asp>.

22 TAC §153.17, Renewal or Extension of Certification and License or Renewal of Trainee Approval : Amendments to the rule were adopted to bring the rule into compliance with statutory changes effective May 27, 2011 that changed the period for late renewal from one year to six months.

22 TAC §153.23, Inactive Status: Amendments were adopted to conform to and reconcile any discrepancies in Texas Occupations Code §§1103.2111 and 1103.213. Section 1103.2111 was amended effective May 27, 2011 to decrease the period of time an appraiser could renew late from one year to six months. Section 1103.213 allows for the election of inactive status following expiration for a one year period and was not amended (through oversight or otherwise) and is now in conflict with §1103.2111. The amendments reasonably implement both provisions and eliminate the discrepancy when

renewing late following expiration on an active or inactive basis. It also corrects a previous mistake in the rule.

22 TAC §153.20, Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure: Amendments were adopted to clarify that there could be sanctions against an appraiser who, after conducting reasonable due diligence, accepts an assignment from an unlicensed Appraisal Management Company that the appraiser reasonably knows is required to be registered to make appraisal assignments in Texas.

22 TAC §159.155, Periodic Review of Appraisals: Amendments were adopted to clarify the timeframes for review and to provide the minimum standards that an AMC must observe when reviewing the work of an appraiser that performs appraisal services for the AMC, for compliance with USPAP and other standards prescribe by TALCB rules.

22 TAC §157.25, Temporary Suspension: This new rule was adopted to clarify the Board's standards of practice and procedure for temporary suspensions

authorized by the Texas Occupations Code §1103.5511 and §1104.211.

22 TAC §157.8, Adverse Action Against a License:

Amendments were adopted to clarify that the rule also applies to AMCs and to set out the Board's standards of practice and procedure when a licensee or registrant who has entered into an Agreed Order with the Board, wishes to request a modification of that order.

22 TAC §157.12, Failure to Attend Hearing, Default Judgment:

Amendments were adopted to clarify the Board's standards of practice and procedure when a respondent who has received proper notice of a contested case hearing does not appear at the hearing in accordance with the State Office of Administrative Hearings Rules 1 TAC §155.501 and §155.503 (relating to Default Proceedings and Dismissal Proceedings).

22 TAC §157.17, Final Decisions and Orders:

Amendments were adopted to clarify that while the Board welcomes SOAH judges' recommendations regarding sanctions, the Board has the authority and responsibility to impose disciplinary sanctions against appraisers, appraiser trainees and AMCs. The amendments also delineate the standards required when the Board may change a finding of fact, conclusion of law or recommendation in a proposal for decision and sets out the requirements for final orders.

22 TAC §157.18, Motions for Rehearing; Finality of Decisions:

Amendments were adopted to clarify the Board's practice and procedures regarding motions for rehearing by describing the requirements for filing a motion for rehearing, setting out the procedure for a hearing on the motion for rehearing and addressing situations in which new evidence may be presented.

PROPOSED RULES

Proposed rules will be up for adoption at the February 15, 2013 meeting of the Board. The proposed rules can be found on our website at <http://www.talcb.state.tx.us/ActAndRules/TALCB-Rules.asp>. Comments on proposed rules should be sent to general.counsel@talcb.texas.gov on or before December 31, 2012.

22 TAC §155.2, Work Relating to Property Tax Protests: A new rule is proposed to clarify when

USPAP applies to work prepared by TALCB licensees for the purpose of a property tax protest and requires the use of a disclosure by TALCB licensees that are dually licensed or certified as a property tax consultant when they perform work for a property tax protest under their authority as a property tax consultant.

22 TAC §153.24, Complaint Processing:

Amendments are proposed to clarify that receipt of a complaint intake form by TALCB does not constitute the filing of a formal complaint by the Board against the individual named on the complaint intake form. The amendments also more clearly set out all of the information that a respondent must provide to the Board following notification of receipt of a complaint intake form, establishes a timeframe for completion of a preliminary review to determine if a violation occurred and sets out the criteria and procedure for a contingent dismissal.

22 TAC §157.10, Right to Counsel, Right to Participate:

Amendments are proposed to clarify that the cost of a hearing transcript will be paid by the party requesting it but when a transcript of a hearing is requested by a SOAH judge, the cost of the transcript will be split by the parties.

NEW/REVISED FORMS – effective November 9, 2012

Complaint Intake Form (Revised) - this form was revised to take the place of the current complaint forms for appraisers and AMCs and also can be used for unlicensed activity. In addition, it elicits additional information from the complainant to help expedite the preliminary review of the complaint.

Application to Serve on Peer Investigative Committee (PIC)/Act as Mentor - The PIC application form has been revised to apply to applicants who want to serve as mentors in addition to or instead of serving on a PIC.

Mentor Appointment Agreement - This is a new form that will be signed by people applying to serve as mentors.

Certification of Completion of Mentorship - This form replaces the Affidavit of Completion of Mentorship form and will be signed by the mentor following completion of mentorship hours by a respondent. This form is not required to be notarized.

Name and Location	Order	Basis For Order			
<p>Complaint No.: 05-069 & 07-170 FAHRENTHOLD, Andrea Masters Lic. # TX-1320492-G Effective Date: 11/16/2012</p>	<p>A Mediated Consent Order was entered.</p>	<p>A copy of the Order is on file with the Board.</p> <table border="1" data-bbox="1182 417 1557 562"> <thead> <tr> <th data-bbox="1182 417 1557 470">Violation(s)</th> </tr> </thead> <tbody> <tr> <td data-bbox="1182 470 1557 562">A copy of the Order is on file with the Board</td> </tr> </tbody> </table>	Violation(s)	A copy of the Order is on file with the Board	
Violation(s)					
A copy of the Order is on file with the Board					
<p>Complaint No.: 12-232 SANTOS, Frank Joseph Lic. TX-1333440-R Houston Effective Date: 11/16/2012</p>	<p>During an eighteen (18) month probation period, beginning on November 16th, 2012, the effective date of this order, Respondent shall maintain an appraisal experience log on a form prescribed by the Board. The log shall be submitted within seven (7) days after the completion of eighteen (18) months (i.e. May 16th, 2014), and shall detail all real estate appraisal activities he has conducted during the previous eighteen (18) month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and fully accurate;</p> <ul style="list-style-type: none"> • Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments he performs during the course of this probation period within the twenty (20) days of notice of any such request; <p>Within twelve (12) months of the effective date of this order (i.e. on or before November 16, 2013), Respondent shall complete twelve (12) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board. Upon completion of the requisite mentorship hours, and within twelve (12) months of the effective date of this order, Respondent shall submit on a form provided by the Board, a signed, notarized affidavit attested by the certified USPAP instructor confirming completion of the mentorship hours;</p> <p>Attend and complete a minimum, fifteen (15) classroom-hour USPAP course, within twelve (12) months of the effective date of this order (i.e. on or before November 16, 2013);</p> <p>Attend and complete a minimum, seven (7) classroom-hour Sales Comparison Approach course, within twelve (12) months of the effective date of this order (i.e. on or before November 16, 2013);</p> <p>Pay to the Board an administrative penalty of one thousand five hundred dollars (\$1,500.00), within twenty (20) days..</p>	<p>Consumer Complaint The complaint alleged that the Respondent produced appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").</p> <table border="1" data-bbox="1170 877 1557 1234"> <thead> <tr> <th data-bbox="1170 877 1557 930">Violation(s)</th> </tr> </thead> <tbody> <tr> <td data-bbox="1170 930 1557 1077">§ 1103USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).</td> </tr> <tr> <td data-bbox="1170 1077 1557 1234">22 TAC §153.20(a)(12) 01.651 (d)22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.</td> </tr> </tbody> </table>	Violation(s)	§ 1103USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).	22 TAC §153.20(a)(12) 01.651 (d)22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.
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22 TAC §153.20(a)(12) 01.651 (d)22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.					
<p>Complaint No.: 10-358 ROBY, Douglas Scott Lic. TX-1323344-R Spring Effective Date: 11/9/2012</p>	<p>Certification suspended for a period of six (6) months, effective 5:00 p.m., November 9, 2012</p> <p>Beginning at 5:00 p.m., November 9, 2012, the suspension is to be fully probated for six (6) months ending May 9, 2013, subject to the following terms and conditions:</p> <ul style="list-style-type: none"> • EDUCATION. On or before May 9, 2013. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. Respondent must receive a passing grad on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider. 	<p>Consumer Complaint The complaint alleged that the Respondent produced appraisal report for the property that did not conform to the Uniform Standards of Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").</p>			

Name and Location	Order	Basis For Order				
<i>(continued from previous page)</i>	<ul style="list-style-type: none"> 2) On or before May 9, 2013, complete a minimum fifteen (15) classroom-hour course in Sales Comparison Approach; and 3) On or before May 9, 2013, complete a minimum of seven (7) classroom-hour course in Valuation by Comparison, OR complete an additional five (5) hours of in-person mentorship, in addition to the mentorship detailed below. • MENTORSHIP. On or before February 7, 2013. Respondent shall complete fifteen (15) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a notarized Board affidavit form signed by the approved certified USPAP instructor... (Additional info available upon request) 	<table border="1"> <tr> <th data-bbox="1159 212 1528 264">Violation(s)</th> </tr> <tr> <td data-bbox="1159 264 1528 443">§ 1103USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).</td> </tr> <tr> <td data-bbox="1159 443 1528 600">22 TAC §153.20(a)(12) 01.651 (d)22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.</td> </tr> </table>	Violation(s)	§ 1103USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).	22 TAC §153.20(a)(12) 01.651 (d)22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.	
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<p>Complaint No.: 12-244</p> <p>NOVERO, Jay Patrick</p> <p>Lic. # TX-1350035-L Arlington</p> <p>Effective Date: 11/06/2012</p>	<ul style="list-style-type: none"> • Within six (6) months of the effective date of this order (i.e. on or before May 16th, 2012), Respondent shall complete six (6) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board. Upon completion of the requisite mentorship hours, and within six (6) months of the effective date of this order, Respondent shall submit on a form provided by the Board, a signed, notarized affidavit attested by the certified USPAP instructor confirming completion of the mentorship hours; • Fully cooperate with the Board's ongoing investigation of Bart Landon Gardner, TX-1333054-R, including providing all requested information and documentation Respondent may have in an accurate and truthful manner, until the resolution of the administrative case. If necessary, Respondent will also provide truthful, complete and accurate testimony about his involvement with Bart Landon Gardner, TX-1333054-R, in the course of appraising the property: • Pay to the Board an administrative penalty of \$1,000.00; <ul style="list-style-type: none"> 1) The \$1,000.00 administrative penalty shall be fully probated under the condition that Respondent fully and timely comply with all of the provisions of this Agreed Final Order. 	<p>Consumer Complaint The complaint alleged that the Respondent produced appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").</p> <table border="1"> <tr> <th data-bbox="1159 932 1528 984">Violation(s)</th> </tr> <tr> <td data-bbox="1159 984 1528 1142">§USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).</td> </tr> <tr> <td data-bbox="1159 1142 1528 1320">22 TEX. ADMIN. CODE §153.20(a)(2) by specifically violating 22 TEX. ADMIN. CODE §153.9(e) by submitting false information in an</td> </tr> <tr> <td data-bbox="1159 1320 1528 1415">§153.20(a)(9) by misrepresenting and omitting material</td> </tr> </table>	Violation(s)	§USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).	22 TEX. ADMIN. CODE §153.20(a)(2) by specifically violating 22 TEX. ADMIN. CODE §153.9(e) by submitting false information in an	§153.20(a)(9) by misrepresenting and omitting material
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§153.20(a)(9) by misrepresenting and omitting material						
<p>Complaint No.: 12-206</p> <p>MARQUEZ, Fernando</p> <p>Lic. # TX-1332798-L Brownsville</p> <p>Effective Date: 11/06/2012</p>	<ul style="list-style-type: none"> • AUDIT. If Respondent elects to reapply for any credential with the Board he shall undergo a mandatory experience audit prior to issuance of any credential and, • MENTORSHIP. Respondent shall complete fifteen (15) hours of in-person mentorship conducted by a certified USPAP instructor approved by Board Staff. Respondent shall submit a notarized Board affidavit form Signed by the approved certified USPAP Instructor on or before the date Respondent submits any application for a credential with the Board. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreement and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion. 	<p>Consumer Complaint The complaint alleged that the Respondent an produced appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").</p> <table border="1"> <tr> <th data-bbox="1159 1734 1528 1787">Violation(s)</th> </tr> <tr> <td data-bbox="1159 1787 1528 1936">USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).</td> </tr> </table>	Violation(s)	USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).		
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Name and Location	Order	Basis For Order			
<p>Complaint No.: 10-195</p> <p>LITFIN, Colleen Frances</p> <p>Lic. # TX-1336169-R Brownsville</p> <p>Effective Date: 11/09/2012</p>	<ul style="list-style-type: none"> • EDUCATION. On or before November 9, 2013. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance and have an exam. Respondent must receive a passing grad on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider. <ol style="list-style-type: none"> 1) On or before November 9, 2013, complete a minimum fifteen (15) classroom-hour course in USPAP; 2) On or before November 9, 2013, complete a minimum fifteen (15) classroom-hour course in Residential Report Writing and Case Studies; and 3) On or before November 9, 2013, complete a minimum (15) classroom-hour course in Residential Sales Comparison Approach. 	<p>Consumer Complaint The complaint alleged that the Respondent produced appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").</p> <table border="1" data-bbox="1162 520 1523 821"> <thead> <tr> <th data-bbox="1162 520 1523 596">Violation(s)</th> </tr> </thead> <tbody> <tr> <td data-bbox="1162 596 1523 751">USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).</td> </tr> <tr> <td data-bbox="1162 751 1523 821">§153.20(a)(9) by omitting material facts.</td> </tr> </tbody> </table>	Violation(s)	USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).	§153.20(a)(9) by omitting material facts.
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§153.20(a)(9) by omitting material facts.					
<p>Complaint No.: 10-256 & 11-173</p> <p>HANSON, Heath</p> <p>Lic. # TX-1335186-R Austin</p>	<p>Certification be suspended for a period of (24) twenty-four months, effective 5:00 p.m., November 9th, 2012</p> <p>Beginning at 5:00 p.m., November 9th, 2012, the suspension is to be fully probated for (24) twenty-four months ending November 9th, 2014, subject to the following terms and conditions:</p> <ul style="list-style-type: none"> • EDUCATION. On or before August 9th, 2013. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance and have an exam. Respondent must receive a passing grad on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider. <ol style="list-style-type: none"> 1) A minimum 7 classroom-hour course in Valuation by Comparison. This course may be substituted with 5 additional hours of mentorship, so long as the Respondent submits a notarized Board affidavit form signed by the approved certified USPAP instructor on or before the due date listed for education; and 2) A minimum 7 classroom-hour course in Mortgage Fraud. 3) MENTORSHIP. Respondent shall complete 18 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a notarized Board affidavit form signed by the approved certified USPAP instructor... (Additional info available upon request) 	<p>Consumer Complaint The complaint alleged the Respondent failed to comply with a previous Final Order issued by the Board.</p> <table border="1" data-bbox="1179 1440 1531 1682"> <thead> <tr> <th data-bbox="1179 1440 1531 1516">Violation(s)</th> </tr> </thead> <tbody> <tr> <td data-bbox="1179 1516 1531 1619">§1103.405 and 22 TAC §§155.1 (a) and 153.20(a)(6).</td> </tr> <tr> <td data-bbox="1179 1619 1531 1682">22 TAC §153.20(a)(12)</td> </tr> </tbody> </table>	Violation(s)	§1103.405 and 22 TAC §§155.1 (a) and 153.20(a)(6).	22 TAC §153.20(a)(12)
Violation(s)					
§1103.405 and 22 TAC §§155.1 (a) and 153.20(a)(6).					
22 TAC §153.20(a)(12)					

Name and Location	Order	Basis For Order
<p>Complaint No.: 12-150</p> <p>GIESBERG, Mary Catherine</p> <p>Lic. # TX-1324048-R Houston</p> <p>Effective Date: 11/09/2012</p>	<p>Attend and complete a minimum 7 classroom hour course in review appraisals; No examination shall be required for this course.</p>	<p>The complaint alleged that the Respondent produced an appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").</p> <hr/> <p style="text-align: center;">Violation(s)</p> <hr/> <p>USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Standards 1-4(a) & 2-2(b)(ix); 1-5(a) & 2-2(b)(ix); 1-1(a); 1-1(b); 1-1(c) and 2-1(a).</p> <hr/> <p>§ 153.20(a)(13) by failing to actively, personally and diligently supervise her appraiser trainee.</p>
<p>Complaint No.: 08-159, 09-014, 10-221, 11-031, & 11-120</p> <p>DECECCO, John Thomas</p> <p>Lic. # TX-1324930-R</p>	<p>Certification number, TX-1324930-R issued to JOHN THOMAS DECECCO, to practice real property appraisal in the State of Texas, permanently revoked without formal charges, notice of hearing or a formal hearing. This revocation is effective on January 1st, 2013.</p>	<p>The complaints alleged that the Respondent produced appraisal reports for the properties that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").</p>
<p>Complaint No.: 10-247</p> <p>BROESCHE, Charlotte Ann</p> <p>Lic. # TX-1322275-R League City</p> <p>Effective Date: 11/09/2012</p>	<p>Texas appraiser certification be suspended for a period of six (6) months, effective 5:00 p.m., November 9, 2012.</p> <p>IT IS FURTHER ORDERED that beginning at 5:00 p.m., November 9, 2012, the suspension is to be fully probated for six (6) months ending May 9, 2012, subject to the following terms and conditions:</p> <ul style="list-style-type: none"> • EDUCATION. On or before May 9, 2012. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance and have an exam. Respondent must receive a passing grad on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider. On or before May 9, 2012, complete a minimum fifteen (15) classroom-hour course in USPAP; • MENTORSHIP. On or before May 9, 2012. Respondent shall complete six (6) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a notarized Board affidavit form signed by the approved certified USPAP instructor on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion. On or before May 9, 2012, complete six (6) hours 	<p>The complaints alleged that the Respondent produced appraisal reports for the properties that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").</p> <hr/> <p style="text-align: center;">Violation(s)</p> <hr/> <p>USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).</p> <hr/> <p>§153.20(a)(9) by omitting material facts.</p>

Inspector Insight



The Texas Real Estate Inspector Committee is as an advisory committee to the Texas Real Estate Commission on matters pertaining to the licensing and regulation of real estate inspectors. The Committee recommends rules and policies that ensure inspections meet high professional standards and enhance consumer protection.

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From the Chairman...

The Inspector Committee is working hard to complete two major projects that have been in the works for over a year the Standards of Practice and revised Report form, plus the National Home inspection Examination (NHIE) and Texas specific exam combination. In addition, we welcome Mike DeHart of Killeen as a new public member on the committee and look forward to working with him.

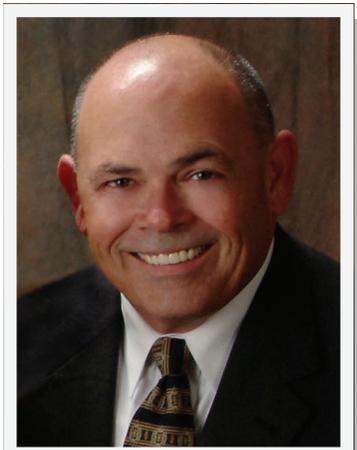
The Committee met on November 27 and finalized the exam review for the Texas specific questions to be integrated with the NHIE, with implementation effective as of January 1, 2013. Mr. DeHart was also present for this and received and in-depth inauguration into the work of the committee.

The proposed updated Standards of Practice and corresponding changes to the standard report form were published on the Texas Register as of November 23 and are open for public comment. It is also posted on the agency website so that interested parties can follow its progress and offer feedback. I encourage a careful review by practitioners and then make your thoughts known, so we can better serve our clients.

The Committee relies on both qualified inspectors and willing public members to fulfill its mission.

Two Professional Inspectors and one public member will be replaced in February as they meet the end of their appointed service. I encourage all interested inspectors to consider applying to serve for a term on the committee as a service to the industry. Public member volunteers are often hard to find, so we also urge inspectors to recommend someone you know who might be willing to serve in this valuable role.

The Commission and the Committee continue to work cooperatively to improve the ability of inspectors to serve the needs of real estate buyers and sellers. Several improvements are needed in the enabling statute and we expect to see some action to address these in the upcoming legislative session. I urge you all, especially the major professional associations, to remain engaged and assist the industry and the committee in achieving its goals. Your input is always welcomed.



Brad Phillips

IMPLEMENTATION OF THE NEW INSPECTOR EXAM TO BEGIN JANUARY 1, 2013

All new applicants, including applicants who filed an application prior to January 1, 2013 and have not taken the exam, will be required to take a new exam for licensure effective January 1, 2013. The new exam is composed of two-parts: One part for national topics and one part for Texas specific topics. As reported in an earlier issue of the Advisor, the national part of the exam will help to better prepare inspectors for the field and will assist with some reciprocity issues.

The National part of the exam consists of 200 questions and the Texas part consists of 25 questions, all multiple choice. Examination content outline and reference material will be available in the State of Texas Professional Inspector and Real Estate Inspector Examination Candidate Information Brochure (CIB). The revised CIB should be available shortly. A link to the CIB can be found by accessing the TREC website at www.trec.texas.gov and clicking the Inspector Information tab at the top of the home page. A link to the CIB can be found on the left side bar of the Inspector Information Main Page.

The exam fee is \$230.00 and is required each time the National and Texas parts of the exam are taken together or when the National part is taken alone. If one part of the exam has been

passed, the applicant is required to retest only on the part that has been failed. The \$61.00 Texas exam fee is required if the applicant is only retaking the State part of the exam.

Important Notes for Current Inspector Applicants:

- Applicants who have a current application open as of December 31, 2012 and who have taken and failed the inspector examination that was in effect prior to January 1, 2013 may choose to retake the pre-January 1, 2013 exam if they qualify for reexamination under that same application. The applicant must notify the Commission in writing when requesting reexamination.
- TREC may waive the national part of the exam if an applicant maintains an active license in another state and has passed the National Home Inspector Examination (NHIE) developed by the Examination Board of Professional Home inspectors. The applicant must provide the Commission with a license history or documentation from the other state indicating that the NHIE was passed.

Important Dates to Remember

New Inspector Exam Effective—Jan 1

Texas Real Estate Inspector Committee Meeting— Feb 1

DeHart Appointed to Inspector Committee, Open Positions Available for Appointment

Michael DeHart has been appointed to serve as a public member to the Inspector Committee effective November 5th. Mr. Dehart has served as the Association Executive of the Fort Hood Association of RELATORS for the past two years. The committee is excited to have a new public member with a high level of expertise join them! Welcome Mr. DeHart!

In addition, TREC has two Inspector member positions and one public member position open for appointment to the Real Estate Inspector Committee. While appointments are for a six year term a rule has been proposed to shorten the public member's terms to two years.

The committee's primary function is to make recommendations to the Commission regarding a variety of inspection-related matters toward the goal of ensuring a high degree of service to and protection of the public in dealing with home inspectors. The committee consists of six

professional inspectors and three public members. Following the Commission's model, public members may not hold occupational licenses in the real estate field (appraiser, real estate broker/salesperson, mortgage broker, etc.).

The committee is permitted to meet by teleconference, although it is anticipated that some travel to Austin will be necessary. Limited funds may be available for travel reimbursement, but members are not compensated for their time. All committee meetings must comply with the Open Meetings Act.

Individuals wishing to be considered for appointment should send a cover letter and resume to the agency via email at general.counsel@trec.texas.gov, or by mail at Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, or by fax to 512-936-3788. Applications must be received by January 31, 2013

TREC Office Holiday Hours

TREC's Offices will be closed on December 24, 25 and 26 for the Christmas holiday and December 31 and January 1 for New Years. Please be sure to make the proper preparations for license renewals and any other questions you might have.

As a reminder, if the last day of the month falls on a weekend or on a holiday TREC will accept applications through the next business day. All

license holders whose license expires December 31 will have until January 2 to renew timely. As always, the agency STRONGLY encourages you to renew well before your expiration date to ensure no lapse in active

