



TREC Advisor

Texas Real Estate Commission ★ Volume 22, Number 1 ★ March 2011

TREC Adopts Emergency Revisions to Contract Forms

The Texas Real Estate Commission took emergency action at the February 14, 2011 commission meeting to adopt revisions to six standard contract forms including the Unimproved Property Contract, the One to Four Family Residential Contract (Resale), the New Home Contract (Incomplete Construction); the New Home Contract (Completed Construction); the Farm and Ranch Contract; and the Residential Condominium Contract. The effective date for mandatory use of the revised contract forms is March 1, 2011.

The contract forms were revised on an emergency basis to remove new subparagraph 15B, which had been recently added to the forms to require a seller or buyer to file an action for specific performance within 45 days of the Closing Date of the contract. The subparagraph may conflict with §16.070 of the Civil Practice and Remedies Code which prevents parties to a contract from agreeing to shorten the time-period in which to file a lawsuit to less than two years. The commission took emergency action to delete subparagraph 15B to forestall confusion and possible litigation regarding a potential conflict between the contractual provision and the statute.

Licensees should no longer be using any version of the six contract forms with a date earlier than February 14, 2011 in the upper right-

hand corner of the form. Although licensees are not required to change the contract form in a pending transaction in which a previous version of the form was used, if the parties to the contract wish to use a revised forms, licensees may rewrite the pending contract using the revised form. The revised contract forms are available to download from the TREC website under the "Forms, Laws and Contracts" tab.

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Contract Concerning _____ Page 6 of 9 02-14-2011
 _____ (Address of Property)

12. SETTLEMENT AND OTHER EXPENSES:
 A. The following expenses must be paid at or prior to closing:
 (1) Expenses payable by Seller (Seller's Expenses):
 (a) Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.
 (b) Seller shall also pay an amount not to exceed \$ _____ to be applied in the following order: Buyer's Expenses which Buyer is prohibited from paying by FHA, VA, Texas Veterans Land Board or other governmental loan programs, and then to other Buyer's Expenses as allowed by the lender.
 (2) Expenses payable by Buyer (Buyer's Expenses): Appraisal fees; loan application fees; adjusted origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; Private Mortgage Insurance Premium (PMI), VA Loan Funding Fee, or FHA Mortgage Insurance Premium (MIP) as required by the lender; and other expenses payable by Buyer under this contract.
 B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas Veterans Land Board or other governmental loan program regulations.

13. PRORATIONS: Taxes for the current year, interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year.

14. CASUALTY LOSS: If any part of the Property is damaged or destroyed by fire or other casualty after the effective date of this contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent

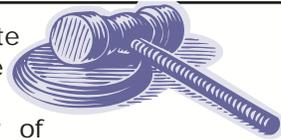
15. DEFAULT: If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If, due to factors beyond Seller's control, Seller fails within the time allowed to make any non-casualty repairs or deliver the Commitment, or survey, if required of Seller, Buyer may (a) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (b) terminate this contract as the sole remedy and receive the earnest money. If Seller fails to comply with this contract for any other reason, Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.

16. MEDIATION: It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will will not be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

17. ATTORNEY'S FEES: A Buyer, Seller, Listing Broker, Other Broker, or escrow agent who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.

Initialed for identification by Buyer _____ and Seller _____ TREC NO. 20-10

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.



Sharing Fees with Unlicensed Persons

In light of recent changes to the TREC rules, several questions have been raised about whether salespersons and brokers are now permitted to share fees with unlicensed persons. Generally speaking, a real estate salesperson or broker licensee may not share a commission or fee with an unlicensed person; the rules have not changed in this regard. There are several "exceptions" to this rule, and these exceptions have been part of the rules for many years. One exception permits a licensee to give a gift certificate worth not more than \$50 to a person who is not licensed. The licensee may not give cash, and the gift certificate may not be exchangeable for cash. Another exception permits a licensee to pay a rebate to a buyer or seller in a transaction as long as the licensee obtains the consent of the party the licensee represents. Finally, a business entity licensed as a broker may share income with an unlicensed owner as long as the unlicensed owner does not personally engage in real estate brokerage activity. This rule acknowledges that an unlicensed person may own and share in the profits of a business entity.

Residential Service Company Disclosure

A broker or salesperson is often paid a fee for providing advertising and other services on behalf of a residential service company that are separate and apart from the typical services they provide as an agent in a real estate transaction. A new TREC rule requires a licensee to use RSC-1 to disclose such fee in writing to their client. A licensee is not required to use the form if the licensee is not being paid a fee by a residential service company. However, if the licensee or the sponsoring broker is paid for advertising services unrelated to any one transaction, the licensee must disclose such payments to the client. For example, if a brokerage firm is paid \$100 per month for advertising, the agent must disclose that payment in any transactions in which the licensee acted as an agent in the payment period. The disclosure form should not be attached to the contract as an addendum, but the form should be retained in the transaction records maintained by the broker as evidence that the disclosure was provided.

Congratulations to our **outstanding performer, Elisa Macias, for the first quarter of 2011!** Elisa is an Administrative Assistant in the TALCB Education department and has worked for the agency for 7 years. She was nominated for her amazingly positive "can-do" attitude and willingness to learn new skills as the agency faced down the enormous challenge of the paperwork resulting from our VERSA conversion.

Congratulations Elisa!



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...from the Chairman

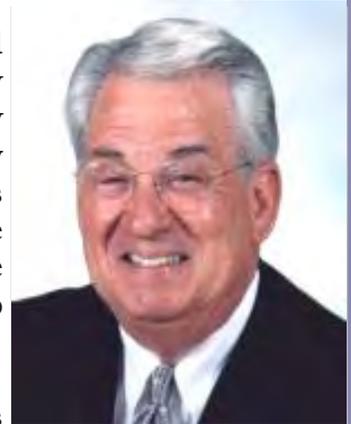
The New Year surprised the Commission with a new and daunting challenge in early January – internet access suddenly became very restricted – with no good explanation! After many unsuccessful attempts to find a solution, the agency has now doubled its internet access. Please read the Administrator’s explanation on page 4 of this issue for more details. We understand that these challenges have affected our license holders and new applicants; staff is making great efforts to reduce these impacts as much as possible.

At our February meeting, the Commission elected new officers – Avis Wukash was re-elected as Vice-Chair and Jamie Blevins Hensley was elected as Secretary. Thanks to both of them for their service as we move forward. We also approved the Administrator’s recommendation for an additional 2.5% budget cut for 2011 as requested by state leadership, without any additional staff reductions. We can realistically expect service levels to be slightly reduced. While our technology promises some significant relief, the agency needs both the time and the funds to implement it. We remain encouraged.

The legislative session is in full swing and bills affecting the agency are working their way through the process. SB 747 by Carona and HB 1637 by Hamilton represent the Commission’s “housekeeping” bills to clarify and strengthen our governing statutes. We are awaiting the filing of similar bills addressing Inspectors and Residential Service Companies. SB 1000 by Eltife and HB 1680 by Geren would grant the Commission self-directed semi-independent status, removing us from the legislative budget process and offering some additional financial independence to the agency. The Texas Association of Realtors and agency staff are working hard to ensure this bill is structured so that its passage will be a very positive step for us. I urge you to stay informed and involved on all items affecting the agency and to weigh in when you believe your input is appropriate.

Rethinking the way we do business is essential to responding to all of these challenges. We have the right team and the right leadership to make it a reality. What we need now is the ongoing support of the real estate industry to ensure our efforts remain focused and the agency gets the resources it needs to be successful. The staff is doing a great job meeting challenges as they arise, and we are counting on your assistance where needed.

Wishing you all the best as Spring offers new opportunities for your business and for our industry. Have a blessed Easter!



John D. Eckstrum, Chairman

TRECNology Update

I understand and share your frustration with our technology challenges. Ever since I started at TREC in September 2009, we have endeavored to focus on ways to improve service. While we have made some significant progress, we still have a long way to go.

In September 2010, we converted our 20 year old database to a new system and, though they worked well during testing, the online tools failed utterly when implemented. After six weeks of retesting, we were able to get all of the tools working correctly. But in the meantime we asked our license holders to do business the old-fashioned way, by paper forms with checks (vs. online with credit cards). Normally, we receive about 1,500 paper transactions monthly, but between September and December we received over 22,000 paper transactions and our ten day processing time turned into 6-8 weeks. By Christmas, with all staff working mandatory overtime, we had just a small backlog remaining.

Then on December 28 we upgraded our online system access software and immediately observed a 100% capacity "jam" on a continuous basis. Nothing we tried would relieve the jam. Only a few users could be online at any one time and many were kicked off repeatedly. Four different public and private agencies were consulted to attempt to diagnose the problems and they suggested multiple solutions. Each was tried; all failed. Every plan needs a back-up, and we decided on a different approach to a solution.

After three unsuccessful attempts to double our capacity by installing a second access line, by March 1st we finally achieved success and doubled our online access capacity. The system works much more quickly now and many users can be online simultaneously without loss of connectivity. Most who attempted to access the system unsuccessfully in January and February have also phoned multiple times to seek assistance and to report problems. This had our 12 phone lines also jammed continuously every day; and thousands of emails have been received with the same complaints and requests. While potentially overwhelming, we have steadily moved through these challenges to try to assist each person with their particular issues as rapidly as possible.

If we had the resources to install more phone lines and hire more staff, I can assure you we would have done so long ago. In addition to the 5% budget cut we took in 2010-2011, which cost us seven staff, we also cut another 2.5% just for 2011 as requested by state leadership. Each agency is doing its part to address the severe budget crisis Texas faces.

I share all of this detail to assure you that we are fully aware of the massive technical and human obstacles faced by our license holders attempting to renew online, and that we have been working continuously to solve these issues. We will not stop working on every avenue that we can afford to continue to improve our services. I ask for your continued understanding and patience. Please spread the word that we are doing everything in our power to address these daunting challenges. We will slay every dragon as it appears!



Douglas E. Oldmixon, Commissioner

TREC Adopts New Advertising Rules

Section 1101.652(b)(23) of The License Act prohibits a licensee from publishing an advertisement “that misleads or is likely to deceive the public, tends to create a misleading impression, or fails to identify the person causing the advertisement to be published as a licensed broker or agent.” This provision can be broken down into two component parts: It prohibits misleading advertising and it requires licensees to identify themselves in advertising as a broker or agent.

New 22 TAC §535.154 further clarifies the statute in a variety of ways. While much of the new rule is a restatement of the previous rule, several changes were made to address ambiguities and to update various subsections. This article highlights some of the new aspects of the rule as well as some of the provisions that were carried forward from the previous rule. First, the definition of "advertisement" was updated to encompass a broader variety of electronic communications including social networking websites such as Twitter or Facebook. The rule was also amended to clarify that real estate information, including a listing, which is available to the public on a licensee's website and is behind a firewall or similar filtering software that requires a password or registration to access the information, is not considered an "advertisement" for purposes of the Act and Rules.

The new rule requires brokers and salespersons to clearly and conspicuously include the broker's name in all advertising, and permits the use of a broker's assumed name if it has been filed with the commission. A broker must notify the commission within 30 days of starting or stopping the use of an assumed name. Although the rule does not specifically define "clear and conspicuous" the commission adopted a safe harbor policy at the February 14 meeting which provides that the commission considers the broker's name to be clear and conspicuous if it is no less than half the font size of the largest telephone number or other contact information in the advertisement. What are the advertising implications when a team or group of licensees in a brokerage firm work together and wish to advertise under a team name? First, the broker must register the team name as the broker's "assumed name" with the commission. If the team name does not include the name of a salesperson, the team can advertise using that name. The broker's name does not need to be included in the advertisement, since the assumed name belongs to the broker. In addition, the advertisement must include the additional designation of "agent", "broker," or trade association name. The "agent" designation is not required after each licensee's name if the advertisement includes more than one name. As always, the sponsoring broker remains responsible for a team's advertising.

If the team name includes the name of a salesperson, the existing rules against implying that the salesperson is responsible for the operations of a brokerage are implicated. The commission has determined that using names such as the "Sally Salesperson Team" or the "Sam Salesperson Group" do not imply that the salesperson is responsible for operation of a brokerage so long as the advertisement also includes the name or another assumed name of the broker. However, some names such as "Sally Salesperson and Associates" or "Sam Salesperson and Company" do imply that the salesperson is responsible for the operation of a brokerage, even when the broker's name is included in the advertising. Thus, including the broker's name in the advertising does not cure the potential for misleading the public, and so the use of such names is not allowed.

If the salesperson's name is part of the name of a corporation or limited liability company registered with the Secretary of State and licensed as a broker, the corporation or LLC may use the salesperson's name in advertising, but the name of the designated agent must also be included since the designated agent is the person responsible for the entity's actions. An unlicensed person's name may be used in advertising only if the name is properly filed as a business, trade or assumed name of a broker with the commission and the advertisement does not suggest that the unlicensed person is authorized to engage in real estate brokerage. A licensee is prohibited from using a copyrighted trade name unless the licensee has the authority to use the name. The best example of this rule is cases in which licensees use the term "Realtor" or "Realtist" in advertising. A licensee may use such terms if the licensee is in fact a member of the trade association but may not use them if the licensee is not a member.

The special requirements for road signs were carried forward relatively unchanged.

The rule requires road signs to include the designation “agent” or “broker” (or presumably trade association name if a member) in a clear and conspicuous manner; however the font size requirement was removed from the rule. The safe harbor policy would likewise apply to the agent designation in road signs. The subsection regarding the clear and conspicuous designation as a broker or agent does not apply to yard signs or to directional signs as long as the signs otherwise comply with other requirements in §535.154.

Yes!

FOR SALE OR RENT
CALL
SAM SALESPERSON, AGENT
512-987-6543
Broker
Betsy Broker
512-123-5478

No!

FOR SALE OR RENT
CALL
SAM SALESPERSON, AGENT
512-987-6543
Broker
Betsy Broker
512-123-5478

Much of subsection (d) is new and clarifies a “laundry list” of types of advertising that are considered deceptive and misleading, except that (4) was in the existing rule, and others are simply adding to the rules some policies the commission has previously adopted. Subsection (n) is new and prohibits licensees from advertising information regarding service providers that ranks the providers unless the ranking is based on disclosed objective criteria; subsection (o) prohibits licensees from advertising that a licensee offers, sponsors, or conducts commission approved courses unless the licensee is approved to offer the courses; the remaining subsections restate existing advertising rules in §535.154.

Assumed names that have been filed with the commission are now searchable in the "Licensee Lookup" section of the TREC website. Brokers may use the Notice of DBA or Assumed Name for Broker's License form available on the Forms page of the TREC website to notify TREC of the use of assumed names.



Did you know you can request a copy of your license “On Demand”?

TREC and TALCB have added another free feature to their available website toolkit. This new option allows users to receive a copy of their license “on demand”. Every license holder who has established an online account can request a copy of their license as often as they might need it. Within 24 hours of placing the order, they will receive the copy as an attachment by email. No phone calls, no order forms, and totally free. This new feature reduces the time it takes to request and receive a copy of a license by mail, as well as eliminating the \$20 fee charged to file a written request for a duplicate copy by mail.

RULE ACTIONS FROM THE FEBRUARY 14, 2011 MEETING OF THE TEXAS REAL ESTATE COMMISSION

RULE NO.	EARLIEST DATE OF ADOPTION	SUMMARY OF PROPOSED RULES <i>For text of the rules as they were filed with the Texas Register, go to the web site www.trec.state.tx.us</i>
TAC §533.1, §533.3 (proposed)	05/02/2011	TREC proposes amendments to §533.1 regarding Definitions and §533.3 regarding Filing and Notice. The proposed amendment to §533.1 amends the definition of "last known mailing address" to "mailing address" to be consistent with other TREC rules. The proposed amendment to §533.3 clarifies that the Notice of Alleged Violation required by Occupations Code §1101.703 will be mailed to the respondent's mailing address.
22 TAC §535.217 (proposed)	05/02/2011	TREC proposes amendments to §535.217 regarding Contact Information. The proposed amendment to §535.217 amends the title of the rule to add "Mailing Address and Other" and deletes the term "permanent" from the rule to make it consistent with other TREC rules.

Comments on proposed rules should be directed to general.counsel@trec.state.tx.us or General Counsel, TREC, P.O. Box 12188, Austin, TX 78711-2188

RULE NO.	EFFECTIVE DATE	SUMMARY OF RULES ADOPTED BY EMERGENCY ACTION <i>For text of the rules as they were filed with the Texas Register, go to the web site www.trec.state.tx.us</i>
22 TAC §537.20, §537.28, §537.30, §537.31, §537.32; and §537.37	03/01/2011	TREC adopts on an emergency basis amendments to §537.20, concerning TREC No. 9-7, Unimproved Property Contract; §537.28, concerning TREC No. 20-8, One to Four Family Residential Contract (Resale); §537.30, concerning TREC No. 23-9, New Home Contract (Incomplete Construction); §537.31, concerning TREC No. 24-9, New Home Contract (Completed Construction); §537.32, concerning TREC No. 25-6, Farm and Ranch Contract; and §537.37, concerning TREC No. 30-7, Residential Condominium Contract (Resale). The amendments are adopted on an emergency basis to eliminate from the contracts subparagraph 15B which requires a party to the contract to file suit for specific performance within 45 days of the closing date of the contract.

RULE NO.	EFFECTIVE DATE	SUMMARY OF ADOPTED RULES <i>For text of the rules as they were filed with the Texas Register, go to the web site www.trec.state.tx.us</i>
22 TAC §535.154 (repeal adopted)	03/09/2011	TREC adopts the repeal of §535.154, regarding Misleading Advertising, without changes to the proposed text. The repeal is necessary because the subject is addressed in the section is covered in revisions to Subchapter N which TREC is simultaneously adopting as part of a comprehensive rule review of Chapter 535.
22 TAC §535.154 (new rule adopted)	03/09/2011	TREC adopts new §535.154, regarding Advertising, with changes to the proposed text. The difference between the rule as proposed and as finally adopted is as follows: The requirement that licensees include their license number in advertising is deleted; the definition of clear and conspicuous in terms of font or type size is removed from subsections (c); use of an assumed name and use of a salesperson's name in advertising are clarified, and a provision is added regarding use of a copyrighted trade name. Subsection (a) provides a definition of "advertisement;" subsection (b) clarifies what types of communications are not considered advertisements for purposes of the Act and Rules. Subsection (c) requires salespersons and brokers to clearly and conspicuously include the broker's name in all advertising and permits the use of a broker's assumed name if it has been filed with the commission. If the broker's name includes the name of a salesperson, the advertisement must include another assumed name of the broker that does not include the salesperson's name or the name of the broker's designated broker. Subsection (d) provide a laundry list of types of advertising that are considered deceptive and misleading; subsection (e) requires brokers to file assumed names with the commission; subsection (f) requires an advertisement to contain a designation such as broker or agent; subsection (g) prohibits advertising that implies that a salesperson is the person responsible for the operation of a real estate brokerage business, or causes someone to believe that an unlicensed person is personally engaged in real estate brokerage; subsection (h) permits a business entity to do business in the name in which it was chartered or registered at the Office of the Secretary of State with certain exceptions; subsection (i) prohibits a licensee from using a copyrighted trade name unless the licensee has the authority to use the name; subsection (j) addresses use of advertisements on the Internet; subsection (k) addresses electronic communications; subsection (l) addresses road signs; subsection (m) addresses advertisements that contain an offer to rebate a portion of a licensee's commission; subsection (n) addresses advertising that recommends or promotes the use of a service provider; subsection (o) prohibits licensees from advertising information regarding service providers that ranks the providers unless the ranking is based on disclosed objective criteria; and subsection (p) prohibits licensees from advertising that a licensee offers, sponsors, or conducts commission approved courses unless the licensee is approved to offer the courses.

RULE NO.	EFFECTIVE DATE	SUMMARY OF ADOPTED RULES <i>For text of the rules as they were filed with the Texas Register, go to the web site www.trec.state.tx.us</i>
22 TAC §535.400, §535.403 (adopted)	03/09/2011	TREC adopts amendments to Subchapter T regarding Easement or Right-of-Way; §535.400 regarding Registration of Easement or Right-of-Way Agents; and §535.403 concerning Renewal of Registration. Application forms will no longer be promulgated by the commission, but they will be approved when substantive changes are made. The amendments to §535.403 change the renewal fee from \$83 to \$80 to remove the \$3 fee that registrants are required to pay for TexasOnline fees.
22 TAC §539.61 (adopted)	03/09/2011	TREC adopts amendments to 22 TAC §539.61 concerning Application and Licensing. The adopted amendments add new subsection (c) to provide a deadline for applicants to provide information to the commission in connection with an application. There is currently no deadline for responding to a request for information. Creating a time certain for termination of an incomplete application will allow the Commission to create a records retention period for TREC to maintain the application and related materials.
22 TAC §539.121 (adopted)	03/09/2011	TREC adopts amendments to 22 TAC §539.121 concerning Examinations. The adopted amendments change the examination period from three to five years. Experience with recent examinations has shown that most, if not all, licensees are generally in compliance with the commission's requirements and that examinations may be conducted less frequently without compromising consumer protection. In addition, the significant increase in the number of licensed companies in recent years combined with limited staff and resources further necessitates extending the time between examinations from three years to five years.
22 TAC §539.150 (adopted)	03/09/2011	TREC adopts new Subchapter P, Complaints, and new §539.150 concerning Complaints. The adopted new section establishes a complaint procedure for filing complaints against residential service companies licensed by the commission. The new section establishes a deadline in which complaints may be filed with the commission and establishes a deadline in which respondents must respond to requests for information from the commission. The procedure and time periods are the same as those established by rule for other licensees subject to the commission's jurisdiction.



TREC DOUBLES INTERNET ACCESS CAPACITY WITH A NEW T1 CONNECTION

The Texas Real Estate Commission has successfully installed a new T1 internet connection. This new capability will help the agency to alleviate many of the recent reliability issues the agency has experienced and provide greater access to its website and a large suite of online services.

After two prior attempts to connect, the new T1 line was successfully installed on February 28th and after some adjustments is now operating at double the previous bandwidth with only minor interruptions. The agency has reserved the resources to add up to two additional lines if it becomes necessary to ensure adequate service to its license holders. TREC will closely monitor bandwidth use to identify any remaining or recurring issues.

Reporting on the internet access issues to a Commission meeting on February 14th, Administrator Douglas Oldmixon stated, "The funds for these enhancements are only available to us because our license holders have responded so well to our request for a primary business email address, allowing us to save significant dollars in reduced paper and postage costs." The Commission acknowledged the crucial link online access represents for the agency, and committed to continue its focus on improving web services.

TREC HOUSEKEEPING BILL FILED

The 82nd Session of the Texas Legislature is well under way and the TREC housekeeping bill has been filed in both the Senate and the House. Senate Bill SB 747 and its companion, House Bill 1637 provide a series of amendments to The Real Estate License Act (the Act) to provide additional education, experience and accountability standards to further protect consumers of real estate services in Texas. The suggested amendments were arrived at through input from the Broker Responsibility Work Group, the Education Work Group, and the strategic planning process.

Education Improvement Measures

Amendments to education requirements for a salesperson license would reduce the salesperson pre-license education course hours from 210 total to 180 core hours, specify the core courses required for pre-license education to include promulgated contract forms and real estate finance, remove related education requirements, and increase the education requirements for the first renewal of a salesperson license from 60 to 90 core hours. Removing the related course requirements will allow applicants to obtain a license with fewer course hours to start, and the hours will all be in core topics relevant to real estate. During the 2 year initial license period, an additional 90 core hours must be completed. The total number of hours needed for the first renewal of a salesperson license would remain at 270 hours.

The amendments would change the first time examination pass rate benchmark for pre-license education programs from 55% to an average percentage of examinees. It would require an education program accredited by the commission to meet or exceed the benchmark for each license category before the commission may renew the program's accreditation. It would authorize the commission to deny accreditation of an education program if an applicant at any time owns or controls an educational program that has been revoked.

The amendments would require brokers who sponsor salespersons and any licensees, either brokers or salespersons, who are authorized by brokers to supervise other licensees to take a 6 hour Mandatory Broker Responsibility course to renew a license. The course may be used to meet Mandatory Continuing Education (MCE) requirements and the renewal requirement would not apply to brokers who are exempt from MCE requirements.

Broker Accountability Measures

There are several proposed measures that would provide additional accountability for business entities licensed as brokers. The amendments would require errors and omissions insurance of at least \$1 million for a licensed business entity if the designated broker agent of the entity owns less than 10% of the entity. The bill would require a business entity that receives compensation on behalf of a license holder to be licensed as a broker. The bill also eliminates the exception for licensure for a partnership or limited liability partnership acting through a partner who is a licensed broker. Lastly, the bill would require licensure as a broker of any type of business entity that engages in real estate brokerage and that is required to be registered to do business in Texas with the Secretary of State.

The bill amends the definition of "broker" to clarify the distinction between written price opinions routinely performed by brokers and appraisal of real property that requires licensure under Occupations Code Chapter 1103. The

amendments add to the definition of "broker" a person who controls the collection or acceptance of rent from a single family residence and such activity would therefore require licensure under the Act. The bill amends the exceptions for licensure to require that an attorney licensed in a state other than Texas would need to be licensed in Texas if the attorney engaged in real estate brokerage in this state.

Experience Requirements for a Broker License

The bill increases the period of time in which salespersons would need to be licensed before applying for a broker license. An applicant for a broker license would need to have at least six years of active experience as a license holder during the preceding 7 year period before the date the application is filed. The bill would also authorize the commission to establish "active experience" by rule.

Housekeeping Measures

A series of "housekeeping" measures are included in the bill. The commission would be authorized to solicit and accept gifts, grants and donations. Applicants and licensees would be required to provide to the commission and notify the commission of any changes to the person's current mailing address, telephone number and email address, if available. The period in which an applicant must satisfy an examination requirement would increase from six months to one year. The maximum period of time in which a person can late renew a license with monetary penalties would decrease from one year to six months. Fingerprinting and background checks would be required for an application for or renewal of an easement or right of way certificate. The bill would authorize the commission to take the same types of disciplinary action against educational programs accredited by the commission as it is authorized to take against other types of licenses regulated by the commission.

RENEWING AND APPLYING ONLINE

The Texas Real Estate Commission and The Texas Appraiser Licensing & Certification Board would like to make several important points about registering for online services, and completing your license renewal, followed by some helpful FAQs on these topics.

The "**security token**" that is required for associating your license record with that account (after you register, when you click "Add License(s) to Registration") is sent to each license holder by email 60-90 days prior to the timely license renewal deadline. We send the renewal reminder containing the token number to the primary business email address that we have on record for each license holder. If someone does not have an email address on file with us, a letter is sent to the licensee's permanent mailing address. If your e-mail address has changed, you will need to contact TREC via email to obtain a security token to register your license and update your email address online. Please include your license number with your request and put "Token Request" in the subject line.

Around 8,000 license holders renew online each month, so **please do not wait until the last 2-3 days of the month to attempt an online renewal.** We have limited access to our webserver, which means it may only takes 100 or so concurrent users to slow these services down significantly, and more can even overload it. Thanks for helping us to get the word out to your fellow license holders.

If you experience difficulty renewing online and are unable to confirm that your license has been renewed, you should mail a renewal form for your license type and fee to TREC before the expiration of your license. **AN UNSUCCESSFUL ATTEMPT** to renew a license electronically does not satisfy the statutory requirement of filing the renewal application and paying the renewal fee prior to expiration of the license.

TREC/TALCB Welcomes New Employees:



**Christine
Anderson**

Christine Anderson joined TREC as the Public Affairs Specialist on January 1, 2011. Previously she worked for the Texas Association of REALTORS for three and a half years in their governmental affairs department. Main functions of her position there included fundraising and education in for TREPAC. Christine graduated from Temple University in Philadelphia, PA earning a bachelor of arts in Political Science and Criminal Justice. While in college Christine worked as an intern for the current mayor of Philadelphia, Michael Nutter and US Senate Candidate Joe Hoeffel. Christine moved to Austin five and half years ago and recently got married and lives with her new husband and dog Harry.



Kyle Smith

Kyle Smith joined TREC as a lawyer in the Standards and Enforcement Services in January. Previously Kyle worked for the Health and Human Services commission for two years, Texas Department of Licensing and Regulation for nine years and Texas Medical Board for 18 months. Born in Chicago, Kyle attended Jackson State University and Magnolia Bible College in Mississippi for undergrad, and the University of Texas for Law School. Kyle has been married 30 years to Merry Smith. They have four daughters Crystal, Candice, Kyla and Kimberly and one granddaughter, Kambriah (Kammy), 18 months.



Mark Mrnak

Mark Mrnak joined the Texas Appraiser Licensing and Certification Board as the Director of Standards and Enforcement Services on February 1, 2011. Prior to joining TALCB, Mark practiced law for three years at the law firm of Winthrop & Weinstine, P.A. in Minneapolis, MN, specializing in creditor remedies and bankruptcy litigation. Before entering the business world, Mark served as a police officer in Wisconsin. Mark also spent time in the United States Marine Corps Reserves and is currently processing into the Air Force Reserves Judge Advocate General Corps and will be assigned to Lackland, AFB, San Antonio, TX. Mark has two dogs, a Golden Retriever and English Springer Spaniel, and lives in south west Austin, about 1,200 miles south of cold-Minnesota!



**Cristina
Madrigal**

Cristina Madrigal joined TREC's Standards and Enforcement Services as an Administrative Assistant March 1st. Born in Venezuela, Cristina grew up in Houston and has lived in Los Angeles, CA as well as Greensboro, NC. She has been a licensed real estate agent in California and in North Carolina. Cristina moved back to Texas two years ago and is very happy to be home again, closer to her family. Cristina earned her BA in Theatre Arts and is currently taking acting classes. Cristina is excited to have been given the opportunity to work at TREC, and is looking forward to her time here!



TREC Disciplinary Actions November 2010-January 2011

Wright, Michelle Dee
(McKinney); License #501196

Agreed reprimand of salesperson license, entered January 25, 2011; acting negligently or incompetently while acting as a broker or salesperson by giving out a lock box property access code to a prospective tenant without authority, in violation of Tex. Occ. Code §1101.652(b)(1).

Stafford, Michael L.
(Plano); License #437286

Agreed 1 year suspension of broker license fully probated for 2 years, effective January 21, 2011; Agreed administrative penalty of \$1,000, entered January 21, 2011; failure to remit funds held by a licensee that belongs to another in violation of Tex. Occ. Code §1101.652(b)(9); and failing to provide documentation and information upon request by the commission in violation of Tex. Occ. Code §1101.652(a)(5) & (6).

Boyer, Darren Scott
(Amarillo); License #598146

Suspension of salesperson license until receipt of required information and \$1,500 administrative penalty, effective January 20, 2011; Assessment of an administrative penalty of \$1,500, entered January 20, 2011; failing to provide, within a reasonable time, information requested by the commission that relates to a formal or informal complaint to the commission in violation of Tex. Occ. Code §1101.652(a)(6).

Burciaga, Jesse Claude
(Dallas); License #380792

Agreed 3 year suspension of broker license fully probated for 3 years, effective January 1, 2011; Agreed administrative penalty of \$2,000, entered January 1, 2011; procuring three broker licenses for himself by making material misstatements of fact in applications submitted to the Commission, in violation of Tex. Occ. Code §1101.652(a)(2); and failing to provide, within a reasonable time, information requested by the Commission that relates to a formal or informal complaint to the Commission that would indicate a violation of Chapter 1101 of the Texas Occupations Code, in violation of Tex. Occ. Code §1101.652(a)(6).

Christine, Denise Hale
(Archer City); License #458503

Revocation of salesperson license, effective January 10, 2011; Assessment of an administrative penalty of \$6,000, entered January 10, 2011; entering a plea of guilty or nolo contendere to or being convicted of a felony or a criminal offense involving fraud, and the time for appeal has elapsed or the judgment or conviction has been affirmed on appeal, without regard to an order granting community supervision that suspends the imposition of the sentence, in violation of Tex. Occ. Code §1101.652(a)(1); failing to provide, within a reasonable time, information requested by the commission that relates to a formal or informal complaint to the commission that would indicate a violation of The Real Estate License Act, in violation of Tex. Occ. Code §1101.652(a)(6); and failing to notify the Commission not later than the 30th day after the date of a final conviction or the entry of a plea of guilty or nolo contendere, that the person has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud, in violation of Tex. Occ. Code §1101.652(a)(9).

Barnett, Kimberly A.
(Houston); License #543084

Revocation of salesperson license, effective January 4, 2011; Assessment of an administrative penalty of \$5,000, entered January 4, 2011. Acting negligently or incompetently by failing to maintain proper escrow/trust accounts when dealing with client's monies, failing to properly account and remit monies to his clients, and commingling of a client's monies for his own use and benefit in violation of Tex. Occ. Code §1101.652(b)(1); by engaging in conduct that is dishonest or in bad faith or that demonstrates untrustworthiness by failing to properly abide by the applicable rules and laws in property management real estate brokerage activities in violation of Tex. Occ. Code §1101.652(b)(2); and by failing with a reasonable time to properly account for or remit money that is received by the license holder and that belongs to another person in violation of Tex. Occ. Code §1101.652(b)(9).

Calendar of Events

**Commission
Meeting**

**May 2, 2011
At 10:00 a.m.
(Austin)**

**August 15, 2011
At 10:00 a.m.
(Austin)**

Web site:

<http://www.trec.state.tx.us>

Phone

(512) 459-6544

Blandon, Ingrid M.**(Duncanville); License #522792**

Suspension of salesperson license, effective January 24, 2011; Assessment of an administrative penalty of \$500, entered January 24, 2011. Failing within a reasonable time to make good a check issued to the Commission in violation of Tex. Occ. Code §1101.652(a)(4); failing to pay a check processing fee within 15 days after the Commission has mailed a request for payment in violation of 22 TAC §535.2(a).

Landhold Advisors, Inc.**(Southlake); License #498766**

Agreed reprimand of broker license, entered January 1, 2011; Agreed administrative penalty of \$500, entered January 1, 2011; failing within a reasonable time to make good a check issued to the Commission in violation of Tex. Occ. Code §1101.652(a)(4); failing to pay a check processing fee within 15 days after the Commission has mailed a request for payment in violation of 22 TAC §535.2(a).

Klaus Homes, LLC**(Spring); License #569021**

Agreed reprimand of broker license, entered January 5, 2011; Agreed administrative penalty of \$400, entered January 5, 2011; failing within a reasonable time to make good a check issued to the Commission in violation of Tex. Occ. Code §1101.652(a)(4); failing to pay a check processing fee within 15 days after the Commission has mailed a request for payment in violation of 22 TAC §535.2(a)

Mayers, Greg**(Corpus Christit); License #610727**

Agreed probationary salesperson license issued for 3 years, effective January 11, 2011; commission of an offense that is directly related to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Tex Admin. Code §541.1(c) and 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)

Bowker, Cass Lee**(Mabank); License #610960**

Agreed probationary salesperson license issued for 2 years, effective January 4, 2011; commission of an offense that is directly related to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Tex. Admin. Code §541.1(c) and 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).

Oazi, Rehana Aslam**(Houston); License #568988**

Agreed probationary salesperson license issued for 2 years, effective January 3, 2011; commission of an offense that is directly related to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Tex. Admin. Code §541.1(c) and 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).

Bowie, Claude Franklin**(Prosper); License #540791**

Agreed 3 years suspension of salesperson license fully probated for 3 years, effective December 29, 2010; Agreed administrative penalty of \$2,000, entered December 29, 2010; procuring three salesperson licenses for himself by making material misstatements of fact in applications submitted to the Commission in violation of Tex. Occ. Code §1101.652(a)(2); and failing to provide, within a reasonable time, information requested by the Commission that relates to a formal or informal complaint to the Commission that would indicate a violation of Chapter 1101 of the Texas Occupations Code, in violation of Tex. Occ. Code §1101.652(a)(6).

**Chastain, Susan Gillespie
(Houston); License #553907**

Revocation of salesperson license, effective December 28, 2010; Assessment of a \$5,000 administrative penalty, entered December 28, 2010; engaging in conduct that is dishonest, or in bad faith or that demonstrates untrustworthiness by failing to remit an agreed upon repair allowance to her client in Violation of Tex. Occ. Code §1101.652(b)(2); making false promises likely to influence a person to enter into an agreement when the license holder is unable or does not intend to keep the promise by failing to remit the agreed upon repair allowance to her clients in Violation of Tex. Occ. Code §1101.652(b)(5); failing within a reasonable time to properly account for or remit money that is received by the license holder and that belongs to another person in Violation of Tex. Occ. Code §1101.652(b)(9); failing and refusing to produce on request, for inspection by the commission or a commission representative, a document, book, or record that is in the license holder's possession and relates to a real estate transaction conducted by the license holder in Violation of Tex. Occ. Code §1101.652(a)(5); failing to provide, within a reasonable time, information requested by the commission that relates to a formal or informal complaint to the commission in Violation of Tex. Occ. Code §1101.652(a)(6); and failing to place the interest of the client above their own interest in Violation of 22 Tex. Admin. Code §535.156.

**Myers, Kandy Sue
(Lubbock); License #445984**

Agreed 7 years suspension fully probated for 7 years, effective December 20, 2010; failing to notify the Commission, not later than the 30th day after the date of a final conviction or the entry of a plea of guilty or nolo contendere, that the person has been convicted of or entered a plea of guilty or nolo contendere to a felony or a criminal offense involving fraud in violation of Tex. Occ. Code §1101.652(a)(9).

**Klein, Lesa Dawn
(Wylie); License #322149**

Agreed 18 months suspension of salesperson license, effective December 16, 2010 entering a plea of guilty to and being convicted of a felony, in violation of Tex. Occ. Code §1101.652(a)(1); failing to notify the Commission, not later than the 30th day after the date of the entry of a plea of guilty that the person entered a plea of guilty to a felony, in violation of Tex. Occ. Code §1101.652(a)(9); and failing to provide, within a reasonable time, information requested by the Commission that relates to a formal or informal complaint to the Commission that would indicate a violation of Chapter 1101 of the Texas Occupations Code, in violation of Tex. Occ. Code §1101.652(a)(6).

**Baker, Robert Joseph
(La Vernia); License #8267**

Agreed voluntary surrender of inspector license and to not renew or attempt to renew his inspector license within 2 years, effective December 13, 2010; acting negligently or incompetently in performance and reporting of inspection by failing to render a written opinion on the foundation, and report deficiencies in structural systems, installed framing and decking, the electrical system, type of heating and cooling systems, and in plumbing systems in violation of Tex. Occ. Code §1102.301 and standards of practice in 22 Tex. Admin. Code §§535.228, .229, .230, and .231.

**Lloyd, Elbert Willard
(Fort Worth); License #N/A**

Assessment of an administrative penalty of \$5,000 and order to cease and desist all unlicensed real estate brokerage activities, entered December 10, 2010; Mr. Lloyd held a professional inspector license until it expired without timely renewal on March 31, 2008 and on May 18, 2010, Mr. Lloyd performed a real estate inspection, prepared an inspection report, and was paid for his services. In so doing, Mr. Lloyd engaged in and conducted the business of an apprentice inspector, real estate inspector, or professional inspector without first obtaining a license in violation of Tex. Occ. Code §§1102.103, 1102.102 and 1102.103.

**Moore, Linda Ann
(Weatherford); License #325546**

Suspension of salesperson license until receipt of required information and \$500

administrative penalty, effective December 10, 2010; Assessment of a \$500 administrative penalty, entered December 10, 2010. Failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license in violation of 22 Tex. Admin. Code §535.91(c).

Boals, Angelina M.
(Round Rock); License #495792

Suspension of salesperson license until receipt of required information and \$500 administrative penalty, effective December 10, 2010; Assessment of a \$500 administrative penalty, entered December 10, 2010. Failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of a real estate salesperson license in violation of 22 Tex. Admin. Code §535.91(c).

True, Merrill Allan
(Galveston); License #440848

Suspension of salesperson license until receipt of required information and payment of \$500 administrative penalty, effective December 10, 2010; Assessment of a \$500 administrative penalty, entered December 10, 2010. Failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license in violation of 22 Tex. Admin. Code §535.91(c).

Plantz, Allison Marant
(Houston); License #610205

Agreed probationary salesperson license issued for 2 year, effective December 20, 2010. Commission of an offense that is directly related to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Tex. Admin. Code §541.1(c) and 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).

Huddleston, Gwendolyn Ann
(Kodak); License #528350

Agreed surrender of salesperson license for a term of two years, effective November 4, 2010. Failing to obtain the written consent from each party to act as an intermediary in the real estate transaction and failing to state the source of any expected compensation to the broker in the consent(s) in violation of Tex. Occ. Code §1101.559(a)(1); and acting incompetently in the use of the Residential One to Four Family Residential Contract (Resale) in violation of Tex. Occ. Code §1101.652(b)(1).

Neal, Scott Evans
(Garland); License #579329

Agreed 2 year suspension of salesperson license fully probated for 30 months, effective November 24, 2010; Agreed administrative penalty of \$500, entered November 24, 2010. Procuring two salesperson licenses for himself by making material misstatements of fact in applications submitted to the Commission, in violation of Tex. Occ. Code §1101.652(a)(2); failing to notify the Commission, not later than the 30th day after the date of the entry of a plea of guilty that the person entered a plea of guilty to two felonies, in violation of Tex. Occ. Code §1101.652(a)(9); and failing to provide, within a reasonable time, information requested by the Commission that relates to a formal or informal complaint to the Commission that would indicate a violation of Chapter 1101 of the Texas Occupations Code.

White, John Dudley
(Frisco); License #480289

Agreed revocation of broker license fully probated for 5 years, effective November 15, 2010. Failing to notify the commission within 30 days of entering a plea of nolo contendere to a 3rd degree felony offense of injury to a child, on June 20, 2008 in violation of Tex. Occ. Code §1101.652(a)(9).

Garcia, John Matthew
(Austin); License #583389

Suspension of salesperson license, effective November 11, 2010; Assessment of an administrative penalty of \$1,500, entered November 11, 2010. Failing to provide, within a reasonable time, information requested by the Commission that relates to a formal or informal complaint in violation of Tex. Occ. Code §1101.652(a)(6).

Joseph, Lisa Dale
(Austin); License #446977

Agreed reprimand of salesperson license and completion of a 30 hour agency law course by February 11, 2011, entered November 10, 2010. Negligent representation and failing to obtain the consent of all owner's of the real property or the owner's authorized agent in violation of Tex Occ. Code § 1101.652(b)(1); offering to sell a property without the knowledge and consent of the owners of the real property or the knowledge and consent of their authorized agent is in violation of Tex Occ. Code § 1101.652(b)(19).

Robinson, Carol
(Houston); License #187365

Agreed Reprimand of broker license, entered November 3, 2010; Agreed administrative penalty of \$500, entered November 3, 2010; failing within a reasonable time to provide information to the Commission in response to Commission's request for same in connection with an application for renewal of real estate salesperson license in violation of Tex. Admin Code §535.91(c).

Mills, Andrew Kevin
(Killeen); License #

Denial of application for moral character determination, effective November 15, 2010. Commission of an offense that is directly related to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1(a).

Swindull, Thomas Ray
(Austin); License # 525833

Agreed probationary license issued for 2 years, effective November 10, 2010 Commission of an offense that is directly related to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Tex. Admin. Code §541.1(c) and 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).

Elley, Sharon Cecilia
(Austin); License # 610730

Agreed probationary license issued for 2 years, effective November 4, 2010 Commission of an offense that is directly related to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Tex. Admin. Code §541.1(c) and 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) .

Archuleta, David
(El Paso); License #

Agreed probationary license issued for 2 years, effective November 2, 2010 Commission of an offense that is directly related to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1(a). Applicant provided documentation addressing the factors outlined in 22 Tex. Admin. Code §541.1(c) and 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).



Inspector Insight

Texas Real Estate Inspector Committee * Volume 2, Number 1 * March 2011

Texas Real Estate Inspector
Committee

Inspector Insight

Volume 2, Number 1

March 2011

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HOUSTON

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HARKER HEIGHTS

Nancy J. Schriedel
PLANO

TREC Appoints New Inspector Committee Members

The Texas Real Estate Commission has approved three new Real Estate Inspector Committee members effective immediately.

At its quarterly meeting on Monday, February 14, 2011, the Texas Real Estate Commission appointed three new members to its Inspector Committee. **Professional Inspectors Steven Rinehart and Greg Eakin, with public member Nancy Carroll**, were appointed to a six-year term. The Committee is an advisory body that makes recommendations to the Commission for effective regulation and oversight of real estate inspectors.

Steven E. Rinehart is owner of Rinehart Real Estate Inspection Service in Harker Heights and a construction science technician with 11 years of experience in the building inspection field. Rinehart also has twenty six years as a military quality assurance inspector and test pilot. He is a current member of the Texas Association of Real Estate Inspectors, Texas Association of Home Builders and Southern Council of Professional Building Inspectors.

Greg Eakin is owner of HomeTeam Inspection Service in Texarkana with 9 years of real estate inspection experience and teaches classes in inspection topics to real estate license holders. He holds a Masters of Business Administration degree from Texas A&M University, with an emphasis in economics and real estate. Eakin also volunteers with the Texarkana Chamber of Commerce and Special Olympics.

Nancy Carroll is an attorney residing in the Dallas area in private practice since 1998. She has owned a title company since 2003 and conducted over 1,100 residential and commercial closings, preparing refinance and purchase packages for many national lenders. Carroll is a member of the TCU alumni association, Women's Council of Realtors and was a member of the board for TWU School of Law.

Texas Real Estate Commission Chairman John Eckstrum expressed appreciation to outgoing inspector members Larry Foster of Austin, Ray Armendariz of El Paso and public member Linda Robicheaux of Houston for their years of dedicated service, and warmly welcomed the new members to the Committee. For future meetings information and agendas please go to the agency website and click the "Inspector Information" tab.

...from Chairman Fred Willcox

The Inspector Committee met on February 25, welcoming three new members appointed by the Commission and elected new officers. We are grateful that over 20 inspectors expressed interest in being appointed to serve on the Committee, and the Commission appointed Steven Reinhart and Greg Eakin as inspector members and Nancy Carroll as a public member. We welcome each and look forward to their contributions. At the meeting we also bid a fond farewell to Larry Foster after over 18 years of service on the Committee, many as its Chair. I am honored to be elected as the new Chair, with Brian Murphy elected as Vice-Chair and Jill Frankel as Secretary. Thanks to each of them for taking on these additional responsibilities.

In January, we conducted an exam review for both the Real Estate Inspector and Professional Inspector examinations. A panel composed of Committee members and other subject matter experts invited by PSI, our exam administrator, met for two days to conduct the review and we approved the results of their work at our February meeting. We owe a debt of gratitude to those who voluntarily assisted in this important effort. Thank you.

Looking forward, our education providers will need to revise their course offerings to meet the newly designated hours per topic requirements for pre-licensure education that become effective September 1, 2011. After that same date, inspectors will need to have taken a new 6 hour course in Texas Standards of Practice/Legal/Ethics Update in order to renew a license. These six hours will be counted as part of the 32 hours of continuing education currently required for each renewal. Both of these initiatives are very positive changes for our industry. Our education subcommittee will begin work on some curriculum guidance for the educators to ensure key items are included.

The legislative session kicked off in January, and there are several issues of importance to inspectors that we are monitoring. Clarifying the required pass rate calculation rule for first time exam takers, removal of the 6 month waiting period are a few key issues of interest. SB 379 by Nichols and HB 937 by Harless seek to repeal the mandatory E&O insurance requirement for inspectors. Work on this bill is ongoing as it faces some questions. We encourage all inspectors with interest in this issue to stay informed and involved. The Committee will be meeting next on April 1. Stay tuned for more developments.



Chairman Fred Willcox (left) thanks departing Chair Larry Foster (right) for 18 years of service on the Texas Real Estate Inspector Committee.

for retaking exams, requiring more field experience prior to professional licensure, and options with regard to errors & omission insurance are a few key issues of interest. SB 379 by Nichols and HB 937 by Harless seek to repeal the mandatory E&O insurance requirement for inspectors. Work on this bill is ongoing as it faces some questions. We encourage all inspectors with interest in this issue to stay informed and involved. The Committee will be meeting next on April 1. Stay tuned for more developments.



Inspector Disciplinary Actions November 2010-January 2011

<p>Cherry, Aubrey Gene (Houston); License #445</p>	<p>Revocation of professional inspector license, effective January 12, 2011; ordered to refund \$350 to a consumer for an inspection fee, effective January 12, 2011</p>	<p>Mr. Cherry was paid for and inspected a real property for a buyer, however, he failed to prepare and deliver an inspection report to the buyer in violation of Tex. Occ. Code §1102.301 and 22 TAC §535.227(b)(2)(C).</p>
<p>Baker, Robert Joseph (La Vernia); License #8267</p>	<p>Agreed voluntary surrender of inspector license and to not renew or attempt to renew his inspector license within 2 years, effective December 13, 2010</p>	<p>acting negligently or incompetently in performance and reporting of inspection by failing to render a written opinion on the foundation, and report deficiencies in structural systems, installed framing and decking, the electrical system, type of heating and cooling systems, and in plumbing systems in violation of Tex. Occ. Code §1102.301 and standards of practice in 22 Tex. Admin. Code §§535.228, .229, .230, and .231.</p>
<p>Lloyd, Elbert Willard (Fort Worth); License #N/A</p>	<p>Assessment of an administrative penalty of \$5,000 and order to cease and desist all unlicensed real estate inspection activities, entered December 10, 2010</p>	<p>Mr. Lloyd held a professional inspector license until it expired without timely renewal on March 31, 2008 and on May 18, 2010, Mr. Lloyd performed a real estate inspection, prepared an inspection report, and was paid for his services. In so doing, Mr. Lloyd engaged in and conducted the business of an apprentice inspector, real estate inspector, or professional inspector without first obtaining a license in violation of Tex. Occ. Code §§1102.103, 1102.102 and 1102.103.</p>
<p>Lawson, Jarrod Wayne (San Angelo); License #9788</p>	<p>Agreed reprimand of professional inspector license, repayment of \$525.00 to complainant, and completion of a six hour continuing education course on HVAC, entered December 8, 2010</p>	<p>acting negligently or incompetently in performance and reporting of inspection by failing to inspect heating unit operation in normal mode, failing to report as in need of repair deficiencies in the gas heating system, air-conditioning system, and ducts, vents and flues in violation of Tex. Occ. Code §1102.301 and standards of practice in 22 Tex. Admin. Code §§535.227 and .229.</p>
<p>Tanner, Samuel Ryan (Coppell); License #5153</p>	<p>Agreed probationary professional inspector license issued for 2 years, effective December 3, 2010; agreed administrative penalty of \$5,000, entered December 3, 2010</p>	<p>Applicant failed to renew his professional inspector license and it expired; Applicant, under the mistaken belief it had been renewed, continued to conduct real estate inspections in Texas during a 15 month period in violation of Tex. Occ. Code §1102.103; Applicant presented sufficient other evidence of honesty, trustworthiness, and integrity to qualify to be licensed as a professional inspector.</p>
<p>Burgan, William E. (Keller); License #1482</p>	<p>Revocation of professional inspector license, effective November 18, 2010; Assessment of an administrative penalty of \$2,000, entered November 18, 2010</p>	<p>acting negligently or incompetently in performance and reporting of inspection by failing to prepare and deliver the written report in violation of Tex. Occ. Code §1102.301 and 22 Tex. Admin. Code §535.227(b)(2)(C), and failing on demand to produce documentation to the commission in violation of 22 Tex. Admin. Code §535.224 (b)(2) and (3).</p>



TALCB Bulletin

Texas Appraiser Licensing and Certification Board * Volume 2, Number 1 * March 2011

New Members Appointed to Board



Laurie Fontana

Governor Rick Perry appointed two new members to the Texas Appraiser Licensing & Certification Board (TALCB): appraiser member Laurie C. Fontana of Houston and public member Shannon K. McClendon of Dripping Springs, both with terms to expire January 31, 2012.

Laurie Fontana has been a practicing real estate appraiser since 1991 and is the owner of LF Appraisal and Consulting, LLC. Ms. Fontana is a Certified Residential Appraiser and a member of the National Association of Independent Fee Appraisers and the National Association of Realtors. She attended Texas State University and received a degree from the Bradford School of Business.



Shannon McClendon

Shannon McClendon is currently a shareholder at Webking McClendon, PC in Austin. Ms. McClendon is a member of the State Bar of Texas and the Gulf Coast Power Association. She most recently served on the Texas Board of Professional Engineers. McClendon received a bachelor's degree from the University of Houston at Clear Lake and a law degree from the University of Houston Law Center.

Luis De La Garza, Jr. of Laredo elected Chair of the Texas Appraiser Licensing and Certification Board at the February 18, 2011 meeting.



Mr. De La Garza was appointed to the Board on January 8, 2009. De La Garza is a board certified appraiser with DLG Appraisal Inc. He is a director of the Laredo Association of Realtors, a past board member of the South Texas Future of the Region and a member of Kiwanis International. De La Garza received a bachelor's degree from St. Edward's University and a Master of Business Administration from Texas A&M International University.



Walker Beard of El Paso was elected as vice-chair of the Texas Appraiser Licensing and Certification Board. Mr. Beard was appointed May 14, 2009 to the Board. He is from El Paso and is a partner at Wilkinson, Pendergras and Beard LP. He is a member and past president of the Appraisal Institute and Certified Commercial Member Institute. He is also a board member of the Institute of Real Estate Management and Foundation Appraisers Coalition of Texas, and a member of the Rotary Club of West El Paso. Beard served in the Texas National Guard and received a bachelor's degree from California Polytechnic State University.



Sheryl Swift of Galveston was elected Secretary for the Texas Appraiser Licensing and Certification Board. She is a certified tax assessor and collector, and chief deputy of operations at the Galveston County Tax Office. She is a member of the Tax Assessor and Collector Association and the Board of Tax Professional Examiners. She is also a member of the International and Texas associations of Assessing Officers.

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AMC Bill in Texas

Senate Bill 734 and House Bill 1146 would amend Texas Occupations Code by adding Chapter 1104 to regulate appraisal management companies.

Texas Appraiser Licensing and
Certification Board
TALCB Bulletin

Rick Perry
Governor

Board Members:

Luis F. De La Garza, Jr.
Chairman
LAREDO

Walker R. Beard
Vice-Chair
EL PASO

Sheryl R. Swift
Secretary
GALVESTON

Malachi O. Boyuls
DALLAS

Laurie Fontana
HOUSTON

Mark A. McAnally
DESIGNEE MEMBER

Shannon K. McClendon
DRIPPING SPRINGS

James B. Ratliff
GARLAND

Donna L. Walz
LUBBOCK

TALCB Commissioner
Douglas E. Oldmixon

Desktop Publishing
Patricia Holder

Texas Appraiser Licensing
and Certification Board
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Austin, Texas 78711-2188
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As required by the Wall Street Reform and Consumer Protection Act, the new chapter provides for the registration and regulation of appraisal management companies (AMCs) operating in Texas, with limited exceptions (such as for very small AMCs and those subject to regulation by other state or federal regulators). The bill charges the Texas Appraiser Licensing and Certification Board (the Board) with administering the program and grants the authority to adopt rules necessary to implement the chapter.

Under the bill, an AMC seeking to become registered with the Board would need to establish that its owners and designated “controlling person” are of good moral character. It further establishes standards to which AMCs must adhere, including verifying that an appraiser to whom an assignment is given is duly licensed or certified and is competent to complete the assignment, ensuring that appraisals are conducted independently, and periodically reviewing the work of all appraisers on its panel to ensure compliance with federal and state required standards.

The bill includes provisions requiring AMCs to pay appraisers in a timely manner and to compensate appraisers at a reasonable and customary rate and requires that they separately report the fee paid to an appraiser and the fee charged by the AMCs. The bill further provides that an AMC that wishes to remove an appraiser from its panel for certain reasons must notify the appraiser of the removal and establishes a process by which an appraiser may, in certain cases, seek a review of that decision by the Board.

The bill creates a disciplinary process for registered AMCs, modeled after the Board’s process for appraisers, and outlines conduct for which the Board may seek the revocation, suspension, or censure of an AMC for misconduct. Such conduct includes making substantive modifications to an appraisal report, interfering with the independence of the appraiser, and influencing or attempting to influence the outcome of an appraisal. Administrative penalties of up to \$25,000 per violation may also be imposed, based on factors such as the seriousness of the violation, the history of previous violations, and remedial efforts.

The new law, if passed, takes effect on September 1, 2011. The Board must adopt rules implementing the chapter by December 31, 2011, and the registration requirement and administrative penalty provisions of the law do not become effective until March 1, 2012.

...from the Chairman

At the Board's February meeting, we welcomed two new members and elected new officers. New appraiser member Laurie Fontana and new public member Shannon McClendon hit the ground running. I was chosen as the Chair for 2011, Walker Beard is the new Vice-Chair and Sheryl Swift was selected as Secretary. Thanks to all for their confidence in the new officer and members. We will continue to do the necessary work of protecting the public and serving the appropriate policy needs of the appraisal community. We also welcomed Mark Mrnak as the new Director of Standards and Enforcement for the Board, and we are expecting great leadership from him, building on the admirable legacy of former Director Deloris Kraft-Longoria.



Luis De La Garza,
Chairman

We also appointed 16 volunteer members to the 2011 Peer Review Committee and look forward to their valuable professional contributions to the work of the Board. The Board considered and approved the Commissioner's recommendation for an additional 2.5% 2011 budget reduction, which will not involve any staff cuts. Great work! We are already a very lean organization and our complaint workload continues to rise. The impact to our appraiser license holders will be most directly felt in the slowdown of processing of new applications and certification upgrade requests. Although technology promises to offer us some relief, the staff needs time and resources to implement these modernizations and budget pressures may delay some planned improvements.

The 2011 legislative session is in full swing and several bills affecting the Board are already filed. SB 1171 by Carona and HB 2375 by Hamilton represent the Board's "housekeeping" bills, offering clarifications and updates to our governing statute. SB 734 by Carona and HB 1146 by Kuempel propose registration and regulation of appraisal management companies (AMCs), a vital step mandated under federal law. Lastly, SB 1000 by Eltife and HB 1680 by Geren seek self-directed, semi-independent status for the Commission, including the Board. If this becomes law, the agency will be removed from the state budget process and its budget will be controlled by the Commission and Board. If new revenues are needed to cover approved expenses, the license holders will be asked to adjust licensing and other fees accordingly. On balance, we view this move as positive. We encourage appraisers to stay informed and involved as these important measures move through the legislative process.

Hoping the Spring season brings you all new business opportunities and a Happy Easter!

Calendar of Events

Board Meetings

**May 20, 2011
At 10:00 a.m.
(Austin)**

Web site:

<http://www.talcb.state.tx.us>

Phone

(512) 459-2232



TALCB Disciplinary Actions February 2011

WIRTH, John W.
Lic. # TX-1335206-R, San Antonio

Board Action Taken: Respondent shall: (1) Attend and complete a minimum, 15 classroom-hour course in USPAP; and (2) Pay to the Board an administrative penalty of \$200.00

Complaint No.: 10-122; *Reason for Complaint:* Allegations that the Respondent had conducted an appraisal on the property improperly.

Summary of Violations Found: (1) Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Scope of Work Rule; USPAP Standards: 1-2(h) & 2-2(b)(viii); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 2-3 & 2-2(b)(xi). (2) Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations.

VAUGHN, John Wesley
Lic. # TX-1321877-R, Dallas

Board Action Taken: Respondent shall not seek renewal of his certification, nor apply to the Board for any authorization, license, certification or registration in the future.

Complaint No.: 10-350; *Reason for Complaint:* The complaint alleged that Respondent produced an appraisal report that contained violations of the Uniform Standards of Professional Appraisal Practice ("USPAP")

SMITH, Christopher B.
Lic. # TX-1325256-R, Plano

Board Action Taken: Respondent shall: (1) Attend and complete a minimum, 15 classroom-hour course in USPAP; and (2) Attend and complete a minimum, 15 classroom-hour course in Residential Report Writing

Complaint No.: 09-194 & 09-277; *Reason for Complaint:* (1) Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-4(b)(i) & 2-2(b)(ix); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-5(a) & 2-2(b)(ix); 1-5(b) & 2-2(b)(ix); 1-1(a); 1-1(b); 1-1(c) and, 2-1(a). (2) Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

Summary of Violations Found: (1) Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-4(b)(i) & 2-2(b)(ix); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-5(a) & 2-2(b)(ix); 1-1(a); 1-1(b); 1-1(c) and, 2-1(a). (2) Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

SCHIFFBAUER, Neal Franklin
Lic. # TX-1320961-R

Board Action Taken: Certification number TX-1320961-R hereto issued to NEAL FRANKLIN SCHIFFBAUER, to practice real property appraisal in the State of Texas, be permanently revoked without formal charges, notice of hearing, or a formal hearing.

Complaint No.: 10-165; *Reason for Complaint:* Allegations that the Respondent had produced an appraisal report that contained various deficiencies.

ROBERTS, Terry Don
Lic. # TX-1330356-R, Dallas

Board Action Taken: Respondent shall: (1) Attend and complete a minimum, 15 classroom-hour course in USPAP; (2) Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies; (3) Attend and complete a minimum, 15 classroom-hour course in Cost Approach; (4) Attend and complete a minimum, 7 classroom-hour course in Quality Control; (5) Have his certification revoked with that revocation being fully probated for a period of eighteen months (18), under the following condition: (i) During the entire eighteen-month probation period Respondent shall submit on a form prescribed by the Board, an appraisal experience log to the Board every three months. The log shall detail all real estate appraisal activities he has conducted during the previous three-month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting that the log is true, complete and fully accurate. 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 his period of probation within twenty days of notice of such request; (ii) Timely comply with all the terms and conditions of this Agreed Final Order; and (6) Pay an administrative penalty of \$750

Complaint No.: 09-249; *Reason for Complaint:* Allegations that the Respondent had produced an appraisal report that contained various deficiencies.

Summary of Violations Found: (1) Respondent violated the following provisions of USPAP as prohibited by 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Standards Rules: 2-2(b)(vi); 1-2(e)(iv) & 2-2(b)(viii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 2-29(b)(viii); 1-5(b) & 2-2(b)(viii); 1-6(a) & (b) & 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c) and, 2-1(a). (2) Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

RIPLEY, Dana Ruth
Lic. # TX-1333352-R, Manor

Board Action Taken: Respondent shall: (1) Have her certification revoked for twenty-four months with the revocation fully probated under the following conditions: (i) During the probated, twenty-four month probation period Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board. The log shall be submitted every three months and shall detail all real estate appraisal activities she has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of her appraisal reports and work files for any appraisal assignments he performs during the course of this period of probation within the twenty days of notice of any such request; (ii) Respondent shall not sponsor any appraiser trainees (with the exception of her daughter) during the twenty-four month probation period; (iii) Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; (2) Attend and complete a minimum, 15 classroom-hour course in USPAP; (3) Attend and complete a minimum, 7 classroom-hour course in Reviewing Appraisals or Quality Control; (i) No examination shall be required for this course; and (4) Pay to the Board an administrative penalty of \$4,000.00, the payment of which shall be made in 20 equal installments of \$200.00, with the first payment being due within twenty days of the effective date of this order and the remaining installments being due on the first day of each month thereafter until paid in full

Complaint No.: 10-044 & 10-064 *Reason for Complaint:* Allegations that the Respondent had produced appraisal reports that did not comply with the USPAP.

Summary of Violations Found: (1) Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE §1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping provisions); USPAP Scope of Work Rule; USPAP Standards Rules: 1-2(h) & 2-2(b)(vii); 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 2-2(b)(viii); 1-4(c)(i) & 2-2(b)(viii); 1-5(b) & 2-2(b)

(viii); 1-6(a) & (b) and 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a). (2) Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts. (3) Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(13) by failing to actively, personally, and diligently supervise an appraiser trainee under her sponsorship.

OKPA, Ejike Edward
Lic. # TX-1322832-G

Board Action Taken: Respondent shall: (1) Have his certification revoked for twelve months with this revocation being fully probated under the condition that he fully comply with the terms of this Agreed Final Order; (2) Comply with all of the provisions of the Agreed Final Order entered in complaint #07-018, including completion of all required remedial education within twelve months of the effective date of this new Agreed Final Order; and (3) Pay to the Board an administrative penalty of \$500.00

Complaint No.: 10-245; *Reason for Complaint:* Allegations that the Respondent failed to comply with the terms of a previous agreed final order.

Summary of Violations Found: (1) Respondent has violated 22 TEX. ADMIN. CODE § 153.20(a)(21) by failing to comply with a final order of the board. (2) Respondent has violated 22 TEX. ADMIN. CODE §§ 153.20(a)(2), 153.22 and 153.24(6) by failing to respond to the complaint and provide requested documentation.

O'LEARY, Daniel Joseph
Lic. # TX-1324045-R, Canutillo

Board Action Taken: Respondent shall: (1) Attend and complete a minimum, 15 classroom-hour course in USPAP; and (2) Attend and complete a minimum, 15 classroom-hour course in Residential Report Writing

Complaint No.: 09-224; *Reason for Complaint:* Allegations that the Respondent had produced an appraisal report that contained various deficiencies.

Summary of Violations Found: (1) Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping provisions); USPAP Standards: 1-2(e)(i) & 2-2(b)(iii); 1-2(e)(iv) & 2-2(b)(ix); 1-3(a) & 2-2(b)(ix); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-5(b) & 2-2(b)(ix); 1-4(h) & 2-2(b)(ix); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a). (2) Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts from his appraisal report.

LLOYD, Rodney Glen
Lic. # TX-1335073-R, Canyon Lake

Board Action Taken: Respondent shall: (1) Attend and complete a minimum, 15 classroom-hour course in USPAP; (2) Attend and complete a minimum, 15 classroom-hour course in Residential Sales or Residential Case Studies; and (3) Attend and complete a minimum, 7 classroom-hour course in Mortgage Fraud, Red Flags or Quality Control; and, (i) No examination shall be required for this course

Complaint No.: 10-356; *Reason for Complaint:* Allegations that the Respondent had produced an appraisal report that did not comply with the USPAP.

Summary of Violations Found: (1) Respondent violated the following provisions of USPAP as prohibited by 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping provisions); USPAP Scope of Work Rule; USPAP Standards Rules: 1-2(h) & 2-2(b)(vii); 1-2(a) & 2-2(b)(i); 1-2(b) & 2-2(b)(ii); 1-3(b) & 2-2(b)(ix); 1-4(a) & 2-2(b)(viii); 1-5(a) & 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c). (2) Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by omitting material facts.

HALL, Tosha Ripley
Lic. # TX-1333712-T, Manor

Board Action Taken: Respondent shall: (1) Attend and complete a minimum, 15 classroom-hour course in USPAP; (2) Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies or the Sales Comparison Approach; and (3) Attend and complete a minimum, 15 classroom-hour course in Report Writing

Complaint No.: 10-077; *Reason for Complaint:* Allegations that the Respondent had produced appraisal reports for the properties that did not comply with the USPAP.

Summary of Violations Found: (1) Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE §1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (ethics and record keeping provisions); USPAP Scope of Work Rule; USPAP Standards Rules: 1-2(h) & 2-2(b)(vii); 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 2-2(b)(viii); 1-4(c)(i) & 2-2(b)(viii); 1-5(b) & 2-2(b)(viii); 1-6(a) & (b) and 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a). (2) Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

GALVAN, Kathy Ann
Lic. # TX-1335209-R

Board Action Taken: Certification number TX-1335209-R hereto issued to KATHY ANN GALVAN, to practice real property appraisal in the State of Texas, be permanently revoked without formal charges, notice of hearing, or a formal hearing.

Complaint No.: 09-307; *Reason for Complaint:* Allegations that the Respondent had produced an appraisal report that did not comply with the USPAP.

FARMER, Barbara Lynn
Lic. # TX-1337337-L

Board Action Taken: That the appraisal license of BARBARA LYNN FARMER is hereby REVOKED.

Complaint No.: 10-336; *Reason for Complaint:* Allegations that the Respondent had produced an appraisal report that did not comply with the USPAP.

DIEZ, Juan Carlos
Lic. # TX-1334680-L, San Antonio

Board Action Taken: Respondent shall: (1) Attend and complete a minimum, 15 classroom-hour course in USPAP; and (2) Attend and complete a minimum, 15 classroom-hour course in Sales Comparison Approach Class.

Complaint No.: 09-262; *Reason for Complaint:* Allegations that the Respondent had produced an appraisal report that did not comply with the USPAP.

Summary of Violations Found: (1) Respondent violated the following provisions of USPAP as prohibited by 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping provisions); USPAP Standards Rules: 1-2(c) & 2-2(v)(b); 1-2(e)(i) & 2-2(b)(iii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 2-2(b)(viii); 1-6(a) & (b) & 2-2(b)(viii); 1-1(a), 1-1(b), 1-1(c), 2-1(a) and 2-1(b). (2) Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by omitting material facts.

DAVIS, Charles Richard
Lic. # TX-1322171-R

Board Action Taken: Certification number TX-1322171-R hereto issued to CHARLES RICHARD DAVIS, to practice real property appraisal in the State of Texas, be permanently revoked without formal charges, notice of hearing, or a formal hearing.

Complaint No.: 09-273, 10-049, 10-124, 10-329, & 11-032; **Reason for Complaint:** Allegations that the Respondent had produced an appraisal report that did not comply with the USPAP.

COBURN, Bradley Bernard
Lic. # TX-1337863-L, Wylie

Board Action Taken: Respondent shall: (1) Attend and complete a minimum, 15 classroom-hour course in USPAP; (2) Attend and complete a minimum, 15 classroom-hour course in Highest and Best Use; and (3) Attend and complete a minimum, 15 classroom-hour course in Residential Report Writing

Complaint No.: 11-039; **Reason for Complaint:** Allegations that the Respondent had produced an appraisal report that did not comply with the USPAP.

Summary of Violations Found: (1) Respondent violated the following provisions of USPAP as prohibited by 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping provisions); USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-2(e)(iv) & 2-2(b)(iv); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-1(a); 1-1(b); and 1-1(c). (2) Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

CARLILE, Mary Lou
Lic. # TX-1322087-R, Waller

Board Action Taken: Respondent shall: (1) Have her certification suspended with that suspension fully probated for twelve (12) months under the conditions that: (i) During the entire probated, twelve month suspension period Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board. The log shall be submitted every three months and shall detail all real estate appraisal activities she has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of her appraisal reports and work files for any appraisal assignments she performs during the course of this period of probation within the twenty days of notice of any such request; and, (ii) Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order. (2) Attend and complete a minimum, 15 classroom-hour course in USPAP; (3) Attend and complete a minimum, 15 classroom-hour course in Sales Comparison Approach or Residential Case Studies; (4) Attend and complete a minimum, 7 classroom-hour course in Valuation by Comparison: Residential Analysis and Logic or Quality Assurance in Residential Appraisals or Residential Report Writing; (i) No examination shall be required for this course; (5) Pay to the Board an administrative penalty of \$750.00

Complaint No.: 09-195; **Reason for Complaint:** Allegations that the Respondent had produced an appraisal report for the property that contained various USPAP violations.

Summary of Violations Found: (1) Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping); USPAP Standards: 1-4(f) & 2-2(b)(ix); 1-3(a) & 2-2(b)(ix); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-4(c)(i) & 2-2(b)(ix); 1-4(c)(ii) & 2-2(b)(ix); 1-4(c)(iv) & 2-2(b)(ix); 1-1(a) & 1-4(c); 1-5(b) & 2-2(b)(ix); 1-6 (a) & (b) and 2-2(b)(ix); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a). (2) Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

APPLE, Bobby Don
Lic. # TX-1321945-G, McKinney

Board Action Taken: Respondent shall: (1) Have his certification revoked with that revocation being fully probated for a period of eighteen months (18) under the following condition: (i) During the probated, eighteen month revocation period Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board. The log shall be submitted every three months and shall detail all real estate appraisal activities he has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and fully accurate. 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 period of probation within the twenty days of notice of any such request; (ii) Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; (2) Attend and complete a minimum, 15 classroom-hour course in USPAP; (3) Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies; (4) Attend and complete a minimum, 7 classroom-hour course in Quality Control; (i) No examination shall be required for the 7 classroom-hour course; and (5) Pay to the Board an administrative penalty of \$1,500.00

Complaint No.: 09-270; **Reason for Complaint:** Allegations that the Respondent had produced an appraisal report for the property that contained various USPAP violations.

Summary of Violations Found: (1) Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Standards: 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a). (2) Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

RULE ACTIONS FROM FEBRUARY 18, 2011 MEETING OF THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

RULE NO.	EARLIEST DATE OF ADOPTION	SUMMARY OF PROPOSED RULES <i>For text of the rules as they were filed with the Texas Register, go to the web site www.talcb.state.tx.us</i>
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22 TAC §157.9	5/6/2011	TALCB proposes amendments to 22 T.A.C. Section 157.9, Notice of Hearing. The proposed amendments clarify that respondents who are not licensees of the Board or current applicants at the time of the hearing must be served with notice of a hearing in accordance with the Administrative Procedures Act and Rules of the State Office of Administrative Hearings. The amendments also repeal the requirement that initial notices of complaints must be sent to respondents by certified mail.
AMEND		

RULE NO.	EFFECTIVE DATE	SUMMARY OF ADOPTED RULES <i>For text of the rules as they were filed with the Texas Register, go to the web site www.talcb.state.tx.us</i>
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22 TAC §153.18	03/19/2011	TALCB adopts amendments to 22 TAC §153.18, Appraiser Continuing Education (ACE), with changes to the proposed text as published in the December 24, 2010, issue of the <i>Texas Register</i> (35 TexReg 11469). The changes to the adopted text that were not in the proposed text are that the new subsection that was erroneously proposed as "(I)" was relettered as "(d)," and the reference to "subparagraphs (A) – (I) of this paragraph" in subsection (c) was changed accordingly. The revisions to the rules as adopted are non-substantive and do not change the nature and scope of the rules, do not affect individuals other than those contemplated by the rules as adopted, and do not materially alter the issues raised in the proposed rules.
ADOPTED		

The amendments clarify the duration of course approval and the process for revoking the approval of courses.

No comments were received regarding the amendments as proposed.