What are TREC’s Top Complaints?

What Am I Doing Wrong?

Hopefully nothing. But even so, the Standards & Enforcement Services Division is frequently asked – what are your top complaints?

The division received nearly 1000 complaints related to brokers and salespersons in Fiscal Year 2012 (September 2011 through August 2012). Based on staff impressions, here is a list of our most frequent issues:

- **Leasing/Property Management - Misappropriation**, includes misappropriation, commingling, and failure to properly account for money
- **Leasing/Property Management - Other**, includes general negligence, false promises and referrals
- **Broker Supervision**, broker’s failure to supervise sponsored salespersons
- **Sales - Other**, includes general negligence, false promises, rebates, improper referrals and earnest money issues.
- **Intermediary/IABS**, includes failure to disclose, obtain written consent, or provide a form.

What else?

We also receive a large number of inquiries related to advertising, but we do not receive a large percentage of complaints on that issue. In addition, we frequently enforce issues arising out of criminal background checks on renewals when the licensee fails to timely disclose a plea of guilty or nolo contendere to a criminal offense involving a felony or fraud. Another area where we frequently find violations is a broker’s failure to register an assumed name or DBA with us that is used by the broker or a sponsored salesperson.

Where can I find out more?

If you want to know more, please see the "disciplinary actions" section on our website under the "Complaints" tab. That area provides some details regarding many of the complaints (recent actions are also in this newsletter under “TREC Enforcement Actions”). The Enforcement FAQs found in the same section on our website address many other issues, including some examples.
The Commission met on May 12th for its regular quarterly meeting in Austin. We welcomed Chart Westcott from Dallas for his first meeting as a new Commissioner appointed by Governor Perry. The Administrator and Directors updated the Commission on ongoing agency operations, improvements in technology matters and introduced new staff members. In addition to routine budget, Recovery Fund cases and disciplinary matters presented for approval, several major items were considered and acted upon by the Commission at this meeting.

We heard reports from our two primary advisory committees, the Inspector Committee (TREIC) and the Education Standards Committee (ESAC). Both have met and achieved much since our last meeting. We also heard a report from our Budget committee Chair Weston Martinez on the development of the 2014 proposed budget.

The Commission approved for adoption effective January 1, 2014 the proposed update to the Inspection Standards of Practice and inspection report form recommended by TREIC. This major proposal has been under review and revision for over 18 months and has gone through several drafts and significant discussion. The results are on the TREC website for inspectors and educators to begin planning the transition to these updated standards. Many thanks are due to the hardworking members of this key advisory committee.

Beginning with “Principles of Real Estate”, ESAC has launched its detailed review of curriculum guidelines, course delivery methods and instructor qualification matters. The Commission approved for publication the proposed revisions to the curriculum guidance for this bedrock course. Over the next two years, we expect to receive a steady stream of well-considered recommendations from this talented group of educators, brokers and attorneys designed to greatly improve TREC’s licensee education.

We announced the appointment of Bill Jones as liaison to the Inspector Committee and extended the service of the screening committee to consider additional candidates for TREIC public member openings scheduled to be filled in August. We also appointed Ronnie Willis of Corsicana to fill an opening on the ESAC. In addition, we announced openings for interested and experienced brokers to serve on our Broker-Lawyer Committee and the re-established Broker Responsibility Working Group which will be reviewing the “experience” requirements that were put in place in 2012 for possible updating. We encourage any interested parties to make their interest known. See the announcement in this newsletter for more details.

The Commission also heard an update on legislative matters, including progress on HB 2911, a bill that offers many positive improvements in the Inspector field. This bill was passed and is currently on the Governor’s desk for consideration. Other bills which provide for additional flexibility in the Open Meetings Act arena were also passed and are under consideration. We will keep you informed as we explore ways to implement these enhancements.

Our next regularly scheduled meeting is on Monday Aug 12th at 10 am. If you can, please feel free to stop by and meet the Commissioners and staff. We are happy to welcome you.
Proposed and Adopted Rules at the May 6, 2013
Commission Meeting

The Commission began rulemaking action on proposed amendments to §535.62, concerning Acceptable Courses of Study; §535.64, concerning Obtaining Approval to Offer a Course; and §535.65, concerning Operation of Core Education Schools. The proposed amendments were recommended by the Education Standards Advisory Committee (ESAC).

- The proposed amendments to §535.62 establish Principles of Real Estate I and II as two 30-hour core courses with specific topics and subtopics and mandated time periods in which instructors must teach each topic or subtopic. The amendments to §535.62 also establish that new Principles of Real Estate I and II must be taken before other core courses are taken and establish a time period of 12 months, or 15 months for alternative delivery courses, for which the commission will continue to accept previously approved courses for core credit if such courses are not revised pursuant to the new standards.

- The proposed amendments to §535.64 change the deadline for renewal of previously approved core courses; adopt by reference forms to be used for schools in requesting approval to offer the new Principles of Real Estate courses; establish the requirements for requesting approval and teaching core courses once a revised curriculum has been adopted by the commission; and establish the requirements and deadlines for submitting previously approved courses for approval subject to the new curriculum requirements.

- The amendments to §535.65 address the way newly adopted core courses must be delivered and establish new requirements for schools to place start and completion dates on core course certificates issued to students.

The Commission took final action to adopt several rules at the May meeting.

- The Commission adopted an amendment to 22 TAC §535.75 that changes the expiration date for the term of appointments to the Education Standards Advisory Committee form February to December of each even-numbered year and expands the term that officers serve to two years.

- The Commission adopted amendments to 22 TAC §535.144 to clarify the definition of “license holder” to include the licensee acting on behalf of a trust of which the licensee is the trustee or of which the licensee or the licensee’s spouse, parent or child is a beneficiary. Thus, the rule now clarifies that the Commission has jurisdiction over a licensee who engages in misrepresentation, dishonesty or fraud when buying or selling real property in the trust capacity described above; when the licensee is acting on his or her own behalf, or on behalf of the licensee’s parent, child or spouse; or when the licensee owns more than 10% of the property. Further, the amendment clarifies that the disclosure required by §535.144 similarly applies in cases in which the licensee is acting on behalf of a trust described above.

- The Commission adopted an amendment to 22 TAC §535.206 which reduces the term served by public members of the Texas Real Estate Inspector Committee from six years to two years. The Commission also took final action to adopt amendments to the Inspector Standards of Practice and the Inspection Report Form. An article addressing those amendments is in the current TREC Inspector Bulletin.
The regular session of the 83rd Legislature has come and gone, and while it was a relatively quiet session in terms of legislation related to the regulation of real estate related activity, there were bills passed that affect both agency operations and the regulation of certain license holders.

Two bills were passed removing certain restrictions that limited the ability of governing bodies of state agencies to meet via teleconference. As passed, Senate Bill 984 and House Bill 2414 will allow members of the Board and the Commission (and their committees) to attend quarterly meetings remotely if they cannot attend the meetings in person. As of this writing, SB 984 has been signed by the Governor and is effective September 1, 2013. HB 2414 is awaiting final action by the Governor. The agency will be exploring the different ways to take advantage of this new opportunity for future meetings.

Senate Bill 162 requires occupational licensing agencies to provide an expedited licensure process for military service members, military spouses, and military veterans that are within one year of separation from their service. The bill requires agencies to issue a license to a qualified applicant who holds a current license issued by another jurisdiction (which includes a branch of the armed forces) if the requirements of that license are substantially equivalent to the Texas licensure requirements. As of this writing, SB 162 has been signed by the Governor and is effective immediately.

June is National Homeownership Month - a great reminder to check out the Texas Department of Housing and Community Affairs for homebuyer assistance resources. TDHCA has it all, from down payment, closing cost, contract for deed conversion, and owner-builder programs to mortgage credits and loan products – including the new My First Texas Home Program.

The state housing agency has 32 years of experience serving real estate professionals and the unique needs of lower income homebuyers through a variety of homebuyer resources to help your clients achieve the American dream.

Use the occasion of Homeownership Month to find out how TDHCA can help place your clients in an affordable home of their own. Visit the TDHCA Web site at www.tdhca.state.tx.us.

TDHCA will provide reasonable accommodations and language assistance, as required by law.
TREC Committee Vacancies Announced

The Texas Real Estate Commission (TREC) is currently accepting letters of interest and resumes for open positions on the Texas Real Estate Inspector Committee, the Broker Lawyer Committee, and the Broker Responsibility Working Group.

The Texas Real Estate Inspector Committee has two public member openings. The initial public member term is for two years. Interested applicants for these public member positions may not hold an occupational license in a real estate related field. The committee is permitted to meet by teleconference, although it is anticipated that some travel to Austin will be necessary. The committee reviews and makes recommendations to the commission on all inspector related matters.

The Broker Lawyer Committee is looking for two qualified candidates to serve as broker members for a term of six years. The Broker Lawyer Committee periodically reviews and recommends revisions as necessary to the TREC promulgated contract forms. Quarterly meetings are held in person in Austin.

The Commission reinstated the Broker Responsibility Working Group at its May meeting and several positions are open. This working group reviews current experience requirements for a broker’s license and makes recommendations to the Commission based on its findings. This group will be meeting as needed, and members will be asked to serve until the work of the group is finished.

Limited funds may be available for travel reimbursement for committee members, but members are not compensated for their time. To be considered for an appointment, individuals should send a cover letter and resume to Loretta DeHay, General Counsel, at the Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, by fax to 512-936-3788, or by e-mail to general.counsel@trec.texas.gov. The deadline for applying for all open positions is July 15, 2013.

Participation in these advisory committees is not only vital to the success of the agency, but these advisory committees play an instrumental role in shaping the regulation of real estate licensure in Texas. The Commission thanks all those individuals who participate on all of our advisory committees.

Important Dates to Remember

Broker Lawyer Committee Meeting—June 7
Independence Day—July 4—Agency Closed
TREC Education Standards Advisory Committee Meeting—July 10
Ashley DeAnda
Ashley joined TREC as an Administrative Assistant III in the Education and Licensing Division on May 14, 2013. Prior to joining TREC, Ashley worked at JP Morgan Chase Bank as a teller. She has over 5 years of customer service experience. Ashley attended Angelo State University and The Austin School of Massage & Therapy. She enjoys playing sand volleyball and softball with friends and family.

Sarah Liguez
Sarah joined TALCB as a Administrative Assistant in Education and Licensing Services on April 30, 2013. Born and raised in Gonzales TX, Sarah moved to San Angelo, TX and graduated from Angelo State University with a B.B.A. in Marketing. Prior to joining TALCB, Sarah worked at Dell Inc. as Fraud Prevention Specialist, Field Asset Services as a receptionist/utilities coordinator and Tenant Access as a Vendor Management Specialist. In her spare time, Sarah enjoys spending time with friends, reading and exploring Austin.

Congratulations to Christine Anderson!
Christine has been named employee of the quarter for January to March 2013. She is a multi-talented team member who has a variety of high-profile responsibilities that she manages very effectively and with great grace - among them: Versa Online user interface improvements, general external messaging, news releases, Commission, TAR and other stakeholder relations - and a key role in the website update project! Amazing scope - and some well deserved recognition - congratulations!

Trying to get in touch with us in Austin?
We have all heard Austin, Texas is a growing city, but now we have even more proof! Austin now has two area codes! Starting June 1st, if you are calling us from the Austin area, you must dial the full ten digit phone number starting with 512. The new area code, 737, will go into effect later this summer. Don’t worry though, the new area code does not apply to any of the TREC or TALCB phone numbers. Just be sure to dial the full phone number, otherwise you won’t get through to us.
<table>
<thead>
<tr>
<th>Case#</th>
<th>Name and Location</th>
<th>Order</th>
<th>Basis For Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>121156</td>
<td>CRAWFORD, JOHN CHRISTOPHER (license # 455489) Real Estate Broker / Salesperson-I SUGAR LAND (FORT BEND) Effective Date: 3/25/2013</td>
<td>Ordered to cease and desist all unlicensed real estate brokerage activities. Assessment of an administrative penalty of $15,000.00.</td>
<td>Consumer Complaint Respondent engaged in real estate brokerage services for another in exchange for a fee or other valuable consideration or with the expectation of receiving valuable consideration by showing a property listed on the Centralized Showing Service and identifying himself as working through a broker; by assisting in negotiating the lease of a property; and by sending emails to a listing agent identifying himself as a real estate agent.</td>
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<td>111779</td>
<td>SANCHEZ, FERNANDO ELIZONDO (license # 237369) Real Estate Broker / Salesperson-I SAN ANTONIO (BEXAR) Effective Date: 4/26/2013</td>
<td>Agreed one year suspension of broker license fully probated for one year. Agreed administrative penalty of $2,000.00.</td>
<td>Consumer Complaint When completing a lease, Respondent filled in his own name instead of the name of the landlord. Respondent failed to confirm that the rental property met the security device, smoke alarm, and fire extinguisher requirements of the Texas Property Code and failed to provide the owner with a monthly statement of receipts, disbursements and charges. Respondent wrote checks from his property management account for non-property management purposes.</td>
</tr>
<tr>
<td>121250</td>
<td>NEXPHASE REALTY INC (license # 535078) Real Estate Company-O AUSTIN (TRAVIS) Effective Date: 4/4/2013</td>
<td>Agreed administrative penalty of $1,000.00. Agreed to cease and desist from engaging in all activities for which a business entity must first hold a license</td>
<td>Consumer Complaint Respondent conducted brokerage activities with an expired license by and through its registered agent, a licensed broker. Respondent, while unlicensed, entered into property management agreements.</td>
</tr>
<tr>
<td>121250</td>
<td>VALENZUELA, MICHAEL PAUL (license # 498828) Real Estate Broker / Salesperson-I MANCHACA (TRAVIS) Effective Date: 4/8/2013</td>
<td>Agreed one year suspension of broker license fully probated for one year.</td>
<td>Consumer Complaint Respondent entered into property management agreements with property owners and Respondent regularly failed to send monthly property management statements to property owners for rents and security deposits collected or withheld, repairs made, or other expenses. Respondent used the property management account he maintained for personal expenses as well as trust funds. Respondent overcharged property management fees in error.</td>
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<tr>
<td>Case#</td>
<td>Violation(s)</td>
<td>Agreed one year suspension of broker license fully probated for one year. Agreed administrative penalty of $2,500.00.</td>
<td>Consumer Complaint Respondent failed to provide an Information about Brokerage Services form to the parties during first substantive dialogue, failed to obtain written consent from the parties to act as an intermediary in the transaction, and failed to use a contract form required by the Commission during the transaction.</td>
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<tr>
<td>111464</td>
<td>1101.558(b) 1101.559(a) 1101.652(a)(08)</td>
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<td>ATTEL, WILLIAM ANTHONY (license # 256386) Real Estate Broker / Salesperson-I DALLAS (DALLAS) Effective Date: 4/15/2013</td>
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<tr>
<td>130779</td>
<td>53.021 (Broker/Sales)</td>
<td>Revocation of salesperson license.</td>
<td>Administrative Complaint Revocation of license by operation of law upon imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision pursuant to Tex. Occ. Code §53.021(b).</td>
</tr>
<tr>
<td>HARDEE, JAMES HENRY (license # 595499) Real Estate Broker / Salesperson-I TYLER (SMITH) Effective Date: 3/8/2013</td>
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<tr>
<td>111736</td>
<td>1101.652(a)(01) 1101.652(a)(09)</td>
<td>Automatic revocation of salesperson license.</td>
<td>Administrative Complaint Respondent failed to comply with an agreed order entered by the Commission by failing to timely notify the Commission of a violation or change in the terms or condition of her criminal probation.</td>
</tr>
<tr>
<td>BROWER, SHERI RYMAN (license # 517834) Real Estate Broker / Salesperson-I MC KINNEY (COLLIN) Effective Date: 1/28/2013</td>
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<tr>
<td>121692</td>
<td>1101.652(a)(01)</td>
<td>Agreed four years suspension of broker license fully probated for four years.</td>
<td>Administrative Complaint Respondent pled guilty to a felony offense.</td>
</tr>
<tr>
<td>PIERCE, KIM DIANE (license # 377671) Real Estate Broker / Salesperson-I HOUSTON (HARRIS) Effective Date: 4/5/2013</td>
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<tr>
<td>Case#</td>
<td>Name &amp; License Information</td>
<td>Violation(s)</td>
<td>Administrative Complaint</td>
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<td>131015</td>
<td>FARBER, MICHELE E (license # 564309) Real Estate Broker / Salesperson-I SAN ANTONIO (BEXAR)</td>
<td>1101.652(a)(04), 22 TAC 534.2(a)</td>
<td>Agreed reprimand of salesperson. Agreed administrative penalty of $500.00. Administrative Complaint Respondent failed within a reasonable time to make good a check issued to the Commission. Respondent failed to pay the check processing fee within 15 days after the Commission had mailed a request for payment.</td>
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<tr>
<td>130432</td>
<td>BRUNTY, MATTHEW RULON (license # 599466) Real Estate Broker / Salesperson-I AUSTIN (TRAVIS)</td>
<td>1101.652(a)(01)</td>
<td>Agreed two years suspension fully probated for two years. Administrative Complaint Respondent pled nolo contendere to a felony offense, pled guilty to a class C misdemeanor, and pled guilty to a class B misdemeanor.</td>
</tr>
<tr>
<td>121725</td>
<td>THOMAS, BRYAN (license # 559382) Real Estate Broker / Salesperson-I AUSTIN (TRAVIS)</td>
<td>1101.652(a)(01), 1101.652(a)(02), 1101.652(a)(09)</td>
<td>Agreed seven years suspension of salesperson license fully probated for seven years. Agreed administrative penalty of $2,000.00. Administrative Complaint Respondent pled guilty to a felony offense. Respondent failed to notify the Commission within 30 days after entry of a plea of guilty to a felony offense and failed to disclose this in his renewal.</td>
</tr>
<tr>
<td>130777</td>
<td>TURTON, CHRISTOPHER ANTHONY (license # 618024) Real Estate Broker / Salesperson-I SAN ANTONIO (BEXAR)</td>
<td>1101.652(a)(04), 22 TAC 534.2(a)</td>
<td>Reprimand of salesperson. Assessment of an administrative penalty of $500.00. Suspension of salesperson license until payment in full of the replacement and processing fees and administrative penalty is paid in full. Administrative Complaint Respondent failed within a reasonable time to make good a check issued to the Commission. Respondent failed to pay the check processing fee within 15 days after the Commission had mailed a request for payment.</td>
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<tr>
<td>Case#</td>
<td>Violation(s)</td>
<td>Description</td>
<td>Administrative Complaint</td>
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<tr>
<td><strong>121387</strong></td>
<td>1101.652(a)(01) 1101.652(a)(02) 1101.652(a)(09)</td>
<td>Revocation of salesperson license. Assessment of an administrative penalty of $5,000.00.</td>
<td>Respondent pled guilty to a felony offense. Respondent failed to notify the Commission within 30 days after entry of a plea of guilty to a felony offense and failed to disclose this in his renewal.</td>
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<td><strong>130602</strong></td>
<td>1101.652(a)(05) 1101.652(a)(06)</td>
<td>Reprimand of salesperson. Assessment of an administrative penalty of $1,500.00. Suspension of salesperson license until the requested information is received and the administrative penalty is paid in full.</td>
<td>Respondent failed or refused 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. Respondent failed to provide, within a reasonable time, information requested by the Commission that relates to a formal or informal complaint to the Commission.</td>
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<tr>
<td><strong>130763</strong></td>
<td>1101.652(a)(01) 1101.652(a)(09)</td>
<td>Agreed ten years suspension of salesperson license fully probated for ten years. Agreed administrative penalty of $1,000.00.</td>
<td>Respondent pled guilty to a felony offense. Respondent failed to notify the Commission within 30 days after entry of the plea and felony conviction.</td>
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<tr>
<td><strong>130909</strong></td>
<td>1101.351(a)</td>
<td>Agreed one year probationary salesperson license issued. Agreed administrative penalty of $1,000.00.</td>
<td>Applicant completed his MCE requirements before his license expiration date, but forgot to timely renew his salesperson license. Applicant continued to work in real estate brokerage for more than 6 months after his license expired, but less than 12 months, before he realized his license was expired. Applicant applied for reinstatement of license, self-reported his unlicensed brokerage activity, and ceased working in brokerage activities until his license was reinstated.</td>
</tr>
</tbody>
</table>
| Case# | WILKINSON, MARK ALAN  
(license # 330972) Real Estate Broker / Salesperson-I  
HOUSTON(HARRIS) | Agreed three year probationary salesperson license issued. | Applications  
Commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1. Applicant provided documentation addressing the factors outlined in Tex. Occ. Code §53.023 and, subject to reasonable terms of a probationary license, demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Tex. Occ. Code §1101.354(2). |
|---|---|---|---|
| Case# | KIRK, MICHAEL DYLAN  
(license # 628187) Real Estate Broker / Salesperson-I  
SAN ANTONIO(BEXAR) | Agreed one year probationary salesperson license issued. | Applications  
Commission of an offense that directly relates to the duties and responsibilities of the occupation of a licensed real estate salesperson under 22 Tex. Admin. Code §541.1. Applicant provided documentation addressing the factors outlined in Tex. Occ. Code §53.023 and, subject to reasonable terms of a probationary license, demonstrated that Applicant possesses the requisite honesty, trustworthiness, and integrity to qualify to be licensed as a real estate salesperson under Tex. Occ. Code §1101.354(2). |
TALCB Bulletin

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

TALCB Provides Compliance Guidance for Appraisers

TALCB has recently provided more USPAP guidance to Texas appraisers. In May 2013, TALCB created a new section on the Complaints, Consumer Info tab on its web page, titled Compliance Guidance for Appraisers. The first aide published is the TALCB Appraisal/Appraisal Report Investigative Checklist for the Uniform Standards of Professional Appraisal Practice (USPAP) effective January 1, 2012, and the Texas Appraiser Licensing and Certification Act (the “Act”) and the Texas Appraiser Licensing and Certification Board Rules (the “Rules”) effective May 27, 2011. This is the same investigative checklist TALCB staff utilizes when reviewing complaints and appraisal reports. TALCB has published this investigative checklist to give transparency in its investigative review of appraisal reports and show Texas appraisers the types of compliance matters staff looks at when reviewing an appraisal report. The purpose of the investigative checklist is to determine if an appraisal report conforms to USPAP, the Rules and the Act, as of the report date of the appraisal.

DISCLAIMER: This Investigative Report Checklist Form ("IR Checklist") is being provided for INFORMATIONAL PURPOSES ONLY. It is a tool used by TALCB staff to review an appraisal report that is the subject of a complaint. The IR Checklist and/or its application can change at any time. The IR Checklist may not represent all possible violations of USPAP or TALCB statutes and rules. The IR Checklist should not be used by appraisers to confirm that an appraisal/appraisal report is in full compliance with USPAP or TALCB statutes and rules nor used by AMCs as a standard for their required Standard 3 reviews. APPRAISERS AND AMCS SHOULD ALWAYS FOLLOW THE APPLICABLE PROVISIONS OF USPAP AND TALCB STATUTES AND RULES TO VERIFY THAT THEIR APPRAISAL REPORT OR REVIEW IS IN FULL COMPLIANCE WITH THE LAW.

TALCB plans to post a one-page common USPAP violation checklist and other training and education materials to this section, including webinars on appraisal and legal related topics. Please stay tuned!
From the Chair ...

The Board met on May 16th in Austin for its regular quarterly meeting which as usual was very busy and productive. We welcomed Clayton Black of Stanton for his first meeting as a new public member of the Board appointed by Governor Perry. We also welcomed our new Recording Secretary Dione Frederick as an experienced member promoted to a new role on the Board’s staff. We appointed Diana Jacob as an approved member of the Board’s panel of Mentors.

The Commissioner reported on agency events and developments since our February meeting and staff provided routine progress reports on communications, technology, licensing, education and enforcement matters. We continue to make meaningful advances on all matters of concern to the Board. The Commissioner also reported that the Appraisal Subcommittee (ASC) liaison made a brief visit in April and found much to praise on the Board’s progress. Notably, in February of 2011, we had 544 total complaints of which 320 were over one year old. As of the end of April 2013, we had just 195 total complaints of which just 82 were over one year old. This is amazing progress in just over two years.

The Enforcement Committee also reported on another very productive meeting with staff to review current enforcement policies and procedures and to make more recommendations for improvements. At our meeting, the Board adopted several of those well-considered recommendations. Many thanks are due to both members and staff for their continued hard work on these important matters. We heard a preliminary report from our Budget Committee Chair Mark McAnally on the progress made toward development of the 2014 operating budget. We look forward to continuing progress from the close and cooperative work of our committees and staff.

The Board also approved adoption of the proposed rules concerning complaint processing and an updated complaint intake form. This combination of proposals provides a method for complaints to undergo an expedited “triage” process that means any complaint received by the Board must be determined to have a substantive basis before it will be considered a “formal” complaint. Appraiser associations have worked closely with the Board to ensure this process remains fair and transparent.

The Board’s next meeting will be on August 16th and we invite you to attend and let your voice be heard. We appreciate the industry’s support for what we do and promise to continue to find ways to be more efficient and more effective.

Any person desiring to become approved as a Texas appraiser trainee may apply to the Texas Appraiser Licensing and Certification Board (“TALCB” or “Board”) on the approved trainee application posted on the Board’s website (www.talcb.texas.gov). The applicant should reference section 1103.353 of the Texas Appraiser Licensing and Certification Act (the “Act”) to see if he or she meets the eligibility requirement for an appraiser trainee. Under section 1103.353 of the Act, the applicant must be: “(1) at least 18 years of age, (2) be a citizen of the United States or a lawfully admitted alien, (3) have been a resident of this state for the 60 days preceding the date the application is filed, (4) satisfy the board as to the applicant's honesty, trustworthiness, and integrity, and (5) meet all other qualifications established by the board.”

Also, the applicant must: complete 75 creditable classroom hours as set forth in the Real Property Appraiser Qualification Criteria of the Appraiser Qualifications Board (“AQB”), pass the 15 hour National Uniform Standards of Professional Appraisal Practice (“USPAP”) course and examination, and pay the application fee set by the Board.

Once the applicant is approved by the Board, the appraiser trainee may perform appraisals or appraisal services under the active, personal and diligent direction and supervision of a sponsoring certified appraiser. Section 153.21 of the Board Rules Relating to the Act (“Board Rules”) elaborates on “diligent supervision,” which includes, but is not limited to, the following: “(1) direct supervision and training as necessary, (2) ongoing training and supervision as necessary after the sponsor determines that the trainee no longer requires direct supervision, (3) communication with and accessibility to the trainee, and (4) review and quality control of the trainee’s work.”

The sponsor of an appraiser trainee must be a certified appraiser and must submit the Board approved appraiser trainee sponsorship form with the accompanying fee set by the Board. In addition to diligent supervision, the sponsor shall assume all the duties, responsibilities, and obligations of an appraiser trainee sponsor as specified in the Board Rules. Moreover, under Board Rules, the sponsor shall be responsible to the public and to the Board for the conduct of the appraiser trainee and may be disciplined for any of the trainee’s conduct, which violates the Act or Board Rules.

A sponsor may have no more than three appraiser trainees at one time. A sponsor may designate another certified appraiser to serve as an authorized supervisor on specific appraisal projects, which requires state authorization. If a sponsor designates another certified appraiser as an authorized supervisor, the authorized supervisor assumes the same responsibilities as the sponsor when supervising the work of an appraiser trainee work. The sponsor and authorized supervisor must be in good standing with the Board and not subject to any sanctions affecting their legal eligibility to practice as an appraiser. Sponsors must provide appraiser trainees access to any appraisals and workfiles completed with the trainee during the sponsorship.

If the sponsoring certified appraiser wishes to terminate the sponsorship, the sponsor shall immediately notify the Board and the appraiser trainee in writing of the termination. To do this, the Sponsor must submit a Board approved appraiser trainee sponsorship form and pay a fee set by the Board within 10 days of the termination. If an appraiser trainee's authorization expires or is revoked by the Board, the appraiser trainee may not act as an appraiser trainee. Also, the appraiser trainee may not act as an appraiser trainee if the trainee is not under the sponsorship of no longer has a sponsoring certified appraiser. This may be the result of a termination by the sponsor or trainee or the revocation or suspension or other disciplinary action against the sponsoring appraiser's certification.

The appraiser trainee should document his or her real
property appraisal experience on the Board required Appraisal Experience Log, which the trainee will need to submit to the Board to become a State Licensed, State Certified Residential or State Certified General Appraiser. The Appraisal Experience Logs should be submitted with an accompanying Appraisal Experience Affidavit, which are both on the Board’s website (www.talcb.texas.gov). An appraiser trainee may be granted experience credit only for real property appraisals performed when the appraiser trainee had legal authority to perform the appraisals.

Regarding experience credit, Board Rule 153.15(e) further clarifies, “Experience credit shall be awarded by the board in accordance with current criteria established by the Appraiser Qualifications Board and in accordance with the provisions of the Act specifically relating to experience requirements. An hour of experience means 60 minutes expended in one or more of the acceptable appraisal experience areas. Calculation of the hours of experience must be based solely on actual hours of experience . . . “ Additionally, experience credit, must meet the following criteria, set forth in section 153.15(g) of the Board Rules, “(1) comply with the USPAP in effect at the time of the appraisal, (2) are verifiable and supported by workfiles in which the applicant is identified as participating in the appraisal process, (3) were performed when the applicant had legal authority, and (4) comply with the acceptable categories of experience as per the AQB experience criteria . . . ”

An appraiser trainee is authorized to perform appraisals pursuant to section of 1103.354 of the Act, which states, “(a) An appraiser trainee approved by the board may perform an appraisal under the direction of a sponsor or authorized supervisor of the trainee. (b) The sponsor or authorized supervisor shall sign each report prepared by the appraiser trainee performing an appraisal under the direction of the sponsor or authorized supervisor. The sponsor or authorized supervisor is responsible to the public and to the board for the appraiser trainee’s conduct. (c) An appraiser trainee may co-sign a report prepared under this section.” If a trainee does co-sign a report, the Board Rules require the appraiser trainee to include his or her authorization/approval number and the word “Trainee.”

It is especially important for the sponsoring certified appraiser to comply with USPAP when a trainee appraiser provides significant real property appraisal assistance. The comment to USPAP Standards Rule 2-3 states, “When a signing appraiser(s) has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser(s) is required to have a reasonable basis for believing that those individuals performing the work are competent. The signing appraiser(s) also must have no reason to doubt that the work of those individuals is credible.” Moreover, the comment USPAP Standards Rule 2-2(b)(vii) states, “When any portion of the work involves significant real property appraisal assistance, the appraiser must summarize the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant real property appraisal assistance in the certification, in accordance with Standards Rule 2-3.”

Supervisors should also note that under Rule 153.21, Sponsor’s have the affirmative duty to inform prospective trainees of disciplinary action taken against the sponsor or supervisor within the last three years that did not affect the sponsor’s or supervisor’s legal eligibility to engage in appraisal practice.

Sponsor’s that have had any disciplinary action that affects the sponsor’s or supervisor’s legal eligibility to engage in appraisal practice, including probationary status, are barred from sponsoring trainees for up to three years from the date of discipline.
The regular session 83rd Legislature has come and gone. It was a relatively quiet session in terms of legislation related to the regulation of real estate appraisal activity. However, legislation did pass that affects agency operations and the regulation of certain license holders.

Two bills were passed removing certain restrictions that limited the ability of governing bodies of state agencies to meet via teleconference. As passed, Senate Bill 984 and House Bill 2414 will allow members of the Board and the Commission (and their committees) to attend quarterly meetings remotely if they cannot attend the meetings in person. As of this writing, SB 984 has been signed by the Governor and is effective September 1, 2013. HB 2414 is awaiting final action by the Governor. The agency will be exploring the different ways to take advantage of this new opportunity for future meetings.

Senate Bill 162 requires occupational licensing agencies to provide an expedited licensure process for military service members, military spouses, and military veterans that are within one year of separation from their service. The bill requires agencies to issue a license to a qualified applicant who holds a current license issued by another jurisdiction (which includes a branch of the armed forces) if the requirements of that license are substantially equivalent to the Texas licensure requirements. As of this writing, SB 162 has been signed by the Governor and is effective immediately.

House Bill 585 amends current law relating to ad valorem taxation, especially the provisions of the Tax Code dealing with tax protest before an Appraisal Review Board (ARB). While the majority of the bill has no impact on the regulation of real estate appraisers, one section of the bill codifies the TALCB’s approach to Uniform and Equal (U&E) studies, as required by 22 TAC §155.2. HB 585 states that Chapter 1103 applies to an appraiser acting as an appraiser before the ARB and requires those appraisers dually licensed as appraisers and property tax consultants to state the capacity under which they are appearing before the ARB.

In addition, legislation was passed regarding timeshare owners associations (Senate Bill 1372) and real estate inspectors (HB 2911). Both bills await final action by the governor. For more details on those legislative actions, please see this month’s Advisor and Insight.

The full text of these bills can be found on the Texas Legislature Online website www.capitol.state.tx.us.

### Important Dates to Remember

- TALCB Enforcement Committee Meeting – June 14
- Independence Day – Agency Closed – July 4

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**83rd Legislative Session Recap**

The regular session 83rd Legislature has come and gone. It was a relatively quiet session in terms of legislation related to the regulation of real estate appraisal activity. However, legislation did pass that affects agency operations and the regulation of certain license holders.

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The full text of these bills can be found on the Texas Legislature Online website www.capitol.state.tx.us.
ADOPTED RULES

The adopted rules will be effective June 12, 2013 and can be found on our website at http://www.talcb.state.tx.us/ActAndRules/TALCB-Rules.asp.

22 TAC §153.24, Complaint Processing:
Amendments we adopted to clarify that receipt of a complaint intake form by TALCB does not constitute the filing of a formal complaint against the individual named on the complaint intake form, to clarify all of the information that a respondent must provide to TALCB following notification of receipt of a complaint intake form, to establish a timeframe for completion of a preliminary review to determine if a violation occurred, to set out the criteria and procedure for the filing of a formal complaint by TALCB, to more clearly set out levels of discipline and the mitigating and aggravating factors to be considered when assessing sanctions and to more clearly define penalty parameters at each level.

22 TAC §153.21, Appraiser Trainees and Sponsors: Amendments we adopted to require disclosure by sponsors of any disciplinary action taken against them in the past three years and to bring the rules into compliance with the Real Property Appraiser Qualification Criteria (Criteria) set out by The Appraiser Qualifications Board of The Appraisal Foundation. The Criteria states that Supervisory Appraisers shall be in “good standing” for a period of at least three years.

PROPOSED RULES

Proposed rules will be up for adoption at the August 16, 2013 meeting of the Board. The proposed rules can be found on our website at http://www.talcb.state.tx.us/ActAndRules/TALCB-Rules.asp. Comments on proposed rules should be sent to general.counsel@talcb.texas.gov on or before July 8, 2013.

22 TAC §153.20 concerning Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure:
Amendments are proposed to clarify that an applicant for a license or certification, whether successful or not, is subject to denial and/or discipline (in the case of a step-up application) if the applicant makes false, misleading or fraudulent misrepresentations in the application process.


22 TAC §159.109 concerning Inactive Status:
Amendments are proposed to provide a procedure for a registered Appraisal Management Company to elect to be placed on inactive status and clarifies what happen to an AMC’s panel if it goes inactive.
22 TAC §159.155 concerning Periodic Review of Appraisals: Amendments are proposed to clarify that Appraisal Management Companies are only required to review appraisal services performed on 1-4 family unit properties collateralizing mortgage obligations as contemplated by Dodd-Frank and to remove the phrase “commercial databases” from subsection (g)(1)(A) as it is was a source of possible confusion and redundant of the remainder of the phrase in that subsection which covers all allowable data sources other than the specifically named multiple listing service.

22 TAC §159.159 concerning Disclosure of Registration Number: Amendments are proposed to help appraisers identify Appraisal Management Companies that are registered with TALCB by clarifying that an Appraisal Management Company is required to disclose the name under which it is registered with TALCB and any other name under which it does business in addition to the registration number currently required on documents used to procure appraisals.

POLICIES ADOPTED – effective May 17, 2013
Periodic Review of Appraisals by AMCs: A policy was adopted noting that the intent of rule §159.155 as written was that Appraisal Management Companies are only required to review appraisal services performed on 1-4 family unit properties collateralizing mortgage obligations as contemplated by Dodd-Frank. This policy is necessary until such time as the proposed amendments to 22 TAC §159.155 can be adopted since a majority of registered AMCs will reach the 12 months deadline to perform the required reviews over the next several months. Without the policy in place, AMC’s with divisions that perform other types of appraisal services could incur unnecessary expenditures.

Final Order Guidelines: Guidelines were adopted to include specific compliance provisions in all Board Final Orders, including a provision that a respondent that fails to comply with a specific term ordered by the Board will be assessed an administrative penalty of $1,000 and be automatically suspended until the respondent is in full compliance with the order and has paid the assessed penalty.

NEW/REVISED FORMS – effective May 17, 2013 (except Renewal forms)
Complaint Intake Form: Revised to allow TALCB to track the impact of the new ASC Complaint National Hotline and verify that appraisers who file complaints against AMCs have followed dispute resolution prerequisites.
Appraiser Renewal Applications: Revised and updated, these paper forms will be available once the corresponding online renewal process is updated or implemented (for Appraiser Trainees) and include a $20 paper filing fee.
Application for Approval as an Appraiser Trainee: Revised to incorporate the amendments adopted to 22 TAC 153.21 regarding sponsor notification of disciplinary action in the past three years.
Addition or Termination of Appraiser Trainee Sponsorship: Revised to incorporate the amendments adopted to 22 TAC 153.21 regarding sponsor notification of disciplinary action in the past three years.
Addition/Termination of AMC Panel Appraiser: New form created to allow appraisers and AMCs who do not want to complete the process online to complete the process in paper. The new form includes a $20 paper filing fee.
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<th>Name &amp; Location</th>
<th>Action Taken</th>
<th>Reason</th>
<th>Summary</th>
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| HATFIELD, Joshua Shae  
Lic. # TX-1338755-R  
Austin | Board Action Taken:  
(1) MENTORSHIP. On or before Saturday, August 17th, 2013, Respondent shall complete 8 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below:  
(i) 3 hours of mentorship in the sales comparison approach;  
(ii) 2 hours of mentorship in the cost approach; and,  
(iii) 3 hours of mentorship in appraisal analysis and appraisal report writing. | Complaint No.: 13-118  
Reason for Complaint:  
The complaint alleged that the Respondent produced an appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the “Act”) and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”). | Summary of Violations Found:  
(1) Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).  
(2) Respondent violated 22 TEX. ADMIN. CODE § 153.20 (a)(12) by making material misrepresentations and omissions of material fact. |
| STRATTON, Blake Taylor  
Lic. # TX-1337606-R  
Humble | Board Action Taken:  
(1) EDUCATION. On or before November 15th, 2013. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board:  
(i) A minimum 7 classroom-hour course in the Sales Comparison Approach; and,  
(ii) A minimum 7 classroom-hour course in the Cost Approach  
(2) MENTORSHIP. On or before July 16, 2013, Respondent shall complete 10 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. The 10 hours of mentorship shall include:  
(i) At least 3 hours on highest and best use and market analysis;  
(ii) At least 3 hours on the sales comparison approach, including the interplay between this approach to value and the highest and best use analysis;  
(iii) At least 3 hours on obsolescence and depreciation analysis in the cost approach; and,  
(iv) At least 1 hour on report writing and adequate communication of the results of the appraiser’s analyses. | Complaint No.: 13-022  
Reason for Complaint:  
The complaint alleged that the Respondent produced appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the “Act”) and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”). | Summary of Violations Found:  
(1) Respondent violated provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).  
(2) Respondent made material misrepresentations and omissions of material facts as prohibited by 22 TEX. ADMIN. CODE § 153.20 (a)(9). |
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<th>Licensee</th>
<th>Board Action Taken</th>
<th>Complaint No.</th>
<th>Reason for Complaint</th>
<th>Summary of Violations Found</th>
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<td>SMEDLEY, David Louis</td>
<td><strong>Board Action Taken:</strong> NOW, THEREFORE, IT IS ORDERED that registration number TX-2878 hereto issued DAVID LOUIS SMEDLEY, to practice real property appraisal in the State of Texas, be revoked without formal charges, notice of hearing, or a formal hearing.</td>
<td>13-073</td>
<td>Reason for Complaint:</td>
<td>(1) Respondent violated provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 (a) and 153.20(a)(3).</td>
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<td>PAVLE, Nicholas Angelo</td>
<td><strong>Board Action Taken:</strong> Based on the above findings of fact and conclusions of law, the Board ORDERS that Respondent’s Texas state certification (TX-1336375-R) is hereby SUSPENDED for a period of eighteen (18) months, effective 5:00 PM (CT) on Friday, May 17, 2013 (beginning date) and ending 5:00 PM (CT) on Monday, November 17, 2014 (ending date). (1) EDUCATION. On or before November 17, 2014. During the eighteen (18) month suspension, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board: (i) A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before November 17, 2014. (2) MENTORSHIP. On or before November 17, 2014. During the eighteen (18) month suspension, Respondent shall complete twenty (20) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below: (i) Twenty (20) hours of mentorship concerning the above noted violations in the findings of fact, on or before November 17, 2014. (3) EXPERIENCE LOG. On or before May 17, 2015. After the eighteen (18) month suspension, Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of six (6) months starting after the due dates for the education and mentorship (from November 17, 2014 to May 17, 2015).</td>
<td>12-222, 12-303 &amp; 12-311</td>
<td><strong>Reason for Complaint:</strong> The complaints alleged that the Respondent produced appraisal reports for the properties that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the “Act”) and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”).</td>
<td>(2) Respondent violated 22 TEX. ADMIN. CODE § 153.20 (9) by making material misrepresentations and omissions of material fact.</td>
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| OZAETA, Gregory  
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| Board Action Taken:  
| EDUCATION. On or before May 17, 2014. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board:  
| (i) A classroom course in Residential Cost Approach, a minimum of fifteen (15) class hours, on or before May 17, 2014.  
| (ii) A classroom course in Residential Report Writing, a minimum of fifteen (15) class hours, on or before May 17, 2014.  
| (iii) A classroom course in Residential Market Analysis, a minimum of fifteen (15) class hours, on or before May 17, 2014.  
| (iv) A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before May 17, 2014.  
| Complaint No.: 10-288  
| Reason for Complaint:  
The complaint alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”).  
| Summary of Violations Found:  
| (1) Respondent violated provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 (a) and 153.20(a)(3).  
| (2) Respondent violated 22 TEX. ADMIN. CODE § 153.20 (a)(9) by misrepresenting and omitting material facts.  
| OSBORNE, Kerry  
|---|---|---|
| Board Action Taken:  
| (1) EDUCATION. On or before May 17th, 2014. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board:  
| (i) A classroom course in Residential Market Analysis, a minimum of fifteen (15) class hours, on or before May 17th, 2014.  
| (ii) A classroom course in Residential Sales Comparison Approach, a minimum of fifteen (15) class hours, on or before May 17th, 2014.  
| (iii) A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before May 17th, 2014.  
| (2) MENTORSHIP. On or before May 17th, 2014. Respondent shall complete twelve (12) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below:  
| (i) Twelve (12) hours of mentorship concerning the above noted violations in the findings of fact, on or before May 17th, 2014.  
| (3) EXPERIENCE LOG. On or before May 17th, 2015. Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of twelve (12) months starting after the due dates for the education and mentorship (from May 17th, 2014 to May 17th, 2015).  
| (4) ADMINISTRATIVE PENALTY. On or before June 6th, 2013. Pay to the Board an administrative penalty of five thousand dollars ($5,000.00), by certified funds, within twenty (20) days of the effective date of this order (i.e. on or before June 6th, 2013).  
| Complaint No.: 13-077  
| Reason for Complaint:  
The complaint alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”).  
| Summary of Violations Found:  
| (1) Respondent violated provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 (a) and 153.20(a)(6).  
| (2) Respondent violated 22 TEX. ADMIN. CODE § 153.20 (a)(24) by failing to provide a complete workfile within 20 days of notice from the Board.  
| (3) Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(1), (a)(7), (a)(20), and (a)(22) by accepting and completing an FHA assignment, even though he was not a FHA roster appraiser, was not qualified and was not competent.  
| (4) Respondent violated 22 TEX. ADMIN. CODE §153.20 (a)(12) by misrepresenting and omitting material facts.  

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<th>Reason for Complaint</th>
<th>Summary of Violations Found</th>
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<tbody>
<tr>
<td>NEWKIRK, Pamela F.</td>
<td>TX-1333126-R</td>
<td>(1) EDUCATION. On or before November 17th, 2013, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board:</td>
<td>12-231 &amp; 13-090</td>
<td>Both complaints alleged that the Respondent produced an appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the “Act”) and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”).</td>
<td>(1) Respondent violated provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 (a) and 153.20(a)(3).</td>
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<td>(i) A minimum 7 classroom-hour course in in the Sales Comparison Approach;</td>
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<td>(a) No examination shall be required for this course;</td>
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<td>(2) MENTORSHIP. On or before August 17th, 2013, Respondent shall complete 8 hours of in-person mentorship conducted by a certified USPAP instructor approved by Board staff in accordance with the schedule and topics set out below:</td>
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<td>(i) 4 of these hours shall address analysis, methods and techniques related to adjustments and the sales comparison approach; and,</td>
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<td>(ii) 4 of these hours shall address analysis, methods and techniques related to depreciation</td>
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<td>MOODY, Carolyn Marie</td>
<td>TX-1324186-G</td>
<td>(1) EDUCATION. On or before March 17th, 2014, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board:</td>
<td>11-276 &amp; 11-347</td>
<td>The complaints alleged Respondent produced appraisal reports for the Properties that did not conform to the Uniform Standards of Professional Appraisal Practice (“USPAP”), TEX. OCC. CODE CHPT. 1103 (the “Act”) and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”).</td>
<td>(1) Respondent violated provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 (a) and 153.20(a)(6).</td>
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<td>(i) A classroom course in Highest and Best Use and Market Data Analysis, a minimum of seven (7) class hours, on or before March 17th, 2014;</td>
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<td>(ii) A classroom course in Residential Sales: The Adjustment Process, a minimum of seven (7) class hours, on or before March 17th, 2014; and</td>
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<td>(iii) A classroom course in Site Valuation, a minimum of seven (7) hours, on or before March 17th, 2014.</td>
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<td>(2) MENTORSHIP. On or before May 17th, 2014, and only after completion of the aforementioned Education, Respondent shall complete eight (8) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below:</td>
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<td>(i) Eight (8) hours of mentorship concerning the above noted violations in the findings of fact, on or before May 17th, 2014.</td>
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| **MERRILL, Richard Allen**  
| Lic. # TX-1325278-R  
| Houston | **Board Action Taken:**  
| (1) EDUCATION. On or before May 17th, 2014. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board:  
|  
| (i) A classroom course in Residential Market Analysis, a minimum of fifteen (15) class hours, on or before May 17th, 2014.  
|  
| (ii) A classroom course in Residential Sales Comparison Approach, a minimum of fifteen (15) class hours, on or before May 17th, 2014.  
|  
| (2) MENTORSHIP. On or before May 17th, 2014. Respondent shall complete sixteen (16) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below:  
|  
| (i) Sixteen (16) hours of mentorship concerning the above noted violations in the findings of fact, on or before May 17th, 2014.  
|  
| **Complaint No.:** 11-410  
| **Reason for Complaint:** The complaint alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”).  
|  
| **Summary of Violations Found:**  
| (1) Respondent violated provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).  
|  
| (2) Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by misrepresenting and omitting material facts.  

| **MAYNARD, Freda Gail**  
| Lic. # TX-1334602-R  
| Cedar Park | **Board Action Taken:**  
| (1) EDUCATION. On or before May 17, 2014. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board:  
|  
| (i) A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before May 17, 2014.  
|  
| (2) MENTORSHIP. On or before May 17, 2014. Respondent shall complete eight (8) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below:  
|  
| (i) Eight (8) hours of mentorship concerning the above noted violations in the findings of fact, on or before May 17, 2014.  
|  
| **Complaint No.:** 13-120 & 13-169  
| **Reason for Complaint:** The complaints alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”).  
|  
| **Summary of Violations Found:**  
| (1) Respondent violated provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).  
|  
| (2) Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(12) by misrepresenting and omitting material facts.  

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**Volume 23, Number 12 * June 2013**
### MAHER, John E.
Lic. # TX-1338562-G
Melissa

**Board Action Taken:**
Based on the above findings of fact and conclusions of law, the Board ORDERS that Respondent’s Texas appraiser certification be suspended for a period of 6 months, effective 5:00 p.m., May 17th, 2013.

IT IS FURTHER ORDERED that beginning at 5:00 p.m., May 17th, 2013, the suspension is to be fully probated for 6 months ending November 17th, 2013, subject to the following terms and conditions:

1. **EDUCATION.** On or before July 17th, 2013, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board:
   - (i) A minimum 15 classroom-hour course in USPAP; and,
   - (ii) A minimum 7 classroom-hour course in the Sales Comparison Approach.

2. **MENTORSHIP.** On or before July 17th, 2013, Respondent shall complete 15 hours of in-person mentorship conducted by a certified USPAP instructor approved by Board staff.

3. **LOGS.** On or before October 11th, 2013, Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of September 1st, 2013 to October 1st, 2013.

### LUGEANBEAL, Timothy Keith
Lic. # TX-1332250-R
Cleburne

**Board Action Taken:**
(1) EDUCATION. On or before May 17, 2014. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board:

- (i) A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before May 17, 2014.

(2) MENTORSHIP. On or before May 17, 2014. Respondent shall complete eight (8) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below:

- (i) Eight (8) hours of mentorship concerning the above noted violations in the findings of fact, on or before May 17, 2014.

<table>
<thead>
<tr>
<th>Complaint No.: 12-292</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Reason for Complaint:</strong> The complaint alleged that the Respondent produced an appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), 1103 (the “Act”) and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”).</td>
</tr>
</tbody>
</table>

### Summary of Violations Found:
(1) Respondent violated provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 (a) and 153.20(a)(3).

(2) Respondent made material misrepresentations and omissions of material facts as prohibited by 22 TEX. ADMIN. CODE § 153.20 (a)(9).
**Board Enforcement Actions ...**

### KALIL, Michael Joseph
**Lic. # TX-1323436-R Brenham**

**Board Action Taken:**
1. **EDUCATION.** On or before May 17th, 2014. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board:
   - (i) A classroom course in USPAP, a minimum of fifteen (15) class hours, on or before May 17th, 2014.

2. **MENTORSHIP.** On or before May 17th, 2014. Respondent shall complete four (4) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below:
   - (i) Four (4) hours of mentorship concerning the above noted violations in the findings of fact, on or before May 17th, 2014.

3. **ADMINISTRATIVE PENALTY.** On or before June 6th, 2013. Respondent shall pay to the Board an administrative penalty of four thousand dollars ($4,000.00), by certified funds, within twenty (20) days of the effective date of this order (i.e. on or before June 6th, 2013).

**Complaint No.:** 12-102

**Reason for Complaint:**
The complaint alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”).

**Summary of Violations Found:**
1. (1) Respondent violated the provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).

2. (2) Respondent has violated 22 TEX. ADMIN. CODE §§ 153.8(c), 153.20 (a)(1), (7), (18), (19), and (20) by conducting commercial/non-residential real estate appraisal activity for the property.

3. (3) Respondent violated 22 TEX. ADMIN. CODE §153.20 (a)(9) by misrepresenting and omitting material facts.

### JONES, Richard Thomas
**Lic. # TX-1331973-R Frisco**

**Board Action Taken:**
1. **EDUCATION.** On or before November 17th, 2013. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board:
   - (i) A minimum 7 classroom-hour course in Sales Comparison Approach;
     - (a) No examination is required; and
   - (ii) A minimum 7 classroom-hour course in Residential Report Writing;
     - (a) No examination is required.

2. **MENTORSHIP.** On or before August 17th, 2013, Respondent shall complete 8 hours of in-person mentorship conducted by a certified USPAP instructor approved by Board staff in accordance with the schedule and topics set out below. The 8 hours of mentorship shall include:
   - (i) 4 hours dealing with sales comparison data analysis, including selection of comparable sales and analysis, methods and techniques related to adjustments;
   - (ii) 2 hours dealing with the cost approach; and,
   - (iii) 2 hour dealing with analysis, and reconciliation of a property’s prior sales and listing history.

**Complaint No.:** 11-419

**Reason for Complaint:**
The complaint alleged that the Respondent produced appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the “Act”) and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”).

**Summary of Violations Found:**
1. (1) Respondent violated the provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).
| JOHNSON, Barry William  
Lic. # TX-1332156-R  
Houston | **Board Action Taken:**  
Respondent’s Texas appraiser residential certification be revoked, effective 5:00 p.m., May 17th, 2013  
IT IS FURTHER ORDERED that beginning at 5:00 P.M., May 17th, 2013, the revocation is to be probated for eighteen (18) months, ending November 15th, 2014, subject to the following terms and conditions:  
(1) Respondent shall not sponsor any real estate appraiser trainees during the entire eighteen (18) months of probation. Any current appraiser trainees Respondent sponsors shall be terminated immediately by filing the appropriate sponsorship termination paperwork with the Board no later than May 27th, 2013.  
(2) On or before November 15th, 2013. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board:  
(i) A minimum, 7 classroom-hour course entitled “Write It Right”;  
(A) No examination shall be required; and,  
(ii) A minimum, 15 classroom-hour course in the USPAP  
(B) No examination shall be required;  
(3) On or before July 16, 2013, Respondent shall complete 10 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. The 10 hours of mentorship shall include:  
(i) Five (5) hours of mentorship in sales comparison data analysis with 2.5 of those hours dealing with analysis, methods and techniques related to adjustments; and, 2.5 hours dealing with selection of comparable sales; and  
(ii) Five (5) hours of mentorship in the cost approach, with at least 3 of those hours dealing with analysis, calculation, methods, techniques and reporting related to depreciation and obsolescence.  
(4) Fully cooperate with the Board’s ongoing investigation(s) against...[FOR A COMPLETE ORDER, PLEASE SUBMIT OPEN RECORDS | **Complaint No.:** 12-183  
**Reason for Complaint:**  
The complaint alleged that the Respondent produced appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”).  
**Summary of Violations Found:**  
(1) Respondent violated provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 (a) and 153.20(a)(3).  
(2) Respondent made material misrepresentations and omissions of material facts as prohibited by 22 TEX. ADMIN. CODE § 153.20(a)(9). |
<table>
<thead>
<tr>
<th>Name</th>
<th>License No.</th>
<th>Board Action Taken</th>
<th>Complaint No.</th>
<th>Reason for Complaint</th>
<th>Summary of Violations Found</th>
</tr>
</thead>
<tbody>
<tr>
<td>HARRIS, Brad K.</td>
<td>TX-1323199-G</td>
<td>(1) Based on the above findings of fact and conclusions of law, the Board ORDERS that Respondent’s Texas state certification (TX-1323199-G) is hereby SUSPENDED for a period of 12 months, effective 5:00 p.m., CT on May 17th, 2013 and ending 5:00 p.m., CT on May 17th, 2014. (2) IT IS FURTHER ORDERED that Respondent pay an administrative penalty in the amount of $5,000 on or before 5:00 p.m. on Friday, June 7th, 2013. Payment of the $5,000 administrative penalty shall be made in 10, equal, monthly installment payments of $500.00.</td>
<td>09-119 &amp; 12-169</td>
<td>The complaints alleged that the Respondent produced appraisal reports for the properties that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the “Act”) and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”).</td>
<td>Respondent violated provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).</td>
</tr>
<tr>
<td>Lic. # TX-1321290-R</td>
<td>Dallas</td>
<td>(1) IT IS THEREFORE ORDERED by the Texas Appraiser Licensing and Certification Board that the appraisal certification of Tom M. Curran is hereby SUSPENDED for a period of one year, effective twenty-one days after the date Tom M. Curran is notified of this Final Order, with that suspension being fully PROBATED for that same one year period; (2) IT IS FURTHER ORDERED that Tom M. Curran is hereby assessed an administrative penalty of $5,000.00, payable in full on or before twenty-one days after the date Tom M. Curran is notified of this Final Order; (3) IT IS FURTHER ORDERED that Tom. M. Curran complete twenty-eight hours of in-person mentorship conducted by a mentor appointed by the Board on or before the end of the one-year probated suspension order herein.</td>
<td>09-214, 09-256, 10-043, &amp; 11-181</td>
<td>The complaints alleged that the Respondent produced appraisal reports for the properties that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the “Act”) and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”).</td>
<td>Respondent violated the following USPAP Standards in effect in 2006-2007: the Ethics Rule regarding recordkeeping and USPAP Standards 1-1(a)-(c), 1-2(e)(i) &amp; (iv), 1-3(a) &amp; (b), 1-4(a) &amp; (b)(iii), 1-5(a) &amp; (b), 1-6(a) &amp; (b), 2-2(b)(ii) &amp; (viii); (2) By making omissions of material facts in his appraisals, Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(9) (this rule was renumbered without substantive changes effective December 27, 2012, and is now located at 22 TEX. ADMIN. CODE § 153.20(a)(12)).</td>
</tr>
<tr>
<td>CLANTON, Eric</td>
<td>TX-1337041-R</td>
<td>(1) EDUCATION. On or before November 15th, 2013, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board: (i) A minimum 7 classroom-hour course in the Sales Comparison Approach; and, (ii) A minimum 7 classroom-hour course in the Cost Approach. (2) MENTORSHIP. On or before August 15th, 2013, Respondent shall complete 8 hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. The 8 hours of mentorship shall include: (i) At least 3 hours on the sales comparison approach; (ii) At least 3 hours on the cost approach; and, (iii) At least 2 hours on analysis and report writing in a residential appraisal context.</td>
<td>13-092</td>
<td>The complaint alleged that the Respondent produced appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the “Act”) and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”).</td>
<td>(1) Respondent violated provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6). (2) Respondent made material misrepresentations and omissions of material facts as prohibited by 22 TEX. ADMIN. CODE § 153.20(a)(12).</td>
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### Board Enforcement Actions...

<table>
<thead>
<tr>
<th>AGUILAR, Jose Luis</th>
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<tbody>
<tr>
<td>Lic. # TX-1334753-L Edinburg</td>
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</tbody>
</table>

**Board Action Taken:**

1. **EDUCATION.** On or before May 17, 2014, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board:

   (i) A classroom course in Residential Cost Approach, a minimum of fifteen (15) class hours;

   (ii) A classroom course in Residential Sales Comparison Approach, a minimum of fifteen (15) class hours;

   (iii) A classroom course in USPAP, a minimum of fifteen (15) class hours.

2. **MENTORSHIP.** On or before May 17, 2014, Respondent shall complete sixteen (16) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor on or before the due date listed for each mentorship requirement:

   (i) Sixteen (16) hours of mentorship concerning the noted violations in the findings of fact.

3. **EXPERIENCE LOG.** On or before May 17, 2015, Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of twelve (12) months starting after the due dates for the education and mentorship (from May 17, 2014 to May 17, 2015). The log shall detail all real estate appraisal activities Respondent has conducted during that twelve (12) month period. This log shall be signed by Respondent and contain a notarized affidavit at the log is true, complete and accurate. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments Respondent performs during the course of this twelve (12) month period within twenty days of receiving any such request.

4. **ADMINISTRATIVE PENALTY.** On or before June 6, 2013. Pay to the Board an administrative penalty of two thousand five hundred dollars ($2,500.00), by certified funds, within twenty (20) days of the effective date of this order.

**Complaint No.: 10-349**

**Reason for Complaint:**

The complaint alleged that the Respondent produced appraisal reports for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the “Rules”).

**Summary of Violations Found:**

1. Respondent violated provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).

2. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by misrepresenting and omitting material facts.
As of this writing, the real estate inspector housekeeping bill (House Bill 2911) has been passed by the Legislature and is awaiting final action by the Governor. The bill contains provisions designed to upgrade the caliber of real estate inspectors in Texas and conform agency practices related to inspectors to match those used by TREC for its other licensees. The bill adds a fingerprinting requirement and criminal history background review of license holders, provides a late renewal provision for inspectors, grants applicants a full year to complete the application process, and contains language that enables TREC to better communicate with inspectors.

The bill also clarifies that an inspector seeking to reinstate a license under 1102.110 must complete the current continuing education requirements prior to reinstatement. It also requires some field training for those applicants who achieve licensure through the enhanced education alternative prior to a license holder commencing actual client inspections.

Finally, the bill clarifies the current mandated financial responsibility requirements by adding a bond alternative to E&O coverage, under which TREC could continue to issue and renew licenses. This alternative also allows inspectors to continue to work should the market cease to provide E&O coverage. Once the Governor signs the bill, we will begin detailed planning for its implementation.

In addition, legislation was passed regarding timeshare owners associations, occupational licenses for veterans, military spouses, and active military personnel, and the authority of members of governmental bodies to meet via video conference. For more details on those legislative actions, please see this month’s Advisor.

The full text of these bills can be found on the Texas Legislature Online website www.capitol.state.tx.us.
From the Chair…

The Inspector Committee met on April 12, welcoming Lee Warren to his first meeting as an Inspector member of the TREIC. At this meeting we considered all of the comments received from the industry and advanced the updated Standards of Practice (SoP) rules and Report Form (Form) to the Commission with no additional changes. At its meeting on May 6th, the Commission approved for adoption the updated Standards of Practice and corresponding changes to the standard report form with an effective date of January 1, 2014. Until then, the current SoP and Form remain mandatory and after 1/1/14, the new SoP and Form become mandatory and the old SoP and Form will no longer be allowed. There is no “transition” period, but rather an immediate substitution. The effective date was delayed for 7 months to allow for educators and forms providers to plan ahead.

These updates have been two years in the making, and despite a very few remaining “nay-sayers”, we believe that the majority of our industry fully supports these timely updates to our SoPs. We received no opposition to any of the proposals from any of our industry trade associations, and many members were fully engaged in the process.

Speaking of positive support, many thanks are owed to the professional associations for their role in assisting with the passage of HB 2911, a bill that provides late renewal rights for inspectors, a full year for new applicants to complete licensing requirements, eliminates the onerous 6-month waiting period for students who need multiple tries to pass the exam, and allows the addition of an “in the field” training component for students who complete the “fast-track” education alternative path to licensing. All of these provisions were supported by 100% of the associations. The bill also clarifies the insurance requirement – while making no changes to it, and allows for a bonding option if insurance becomes unavailable. While initially targeted for dissolution with a refund to inspectors, no changes were made to the Recovery Fund. While the majority of inspectors supported these improvements, a limited group worked for their removal from the bill. The bill is currently in the Governor’s office for consideration.

The Committee relies on both qualified inspectors and willing public members to fulfill its mission. Two public member openings will be filled in August and I encourage all interested parties to consider applying to serve for a proposed two-year term (down from 6) on the committee as a service to the citizens of Texas. Public member volunteers are often hard to find, so we also urge inspectors to recommend someone you know who might be willing to serve in this valuable role.

The Commission and the Committee continue to work cooperatively to improve the ability of inspectors to serve the needs of real estate buyers and sellers. Your input is always welcomed.

Important Dates to Remember

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
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<tbody>
<tr>
<td>TREIC Education Subcommittee Meeting</td>
<td>June 7</td>
</tr>
<tr>
<td>TREIC Committee Meeting</td>
<td>July 26</td>
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