



# TREC Advisor

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

**INSIDE THIS ISSUE: *May I Advertise My Team, Group, or Other Assumed Name?* (page 1), *From the Chair* (page 2), *Agency Staffing Update* (page 3), *Revised Contract Forms* (page 4), *Adopted Rule Actions* (page 8), *Proposed Rule Actions* (page 10), *TREC Enforcement Matters* (page 12)**

## *May I Advertise My Team, Group, or Other Assumed Name?*

*"If the team name includes the name of a salesperson, the name may not imply that the salesperson is responsible for the operations of a real estate brokerage."*

What are the advertising implications when a team or group of license holders in a brokerage firm work together and wish to advertise under a team or other assumed 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 may advertise using that name. The broker's name does not need to be included in the advertisement, since the assumed name is the broker's. To clearly identify that the advertiser is a real estate license holder, the advertisement must include the additional designation of "agent", "broker", or a trade association name. As always, the sponsoring broker remains responsible for a team's advertising.

If the team name includes the name of a salesperson, the name may not imply that the salesperson is responsible for the operations of a real estate brokerage. For example, a name such as "Sally

Salesperson and Associates" or "Sally Salesperson and Company" improperly implies that the salesperson is responsible for the operation of a brokerage, even when the broker's name is included in the advertising. Using a name such as the "Sally Salesperson Team" or the "Sally Salesperson Group", however, does 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.

A broker or salesperson must clearly and conspicuously include the broker's name in all advertising and may use a broker's assumed name if it has been filed with TREC. A broker must notify the Commission within 30 days of starting or stopping the use of an assumed name. 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 phone number or other contact information in the advertisement. To file an assumed name with the Commission, a broker may use the [TREC DBA-2 form](#) available on the TREC website.

For more information on advertising, see Chapter 5 of the current version of the [Ethics Update course](#) available on the TREC website.

At our routine Spring quarterly meeting on April 28<sup>th</sup>, the Commission met to advance its important work of ensuring effective regulation of real estate service providers in Texas. At our meeting, we heard progress reports from three of the Commission's advisory committees – the Inspector Committee, the Educations Standards Advisory Committee and the Broker Responsibility Working Group, from our Budget Committee, and from the Administrator and staff. There has been a lot of activity during March and April and for that we offer our sincere gratitude to the many volunteers who staff these advisory working groups.

We learned that the Recovery Trust Account is in fair shape, but will likely require some attention next legislative session to better clarify the types of claims eligible for payment from the fund. We approved a plan by Garza/Gonzales for our annual internal audit. We heard a progress report on the Strategic Planning process and reviewed a first draft of the 2015 budget. After some significant additional work by Commissioners and staff on these items, both will be finalized at our next meeting.

As part of our required quadrennial rule review process, we approved previously published amendments to several rules including TAC Chapters 531, 533 and 534. Several related forms were updated as well and are available on the agency's website. Rule amendments were proposed for TAC Chapters 533, 535 and

541; and Chapters 537, 539 and 543 were opened for review. These proposals are found on the agency website and in the Texas register and we invite your consideration and comments.

The much anticipated update to some standard contract forms were approved and are effective for mandatory use on June 1, 2014. These are also on the agency website. Thanks to the Broker Lawyer Committee for clarifying some important terms that affect several contracts and for their dedication to continuously listening to the needs of buyers and sellers in the Texas marketplace. Their work is a uniquely valuable feature of Texas' regulatory environment.

Remember that all of our meetings are webcast for the convenience of our license holders and the public. For links to watch from your computer or mobile device, check our [www.trec.texas.gov](http://www.trec.texas.gov) website on meeting day. Videotapes and materials for prior meetings are also stored there for viewing at any time.

Our next regularly scheduled meeting is on August 18th at 10 a.m. If you can, please stop by and meet the Commissioners and staff. We are always happy to see you. Until then, we hope you each have a great summer! Stay healthy and hydrated, and make some time for recreation with your family and friends. We plan to do the same. Enjoy!



**Avis Wukasch, Chair**

### IMPORTANT DATES TO REMEMBER

- **JULY 8** - Education Standards Advisory Committee Meeting
- **JULY 18** - Broker-Lawyer Committee Meeting
- **AUGUST 5** - Broker Responsibility Working Group

*Check the [TREC website](http://www.trec.texas.gov) regularly for postings of all of our upcoming meetings.*



**STELLA PRE'JEAN** *Standards & Enforcement Division*

After obtaining her license as a Texas real estate salesperson, Stella Pre'Jean joined TREC as a Legal Assistant in the Standards & Enforcement Division on June 2, 2014. Before her return to Austin, Stella attended College of the Canyons in California where she enrolled in their Paralegal Studies program. After acquiring her real estate license in California, she practiced there as well for several years and worked as a Legal Assistant at a Beverly Hills law firm where she assisted with real estate and corporate legal matters. Now that she found her way home, she spends any spare time gardening, working out, or doing fun things with her family and little Malti-poo Bella.



**CINDY WILSON** *Staff Support Services Division*

Cindy was joined Staff Support Services on May 1 as the agency's purchaser. She has been with the state of Texas for 20 years as of last September when she was hired on a temporary basis as a purchasing clerk at the Texas Rehabilitation Commission. She ended up being hired permanently and believes it's the best thing that ever happened to her. She has worked for a variety of agencies, including the Office of the Attorney General, the Railroad Commission, the Employees Retirement System, and Texas Juvenile Justice Department. Most recently she worked for the Texas Historical Commission. She has a Certified Texas Procurement Manager (CTPM) and Certified Texas Contract Manager (CTCM) certifications.



**CRYSTAL STOWELL** *Education & Licensing Division*

Crystal joined TREC as a Customer Service Representative in the Reception and Communication Services Division on August 12, 2013. As of May 19, 2014 Crystal is now apart of the Education and Licensing Services Division as an Education Specialist. Prior to joining TREC, Crystal worked at Kohl's as an Operations Area Supervisor and has 7 years of customer service experience. In her spare time, Crystal enjoys spending time with her family and friends, shopping, and watching TV.

**After much input from license holders and hours of hard work by the Broker Lawyer Committee, the Commission, over the course of the last two meetings, approved revised standard contract forms and addenda, a new addendum and an addendum for optional use. Mandatory use of the revised contract forms begins June 1, 2014. The forms may be downloaded from the [TREC website](#). The [redlined version](#) of the changes made to the contract forms are also available on our website. Below is a summary of the specific changes made to each form.**

**TREC No. 20-12, One to Four Family Residential Contract (Resale)**

- The definition of "Property" is moved from the end of Paragraph 2 to the beginning of the paragraph.
- In Paragraph 2B(2) the reference to "satellite dish system and equipment" and in Paragraph 2C(2) the reference to "satellite dish systems" are removed to avoid confusion since sellers generally do not own this equipment.
- In Paragraph 4 a parenthetical instruction "(Not for use with reverse mortgage financing)" is added after the title to alert users of the form that this paragraph does not address that type of financing.
- Paragraph 6.A.(8) is amended to provide a choice of whether the exception shall be amended to read "shortages in area" and a choice of whether the buyer or seller shall pay for it.
- The third sentence in Paragraph 6.B regarding delivery of Commitment and Exception Documents is amended to read "...the time for delivery will be automatically extended up to 15 days or 3 days before the Closing Date, whichever is earlier" to foreclose the delivery of such documents at closing.
- A new paragraph 6.E.(9) is added to alert sellers of property in a propane gas system service area that a new statutory notice must be given.
- Paragraph 7.D is amended to define "As Is" as "the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract."
- The notice after paragraph 7.D is moved to the body of the paragraph after the definition of "As Is" and the defined term "As Is" is added to that sentence and subparagraphs (1) and (2) to replace "in its present condition."
- The parenthetical at the end of paragraph 7.D is changed to add "and treatments" at the end of the sentence.
- The first two sentences of Paragraph 7. F is rewritten to clarify that the phrase "Unless otherwise agreed in writing" at the beginning of the first sentence applies to both sentences.
- The second sentence in Paragraph 7.F is amended to clarify that, if no license is required by law to perform a repair or treatment, all repairs and treatments must be performed by persons "who are commercially engaged in the trade of providing such repairs or treatments" rather than "authorized by law to provide such repairs or treatments." A handyman

- who regularly performs miscellaneous property repairs for payment is included in the definition of a person who is "commercially engaged in a trade."
- Paragraph 7.F is amended to change the number of days in the last sentence from 15 to 5 days regarding the Buyer's option to extend the Closing Date if Seller fails to complete agreed repairs and treatments prior to closing.
  - Paragraph 9B(5) is amended to specify that it applies to "residential leases and removes the requirement to "deliver to Buyer the lease(s) and the move in condition form signed by the tenant, if any" from the closing section and puts it in Paragraph 10.
  - The current text under Paragraph 10 was retitled "A. Buyer's Possession" to accommodate the addition of a new subsection B regarding delivery of copies of leases from Paragraph 9 and a new agreement that seller will not execute any leases or convey any interest in the Property after the effective date without buyer's written consent.
  - Paragraph 16 is amended to remove the mediation check boxes to require mediation to resolve disputes between Buyer and Seller related to the contract.
  - Paragraph 22 is amended to add a box for the new Addendum for Property in a Propane Gas System Service Area.
  - Paragraph 23 is amended to provide that the Seller or Listing Broker must pay the option fee within 3 days after the effective date of the contract instead of 2 days.

- The "Consult an Attorney" notice in Paragraph 24 is rewritten to add the phrase "before signing" to the title and delete the last sentence that currently contained that provision to increase clarity.
- The last page is amended to clarify that the agents should not sign on the blank lines; they should insert their names only.

### **TREC No. 9-11, Unimproved Property Contract**

Amendments to TREC No. 9-11, Unimproved Property Contract are the same as those adopted for TREC Form No. 20-12 except as follows:

- There are no changes to Paragraph 2.
- Paragraph 7.E(1) is amended to be the same as Paragraph 7.H(1) in Form 25-10, Farm and Ranch Contract.
- Paragraph 7.E(3) regarding environmental hazards is amended to change "any environmental hazards or conditions affecting" to "any environmental hazards that materially and adversely affect" the Property.
- Paragraph 9B(5) is removed since it refers to a residential lease which will not occur on unimproved property.

### **TREC No. 23-13, New Home Contract (Incomplete Construction)**

Amendments to TREC No. 23-13, New Home Contract (Incomplete Construction) are the same as those adopted for TREC Form No. 20-12, except as follows:

- There are no changes to Paragraph 2.
- The only amendment to Paragraph 7 is in 7.I (3) regarding seller's disclosure of environmental hazards, where it is amended to

change "any environmental hazards or conditions materially affecting" to "any environmental hazards that materially and adversely affect" the property.

- Paragraph 10 is amended by adding a new Paragraph 10.B regarding leases wherein the Seller agrees not to execute any lease or convey any interest in the Property after the effective date without the Buyer's written consent.

### **TREC No. 24-13, New Home Contract (Completed Construction)**

Amendments to TREC No. 24-13, New Home Contract (Completed Construction) are the same as those adopted for TREC Form No. 20-12 except as follows:

- There are no changes to Paragraph 2.
- Paragraph 7.H(3) regarding seller's disclosure of environmental hazards is amended to change "any environmental hazards or conditions materially affecting" to "any environmental hazards that materially and adversely affect" the property.
- Paragraph 10 is amended by adding a new Paragraph 10.B regarding leases wherein the Seller agrees not to execute any lease or convey any interest in the Property after the effective date without the Buyer's written consent.

### **TREC No. 25-10, Farm and Ranch Contract**

Amendments to TREC No. 25-10, Farm and Ranch Contract are the same as those adopted for TREC Form No. 20-12, except as follows:

- Paragraph 2 is amended to refer to addenda or specific provisions for exclusions and reservations.

- Paragraph 7.H(3) regarding seller's disclosure of environmental hazards is amended to change "any environmental hazards or conditions materially affecting" to "any environmental hazards that materially and adversely affect" the property.
- The check box for the Addendum for Reservation of Oil, Gas and Other Minerals is removed to avoid mistakes since that addendum is not sufficient for use in with this type of property.
- The last page is not amended.

### **TREC No. 30-11, Residential Condominium Contract**

- Amendments to TREC No. 30-11, Residential Condominium Contract are the same as those adopted for TREC Form No. 20-12 except as follows:
- The definition of "Property" in Paragraph 2 did not change.
- Paragraph 2.B(3) is deleted as a typographical error.
- No changes were made to paragraph 6.A.(8).

### **TREC No. 37-5, Subdivision Information, Including Resale Certificate**

Amendment to TREC No. 37-5, Subdivision Information, Including Resale Certificate for Property Subject to Mandatory Membership in a Property Owners' Association are as follows:

Amended Paragraph H to more closely track statutory changes to Chapter 207, Property Code.

### TREC No. 40-5, Third Party Financing Addendum

Amendments to TREC No. 40-5, Third Party Financing Addendum for Credit Approval are as follows:

- An instructional note is added that this addendum is not for use with reverse mortgage financing.
- New paragraph E is added to reference USDA Guaranteed Financing.

### TREC No. 47-0, Addendum for Property in a Propane Gas System Service Area

New TREC No. 47-0, Addendum for Property in a Propane Gas System Service Area, is adopted to provide the statutory notice required under Section 141.010, Utilities Code when the property is in such a service area. The Utilities Code also requires that a copy of the notice the dis-

tribution system retailer is required to record in the real property records be attached to this addendum.

### TREC No. OP-H, Seller's Disclosure of Property Condition

Section 6 of form OP-H, Seller's Disclosure of Property Condition, is amended to change the definition of rainwater harvesting systems pursuant to House Bill No. 2781.

### TREC No. OP-N, Reverse Mortgage Financing Addendum

A new form TREC No. OP-N, Reverse Mortgage Financing Addendum, is adopted for voluntary use since neither Paragraph 4 in the Standard Contract forms nor the Third Party Financing Addendum adequately address this type of financing.

## REQUIRED UPDATE FOR REAL ESTATE PRINCIPALS I AND II

New curriculum requirements were approved for Real Estate Principles I and II courses in September of 2013. TREC rule (535.62 requires previously approved Real Estate Principles I and II courses to be revised to meet the new curriculum requirements. Any previously approved Estate Principles I and II courses that have not been revised to meet the new curriculum requirements will not be accepted for core course credit for classroom courses offered after September 5, 2014 or for alternative delivery courses offered after December 5, 2014.

Real Estate Principles I and II course providers should revise and submit these new courses to the Commission in advance of those deadlines to allow time for review and approval and to ensure continued availability of courses to students.

Keep in mind that because of the anticipated volume there may be a 30-day or more turnaround time from receipt by the Commission to review and approve courses. Education providers have the option of combining the two courses if they adhere to the required topics, subtopics and time frames. To offer these two courses in a combined 60 hour format, the provider may submit the curriculum forms specific to each course along with the core course application and all additional required items. The Core Real Estate Course Application (ED CA-2) and Core Real Estate Course Approval Forms for [Principles of Real Estate I \(PRINSI-0\)](#) and [Principles of Real Estate II \(PRINS2-0\)](#) are located at the [TREC website](#).

**ADOPTED RULES**

*The following is a summary of the amendments to TREC Rules adopted at the April 28, 2014 meeting of the Commission. Unless otherwise noted, they will be effective May 21, 2014. You can see the full text of the rules at the [Recently Adopted Rules section](#) of the TREC website.*

**§§535.62 Acceptable Courses of Study, §535.64, Obtaining Approval to Offer a Course**

The amendments to §535.62 add Real Estate Finance as new subsection (f), which is a 30 hour core course with specific topics, subtopics, and units, with mandated time periods in which instructors must teach each topic or subtopic. The addition of subsection (f) requires the re-lettering of the remaining subsections in the rule. The amendments to §535.64 add a new subsection (h)(5) to adopt by reference a form to be used by schools in requesting approval to offer the new Real Estate Finance course.

**§535.212 Education and Experience Requirements for a License**

The amendments further clarify the implementation of the field work requirement permitted by House Bill 2911. The amendments create two options for obtaining substitute experience going forward that emphasize the importance of hands on training and keep a third option from the rules in effect prior to HB 2911 until February 28, 2015, to ensure that there are adequate alternatives available to applicants and to allow providers time to develop more courses that comply with the first two options. The amendments also reduce the number of hours required for the classroom or alternative delivery interactive training modules in the first two options to help

control costs and promote hands-on training. Please note that the third option, which contains no actual field work, is only available to applicants who could not reasonably complete the substitute experience requirement using the first two options and an affidavit approved by the Commission must be submitted prior to taking the modules under the third option.

**§535.218 Continuing Education**

The amendments increase the number of hours a licensee can take in any one subject area per renewal period from 12 to 16, to adopt by reference a course approval form for the Texas Standards of Practice/Legal/Ethics Update Course, and to clarify that government entities and certain nationally recognized building organizations do not have to be a Commission approved provider for licensees to receive continuing education credit for courses that have been approved by those entities.

**§535.223 Standard Inspection Report Form**

The amendments notify consumers that an inspector may include contractual terms or attach a service agreement or inspection contract to the standard form, to clarify that an inspector may change the standard form as necessary to allocate additional space for comments in the "Additional Information Provided by Inspector" section and in the sections for each inspected item, to clarify that an inspector may also attach additional pages for comments and to adopt by reference

changes to the standard inspection form, Property Inspection Report Form REI 7-4. The Property Inspection Report Form was revised to add a notice to the consumer that although the inspector may include contractual terms in or attached the form, the Commission does not regulate contractual terms between the parties and consumers should consult an attorney if they do not understand those terms. This new report form is available for voluntary use now and will be mandatory beginning September 1, 2014.

**§535.231 Standards of Practice: Minimum Inspection Requirements for Plumbing Systems**

The amendments correct parts of subsection (a) which are misnumbered. The error in numbering affected the interpretation of the section, inadvertently requiring action that is not actually required, resulting in misunderstanding of the rule.

**Chapter 537 Professional Agreements and Standard Contracts**

The following revised contract forms were adopted by reference through amendment to Chapter 537:

- TREC Form No. 20-12, One to Four Family Residential Contract (Resale)
- TREC Form No. 9-11, Unimproved Property Contract
- TREC No. 23-13, New Home Contract (Incomplete Construction)
- TREC No. 24-13, New Home Contract (Completed Construction)
- TREC No. 25-10, Farm and Ranch Contract
- TREC No. 30-11, Residential Condominium Contract

(The proposed Mutual Termination Contract

Form was sent back to the Broker Lawyer Committee for additional consideration)

The Commission also adopted a new form **OP-N Reverse Mortgage Financing Addendum** for voluntary use.

**The revised Contract Forms were adopted for mandatory use effective June 1, 2014.**

**For a summary of the changes made to the forms, see the article in this issue.**

**Chapter 531, Cannons of Professional Ethics and Conduct**

Amendments to this chapter were adopted following a comprehensive rule review and provide clarity and consistency by restructuring, and correcting terminology. Please see our website for the specific amendments.

**Chapter 533, Practice and Procedure**

Amendments to this chapter were adopted following a comprehensive rule review and better reflect current TREC procedures and to simplify, use consistent terminology and clarify where needed. To this end, several sections were restructured, modified and expanded. Please see our website for the specific amendments.

**Chapter 534, General Administration**

Amendments to this chapter were adopted following a comprehensive rule review and provide standard citations and consistent terminology and clarify where needed. Please see our website for the specific amendments.

**PROPOSED RULES**

The following amendments to or new rules were proposed at the April 28, 2014 meeting of the Commission. You can see the full text of these rules on the “Proposed Rules” section of the [TREC Website](#). Comments may be submitted to the [general counsel](#) before June 25, 2014.

**§533.3, Filing and Notice**

The proposed amendments move a reworded subsection 533.4(b) to subsection (a) as a more logical location for that provision; establish that calculation of timeframes for replying to notices are from the date sent; add language that notices may also be sent by email for evidence of actual knowledge; remove the specific form number in the title; reorganize and edit the rest of the section to better reflect current procedures; note in general where the Administrative Procedures Act and SOAH’s procedural rules are applicable; and clarify and simplify the rule for greater understanding.

**§533.4, Failure to Answer, Failure to Attend Hearing and Default**

The proposed amendments provide clarity and consistency by restructuring, renumbering, streamlining wording and correcting terminology and establish that calculation of timeframes for replying to notices are from the date sent. Subsection (b) was moved to §533.3(a) as a more logical location for that provision. Subsection (f) was moved and edited from §533.2 (a) as a more logical location for that provision.

**§533.9, Computation of Time**

This proposed new rule sets out the criteria used to calculate time for sending or receiving any required notice for clarity and consistency in calculating dates.

**§535.146, Maintaining Trust Money**

This proposed new rule is made following a comprehensive rule review to better reflect cur-

rent TREC procedures regarding the handling of trust money and to simplify and clarify where needed. The proposed new rule combines and will replace §535.146, Failure to Properly Account for Money; Commingling; 535.159, Failure to Properly Deposit Escrow Monies; and 535.160, Failing to Properly Disburse Escrow Money.

**§541.1, Criminal Offense Guidelines**

The proposed amendments clarify the scope of the bribery offense, add offenses for felonies involving the manufacture, delivery, or intent to deliver controlled substances to the list of criminal offenses that TREC considers when determining a person’s ability to perform the duties and responsibilities of persons licensed by TREC, remove language that is duplicative of the Texas Criminal Code, and add clarity and consistency of terminology throughout TREC Rules.

**§541.2 Criminal History Evaluation Letters**

The proposed amendments make conforming terminology changes to the rule.

**§537.43, Standard Contract Form TREC No. 36-7, Addendum For Property Subject to Mandatory Membership in a Property Owners’ Association**

The proposed amendment adds a reference to Paragraph E of the addendum to Paragraph C of the addendum.

**§537.51. Standard Contract Form TREC No. 44-1, Addendum for Reservation of Oil, Gas and Other Minerals**

The proposed amendments add an instructional note that this addendum is not for use with the TREC Farm and Ranch Contract form; remove the definition of “mineral estate” and change the portion reserved by a seller from a percentage interest to a fractional interest to better align with industry practices; revise the language regarding surface rights for better clarity; and revise the language regarding “Consult an Attorney” to be consistent with that provision in other TREC contract forms.

**RULE REVIEW**

**The following Chapters were opened for a comprehensive rule review:**

- a. 2 TAC Chapter 537, Professional Agreements and Standard Contracts
- b. 22 TAC Chapter 539, Provisions of the Residential Service Company Act
- c. 22 TAC Chapter 543, Rules Relating to the Provisions of the Texas Timeshare Act

**NEW/REVISED FORMS**

**The following new forms were adopted at the April meeting of the Commission. Unless otherwise noted, all are effective immediately:**

- INSA-0, Affidavit Regarding Substitute Experience Field Work Requirement
- INS\_ED\_INE-1, Instructor Application – Inspector Core and ICE Non-Elective Courses
- REI\_1-4, Inspection Log
- ICE\_IAE-1, Instructor Application – ICE

<i>Name &amp; Location</i>	<i>Order</i>	<i>Basis for Order</i>					
<p>Case#: <b>140528,140382</b>                      QUINONES, SUSAN MARIE</p> <p>(license # 492186) Real Estate Broker /                      Salesperson-I                      COPPERAS COVE(CORYELL)</p> <p>Effective Date: 4/28/2014</p> <table border="1" data-bbox="61 548 483 737"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.652(a)(05)</td> </tr> <tr> <td>1101.652(a)(06)</td> </tr> <tr> <td>1101.652(b)(09)</td> </tr> </tbody> </table>	Violation(s)	1101.652(a)(05)	1101.652(a)(06)	1101.652(b)(09)	<p>Six-month suspension of salesperson license.                      Assessment of an administrative penalty of \$11,000.00.</p>	<p>Consumer Complaint                      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. Respondent failed within a reasonable time to properly account for or remit money received from tenants that belonged to the property owner. Respondent entered into property management agreements with two different owners. Respondent failed to properly handle money received or properly account for the money.</p>	
Violation(s)							
1101.652(a)(05)							
1101.652(a)(06)							
1101.652(b)(09)							
<p>Case#: <b>140910,131873</b>                      JONES, MARISSA</p> <p>(license # 572108) Real Estate Broker /                      Salesperson-I                      CYPRESS(HARRIS)</p> <p>Effective Date: 4/11/2014</p> <table border="1" data-bbox="61 1245 483 1480"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.351(a)</td> </tr> <tr> <td>1101.652(b)(02)</td> </tr> <tr> <td>1101.652(b)(09)</td> </tr> <tr> <td>1101.652(b)(26)</td> </tr> </tbody> </table>	Violation(s)	1101.351(a)	1101.652(b)(02)	1101.652(b)(09)	1101.652(b)(26)	<p>Ordered to cease and desist all unlicensed real estate brokerage activities. Assessment of an administrative penalty of \$20,000.00.</p>	<p>Consumer Complaint                      Respondent entered into a property management agreement and named herself and an unlicensed entity as the broker. Respondent accepted rent checks made out to the unlicensed entity and failed to forward or account to the owner for two of those rent checks. Respondent controlled the acceptance or deposit of rent without a real estate license and negotiated a lease of real estate without holding a real estate license.</p>
Violation(s)							
1101.351(a)							
1101.652(b)(02)							
1101.652(b)(09)							
1101.652(b)(26)							
<p>Case#: <b>140910,131873</b>                      MACA PROPERTY MANAGEMENT LLC,</p> <p>(license # 0) None                      CYPRESS(HARRIS)</p> <p>Effective Date: 4/11/2014</p> <table border="1" data-bbox="61 1770 483 1864"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.351(a-1)</td> </tr> </tbody> </table>	Violation(s)	1101.351(a-1)	<p>Ordered to cease and desist all unlicensed real estate brokerage activities. Assessment of an administrative penalty of \$10,000.00.</p>	<p>Consumer Complaint                      Respondent entered into a property management agreement without holding a real estate license and tenant made out the rent checks to Respondent. Respondent entered into a property management agreement and controlled the acceptance or deposit of rent without holding a real estate license.</p>			
Violation(s)							
1101.351(a-1)							

<i>Name &amp; Location</i>	<i>Order</i>	<i>Basis for Order</i>				
<p>Case#: <b>131090,140954</b> JOHNSON, CARL RENE SR</p> <p>(license # 585579) Real Estate Broker / Salesperson-I HOUSTON(UNKNOWN )</p> <p>Effective Date: 4/15/2014</p> <table border="1" data-bbox="61 541 488 730"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>22 TAC 535.002(a)</td> </tr> <tr> <td>22 TAC 535.002(g)</td> </tr> <tr> <td>22 TAC 535.002(i)</td> </tr> </tbody> </table>	Violation(s)	22 TAC 535.002(a)	22 TAC 535.002(g)	22 TAC 535.002(i)	<p>Agreed reprimand of broker. Agreed administrative penalty of \$4,000.00.</p>	<p>Consumer Complaint Respondent failed to advise his sponsored salesperson of the scope of her authorized activities and did not provide training, advice, or supervision to her. Respondent failed to ensure that his salesperson's advertising complied with the Rules of the Commission. Respondent failed to provide the Commission copies of his written office policies and procedures.</p>
Violation(s)						
22 TAC 535.002(a)						
22 TAC 535.002(g)						
22 TAC 535.002(i)						
<p>Case#: <b>122004</b> WADE, CHAD EVIN</p> <p>(license # 590367) Real Estate Broker / Salesperson-I HOUSTON(HARRIS)</p> <p>Effective Date: 4/11/2014</p> <table border="1" data-bbox="61 1052 488 1241"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.652(a)(03)</td> </tr> <tr> <td>22 TAC 535.144(b)</td> </tr> <tr> <td>22 TAC 535.154(c)</td> </tr> </tbody> </table>	Violation(s)	1101.652(a)(03)	22 TAC 535.144(b)	22 TAC 535.154(c)	<p>Revocation of broker license. Assessment of an administrative penalty of \$14,000.00.</p>	<p>Consumer Complaint Respondent acted as principal and bought and sold property without disclosing in writing that he was a license holder. Respondent misrepresented to buyer that he was the owner of a property when he was not. Respondent advertised that he was a real estate broker when he was not. Respondent prepared a fraudulent settlement statement reflecting a sale from him to buyer. The fraudulent settlement statement falsely indicated that buyer had received a title policy and that a closing had occurred at a title company. Respondent did not provide an original deed to the buyer and did not record the deed from himself to the buyer. Respondent's business card, which he used in the course of real estate brokerage activity, did not contain the name of Respondent's sponsoring</p>
Violation(s)						
1101.652(a)(03)						
22 TAC 535.144(b)						
22 TAC 535.154(c)						
<p>Case#: <b>131283</b> HURST, BRIANNA</p> <p>(license # 0) None KILLEEN(BELL)</p> <p>Effective Date: 4/1/2014</p> <table border="1" data-bbox="61 1780 488 1871"> <thead> <tr> <th>Violation(s)</th> </tr> </thead> <tbody> <tr> <td>1101.351(a)</td> </tr> </tbody> </table>	Violation(s)	1101.351(a)	<p>Ordered to cease and desist all unlicensed real estate brokerage activities. Assessment of an administrative penalty of \$15,000.00.</p>	<p>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 negotiating and executing leases as the landlord while employed by a broker who provided leasing and property management services for property owners.</p>		
Violation(s)						
1101.351(a)						

<i>Name &amp; Location</i>	<i>Order</i>	<i>Basis for Order</i>				
<p>Case#: <b>130937</b> TEAM LUPE L&amp;L, LLC</p> <p>(license # 0) None KILLEEN(BELL)</p> <p>Effective Date: 4/1/2014</p> <table border="1" data-bbox="61 489 492 583"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.351(a)</td> </tr> </table>	Violation(s)	1101.351(a)	<p>Ordered to cease and desist all real estate brokerage activities. Assessment of an administrative penalty of \$25,000.00.</p>	<p>Consumer Complaint Respondent never held a real estate broker license and engaged in leasing and property management services for property owners associated with and owned by a real estate broker.</p>		
Violation(s)						
1101.351(a)						
<p>Case#: <b>131833,131456</b> GRAY, JESSICA</p> <p>(license # 0) None KILLEEN(BELL)</p> <p>Effective Date: 4/1/2014</p> <table border="1" data-bbox="61 882 492 976"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.351(a)</td> </tr> </table>	Violation(s)	1101.351(a)	<p>Ordered to cease and desist all real estate brokerage activities. Assessment of an administrative penalty of \$5,000.00.</p>	<p>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 negotiating and executing leases as the landlord while employed by a broker who provided leasing and property management services for property owners.</p>		
Violation(s)						
1101.351(a)						
<p>Case#: <b>140332,120835,121103,121339,121833,130937,131228,131559,131618,131833</b> TOWN LINE PROPERTIES, LLC</p> <p>(license # 0) None KILLEEN(BELL)</p> <p>Effective Date: 4/1/2014</p> <table border="1" data-bbox="61 1339 492 1434"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.351(a)</td> </tr> </table>	Violation(s)	1101.351(a)	<p>Ordered to cease and desist all real estate brokerage activities. Assessment of an administrative penalty of \$50,000.00.</p>	<p>Consumer Complaint Respondent never held a real estate broker license and engaged in leasing and property management services for property owners associated with and owned by a real estate broker.</p>		
Violation(s)						
1101.351(a)						
<p>Case#: <b>140521</b> STEGALL, DAVID ARCHER</p> <p>(license # 544245) Real Estate Broker / Salesperson-I SUGAR LAND(UNKNOWN )</p> <p>Effective Date: 4/1/2014</p> <table border="1" data-bbox="61 1759 492 1932"> <tr> <th>Violation(s)</th> </tr> <tr> <td>1101.652(a)(01)</td> </tr> <tr> <td>1101.652(a)(02)</td> </tr> <tr> <td>1101.652(a)(09)</td> </tr> </table>	Violation(s)	1101.652(a)(01)	1101.652(a)(02)	1101.652(a)(09)	<p>Agreed two-year suspension of salesperson license fully probated for two years. Agreed administrative penalty of \$2,000.00.</p>	<p>Consumer Complaint Respondent pled guilty to a felony offense. Respondent failed to notify the Commission within 30 days after entry of a plea of guilty or nolo contendere to a felony offense, and failed to disclose this in his renewal.</p>
Violation(s)						
1101.652(a)(01)						
1101.652(a)(02)						
1101.652(a)(09)						

# TALCB Bulletin



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

INSIDE THIS ISSUE: *Standard 3* (page 1), *From the Chair* (page 2), *New Board Members Appointed* (page 3), *AMC Items of Interest* (page 5), *TALCB Rule Actions* (page 8), *TALCB Enforcement Actions* (page 10)

## *Standard 3 – The Misunderstood Review Standard (Part 2)*

**PART 1 OF THIS ARTICLE WAS PUBLISHED IN THE APRIL 2014 EDITION OF THE TALCB BULLETIN.**

### ***When is an Appraisal Review more than a Standard 3 Review?***

One of the more confusing issues related to appraisal review assignments is when the reviewer goes beyond providing the client with only an appraisal review.

Please recognize that it is not a USPAP Standard 3 requirement for a reviewer to provide his or her own opinion of value of the property. Likewise when the reviewer is reviewing an appraisal review performed by another appraiser, the reviewer does not have to provide an opinion of the quality of the underlying appraisal.

When the reviewer considers offering these additional opinions two questions should be answered. First, is a separate opinion of value or opinion regarding the quality of the underlying appraisal report required as part of the assignment? Second, what are the additional USPAP requirements triggered by providing these additional opinions?

Again, these separate opinion(s) are assignment conditions that a client may require. Standard 3 does not require them. Recognize though, when the reviewer develops an opinion of value of the

property under review, or an opinion of the original appraisal in a review of an appraisal review, additional USPAP requirements must be met.

When developing the reviewer's own opinion of value or review opinion, the reviewer's scope of work must comply with those Standards applicable to the development of the opinion as described in Standards Rule 3-3(c). These requirements apply whether the reviewer simply concurs with or differs from the opinions and conclusions of the work under review or develops a more comprehensive opinion. The

*"Please recognize that it is not a USPAP Standard 3 requirement for a reviewer to provide his or her own opinion of value of the property. Likewise when the reviewer is reviewing an appraisal review performed by another appraiser, the reviewer does not have to provide an opinion of the quality of the underlying appraisal."*

line between developing and communicating an opinion about the quality of another appraiser's work and going beyond that point by offering the reviewer's opinion of value (or review opinion) may be very thin. Advisory Opinion-20 (*An Appraisal Review Assignment That Includes the Reviewer's Own Opinion of Value*)

**SEE "STANDARD 3" ON PAGE 4**

At the Board's May 9 meeting, we said goodbye to two Board members and welcomed two new volunteers. Attorney Shannon McClendon of Austin and Attorney Keith Kidd of Paris were replaced by Attorney Jesse Barba of McAllen and Engineer Brian Padden of Austin. Ms. McClendon was appointed to serve on another board and Mr. Keith was called to duty with the US Army. We are grateful to them both for their service to the people of Texas as public member policy makers. We welcome Mr. Barba and Mr. Padden and look forward to their contributions.

Routine business we accomplished included approving 14 Agreed Orders, progress reports from all 4 committees of the Board and staff, adopting revisions to Chapter 157 of the rules, proposing revisions to Chapter 153 and opening Chapter 159 as part of the quadrennial rule review process. Details of the rule review process are found on the [agency's website](#).

As part of our biennial strategic planning process, we heard a progress report from the Commissioner and reviewed the first draft of the FY 2015 budget. At our next meeting on August 15<sup>th</sup>, we will review the final draft of the 2015-2019 Strategic Plan and approve our FY2015 budget. Before then, lots of work remains to be done to ensure we thoroughly evaluate all of the recommendations received during our public input

sessions this Spring. All of our committees will be meeting to advance this important planning process.

Notably, we have posted on our agency website both general and detailed charts graphically displaying the steps in the complaint management

process. This has taken some time to ensure both accuracy and clarity. Check them out, and let us know what you think. Thanks.

Lastly, if you've ever considered serving on the Board in the future, the process begins with an application filed with the Governor's Appointments Office. Check out the Board member page of the [TALCB website](#) for more details and a link to the Governor's office. If you'd like a personal perspective of what this service means to the profession and to the public, I'm sure any Board member would be willing to share their experiences with you. Contact information for each of us is also found on that same page. We welcome your interest.



Chair, Jamie Wickliffe

**ATTENTION TALCB LICENSE HOLDERS**

**Online services are now available for initial applications.**

**Please visit the [TALCB website](#) for information about which services are available online.**

**Appraiser Trainee & Supervisor Course Approval Form Now Available for Education Providers**

TALCB staff are preparing for the new Appraiser Qualification Board (AQB) criteria that will become effective January 1, 2015. One of the new criteria is the requirement that both the Appraiser Trainee and eligible sponsoring appraiser be required to complete a course that complies with the specifications for course content established by the AQB. This course must be completed by the Appraiser Trainee prior to obtaining an Appraiser Trainee license. In addition,

sponsors must complete this course prior to sponsoring a trainee.

An [Appraiser Trainee & Supervisor Course approval form](#) is available at the TALCB website for education providers who want to develop or offer this course.

For more information and a full list of new criteria please go to the [Appraisal Foundation's website](#).

## TALCB Board Members Appointed

*Governor Perry has appointed two new public members to the Appraiser Licensing & Certification Board.*

AUSTIN, TX - Governor Perry has appointed Jesus (Jesse) Barba, Jr. and Brian L. Padden as public members to the Texas Appraiser Licensing & Certification Board for a term set to expire January 31, 2016. Mr. Barba and Mr. Padden replace Attorney Shannon McClendon and Attorney Keith Kidd whose terms have expired.

Jesse Barba of McAllen is an attorney for Cox Smith Matthews Inc, and is board certified in commercial and residential real estate law. He is a member of the State Bar of Texas, the State Bar of Texas Real Estate, Probate, and Trust Law Section and the Real Estate Forms Manual Committee. He is also a board member of the Valley Land Fund, past chair of the Hidalgo County Bar Real Estate Section and past board member of Leadership McAllen and El Buen Pastor Early Childhood Development Center. Barba received a bachelor's degree from Baylor University, a master's degree from the Lyndon B. Johnson School of Public Affairs, and a law degree from the University of Texas School of Law.

Brian Padden of Austin is president and owner of Padden Engineering, and is a registered professional engineer and certified environmental engineer. He is a diplomate of the American Academy of Environmental Engineers and Scientists, an associate member of the American Society of Civil Engineers, and a member of the Order of the Engineer, Water Environment Federation and Water Environment Association of Texas. He is a past board member, chair-

man, and vice chairman of the Texas On-Site Wastewater Treatment Research Council. He is also a life member of the University of Texas Ex-Students Association and a charter member of the University of Texas Club. He served in the U.S. Navy Reserves. Padden received a bachelor's degree in civil engineering from the University of Texas at Austin

The Texas Appraiser Licensing & Certification Board works to protect the public through the agency's programs of education, licensing and regulation to ensure that real estate appraisers and appraisal service providers are competent and trustworthy. More information on the Board and its programs can be found on the [Board's website](#).

### ***Ever Considered Serving on the Board?***

The TALCB is a nine-member Board composed of four certified real estate appraisers and four public members appointed by the Governor to serve staggered two-year terms. The Executive Secretary of the Texas Veterans Land Board is the ex-officio ninth member. Daily administration of the Board is entrusted to the Commissioner, who also serves as Administrator of the Texas Real Estate Commission.

If you would like to be considered for potential appointment to serve on the Board, please contact the [Governor's office](#) to submit an application package.

## CONTINUED FROM PAGE 1

provides a number of illustrations to assist in spotting this possible compliance pitfall.

So, when the reviewer develops a separate opinion of value of the real property appraised (in addition to reviewing the appraisal), Standard 1 would apply in addition to Standard 3. In the case of a separate opinion of the quality of the work under review in addition to a review of the appraisal review itself, Standard 3 would apply for both opinions.

In either instance the reviewer's scope of work: 1) may differ from that of the work under review; 2) may have the same or different effective date from that of the work under review; and 3) the reviewer is not required to replicate the steps completed by the original appraiser. Those items developed by the original appraiser, which the reviewer deems credible, may be extended to the reviewer's development process by an extraordinary assumption. Those items not deemed credible must be replaced with information or analysis in accordance with the applicable Standard, so as to produce credible assignment results.

When communicating an opinion of value or review opinion related to the work under review, the reviewer must: 1) state which information, analyses, opinions, and conclusions in the work under review the reviewer accepted as credible and used in developing his or her opinion and conclusions; 2) summarize any additional information relied on and the reasoning for the reviewer's opinion of value or review opinion related to the work under review; and 3) state all extraordinary assumptions and hypothetical conditions connected to the reviewer's

opinions as well as stating that their use might have affected assignment results.

Note that the reviewer may include his or her separate opinions within the appraisal review report without preparing a separate report. However in the case of real property, the data and analysis provided by the reviewer to support different opinions or conclusions must, at a minimum, match the appraisal report requirements for an Appraisal Report (Standards Rule 2-2(a)), except for the certification requirements. Appraisal review certifications are addressed under Standards Rule 3-6.

In summary, Standard 3 provides the appraiser with a great deal of flexibility when performing an appraisal review. However, this flexibility means the appraisers providing a review must take the time necessary to understand the requirements of the assignment, develop the appropriate scope of work, and then comply with the applicable parts of USPAP.

This overview should not be considered a substitute for the appraiser or reviewer's responsibility to consult the current edition of USPAP. While this overview attempts to cover the major issues relevant to appraisal reviews, there are nuances that are not addressed here. The Comments provided in Standard 3 should assist in identifying and applying these nuances.

The Appraisal Standards Board provides a number of tools to assist appraisers in understanding USPAP requirements for appraisal review assignments. Of particular interest would be the COMPETENCY RULE and the Comments previously mentioned. Additionally, AO-20 (*An Appraisal Review Assignment That Includes the Reviewer's Own Opinion of Value*), and AO-21 (*USPAP Compliance*) illustrate how Standard 3 might be applied. Last, but not least, there are 21 *Frequently Asked Questions* (FAQs) related to appraisal reviews in the current edition of USPAP, including FAQ-292 (*When Does Standard 3 Apply*), FAQ-306 (*Reviewer's Own Opinion of Value and Scope of Work*) and FAQ-309 (*Review Appraiser Bias*).

## IMPORTANT DATES TO REMEMBER

- JULY 18 - TALCB AMC Advisory Committee Meeting
- AUGUST 15 - TALCB Meeting

Check the TALCB website regularly for postings of all of our upcoming meetings.

***Who Will Ensure I Receive a Reasonable and Customary Appraisal Fee in Texas?***

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Regulation Z of Title 12, the Truth in Lending Act (“TILA”), requires that, in any covered transaction, a creditor, including the creditor’s agents, which is inclusive of Appraisal Management Companies (“AMCs”), “compensate a fee appraiser for performing appraisal services at a rate that is customary and reasonable for comparable appraisal services performed in the geographic market of the property being appraised.” 12 C.F.R. § 226.42(f)(1) (2010). TILA provides for two presumptions for creditor compliance with the customary and reasonable fee requirement, however, unfortunately, the Federal Reserve Board did not specifically identify appropriate recent rates in the relevant geographic market, appraisal fee schedules, surveys or studies which would suffice as a safe harbor for creditors to comply with the customary and reasonable fee requirement of TILA.

In lieu of clarification, the Federal Reserve Board offered two presumptions for compliance, (1) conduct their own survey of reasonable and recent

rates for comparable appraisal services in the relevant geographic market, subject to enumerated factors and free of any anticompetitive acts in violation of state or federal law (Presumption of compliance, § 226.42(f)(2)), or (2) rely on objective third-party information, including fee schedules, studies and surveys prepared by independent third parties such as government agencies, academic institutions, and private research firms; which must be based on recent rates for comparable appraisal services in the relevant geographic market and be exclusive of compensation paid to fee appraisers by AMCs (Alternative presumption of compliance, § 226.42(f)(3)).

In September 2011, the State of Texas implemented legislation to regulate AMCs, Texas Occupations Code Chapter 1104, the Texas Appraisal Management Company Registration and Regulation Act (the “Act”); which regulation commenced on July 2012. To clarify the Act, the Texas Appraiser Licensing and Certification Board (the “Board”) promulgated rules pertaining to the provisions of the Act, 22 Texas Administrative Code

**CONTINUED ON THE NEXT PAGE**

**Before Accepting an Assignment, Appraisers are Required to Verify AMC Registration in Texas**

Board rule 153.20(a)(25) requires an appraiser to use “reasonable due diligence” to verify that an AMC is registered in Texas, or exempt from registration, before accepting an assignment.

When an appraiser receives an assignment from an AMC, it takes very little time to go to the [up-to-date list of all registered AMCs](#) on [TALCB’s website](#) and check this list.

If the AMC is not on the Board’s list of registered AMCs, the appraiser should ask for confirmation from the AMC that the AMC is exempted by law from registration before accepting the assignment. Receiving written confirmation (letter or email) is recommended, since it pro-

vides evidence of due diligence. If the appraiser has some form of evidence that the appraiser verified the AMC’s status, the appraiser will not be sanctioned under the Board’s rule if it is later found that the AMC was not operating legally in Texas.

If the AMC is on the list, the appraiser must be on that AMC’s panel prior to accepting the assignment. The appraiser should know if he or she is on the AMC’s panel because the appraiser will have received an invitation to join the panel via email, and either accepted or declined the invitation. If the appraiser is not on the panel, the appraiser needs to ask the AMC to invite the appraiser to join its panel before accepting an assignment from that AMC.

**CONTINUED FROM PAGE 4**

***Who Will Ensure I Receive a Reasonable and Customary Appraisal Fee in Texas?***

Chapter 159 (the “Rules”). In regard to customary and reasonable fees, Texas Occupations Code Section 1104.157, Compensation of Appraisers and 22 Texas Administrative Code Rule 159.157, Compensation of Appraisers provide the scope of jurisdiction the Board has in enforcing creditor payment of customary and reasonable fees.

Specifically, Section 1104.157(a)(2) requires that creditors conducting business in Texas “compensate appraisers at a rate that is reasonable and customary for appraisals being performed in the market area of the property being appraised consistent with the presumptions under federal law [supra].” To clarify, Rule 159.157(a) requires AMCs to compensate appraisers in accordance with a compensation policy the AMC establishes in order to pay customary and reasonable fees; which must be in accordance with the presumptions under federal law. AMCs are required to reassess their compensation policies annually and must retain records of the information used to derive their compensation policies for a period of five years. 22 Tex. Admin. Code § 159.157(b). In addition, AMCs are mandated to make available to panel members their adopted fee schedule under their compensation policy (22 Tex. Admin. Code § 159.157(c)) and not require an appraiser to sign a certification that an appraisal fee is customary and reasonable (22 Tex. Admin. Code § 159.157(d)).

For appraisers who believe they were not paid a customary and reasonable fee, they may file a complaint with the Board, on the Board proscribed AMC complaint form, against the AMC; but only if the matter remains unresolved after the appraiser completes the AMC’s dispute resolution process, as required under Section 1104.162 Tex. Occ. Code § 1104.157(b).

This explanation begs the question, how will the Board help appraisers in Texas with complaints against AMCs, whom they believe, did not rightly pay them a customary and reasonable fee? The an-

swer is found in Section 1104.157 and Rule 159.157. The Board will ensure the AMC has a compensation policy, which is in accordance with the requirements of and any presumptions under federal law, that the compensation policy is reassessed annually, that the AMC retains records justifying the compensation policy for a period of five years, that the compensation policy is made available to panel members, and that the AMC is not requiring an appraiser to sign a certification that a fee is customary and reasonable. Note, this does not mean the Board will determine what exactly is a customary and reasonable fee or what exactly the specific presumptions are.

The appropriate government regulator with whom to file a complaint regarding a creditor’s compliance with the customary and reasonable fee requirement under TILA is the government agency that enforces TILA for the specific creditor. If the AMC is an agent on behalf of a federally-regulated creditor, the appropriate agency is the affiliated creditor’s federal regulator. If the AMC is an agent for a non-federally regulated creditor, the appropriate agency to file a complaint with is the Federal Trade Commission (“FTC”). To identify the appropriate federal regulator for a creditor, complainants may use the following websites:

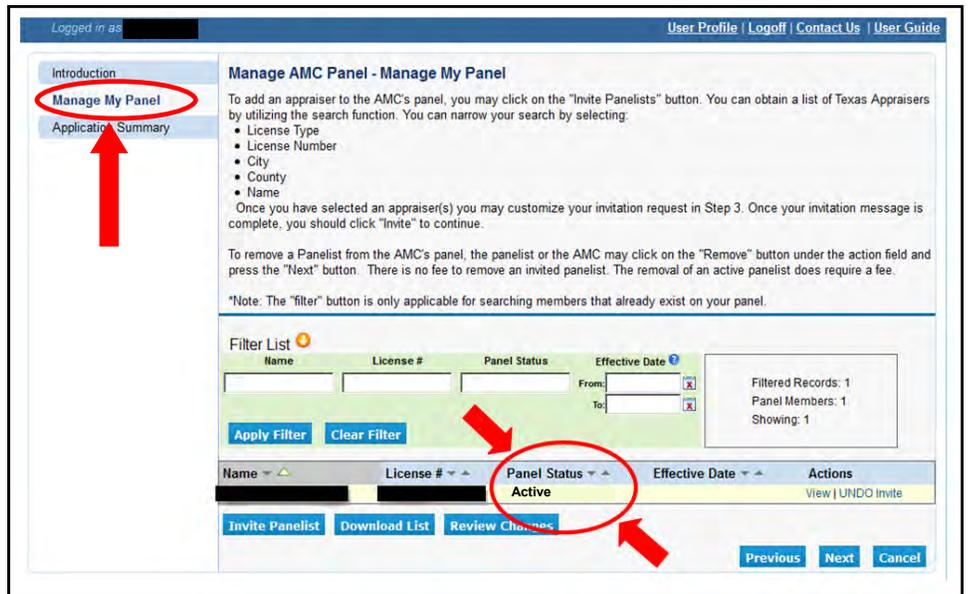
- [Federal Reserve System – National Information Center](#)
- [FDIC Bank Find](#)
- [Federal Financial Institutions Examination Council](#)
- [Securities and Exchange Commission Bank Regulators](#)

To file a complaint against a non-federally regulated creditor, visit the [FTC’s Bureau of Consumer Protection website](#).

To seek clarification regarding TILA and customary and reasonable fees, complainants may contact the [Federal Reserve Board](#).

**ATTENTION AMCs: Do You Have Any Outstanding Panel Invitations?**

An AMC cannot send an appraiser an assignment until the AMC has invited the appraiser to join its panel **AND** the appraiser has accepted the invitation. AMCs must ensure that any appraiser sent an assignment is actually part of the AMC's panel. AMCs can easily verify whether an appraiser has accepted the AMC's invitation by signing in to the AMC's My License Online Services account and



accessing the TALCB's Panel Management Tool, by selecting "Manage AMC Panel" from the Quick Start Menu, and simply checking the "Panel Status" of the appraiser. If the appraiser's status does not show "Active," then that appraiser has not accepted the AMC's invitation to join its panel, and the AMC cannot send the appraiser an assignment.

***Is it time to renew your AMC registration?***

TALCB began the registration process for AMCs doing business in Texas in March 2012. It is time for any AMCs that registered at that time to renew their registration to continue doing business in Texas. A renewal must be completed within 180 days of the expiration date of the AMC's current registration, **and an AMC must renew its panel at the same time the AMC renews its registration.**

While an AMC **cannot renew on inactive status**, it can elect to be placed on inactive status after renewal by submitting the [Appraisal Management Company \(AMC\) Request For Inactive Status form](#).

Details about renewing an AMC's registration can be found on the [TALCB Website](#).

## ADOPTED RULES

The adopted rules will be effective June 8, 2014 and can be found on [our website](#) .

**22 TAC §153.1. Definitions:** Amendments were adopted to correct grammatical errors, clarify or remove outdated and redundant definitions, and better reflect the current qualification criteria of the Appraiser Qualifications Board.

### 22 TAC Chapter 157:

- a. 22 TAC §157.3. Scope of Rules
- b. 22 TAC §157.4. Computation of Time
- c. 22 TAC §157.5. Conduct and Decorum
- d. 22 TAC §157.6. Request for Advisory Opinions
- e. 22 TAC §157.7. Denial of a License
- f. 22 TAC §157.8. Adverse Action Against a Licensee or Registrant
- g. 22 TAC §157.9. Notice of Hearing
- h. 22 TAC §157.11. Contested Cases; Entry of Appearance; Continuance
- i. 22 TAC §157.12. Failure to Attend Hearing; Default Judgment
- j. 22 TAC §157.13. Ex Parte Consultations
- k. 22 TAC §157.14. Informal Disposition
- l. 22 TAC §157.15. Decision
- m. 22 TAC §157.17. Final Decisions and Orders
- n. 22 TAC §157.18. Motions for Rehearing; Finality of Decisions
- o. 22 TAC §157.20. Judicial Review
- p. 22 TAC §157.25. Temporary Suspension

Amendments were adopted following a comprehensive rule review for this chapter to better reflect current TALCB procedures and to simplify and clarify where needed. The adopted amendments capitalize the term “Board” and replace the term “licensee” with “license holder” throughout the Chapter. In addition, adopted amendments to §157.7 clarify the action the Board takes when it determines an application should be denied.

## PROPOSED RULES

The proposed rules will be up for adoption at the August 15, 2014 meeting of the Board and can be found on [our website](#). Comments on proposed rules should be sent to [TALCB’s General Counsel](#) on or before June 29, 2014.

### 22 TAC Chapter 153:

- a. 22 TAC §153.3. The Board
- b. 22 TAC §153.5. Fees
- c. 22 TAC §153.8. Scope of Practice
- d. 22 TAC §153.9. Applications
- e. 22 TAC §153.10. Issuance of Certification, License, or Trainee Approval
- f. 22 TAC §153.11. Examinations
- g. 22 TAC §153.13. Educational Requirements
- h. 22 TAC §153.15. Experience Required for Certification or Licensing
- i. 22 TAC §153.17. Renewal or Extension of Certification and License or Renewal of Trainee Approval

- j. 22 TAC §153.18. Appraiser Continuing Education (ACE)**
- k. 22 TAC §153.19. Licensing and Certification for Persons with Criminal Histories**
- l. 22 TAC §153.20. Guidelines for Revocation, Suspension, Denial of Licensure or Certification; Probationary Licensure**
- m. 22 TAC §153.21. Appraiser Trainees and Sponsors**
- n. 22 TAC §153.23. Inactive Status**
- o. 22 TAC §153.24. Complaint Processing**
- p. 22 TAC §153.25. Temporary Out-of-State Appraiser Registration**
- q. 22 TAC §153.26. Identity Theft**
- r. 22 TAC §153.27. Certification and Licensure by Reciprocity**
- s. 22 TAC §153.33. Signature or Endorsement of Appraisal**
- t. 22 TAC §153.37. Criminal Matters Referred to Law Enforcement**

Amendments are proposed following a comprehensive rule review for this

chapter to better reflect current TALCB procedures, to conform TALCB rules with criteria established by the Appraiser Qualifications Board, and to simplify and clarify where needed. The proposed amendments capitalize the term “Board” and replace the term “licensee” with “license holder” throughout the Chapter. The proposed amendments also remove redundant or unused provisions and restructure certain rules to improve readability.

#### **RULE REVIEW**

**Chapter 159, Rules Relating to the Provisions of the Texas Appraisal Management Company Registration and Regulation Act, was opened for a comprehensive rule review. Comments on Chapter 159 can be sent to [TALCB's General Counsel](#).**

**Chapter 155, Rules Relating to Standards of Practice, and Chapter 157, Rules Relating to Practice and Procedure, were closed for review.**

Name & Location	Action Taken	Reason	Summary
<p><b>ZACOUR, Paul George</b> Lic. # TX-1322726-G El Paso</p>	<p><i>Board Action Taken:</i> The Board ORDERS that Respondent's Texas appraiser certification be suspended, effective 5:00 p.m. (CST) on May 9th, 2014 and ending at 5:00 p.m. (CST) on May 8th, 2015. IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on May 9th, 2014, the suspension is to be fully probated for 12 months, ending 5:00 p.m. (CST) on May 8th, 2015, subject to the following terms and conditions:</p> <p>(1) MENTORSHIP. On or before September 9th, 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. The 8 hours of mentorship shall include: (a) 2 hours in the cost approach; (b) 4 hours in research, selection and analysis of comparable sales; and (c) 2 hours in research, analysis and reporting of prior sales and listing history;</p> <p>(3) EXPERIENCE LOG. On or before March 23rd, 2015. Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board for the immediately preceding 30-day period.</p> <p>(4) ADMINISTRATIVE PENALTY. On or before May 29th, 2014. Respondent shall pay to the Board an administrative penalty of seven hundred and fifty dollars (\$750.00) by certified funds.</p>	<p><i>Complaint No.:</i> 13-256</p> <p><i>Reason for Complaint:</i> Thereafter, a complaint was filed with the Board by Rene Garcia, the owner of the property, claiming the appraisal report contained various deficiencies.</p>	<p><i>Summary of Violations Found:</i> (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) (6).</p> <p>(2) Respondent violated 22 TEX. ADMIN. CODE § 153.20(12) by making material misrepresentations and omissions of material fact.</p>
<p><b>WU, Chencheng Jack</b> Lic. # TX-1322574-G Seabrook</p>	<p><i>Board Action Taken:</i> The Board ORDERS that Respondent's Texas state certification (TX-1322574-G) is hereby suspended for twelve (12) months, with this suspension being fully probated under the following terms and conditions:</p> <p>(1) TRAINEES. Respondent shall not sponsor any trainees for one (1) year, beginning on May 9, 2014 and ending on May 9, 2015.</p> <p>(2) MENTORSHIP. On or before May 9, 2015. 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. (a) Eight (8) hours of mentorship concerning the above-noted violations in the findings of fact, on or before May 9, 2015.</p> <p>(3) PREVENTATIVE POLICIES AND PROCEDURES. On or before May 9, 2015. Respondent shall promulgate, adopt and implement written, preventative policies and/or procedures addressing the above-noted deficiencies in his professional appraisal practice. Respondent shall submit the written, preventative policies and/or procedures to the Board, on or before May 9, 2015.</p> <p>(4) ADMINISTRATIVE PENALTY. On or before May 29, 2014. Respondent shall pay to the Board an administrative penalty of two thousand dollars (\$2,000.00), by cashier's check or money order, within twenty (20) days of the effective date of this Agreed Final Order (i.e. on or before May 29, 2014).</p>	<p><i>Complaint No.:</i> 13-251</p> <p><i>Reason for Complaint:</i></p>	<p><i>Summary of Violations Found:</i> (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) (6).</p> <p>(2) Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material omissions of material fact.</p>

<i>Name &amp; Location</i>	<i>Action Taken</i>	<i>Reason</i>	<i>Summary</i>
<p><b>SHIAO, Christopher</b> Lic. # TX-1336510-L Garland</p>	<p><i>Board Action Taken:</i> The Board ORDERS:</p> <p>(1) EDUCATION. On or before May 9, 2015. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. (a). A classroom course on USPAP, a minimum of fifteen (15) class hours, on or before May 9, 2015. (b). A classroom course on Report Writing, a minimum of fifteen (15) class hours, on or before May 9, 2015.</p> <p>(2) MENTORSHIP. On or before May 9, 2015. 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.</p> <p>(a) Eight (8) hours of mentorship concerning the above-noted violations in the findings of fact, on or before May 9, 2015.</p>	<p><i>Complaint No.:</i> 14-018</p> <p><i>Reason for Complaint:</i></p>	<p><i>Summary of Violations Found:</i></p> <p>(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)(6).</p> <p>(2) Respondent violated 22 TEX. ADMIN. CODE § 153.20(12) by making omissions of material fact.</p>
<p><b>HARRISON, Raymond Cloud Jr.</b> Lic. # TX-1324528-G</p>	<p><i>Board Action Taken:</i> The Board ORDERS:</p> <p>(1) EDUCATION. On or before May 8th, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board.</p> <p>(A). A minimum 15 classroom hour course in USPAP.</p> <p>(2) MENTORSHIP. On or before November 8th, 2014, 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:</p> <p>(A.) 4 hours of mentorship in the cost approach;</p> <p>(B.) 4 hours of mentorship in sales comparison approach</p>	<p><i>Complaint No.:</i> 13-328</p> <p><i>Reason for Complaint:</i></p>	<p><i>Summary of Violations Found:</i></p> <p>(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).</p> <p>(2) Respondent made omissions of material facts as prohibited by 22 TEX. ADMIN. CODE § 153.20(a) (12).</p>
<p><b>HARRISON, Raymond Cloud Jr.</b> Lic. # TX-1324528-G</p>	<p><i>Board Action Taken:</i> The Board ORDERS:</p> <p>(1) EDUCATION. On or before May 8th, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board.</p> <p>(A). A minimum 15 classroom hour course in USPAP.</p> <p>(2) MENTORSHIP. On or before November 8th, 2014, 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:</p> <p>(A.) 4 hours of mentorship in the cost approach;</p> <p>(B.) 4 hours of mentorship in sales comparison approach</p>	<p><i>Complaint No.:</i> 13-328</p> <p><i>Reason for Complaint:</i></p>	<p><i>Summary of Violations Found:</i></p> <p>(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).</p> <p>(2) Respondent made omissions of material facts as prohibited by 22 TEX. ADMIN. CODE § 153.20(a) (12).</p>

<i>Name &amp; Location</i>	<i>Action Taken</i>	<i>Reason</i>	<i>Summary</i>
<p><b>GRUBERT, Jason Paul</b> Lic. # TX-1337394-R Corpus Christi</p>	<p><i>Board Action Taken:</i> The Board ORDERS:</p> <p>(1) EDUCATION. On or before May 8th, 2015. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board.</p> <p>(a). A minimum, 15 classroom hour course in USPAP;</p> <p>(b). A minimum, 7 classroom hour course in market data analysis and highest and best use;</p> <p>(i). No exam shall be required for this course;</p> <p>(c). A minimum, 7 classroom hour course in the cost approach; and,</p> <p>(i). No exam shall be required for this course;</p> <p>(d). A minimum, 7 classroom hour course in residential report writing;</p> <p>(i). No exam shall be required for this course;</p> <p>(2) MENTORSHIP. On or before November 8th, 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.</p> <p>(a). 2 hours of mentorship in market data analysis;</p> <p>(b). 2 hours of mentorship in sales comparison approach;</p> <p>(c). 2 hours of mentorship in cost approach; and,</p> <p>(d). 2 hour of mentorship in sales and listing history analysis and disclosure.</p>	<p><i>Complaint No.:</i> 14-021</p> <p><i>Reason for Complaint:</i> Thereafter, a complaint was filed with the Board in the Complainant alleged Respondent violated various provisions of the Uniform Standards of Professional Appraisal Practice ("USPAP").</p>	<p><i>Summary of Violations Found:</i></p> <p>(1) Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).</p> <p>(2) Respondent violated 22 TEX. ADMIN. CODE § 153.20(12) by making material misrepresentations and material omissions of material fact.</p>
<p><b>GIMPEL, Duncan Clark</b> Lic. # TX-1326989-G Jasper</p>	<p><i>Board Action Taken:</i> The Board ORDERS that Respondent's Texas appraiser certification (TX-1326989-G) be suspended, effective 5:00 p.m. (CST) on May 9th, 2014 and ending at 5:00 p.m. (CST) on May 8th, 2015. IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on May 9th, 2014, the suspension is to be fully probated for 12 months, ending 5:00 p.m. (CST) on May 8th, 2015, subject to the following terms and conditions:</p> <p>(1) EDUCATION. On or before February 8th, 2015. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board.</p> <p>(a) A minimum fifteen (15) classroom hour course in USPAP;</p> <p>(2) MENTORSHIP. On or before November 8th, 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.</p> <p>(a). 4 hours of mentorship in sales comparison approach; and,</p> <p>(b). 4 hours in reporting and analyzing depreciation and obsolescence.</p> <p>(3) ADMINISTRATIVE PENALTY. On or before May 29th, 2014. Respondent shall pay to the Board an administrative penalty of five hundred dollars (\$500.00), by certified funds.</p> <p>(4) TRAINEES. Respondent shall not sponsor any new appraiser trainees during the entire twelve (12) month probation period.</p>	<p><i>Complaint No.:</i> 13-330</p> <p><i>Reason for Complaint:</i></p>	<p><i>Summary of Violations Found:</i></p> <p>(1) Respondent violated provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).</p> <p>(2) Respondent violated 22 TEX. ADMIN. CODE § 153.20(12) by making material misrepresentations and material omissions of material fact.</p>

<i>Name &amp; Location</i>	<i>Action Taken</i>	<i>Reason</i>	<i>Summary</i>
<p><b>BRAUGHT, Michael John</b> Lic. # TX-1333875-R Austin</p>	<p><i>Board Action Taken:</i> The Board ORDERS:</p> <p>(1) EDUCATION. On or before May 9, 2015. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. (a). A classroom course on USPAP, a minimum of fifteen (15) class hours, on or before May 9, 2015.</p> <p>(2) MENTORSHIP. On or before May 9, 2015. 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. (a). Twelve (12) hours of mentorship concerning the above-noted violations, on or before May 9, 2015.</p>	<p><i>Complaint No.:</i> 13-301</p> <p><i>Reason for Complaint:</i></p>	<p><i>Summary of Violations Found:</i></p> <p>(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).</p> <p>(2) Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making omissions of material fact.</p>
<p><b>BLACKMON, James Shaun</b> Lic. # TX-1335659-R College Station</p>	<p><i>Board Action Taken:</i> The Board ORDERS:</p> <p>(1) EDUCATION. On or before May 9, 2015. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. (a) A classroom course on USPAP, a minimum of fifteen (15) class hours, on or before May 9, 2015. (b) A classroom course on the Sales Comparison Approach, a minimum of seven (7) class hours, on or before May 9, 2015.</p> <p>(2) MENTORSHIP. On or before May 9, 2015. 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. (a). Four (4) hours of mentorship concerning the noted violations in the findings of fact and the sales comparison approach, on or before May 9, 2015.</p> <p>(3) TRAINEES. Respondent shall not sponsor any trainees for a twelve (12) month period, ending on May 9, 2015.</p>	<p><i>Complaint No.:</i> 13-296</p> <p><i>Reason for Complaint:</i></p>	<p><i>Summary of Violations Found:</i></p> <p>(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).</p> <p>(2) Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making omissions of material fact.</p>
<p><b>BECKER, Kenneth L.</b> Lic. # TX-1338662-R Doss</p>	<p><i>Board Action Taken:</i> The Board ORDERS that Respondent be issued a First Time Violator letter setting forth the Findings of Fact and Conclusions of Law. The Board further ORDERS that Respondent shall comply with the following terms and conditions:</p> <p>(1) EDUCATION. On or before May 8th, 2015, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. (a). Attend and complete a minimum (15) classroom course in USPAP; (b). Attend and complete a minimum (7) classroom course in residential report writing; I. No examination shall be required for this course.</p> <p>(2) IT IS FURTHER ORDERED that Kenneth Lynwood Becker is assessed an administrative penalty of \$2,000 payable in full on or before August 8th, 2014.</p>	<p><i>Complaint No.:</i> 13-224</p> <p><i>Reason for Complaint:</i> A complaint was filed with the Board, claiming the appraisal report contained various deficiencies under the Uniform Standards of Professional Appraisal Practice (USPAP).</p>	<p><i>Summary of Violations Found:</i> 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).</p>

<i>Name &amp; Location</i>	<i>Action Taken</i>	<i>Reason</i>	<i>Summary</i>
<p><b>LANGER, Michael</b> Lic. # TX-1333611-L Houston</p>	<p><i>Board Action Taken:</i> The Board ORDERS that the Respondent shall:</p> <p>(1) PROBATIONARY CERTIFICATION. Upon timely completion of all terms of this order, be issued a state certification as a residential real estate appraiser on a probationary basis as prescribed by TEX. OCC. CODE § 1103.2091 and 22 TEX. ADMIN. CODE § 153.20(k)-(m), under the conditions outlined in this order. The probationary period shall remain in effect for the first twelve month period Respondent is certified;</p> <p>(2) EDUCATION. On or before September 8th, 2014, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. (A) A minimum 7 classroom hour course in analyzing and supporting adjustments in the Sales Comparison Approach; and, (B) A minimum 7 classroom hour course in Highest and Best Use and Market Analysis;</p> <p>(3) MENTORSHIP. On or before September 8th, 2014, Respondent shall complete 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. The 16 hours of mentorship shall include: (A) 4 hours of mentorship in the sales comparison approach (B) 4 hours of mentorship in in analysis and support for adjustments in the sales comparison approach; (C) 1 hour of mentorship in the proper use or exclusion of approaches to value; (D) 2 hours of mentorship in listing history analysis; (E) 1 hour of mentorship in property description; (F) 2 hours of mentorship in highest and best use and market data analysis; (G) 2 hours of mentorship in residential report writing and work file documentation obligations;</p> <p>(4) LOGS. On or before December 15th, 2014, shall submit to the Board an appraisal experience log on a form prescribed by the Board for the period of September 9th, 2014 to December 8th, 2014.</p> <p>(5) TRAINEES. Respondent shall not sponsor any appraiser trainees during the 1-yr probationary period.</p>	<p><i>Complaint No.:</i> 14-036</p> <p><i>Reason for Complaint:</i></p>	<p><i>Summary of Violations Found:</i> 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).</p>

# INSPECTOR INSIGHT



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

***Inside this Issue:*** *Inspector Education and Experience (page 1); From the Chair (page 2)*

## Inspector Education and Experience

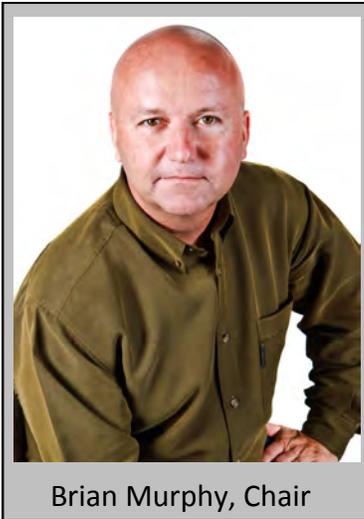
*Rules were adopted at the April 28 Commission meeting that directly affect inspector education providers, inspector applicants, and license holders. Here's a summary of what occurred and how it affects inspector stakeholders.*

- Amendments clarified implementation of the field work requirement for real estate inspector and professional inspector applicants. These requirements emphasize the importance of hands-on training. Inspector applicants for these license types can meet the substitute experience requirements through a ride along course or a live interactive webinar session as well as complete specific hours in an approved classroom or alternative delivery interactive experience training module presented by an approved instructor. Approved instructors of the ride along course are required to complete the

Certification of Completion of Ride Along Inspection Course form for credit to be awarded to students who attend these sessions. Ride along course instructors may allow up to 10 students per ride along session for pre-licensure students.

- The Commission recognizes that a ride along course or interactive webinar session may not be readily available for inspector applicants. For this reason an applicant may present the Commission with an Affidavit Regarding Substitute Experience Field Work indicating that the applicant is unable to reasonably complete the hands-on experience requirements. To allow providers time to develop courses that comply with the rules, inspector applicants may complete hours in interactive experience training modules prior to March 1, 2015.
- Inspectors are required to complete 32 continuing education hours, 8 of which must be in the Texas Standards of Practice/Legal/Ethics Update course. Sixteen of the re-

**SEE "INSPECTOR EDUCATION" ON PAGE 3**



Brian Murphy, Chair

The Commission's inspector advisory committee met on April 14 with a full agenda of items to consider and lots of interested parties in attendance, including media. This meeting was immediately preceded by meetings of the Education and Standards of Practice

subcommittees. Major topics for discussion included significant clarifications to the rules and policies regarding qualifying core and continuing education, plus potential additions to the key consumer disclosures in the standard inspection report form. The media was in attendance to hear the Committee's discussion of options regarding the reporting of corrugated stainless steel tubing (CSST) if observed during an inspection. The CSST industry and State Fire Marshall have a consumer education campaign underway to address some specific safety concerns.

As part of the agency's quadrennial rule review process and biennial strategic planning process, significant clarifications to both the qualifying core education and the always developing continuing education component are indicated. The development of the Inspector Continuing Education (ICE) program from its initial form as a "core-lite" version is one key example. Recent expansion of the hands-on experience requirements

through ride-along programs is another example. We voted to make specific recommendations to the Commission on both of these items, as well as adding some additional notice language to consumers regarding the section for "Additional Information Provided by the Inspector", a very important and flexible part of the inspection report that allows the inspector to add supplemental information that is not required by the Commission but nonetheless contains key notices for the inspector's client.

On the CSST safety education issue, the Committee determined that the current requirements of the Standards of Practice adequately deal with the safety issue, but noted that individual inspectors are free to include additional information in the section provided for that specific purpose. One suggestion was to perhaps add a link to the site at [www.csstsafety.com](http://www.csstsafety.com).

We truly appreciate the outstanding level of stakeholder participation in all of our processes. Most homes receive a functional systems inspection at the time of purchase and buyers rely on the expertise of our license holders for important facts and opinions in this valuable report. Please stay engaged so that we can ensure sound policy recommendations in this important area of consumer protection. Your comments are always sought and welcomed. Thank you.

I look forward to working with all of you to continue to address the issues and concerns of the public and our industry. Our next meeting is on July 28<sup>th</sup>. We welcome your participation.

CONTINUED FROM PAGE 1

## INSPECTOR EDUCATION

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maining 24 hours may be completed in one subject, which is an increase from the 12 hours that were previously allowed.

- A new form for the Texas Standards of Practice/Legal/Ethics Update course was developed to further detail the course outline to ensure consistency of the subject matter covered in this inspector continuing education non-elective course.
- TREC-approved proprietary schools may offer pre-licensure or core inspector courses for credit. All other education providers must become approved as an Inspector Continuing Education (ICE) or Mandatory Continuing Education (MCE) provider to of-

fer inspector continuing education elective or non-elective courses. Inspector professional trade associations are not exempt from this requirement and must also become approved to offer ICE courses.

- The inspector Property Inspection Report Form was revised to add a notice to the consumer that although the inspector may include contractual terms in or attached to the form, the Commission does not regulate contractual terms between the parties and consumers should consult an attorney if they do not understand those terms.

Forms mentioned in the above summary may be obtained from the [TREC website](#) and questions regarding the above information should be directed to [information@trec.texas.gov](mailto:information@trec.texas.gov) or 512-936-3000.

### IMPORTANT DATES TO REMEMBER

July 22 - TREIC Education Subcommittee Meeting

July 28 - TREIC SOP Subcommittee Meeting

July 28 - TREIC Committee Meeting