

IllinoisAppraiser

Which Law Applies?

INSIDE THIS ISSUE:

Dear IDFPFPR...	3
Bowl of Cherries	4
Form of Abuse	5
Complaints & Disciplines	5
Frankenstein Values	6
Web Makeover	7
Character Assassination	8

Nothing can be more confusing than trying to follow the law. This is especially true when appraisers need to make certain *which* law they need to follow.

At least **USPAP** has seemed to settle into a familiar pattern of every two years.

That wasn't always the case. Appraisers are still haunted by the 2006 version that became effective on *July 1, 2006* and lasted until *December 31, 2007*.

This meant that the 2005 **USPAP** actually covered assignments written as late as *June 30, 2006*.

Got it?

State law is an entirely different matter. Not only do we have the **Act** but we have the **Administrative Rules** to worry about.

Because **DPR** still has cases overlapping from years gone by, our prosecutors as well as the **Board** need to be clear as to what version of the law was controlling at the time an assignment was *signed*.

If an appraiser completes an assignment with an effective date of May 1, 2006 and signs the report on July 20, 2006; which version of **USPAP** applies?

The answer is the 2006 version.

But...the *effective date* was covered under the 2005 version, right?

USPAP applies to the *signature date*.

Even if the appraiser had an *effective date* of December 2, 1986, prior to the creation of **USPAP**, the signature date controls.

The Act—

In Illinois, appraisers are subject to the **Real Estate Appraiser Licensing Act of 2002**.

2002?

Our current law was substantially rewritten in 2002. Since that time, it has been *amended* and *amended*. Some stuff was added while other things were removed over the years.

The old *154 state licensed* category is one of the things that went bye-bye in a later amendment.

The **Act** has had a couple of new effective dates in the past few years.

Our current version became effective on **January 1, 2012**. The previous ver-

(Continued on page 2)



Which Law Applies?

(Continued from page 1)

sion was effective from **December 23, 2009** through **December 31, 2011**.

Administrative Rules are a tad more complicated.

Where the **Act** will tell you that a fee must be paid, the **Rules** actually spell out how much.

Administrative Rules change more frequently. Because this profession is subject to federal oversight, much of what changes is in the **Rules**, out of necessity.

Our most recent change involves the **ASC's** increase in the **National Registry** fee. Instead of \$25 the fee has jumped to \$40 beginning in 2012.

Rules tend to change at odd times. Due to the complex way in which **Rules** are vetted and adopted, they have effective dates that seem to have no rhyme or reason.

Appraiser Rules are dated in the following manner:

October 13, 2005

March 9, 2007

May 14, 2009

January 20, 2011

November 17, 2011

Unlike the **Act** which is under a single effective date, each **Rule** has a specific date. Some have survived since 2005 while others have disappeared completely.

To complicate things even more is that Illinois must *adopt* **USPAP** through the **Rules** every time it's released.

The 2006 version of **USPAP**, that became effective on **July 1, 2006**, wasn't officially recognized by **DPR** until **March 9, 2007**.

The 2008 version of **USPAP**, that became effective on **January 1, 2008**, wasn't officially recognized by **DPR** until **May 14, 2009**.

The 2010 version of **USPAP**, that became effective on **January 1, 2010**, wasn't officially recognized by **DPR** until **January 20, 2011**.

Fortunately, key portions of the Standards rarely change. So, which version of **USPAP** should you be adhering to today?

As appraisers you all *must* adhere to the current version of **USPAP** which is the **2012-2013** version.

Will Illinois ever catch up with **USPAP's** effective date?

That's hard to say. Given the way in which **Rules** are drafted and vetted in Illinois...probably not.

What you need to understand is that **USPAP** is wrapped inside state law in one way or another.

New more comprehensive appraiser **Rules** will be released for public comment soon.

Don't squander the opportunity to read and understand them.



Dear IDFPR...

We, like every other jurisdiction, receive complaints from a wide variety of sources.

Lenders, AMCs, lawyers, real estate agents and brokers, assessors, and especially other appraisers.

What are the best written complaints to process?

That's easy. The ones from consumers.

Consumers?

What do consumers know about USPAP?

In general terms?

Nothing. Consumer gripes seldom wander into **USPAP** territory. Unlike complaints that come from *pros in the know*, most consumers communicate their beef in *easy-to-understand* terms.

They don't try to spell out any Standards or Statements on Standards. They don't get twisted up in Fannie or Freddie guidelines or **USPAP** FAQs.

Consumers tell us in the simplest terms that the appraiser screwed up in their eyes. The appraiser was too high, too low, chose rotten comps, lied about the square footage, missed the basement bath, didn't do this...didn't do that.

We love it because we get it.

AMCs, lenders, compliance officers and especially other appraisers spell

out complaints in **USPAP**-ery. They try to spin Fannie or Freddie guidelines as **USPAP** fact and generally miss the mark by a country mile.

Do yourselves a favor. If you're a real estate professional...keep it simple.

IDFPR processes hundreds of **USPAP** cases each and every year. The board is constantly reading, parsing, and immersing itself in the Standards.

There are **USPAP** instructors on the board.

You're not helping the department or the board under-

stand the complaint or **USPAP** any better by interpreting it for us.

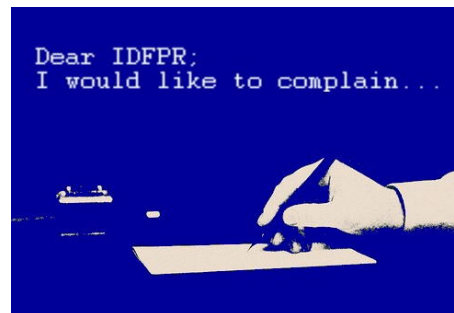
On the other end of the spectrum we still get complaints from appraisers who slap nothing more than a yellow sticky note on a report with a cryptic message like;

"I think the department should do something about this!"

Do what about what?

Trust me, I have neither the time nor the inclination to thumb through some report looking for the complaint needle in the appraisal haystack.

Say what you need to say then leave the rest to the department. If there's a **USPAP**, state law, or administrative rule violation, we'll figure it out. We promise.



Bowl of Cherries

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Provided as a service to licensed and registered Illinois appraisal professionals as well as Illinois course providers and users of appraisals. This publication promotes a greater understanding of USPAP, the Act, and the Administrative Rules of the State of Illinois.

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You won't find *cherry-picking* in any real estate appraisal dictionary, but we all know what it is.

In residential appraising it equates to skipping over more relevant sales in order to use pricier...or in some cases, less pricier sales in order to make a subject property appear to be worth something other than what it is.

Opinions Vary

Of course, one appraiser's golden comp is another's junk sale, right?

We're not talking about subtle differences between sales in the same subdivision. We're talking about an appraiser going out of his or her way to make something happen by using data that supports a preconceived opinion.

More Insidious

On the Certified General side of this problem is *financial* or *indicator cherry-picking*.

This is where an appraiser spins truth into a lie by weighting the wrong indicator or indicators.

Classic *indicator manipulation* involves dollar per square foot conclusions.

Let's say we have a 10,000 square foot, one-story store.

The appraiser chooses one sale of a 12,500 square foot store at \$65.00 per.

They choose another that's 8,000 square feet and sold at \$70.00 per.



The last sale is a 1,500 square foot building that sold for \$200.00 per.

The appraiser decides that the subject should be concluded at say... \$185.00 per square foot.

Why not?

It's in the range. Right?

Good luck sustaining that argument in a formal hearing.

Your Board is comprised of experienced appraisers from various locations throughout Illinois. There are Certified Generals and Certified Residential appraisers. They know how cherry-picking works, too.

Keep in mind:

Under Conduct

An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.

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Form of Abuse

The image shows a complex form titled 'LAND APPRAISAL REPORT'. It is divided into several vertical sections: 'SUBJECT', 'DIMENSIONS', 'SITE', 'MARKET DATA ANALYSIS', and 'RECOMMENDATION'. Each section contains numerous fields for data entry, including checkboxes, text boxes, and tables. The 'MARKET DATA ANALYSIS' section features a table with columns for 'DESCRIPTION', 'ADJUSTMENT', and 'VALUE'. The form is densely packed with information and is typical of a professional appraisal document.

The **Land Appraisal Report** is one of the most abused and misused forms in circulation.

When I was in private practice I dreaded using it and eventually denied its existence with most clients.

Land Appraisal Report? What Land Appraisal Report?

There is so much back-end writing that the form requires in order to be understood and to be **USPAP** compliant that it was just easier to do a narrative.

What should it be used for?

A singular, garden-variety subdivision lot...*maybe*.

What do we see on the complaint side?

Residential subdivisions and 500-acre farms. Yes...with *soil productivity indexes* and everything.

This *hammer-for-all-nails* approach only ends up getting licensees in over their heads. Just because these forms are available in your software package doesn't mean you should use them.

Complaints & Disciplines

Complaints have spiked since April of 2011. There are currently **326** open cases.

Over 40 complaints came in after Christmas through January. That's more than some states see in a year.

If we haven't resolved your case (*if you have one*) yet, you know why.

Walter Grimms—553.001007

REVOKED for contracting to perform a tax appeal on commercial property for a fee contingent upon the outcome.

Steven J. Almburg—Unlicensed

CEASE & DESIST plus a \$750 civil penalty for appraising without a license.

Henry K. Adamson—Application

REPRIMAND effective upon issuance following a state of Kansas discipline.

Olabode O. Rotibi—556.004166

REVOKED for developing and communicating a misleading report.

Frankenstein Values



We're all familiar with Mary Shelley's classic tale.

A mad scientist creates life from assembled graveyard parts.

A fun read except in an appraisal report.

Frankenstein values come from combining two or more improved property types in order to conclude a value somewhere in between.

For instance, we reviewed an appraisal of a slaughterhouse where the appraisers decided to combine rural residential sales along with an in-town, retail hardware store.

When asked why they selected these disparate sales we were told that the slaughterhouse had elements of rural residential and retail.

Another case had an appraiser selecting sales of strip retail along with sales of industrial warehouses to conclude a value for a retail facility on a high traffic, suburban street, with a roll-up door.

The subject was *retail* with a 43,000 *average daily traffic count*. It wasn't a 15,000 square foot pile of bricks sitting on some dusty, pot holed road where trucks rumbled on to a gravel lot to pick up and deliver propane tanks.

The subject just happened to have a roll-up door at the back.

Don't get hung up on features. Focus on the *highest & best use*.

Reese's Peanut Butter Cups

Unlike the old ads for Reese's (*you got chocolate on my peanut butter; you got peanut butter on my chocolate*), appraisers do not mix property types in order to conclude some blended value.

If it's a retail facility with a roll-up door, then find sales of other similar structures (*if that's the feature that drives the value*).

Just because hotels have beds doesn't mean we use them as comps for hospitals, does it?

This relates back to the *cherry-picking* article. Don't be misleading to the reader.

From USPAP:

(e) identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including:

(i) its location and physical, legal, and economic attributes;

In the prior examples, the appraisers needed to address the physical and economic attributes of their subjects more accurately.

These are difficult times for commercial appraisers. Sales are few and far between. Especially arm's length transactions.

But don't think of the commercial market as a graveyard you can rob to reanimate any old monster property you happen to be appraising.

Web Makeover

Pat Quinn, Governor

**Brent E. Adams,
Secretary**

**Jay Stewart
Division Director**

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Back in 2007 when I started at **IDFPR** I tried to familiarize myself with the state's website.

I found that it was organized like a circus poster and was impossible to navigate. I couldn't find forms. If I couldn't find them, then *you* couldn't find them.

In 2008 we quickly redesigned the website to make it easier and more clear.

While I'd love to have cool flash players, hover box previews, sprite windows, and rollover buttons with glossy text...it ain't happening.

We are limited in our presentation options here at the state.

To be honest, 2008 was a temporary fix because there were just too many other pressing issues. We had the **2008 AQB Criteria** changes, piles of reports to read, a new internal database to get accustomed to, an increasing complaint load and ancient files that needed to be dealt with.

Now, with AMCs soon to join appraisers on the **IDFPR** website, the big makeover is coming.

The goal is to minimize confusion. I'm crafting FAQs to cover everything from experience audits to restoring a lapsed license. It'll take time to get it all organized but in the end the website should be much easier to navigate.

Aside from the web, I'm redesigning most of the forms that appraisers and course providers need.

Many of the forms are just *out-of-date*.

I've asked your Board to review the existing forms to see if they have any suggestions for simplicity and clarity.

I've pulled up forms from other states to see if they read any better or worse. I'm trying to do away with the *but-we've-always-done-it-like-that* reasoning behind some of the language.

We're hoping to drop course provider license fees *way* down from the stratospheric \$1,050 to around \$250.

Our goal is to encourage more providers to come to Illinois and provide more educational opportunities for our licensees.

Without a doubt, 2012 will be a year of profound changes in Illinois.

What happens in this state will be watched closely by other states.



Character Assassination

Technology. Ain't it great?

As if the UAD isn't challenging enough...now appraisers face portal rejections over too many *characters*.

You may have received a similar message (*red box to the left*) from your clients as to the use of too many characters.

Essentially, critical appraisal information such as

the legal description of the subject property, your name, and your license number...need to be reduced to roughly the equivalent of a *tweet*.

This is a software issue more than anything else.

Just keep in mind that your name, as it appears in the **National Registry**, as well as your license number *must* match your report precisely.

At the advice of Board member *T. J. McCarthy*, your AMC or lender clients can select **lender override** and push it through the portal.

In the mean time, you need to address this issue with your software vendor. Don't let your ability to work be held hostage by inadequately scripted code.

This is a customer service issue between you and your software provider.

There's no point in bugging Fannie Mae over it. Don't contact **IDFPR** because there's nothing we can do for you.

Running your XML through the UAD reader, the following errors are noted: Legal description exceeds maximum of 150 characters Supervisory appraiser name exceeds maximum of 25 characters Supervisory appraiser company name exceeds maximum of 25 characters Please make necessary changes and resend XML and PDF files Also, don't forget to upload your invoice as a separate attachment.

ILLINOIS REAL ESTATE APPRAISAL ADMINISTRATION AND DISCIPLINARY BOARD

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CHICAGO

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Open to the public

