

# IllinoisAppraiser

## Transitions

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January 1, 2012 began the *gradual* shift to regulating appraisal management companies in Illinois.

Although **Public Act 97-602** began on New Year's Day, Administrative Rules are still being crafted. Nothing happens until the Rules are signed into law. Until that happens, there are no applications, fees, renewals, enforcements or anything else.

We're in a sort of legislative limbo. Limbo could last into the spring or even summer.

Before everyone starts calling and e-mailing with scads of questions, please pay attention to the following:

#### To Appraisers

Before you get too excited, keep in mind that the **AMC Registration Act** is intended to level the playing field...for *consumers*. This isn't an Act to *protect* appraisers from AMCs.

IDFPR is *not* going to be your bill collector.

IDFPR will *not* get you *more* money for the assignments that you accept.

IDFPR will *not* be changing your turn times.

You're all adults. Figure out what arrangements are in your own best interest.

Work for clients who pay. Work for clients who pay reliably. Read the agreements *before* you sign them. In other words, be responsible for your own success in 2012.

#### Customary and Reasonable?

The Act provides for a survey to be completed by the end of 2012. However, no one is clear as to what the C&R survey will mean in practical terms.

#### To AMCs

If you're going to function in Illinois you'll need to understand your *own Act and Rules* as well as the **Appraiser's Act and Rules**.

*"Appraisal management companies shall **not** interfere with adherence to the Uniform Standards of Professional Appraisal Practice or the Real Estate Appraiser Act of 2002 or a subsequent Act by individuals licensed under the respective Acts."*

Illinois is not mandating that AMC personnel take **USPAP** or a course on state law. However, its in your own best interest to understand them both. Ignorance of either will not be a mitigating factor in a complaint.

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## Transitions

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### What AMCs Must Know:

Fannie Mae guidelines, client *stips* and assignment conditions aren't USPAP, state law, or administrative rules.

You may need to revisit your contracts with *all* of your Illinois panel appraisers.

Certain *non-competes* and certain *indemnifications* are prohibited in the Act.

You'll need to figure out what language will work.

### Don't call IDFPR for advice.

IDFPR does *not* dispense legal advice. Consult *your own* legal counsel. You may need to *re-contract* with your entire Illinois panel *before* the **Administrative Rules** become law.

### *Forms, forms, forms!*

While it seems as though state agencies like nothing more than to create forms; we really don't.

We will try to keep the forms as simple as possible. They will be *similar* to other state's forms...but not identical.

Please don't call us with stories about other state's forms. Don't tell us that *North Carolina* does it this way, or that *Montana* does it that way. We won't care in the same way that *North Caro-*



*lina* and *Montana* won't care how our forms look or work.

Just as every AMC has their own forms and ways of doing things; so do states.

Do yourselves a favor and don't call to tell us how one state or another has exempted your business model from registration.

Illinois law is not an overlay of any other state's regs.

We understand that in some states certain entities do not have to register.

Not here.

Don't ask to be placed on an e-mail list to be notified as to when you need to register.

Nobody has a reliable number on how many AMCs are out there. Even the GAO couldn't get a handle on it.

Businesses come and businesses go. We need not look any further than **AppraiserLoft**, do we?

We are officially in the transition period. Illinois is closer to full-metal AMC regulation than we were a year ago.

It is the *eve* of regulation.

2012 will be an interesting year even if the Mayans aren't correct!

## Controlling Person Primer

### Formal Hearings

#### Chicago—10AM

Tentative Schedule

#### IDFPR v Ware

January 24, 2012

#### IDFPR v Kosari

January 31, 2012

When the registration process eventually takes hold in 2012, AMCs will need to have a **Designated Controlling Person (DCP)** in place on day one.

From the **Registration Act** -

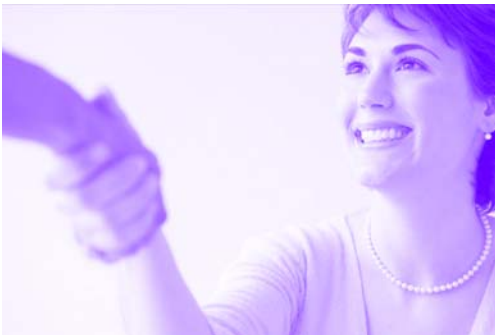
*an owner, officer, or director of an entity seeking to offer appraisal management services;*

*an individual employed, appointed, or authorized by an appraisal management company who has the authority to:*

- *enter into a contractual relationship with a client for the performance of an appraisal management service or appraisal practice service;*
- *and enter into an agreement with an appraiser for the performance of a real estate appraisal activity;*
- *or an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.*

In **Arizona** and in **Arkansas** they're referred to as the *Controlling Person* (or *Managing Principal* in AR). In **North Carolina** they're the *Compliance Manager*.

While the titles vary in other states, the core responsibilities are essentially the same.



For small AMCs, the **DCP** will most likely be the owner.

*Should they be an appraiser?*

Not necessarily. But they need to be able to converse with me about appraisal issues without thumbing through an appraisal dictionary and asking "what's this yoose-pap you speak of?"

While Illinois does not *require* the **DCP** to take **USPAP**, they will need to know the difference between a Fannie guideline, a **USPAP** standard, Illinois law and rules, client assignment conditions and AMC policies.

They aren't a *mix-n-match*.

An appraiser who shows up 30 minutes late to an appointment is the AMC's problem; not **IDFPR's**.

*The DCP must be available -*

If I need to speak to the **DCP** I'm not calling the generic 800 number only to get lost inside some company telephonic limbo.

Think: **Moscow-Washington** hotline ala the 1964 film, *Failsafe*.

*What if the DCP is hit by a bus?*

Because an AMC must have a **DCP** in place in order to conduct business in Illinois, we've made a provision in the event that the **DCP** is *gone*.

Face it. Things happen.

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## Controlling Person Primer *Continued*

### IllinoisAppraiser

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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The DCP could quit, get fired, get sick, etc. But, life in *appraisal-land* goes on. AMCs will need to apply for a *Temporary Certificate of Authority* in order to operate for a *very short time*, without the DCP.

AMCs will come in all sizes. Some will be *lone-wolf* operations where the owner is the DCP. Other AMCs will be multi-layered corporations with a dizzying array of departments and scads

of internally important titles.

Big or small, they will *all* be regulated in the same manner. There will be no sliding scale for size.

Because there is no USPAP for AMCs, everything will need to be spelled out in the **Act** and **Rules**.

Keep reading this newsletter for updates as we near the release of **Administrative Rules**.

## Extraction Has No Traction

*"Land values were based upon the extraction method."*

Look familiar?

If I had a nickel for every *phoned-in* Cost Approach that had this sentence or one like it, I'd be Warren Buffet.

**The Dictionary of Real Estate Appraisal** defines it as:

*A method of estimating land value in which the depreciated cost of the improvements on the improved property is estimated and deducted from the total sale price to arrive at an estimated sale price for the land; most effective when the improvements contribute little to the total sale price of the property.*

The underscored portion says it all. Usually this technique is used in rural settings. Perhaps when appraising some hunting shack on a couple of hundred acres of scrub.



But no, we see it in the middle of suburban Hinsdale, Belleville, Taylorville, and other places where the residence is easily a significant portion of the total value.

By definition, *extraction* doesn't really work in cities and suburbs where improvements tend to drive value.

Also, some Cost Approaches are so poorly cobbled together that we seriously doubt the appraiser's ability to *extract* anything.

Don't just toss *extraction* into a report.

If you cannot demonstrate an ability to depreciate reasonably, then you certainly won't be able to support an *extraction* application.

The board strongly suggests that you find a course that teaches a more reliable technique.

## USPAP Again?

In March of 2011 an **Administrative Rule** seemed to slip by without so much as a whimper.

*A real estate appraiser must complete the 7-hour National USPAP Update Course or its equivalent within 6 months after the effective date of USPAP. Those real estate appraisers issued a license more than 6 months after the effective date of USPAP shall complete the 7-hour National USPAP Update Course within 6 months after licensure.*

Wait a minute. Didn't you *just* take the **7-hour National USPAP Update** a few scant months ago?

If you're like *most* procrastinating appraisers, you probably *did* take the 2010 USPAP

Update a month or less before the end of the cycle.

Taking the **2010 version** of the **National USPAP Update Course** in September **2011** is like buying milk a day before the expiration date.

What's the point of taking an expiring course at the same time that **The Appraisal Foundation** is preparing to release the next version?

It only makes sense to take the **2012-2013 USPAP** by the first half of 2012, doesn't it?

This leaves you the next six months to find a class or to take an on-line course. Then you'll be ready to apply what you've learned.



**April 2012  
Mag Mile  
AARO Returns to  
Sweet Home**

## Eye of the Beholder

AMCs have started ramping up complaints as a result of the **Dodd-Frank** mandatory reporting requirements.

LPS dumped a dozen on us in one day.

Let's examine the accompanying matrix from LPS. Keep in mind that the appraiser's name, company name, and the address of the subject property has been obscured.

Note that the matrix draws parallels between *Fannie* guidelines and **US-PAP**. Let's see if we agree:

The *FNMA Guideline* numbers refer to portions of the *Selling Guide*.

**B4-1.4-04** is the subsection referring to: **Appraisal Report Review: Trend of Neighborhood Property Values, Demand/Supply, and Marketing Time (10/30/2009)**

While this section outlines in general terms what is expected on a *Fannie* report, the only thing coming close to outlining a violation is the following:

**Note:** *The appraiser must provide their conclusions for the reasons a market is experiencing declining property values, an over-supply of properties, or marketing times over six months.*

This remains a *subjective* call on the part of the reviewer as to whether the appraiser met the objective or not.

In the next column to the right is the corresponding **USPAP** violation, according to **LPS**.

They've indicated that the appraiser violated **Standard 1-3a**:

*identify and analyze the effect on use and value of existing land use regulations, rea-*

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Valuation, Inc.  
Appraiser

LSI Order #	FNMA Guideline	USPAP	Comments
10009091 North Barrington, IL	B4-1.4-04	1-3 a	Inconsistent/Unsupported Market Trend Analysis – the Neighborhood section indicates demand/supply in balance – the data in the MC addendum indicates an oversupply.
	B4-1.4-06	1-2 e iv	The specific zoning classification is not provided.
	B4-1.1-01	1-6 a	Reporting errors in comparable data - according to RealQuest, the actual age for all 3 of the comparable sales are incorrect (#1 RQ-65 Report-2, #2 RQ-21 Report-10, & #3 RQ-35 Report 16) with no explanation provided in the report.
	B4-1.1-01	1-6 a, 2-2 b viii, & Scope	Unsupported across the board basement finish adjustments with no comments provided.
	B4-1.4-19	1-4 b & 2-2 b viii	Incomplete Cost Approach – the support for the opinion of site value is not provided – the deck, balcony, & 3 season room are not accounted for – lack of comments on the depreciation applied.
	B4-1.1-01	Scope & FAQ 168	Inaccurate comparable sale weighting statement.
	B4-1.4-01	1-5a	No reconciliation of the Opinion of Market Value to the Contract price
	B4-1.1-01	1-1 c	Series of errors affecting the credibility of the report as follows: the driveway and # of cars are not provided in the Improvements section; the number of listings and the listings price range indicated above the 1 <sup>st</sup> grid are inconsistent with the # of listings and the Median Comparable List Price indicated in the MC addendum; the GLA of Comparable Sale #3 is more than 25% less than the GLA of the subject with no comments provided; 2 active listings and/or pending sales are required – 1 was provided.

## Eye of the Beholder

**Pat Quinn, Governor**

**Brent E. Adams,  
Secretary**

**Jay Stewart  
Division Director**

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Mary Bates, Board Liaison

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*sonably probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends*

This comes down to how reliable is the information that populates the **1004MC** and how should it be handled back on to the **URAR**.

From the time that I took a **1004MC** course in January of 2009 until the present, the interpretation on handling the data presented has changed and changed again.

Complicating this is the fact that this appraisal report was generated at a time when the **1004MC** form was *new*. If **LPS** is just now reviewing the form based upon today's interpretation of the data, is it fair to hold the appraiser to the current standard?

As a regulator, I don't think that's fair. While I will let this item pass, **LPS** may end up bouncing this appraiser off their panel. That's their choice.

The next row in the **LPS** matrix outlines **B4-1.4-06**:

**Subject Property Zoning**

*Lenders must ensure that the specific zoning class has been reported in the appraisal, along with a general statement as to what the zoning permits.*

Good catch.

Instead of placing something like "R-2 Single Family Residential" in a report, lazy appraisers still write things like "Res", or "Single Fam"

or the board favorite, *whatever the local tax assessor's classification happens to be.*

In a day and age where **PDF** zoning maps are everywhere...*for free*...we still see the same lazy reporting we saw when appraisers had to buy and store giant paper maps from every municipality.

**Standard 1-2 (e) iv**

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

*(iv) any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature.*

Again. Good catch by **LPS**.

Notice on row six how **LPS** has tossed in a reference to **FAQ 168**.

This is inappropriate. The **FAQs** are *not* part of **USPAP**. Reviewers need to confine themselves to what the **Standards** and **Statements on Standards** tell us.



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## Eye of the Beholder

(Continued from page 7)

### What Dodd-Frank says about Mandatory Reporting

*Any mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person involved in a real estate transaction involving an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer who has a reasonable basis to believe an appraiser is failing to comply with the **Uniform Standards of Professional Appraisal Practice**, is violating applicable laws, or is otherwise engaging in **unethical or unprofessional conduct**, shall refer the matter to the applicable State appraiser certifying and licensing agency.*

As regulators, what are we looking for in the way of complaints?

It should be an appraisal involving the **principal dwelling of a consumer**.

The violation should involve **USPAP, Illinois law, Administrative Rules, unethical or unprofessional conduct**.

That's all.

We're not interested in *Fannie* or *Freddie* guideline problems. We're not concerned with gross or net adjustment percentages, or if the comps are a mile or more away from the subject, or if the appraiser's comments ring the reviewers bell or even if the AMC's private requirements have been met.

Complaints are coming in at a record clip. AMC's all have their own unique way of illustrating and quantifying the nature of a violation.

State regulators will need to be more nimble in dealing with the increasing volume of gripes coming in from every sector.

Part of the difficulty will be in separating **USPAP** from peripheral issues that are painted as a professional standard.

If AMC's are looking to fulfill their mandatory reporting requirement, then they need to know the difference between a *guideline*, an *assignment condition*, an *FAQ* and a *standard*.

## ILLINOIS REAL ESTATE APPRAISAL ADMINISTRATION AND DISCIPLINARY BOARD

Tuesday, January 10, 2012 @ 10AM

### CHICAGO

100 West Randolph Street—9th Floor  
Chicago, IL 60601



## But Seriously...

Aside from fumbling Cost Approaches, crazy cap rates and zany zoning mishaps, the department does, from *time-to-time*, find itself embroiled in more serious matters.

*Hichem M. Jilani—556.002472*

SUSPENDED (*indefinite for a 1 year minimum*) as a result of appraisals in connection with **United States v. Abe Karn, Donna Books, Hichem Jilani and Daniel Lietz (09 CR 229)**

**Abe Karn**, 50, of Oak Lawn, **Donna Brooks**, 41, of Chicago, **Hichem Jilani**, 40, of Palos Park, and **Daniel Lietz**, 39, of Channahon, are all charged with wire fraud affecting a financial institution. **Karn**, a mortgage broker and the owner of Interforest Mortgage Company in Palos Heights, and **Brooks**, a loan officer at Interforest, allegedly agreed to fraudulently obtain a loan for an undercover agent posing as the nominee buyer of 305 Reedwood, Joliet, Illinois (*"the Reedwood residence"*). **Lietz**, a vice president at Charter One Bank, allegedly opened an account in the name of an undercover agent at Charter One Bank, and then prepared a verification of deposit which falsely represented the amount in the account. **Jilani**, a licensed appraiser, allegedly prepared an appraisal which misdescribed the condition of the property and inflated its value. **Brooks** allegedly prepared a verification of employment falsely representing that the undercover agent worked at a fictitious entity and a verification of rent falsely representing that the undercover agent resided at a Chicago address.

**Karn and Brooks** then allegedly prepared and submitted to IndyMac Bank a loan application and supporting documentation on behalf of an undercover agent posing as the nominee buyer of the Reedwood residence which contain false statements and documents, including the false verification of deposit prepared by **Lietz**, the false verifications of employment and rent prepared by **Brooks**, and the false appraisal prepared by **Jilani**. According to the indictment, in July 2007, **Karn, Brooks, Jilani**, and **Lietz** fraudulently caused IndyMac Bank to lend approximately \$180,500 to an undercover agent posing as the nominee buyer of the Reedwood residence.

*Kevin M. McCormick—556.003659*

REVOCAION due to his conviction over commodities fraud.

*Alan E. Gross—556.004096*

REVOCAION as a result of forging his supervisor's signature and submitting the forged document.

*Erwin Espe—556.003459*

SUSPENDED (*indefinite for a minimum 10 years plus an \$8,000 fine*) a result of a criminal conviction for wire fraud and for forging another appraiser's signature on a commercial narrative.



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## But Seriously...

(Continued from page 9)

Charles Hossack—556.001731

REPRIMAND and a \$1,000 fine resulting from omissions about mold and other forms of physical depreciation made in the performance of an appraisal at 848 Craig, Addison.

Raphael Kammer—556.002799

FINED \$250 for violating the terms of a Consent Agreement.

Kevin T. Olszewski—556.001806

SUSPENDED (*indefinite for a 1 year minimum plus a \$500 fine*) as a result of failing to provide appraisal reports for which had been paid for by consumers. He failed to cooperate with the

department's investigation. Also, for offering refunds to witnesses in exchange for their agreement to withdraw their complaints.

La Mont Faibore—556.000209

Petition to restore his license was denied.

Dwight V. Beck—556.003290

REVOCATION for failing to comply with a department order.

Scott R. Kling—553.001071

FINE of \$2,500 for communicating a misleading appraisal report.

## Don't Interfere

Appraisers are getting dumped off of eligibility panels left and right.

Why?

Because some AMC's aren't getting written responses back regarding deficiencies that they find in appraisals.

AMC's have gone so far as to *blacklist* appraisers for ignoring them.

The twist in all of this is that the AMC doing the *blacklisting* was *not* the identified client of the appraiser.

The original report was completed for some other entity. But, through a series of *hot-potato-like* hand-offs to another company, the original report has

ended up with a reviewer from a completely different and unrelated AMC.

AMC's had better understand that appraisers who discuss *anything* about a property that they've appraised, without written permission from the original client, are breaching **Confidentiality**.

If AMC's *blacklist* Illinois appraisers over failing to respond to appraisal issues without a written arrangement, the AMC **will** be *interfering* in the appraiser's compliance with **USPAP**.

If you're unclear as to what part of the **Registration Act** covers this:

Go back and re-read the *first* article in this month's newsletter.

