

# IllinoisAppraiser

## Taxing the System

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The Department receives a number of appraisal complaints related to property tax assessment appeals each and every year.

While most originate with assessors and boards of review, some come from appellants themselves.

The most frequent complaint involves alleged **undervaluation** and **advocacy** on the part of the appraiser.

The local assessor or board of review will allege that the appraiser deliberately omitted more relevant sales by "cherry-picking" distressed sales or choosing sales from inferior locations.

Appraisers are not *hired guns* by counsel. Advocacy is a career-killer.

**Unlicensed practice** is the next most frequent complaint. There are a number of entities that, for a fee, not only will complete a consultant's report (*appraisal*) but will offer to represent taxpayers at board of review hearings.

*A Board of Review rule that an assessment complaint must be signed by the taxpayer or an attorney representing the taxpayer is consistent with PTAB rules already in place.*

*PTAB rules provide that appeal shall bear an original signature of the*

*contesting party or the contesting party's attorney on at least one petition.*

*PTAB rules further provide that a party has the right to represent him- or herself in any PTAB hearing, and only attorneys licensed to practice law in the State of Illinois are permitted to represent a party at a PTAB hearing.*

*Accountants, tax representatives, tax advisers, **real estate appraisers**, real estate consultants and others not qualified to practice law in this State may not appear at hearings before PTAB in a representative capacity.*



Such representation is illegal in Illinois. We take this very seriously.

Our next largest complaint category involves contingency fees.

Basing your fee on the percentage saved over a tax period as a result of an appraisal assignment is advocacy and an ethics charge.

A few appraisers are under some delusion that by offering a potential client a *range* of values *before* they complete a *formal* appraisal...it doesn't count as an appraisal.

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## Taxing the System

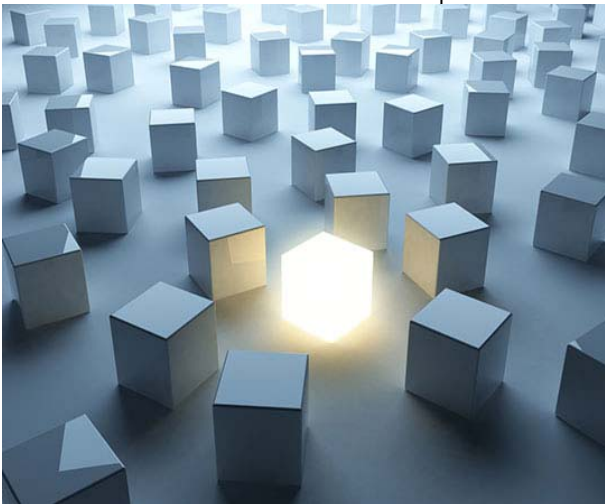
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From USPAP:

**APPRAISAL:** (noun) the act or process of developing an opinion of value; an opinion of value.

(adjective) of or pertaining to appraising and related functions such as appraisal practice or appraisal services.

**Comment:** An appraisal must be numerically expressed as a specific amount, **as a range of numbers**, or as a relationship (e.g., not more than, not less than) to a previous value opinion or numerical benchmark (e.g., **assessed value**, collateral value).



These are easy cases to pursue and easier still to prove.

### Ethics Breach?

Frequently we receive complaints from local assessors and boards of review that an appraiser has breached ethics by completing an appraisal on their own

property or one they have an interest in.

Nothing in state law or USPAP precludes an appraiser from valuing their own holdings.

**Conduct** only addresses **disclosing** a current or prospective interest.

The Department appreciates that many appraisers are property

owners and certainly have a right to seek property tax relief.

However, as an appraiser and a property owner, you might be better served hiring another appraiser for your own appeal.

From PTAB:

Initially the Board finds the appellant submitted an appraisal of the subject property which he prepared. The Board finds the fact that the appellant is also the appraiser creates a conflict in that the appellant has a present interest in the property and a direct pecuniary interest in the outcome of the appeal proceeding if the assessment is reduced. The Board finds the appellant is acting as both an advocate for an assessment reduction and an expert who is to provide an unbiased opinion of market value as of the assessment date at issue. Due to this conflict the Board finds that the appellant's estimate of value as contained in the appraisal is given less weight.

While disclosure of an appraiser's interest in the property appraised may avoid an enforcement action by the Department, it will not satisfy PTAB's concerns over bias.

Something to think about.

### Restricted Reports—

Some appraisers make the mistake of issuing the appellant a *Restricted Report* for use at a hearing.

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This is a waste of the appraiser's time not to mention a profound waste of an appellant's money.

From PTAB:

*The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted a "Restricted Limited Appraisal Report" estimating the subject property had a market value of \$408,000 as of January 1, 2004.*



*Due to the fact the appraisal was a **restricted report**, the appraiser stated within the appraisal that the appraisal contains no discussion of the data, reasoning and analyses that were used in the appraisal process to develop the appraiser's opinion of value.*

*The Board further finds the evidence in the record does not support a reduction in the subject's assessment.*

*The Board gives the estimate of value contained in the appraisal **no weight**.*

*First, as provided in the Uniform Standards of Professional Appraisal Practice, a restricted use appraisal report is for **client use only**.*

### **Highest & Best Use—**

Appraisers who fail to follow through on demonstrating a property's highest & best use are also wasting the appellant's time and money.

From PTAB:

*In his analysis the appraiser was of the opinion the highest and best use of the subject as vacant is to be developed for commercial/business use. The appraiser concluded the highest and best use as improved is not consistent with the subject's use as a car wash. The appraiser indicated the highest and best use as improved is for the subject to be converted to an alternative commercial/business use based upon a review of the accountant's compilation of income and expenses for income tax years 2005 and 2006.*

*The witness testified he did not include in the appraisal the four criteria used to evaluate the determination of highest and best use because he prepared a summary narrative. In addition, the appraiser testified the report does not contain any estimate of land value.*

*The Board gives **no weight** to the appellant's appraisal finding that the appraisal was not particularly credible. The appellant's appraiser valued the subject property based on an alternative highest and best use. The Board finds this determination that the subject had a different highest and best use as improved was not supported in this record and was speculative. First, the appraisal did not contain an analysis of the highest and best use using the four criteria typically found in appraisals. Once highest and best use is determined the use must meet the following four criteria:*

- 1) *Physically possible*
- 2) *Legally permissible*
- 3) *Financially feasible*
- 4) *Maximally productive*

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Assessment appeal work, as in most litigation support assignments, is a specialty.

Not every appraiser is equipped to provide what is needed in this forum.

Residential appraisers tend to treat this work the same way in which they treat mortgage lending work.

Some commercial appraisers take shortcuts that end up costing their appellant clients time and money by failing to understand the burden of proof.

### Market Value and the Burden —

From PTAB:

When market value is the basis of the appeal the value of the property must be proved by a **preponderance of the evidence**.

*National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board*, 331 Ill.App.3d 1038 (3rd Dist. 2002); 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)).

Competency requires that all appraisers understand the assignment at hand.



### IllinoisAppraiser

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## Tis the Season

Aside from the holidays, tis' the season for the CE audit.

For the renewal cycle that ended on September 30, 2015, the Department has completed another audit for CE.

Licensees deemed short in their requisite 28 hours were sent a deficiency notice, under my signature, outlining what we've banked and what is still missing.

As always, it is your responsibility to be CE compliant.

This is not the time to ask for an extension to complete your CE. This is not the time to ask for favors, a pass, or forgiveness from the Board.

All of the certified appraisers on the Board, including yours truly, must maintain our CE along with you.

Hopefully, you have copies of all of your necessary course certificates.

If not, contact your provider. They must maintain records for at least five years. That's more than enough time to produce any duplicates.

Follow the instructions on the deficiency letter. We're slowly moving away from paper and into paperless.

Make certain that Springfield has a workable e-mail address for you.

This should be an easy process.

## FHA Appraiser Tip

At the Lake County NAIFA Chapter sponsored **2016-2017 USPAP Update** course that I attended in Mundelein (yes...I need to maintain my CE along with everyone else), instructor **Mike Orman**, IFAS, offered the class a great tip.



Along with including the **required** language that the Department provided by rule:

*The comments by the licensed real estate appraiser contained within this appraisal report on the condition of the property do not address "standards of practice" as defined in the Home Inspector License Act [225 ILCS 441] and 68 Ill. Adm. Code 1410 and are not to be considered a home inspection or home inspection report.*

Mike suggested adding FHA's definition of a *roster appraiser* so as to clarify your role for the reader.

I think it is a great tip.

### FHA Appraiser Roster Definition

*Appraiser refers to an FHA Roster Appraiser who observes, analyzes, and reports the physical and economic characteristics of a Property and provides an opinion of value to FHA. An Appraiser's observation is limited to readily observable conditions and is not as comprehensive an inspection as one performed by a licensed home inspector.*

This is all intended to protect you, the appraiser.

## China Syndrome

Among the various *stips* presented by AMCs and some lenders, one goes something like this:

*"The appraiser must notify the AMC representative immediately if they notice the presence of any Chinese drywall."*

Of course.

Are appraisers able to readily identify defective Chinese drywall?

Not easily.

Before you put yourself out on yet another liability limb, educate yourself as to what it is you're supposed to be reporting.

I've added a link at the bottom of this page to start your research.

If you can't be certain then you can't report it. Unless the dwelling is new or has unpainted drywall, you might not be able to tell where it was manufactured.



Then what?

Is all Chinese drywall defective?

No.

Do properties exist where there is a mix of Chinese and American drywall?

## Top 3 AMC Issues

**Bruce Rauner, Governor**

**Bryan Schneider  
Secretary**

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Joel Ward

Matthew Woods, Investigator

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*Editor of IllinoisAppraiser*  
Luisa Rivera, Admin Assistant  
Mary Bates, Board Liaison  
Jay Reyes, General Counsel

What are the top three concerns for AMCs, nationwide?

1. **Regulation.**
2. **C&R fees.**
3. **Background checks for panels.**

### Regulation—

For obvious reasons, AMCs would prefer to be regulated by the states in order to preserve their ability to provide FRT assignments as defined in the Final Federal Rule.

However, the states are yet to see specifically how an AMC National Registry Fee would be collected and transmitted to the ASC.

There are a lot of logistical difficulties inherent in the options being floated. These need to be ironed out in clear and concise language before anything happens legislatively.

### C&R Fees—

As Illinois moves closer to completing the C&R Fee Survey, AMCs are concerned about the impact of what such a survey would mean.

On one hand, appraisers see it as establishing a *fee floor*.

On the other hand, AMCs see it as perhaps establishing a *fee ceiling*.

Will it be a guidepost or a monument?

We don't know, yet.

### Background Checks—

AMCs, largely, have no interest in appraiser background checks. However, most must provide assurances to many of their lender clients that their panel is free from *positive histories*.

Would it be easier if there was one-stop-shopping for background checks?

Definitely.

But there won't be. Appraisers will be facing background checks from nearly every AMC they contract with not to mention from whatever jurisdictions might require them.



Illinois has been waiting for a year for final approval by law enforcement before we begin our own.

But we're only going to do criminal histories on *new* applicants, *not everyone*.

Will AMCs be able to tap Illinois for the ones we conduct?

### Absolutely not.

There are very strict protocols in place for who has access and how the data is stored.

There are no easy answers but at least appraisers and AMCs can start a conversation on how to handle these issues.

## Holiday Potpourri

|             |
|-------------|
| Trainee     |
| Residential |
| General     |

Let's clear up a few things in no particular order of importance.

### LA 33A—

For those of you submitting Experience Log submissions that include **LA 33A** reports for **IDOT**, it is considered to be *form* work.

It's not a narrative.

Typical responses that the Board sees is that the applicant had to provide so much narrative in support of the form that it *must be* a narrative.

So do most forms, even in residential lending work. They're still forms.

Mark it as a *form*; not both.

### Boilerplate—

Few things irk the Board more than *boilerplating*. Aside from sample reports being peppered with endless boilerplate language, they've seen a rash of **LOG-7575 (Excess Hours)** forms with similar copy-paste language explaining the reason behind exceeding the Matrix guidelines.

Some states limit the hours you can claim no matter how much time it took you to finish an assignment.

We don't.

All we ask is that you provide a detailed explanation as to why you believe that you're entitled to more experience hours on a particular job.

If your best effort in explaining is

something along the lines of, "*I do a lot of condemnation work and it's very complicated,*" it isn't going to play.

Take the time and convince the Board member why you should be allowed additional experience on an assignment.

If you can't write it convincingly, don't include the job at all.

### Not Reading/Doing Math—

There have been many rejected Experience Logs over things like:

- *No supervisor signatures—anywhere*
- *Incomplete sections*
- *Hours didn't add up on each page*
- *Old, retired forms being submitted*

Applicants ask, "*why does this take so long?*"

The answer in most cases, is staring back at you.

Applicants are in a headlong rush to get the paperwork in once they've received a *pass notice* from AMP.

In that rush, the application is cobbled together poorly with a marathon auto-graph session with their supervisor.

The time to have your Log pages signed is throughout the training period; not at the end when you're trying to recall what it is you did three years ago.

Most applicants are the cause of they're own delay. Do it right or do it over.

## Numbers Tell a Story

Recently the AQB held a public hearing in Washington DC regarding Alternative Experience Requirements and what to do about the anemic number of appraisers nationwide.

I read their concept paper when it came out and I've read the testimony of those who submitted ideas.

I didn't attend and I didn't offer up any written solutions.

Back in 2005, I remember when everyone was so fired up about finally raising the bar, insomuch as formal education was concerned.

They were going to make appraisers in the image of CPAs and lawyers. Four-year degrees would be the new benchmark.

The first seismic shift started in 2008. Remember?

New Criteria. New national exams.

In 2015 they pressed on with nothing short of a Bachelor's degree in... *something*.

The chart below is a snapshot of what has become of "trainees" in Illinois.

That's right. In the halcyon days of 2005 we had 1,231 new applications.

In 2007 it dropped 48% to 637 applications.

When the Criteria changed in 2008, applications in Illinois plummeted another 74% to 165.

This year, with only one month left, we're at 55. If we hit 60 by year's end I'll be amazed.

New applications do NOT automatically translate into licensees. These are just the people interested enough to fill out an application and pay a fee.

Half can't seem to pass the trainee exam.

Look at the dotted trend line. It's startling.

From now on, five applications per month, on average, is the new normal.

Is this what the AQB had in mind a decade ago?

Probably not. But this is what we have.

I offered no suggestions or ideas.

It goes back to that old Johnny Mathis song, *Too Much, Too Little, Too Late*.



### Trainee Applications since 2005

