NEWS FROM THE CALIFORNIA BUREAU OF REAL ESTATE APPRAISERS

THE CALIFORNIA APPRAISER

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Our Mission: Safeguard public trust by promoting professionalism in the real estate appraisal industry through licensing, education, and enforcement.

SPRING 2016

Fear of the Unknown— Bureau Enforcement Operations

As part of our mission to protect the public trust, we at the Bureau make presentations throughout the State to educate and inform One presentation is of particular interest to appraisers because it describes the Bureau's enforcement procedures, and I often hear expressions of relief from attendees as they better understand the Bureau's purpose and process

It is natural for an appraiser to consider the possibility that they may at some point be the subject of a complaint at the Bureau Some appraisers express fear that the regulatory process does not consider the actual realities of the job as a practicing appraiser The good news is that the Bureau's Enforcement Division is staffed with experienced and knowledgeable appraisers who act as investigators These investigators average more than 30 years of appraisal experience and understand the challenges appraisers encounter

The Bureau's highest priority is safeguarding the public, and the Bureau carefully reviews all complaints to ensure appropriate action is taken Allegations are independently verified by staff before proceeding with further investigation, including contact with the appraiser This can result in no further action being taken by the Bureau to limit undue damage to an appraiser's business and reputation

In a typical year, the Bureau receives 250-350 complaints All complaints are initially screened by an experienced investigator for jurisdiction, credibility, and evidence This screening process results in approximately half of all complaints being closed for lack of jurisdiction, credibility, or evidence In those cases, no action is taken against the appraiser's license and sometimes the appraiser never knows a complaint was even filed Approximately one-third of complaints result in an internal administrative action These complaints include minor, generally competency-related matters when an appraiser is reminded of USPAP requirements and California laws and regulations

The remainder of complaints typically result in the appraiser being required to complete additional education and/or pay a fine Some complaints result in more significant actions restricting an appraiser's ability to practice In the most egregious cases, the appraiser will surrender his or her license or have it revoked

Decisions on enforcement matters always include consideration of aggravating and mitigating factors as well as evidence of rehabilitation As a consequence, the same violation made by different appraisers may result in a different enforcement action A disciplinary action will not proceed without an Enforcement Division recommendation, and no final action will be taken without my evaluation and approval

Our ultimate goal is to protect the public and we are able to do so by keeping appraisers and consumers educated and well informed I hope that you have found this information helpful and I encourage you to reach out to the Bureau for information or assistance

James S Martin, *Bureau Chief*

Did You Know?

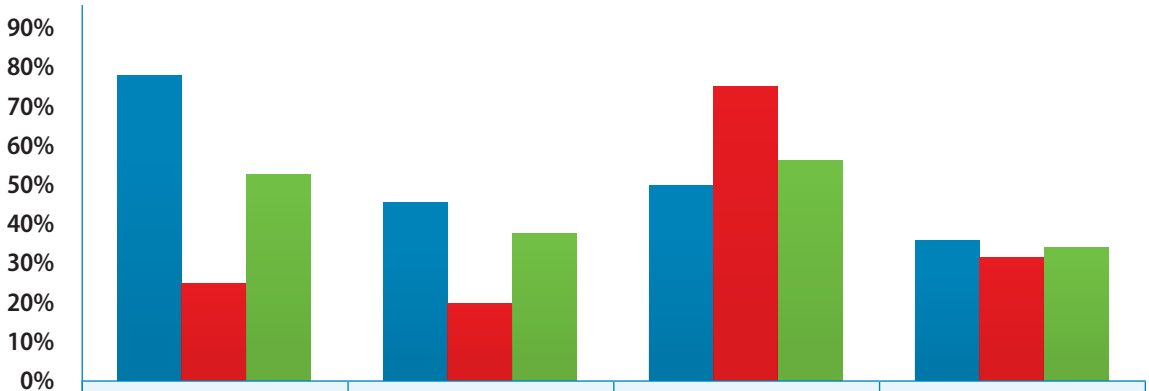
The Bureau updates licensing information for Residential, Certified Residential, and Certified General levels in real time to the Appraisal Subcommittee's (ASC) National Appraiser Registry Updated information can be found on ASC's website under National Registry, **Find an Appraiser** Please note that the Bureau's website is updated twice a week; if there is a discrepancy between the two sites, check the Bureau's website again in a few business days to verify that the information is accurate If immediate confirmation is needed, utilize the National Registry's search option

Note: Trainee license levels are not reported to the Appraisal Subcommittee.

California Exam Results

The following graph shows the California Appraisers Examination statistics from January through March 2016, as provided by Applied Measurement Professionals, Inc

1st Quarter 2016 California Examination Pass Rate



	Certified General 34	Certified Residential 16	Residential License 16	Trainee License 44
First Timers	77 8%	45 5%	50 0%	36 0%
Repeaters	25 0%	20 0%	75 0%	31 6%
Total Number Passed	52 9%	37 5%	56 3%	34 1%

Just the FAQs

The 2008-2009 edition of USPAP marked the first time that the USPAP book incorporated Frequently Asked Questions (FAQs) This first inclusion listed 220 questions and answers offering guidance from the Appraisal Standards Board (ASB) on 16 subcategories of questions Since this time, the FAQs have been included in each subsequent edition of USPAP The 2016-2017 edition includes 316 questions and answers within the same 16 subcategories

As a regulatory authority, it is the Bureau's job to understand the fundamental requirements of both the Rules and the Standards The FAQs offer guidance based on practical real world questions asked by appraisers Each answer points the reader to a specific, or a combination of Definitions, Rules, Standard Rules, and Advisory Opinions applicable to the scenario that is addressed in the question These FAQs are a tool that can be utilized to empower appraisers to have a better interpretation of the minimum requirements that must be addressed in specific situations

It is important to know the FAQs when starting the process of collecting, verifying, and analyzing the information necessary to produce a credible report

FAQ Highlight

The purpose of this section is to address common errors found by the Bureau and attempt to educate and resolve problematic situations before they happen FAQ 176 from the current edition of USPAP deals with the question of a client request that differs from a pre-printed assignment condition that does not permit any alterations

176. Is it permissible to use MLS photos for comparable sales?

Question: "I use standard pre-printed appraisal report forms that contain a statement saying I personally inspected the exterior of the comparable sales. The assignment conditions require me to comply with this statement and do not permit any alterations. One of my clients now requires two additional sales of comparable properties to be included with every appraisal report. However, the client told me not to inspect the exterior of these additional sale comparables and to just use the MLS photos. May I comply with the client's request?"

Response: "No; you are being asked to not inspect the comparable sales when the form states that you have You must either inspect the sales or change your report to indicate you did not inspect the sales"

Direct quotation of this 2016-2017 FAQ used with permission of the Appraisal Foundation.

Significant Real Property Appraisal Assistance Statements

Many appraisers find reporting significant real property appraisal assistance in an appraisal report to be challenging; however, USPAP offers great flexibility in how to summarize significant assistance Along with USPAP's minimum reporting requirements, keep these key elements for an acceptable summary in mind:

- Avoid inapplicable boilerplate language
- Do not use qualifier words like "may have," "or," "some," and "and/or"
- Do not include assistance that was not actually provided
- Do describe assistance that was actually provided

The following is a short roadmap for navigating USPAP's minimum reporting requirements with respect to significant real property assistance Note that all significant real property appraisal assistance, performed by either licensed or unlicensed appraisers, must be reported

The first decision point is based on who signs the report certification Recall from USPAP that any appraiser who signs a certification in the report accepts responsibility for the entire report If all appraisers (trainees, staff appraisers, associate appraisers, etc) who provided significant real property appraisal assistance sign a certification in the report, no additional disclosure is required

The other decision point is for situations where there are appraisers who provided significant real property appraisal assistance but who do not sign a report certification Those appraisers must be identified by name in the certification of the signing appraiser, and their assistance summarized somewhere within the report One issue of importance is use of the word "significant," which is not otherwise defined in USPAP The term clearly implies that the assistance was important to the final product, so it would be inappropriate to portray clerical or similar functions as "significant" Also, "real property appraisal" communicates that the significant assistance is more than making copies, taking photos, pulling deeds, or like tasks at the request of the appraiser supervising the assignment Rather, it

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Just the FAQs *continued from page 3*

must involve participation in the appraisal process

Remember that USPAP requires that the signing appraiser(s) certification(s) not only identify those appraisers providing significant real property appraisal assistance, but also that the extent of the assistance be summarized in the report The best way to remain compliant is to simply describe the assistance actually provided Avoid "boilerplate" statements or use of qualifiers like "may have"; take the time to summarize the duties that the assisting appraiser actually performed

By understanding these basic disclosure requirements, all appraisers should be able to accurately depict the work performed To gain an even better understanding of what is acceptable, consider the following examples:

> *"(Name of appraiser) assisted in the completion of this report."*

Notice how brief this statement is and that it does not provide any relevant information There is no way to know what assistance was performed Simply adding more words may not help much Here is another example of an inadequate description of appraisal assistance:

> *"Substantial professional assistance has been rendered by (name of appraiser) in the preparation of this report. This assistance is typical in the appraisal field and may have included typing reports, gathering MLS data and public records information. This assistance has been completed with full supervision and under the direct control of the signing appraiser and all value conclusions for the appraisal process have been completed only by the signing appraiser."*

There are several problems with this summary First, note the word "may" The assistant "may" have done all of the work or none of the work, the reader has no way of knowing Also, the tasks described are clerical functions, with the signing appraiser doing all of the work that required any appraisal judgment Another common problem, often seen in initial licensing or license upgrade work samples, is inclusion of boilerplate language for a task that is not in the appraisal report:

> *"(Name of appraiser) assisted in inspection of the subject and comparable sales, selection and inspection of comparable sales, development of the sales comparison and cost approaches to value, reconciliation, and the final conclusion of value."*

A problem arose when the report was selected as a work sample for the trainee to upgrade their license; there was no cost approach Again, it is important to say what the assisting appraiser actually did If they did it, say so If they did not do the work, do not say that they did Here's another wordy example that says lots but does not meet the defining criteria as to actual assistance provided:

> *"(Name of trainee) assisted in physically measuring the subject property, interior and exterior inspection, as well as assisted in the completion of the appraisal process. Assistance included data analysis, market research, and inspection assistance. The data analysis encompassed all the information included in this appraisal report and used in the appraisal process. The inspection assistance included a full inspection of the interior and exterior of the subject property, inspection of the comparables, and taking the photographs included in this report. (Name of trainee) is experienced and proficient in all these aspects of the appraisal process and well qualified to complete these tasks. The appraiser has compiled and/or reviewed all the data, analysis, and conclusions herein."*

Notice that the supervising appraiser has "compiled and/or reviewed all the data, analysis, and conclusions herein" Again there is no clear indication of who did which task to what extent

The following are good examples Please note that these are not all-purpose, one-size-fits-all statements but were appropriate for individual assignments and the associated intended use, user, and Scope of Work

> *"This report was prepared with the assistance of full-time trainee/assistant (name of trainee), who performed and assisted in all tasks of the report under full appraiser's supervision, including defining the problem, purpose of the appraisal, scope of work, research and data collection, market/economic analysis, highest and best use analysis, application of value approaches, reconciliation, and written appraisal report. Appraiser supervised and verified all steps, and appraiser and trainee inspected the property."*

Normally, the Bureau would also expect a description of the approaches used, but in this case only the Sales Comparison Approach was included, so the summary provided enough information to understand what the assisting appraiser did The following is another example of a good description:

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Legislative Spotlight

Currently, the Legislature is considering amending the Bureau's law with SB 1196 It is too early in the process to provide any new information on this topic

In 2015, there was no legislation that directly affected the Bureau's practice act; however, the Bureau anticipates legislative action in 2016 or 2017 to amend the Bureau's law to comply with the new federal AMC rules

In 2015, the Bureau amended two California Code of Regulations Title 10 sections (CCR) First, the Bureau amended CCR 3528 to comply with the new federal minimum requirements for licensure The Bureau also repealed the citizenship requirement to obtain a license contained in section 3530 in order to comply with Business and Professions Code section 135 5 Individuals still need a Social Security number or an Individual Taxpayer Identification number to obtain a license

The Bureau has noticed the following regulations:

1 CCR 3568 to eliminate the trainee examination, add a supervisor/trainee course, and increase the minimum qualifications for supervisors The revisions will remove an unnecessary trainee examination and will comply with the federal requirements that demand a supervisory/trainee course and increased supervisor qualifications

2 CCR 3569 to reduce the burden on out-of-state licensees who seek a California license The Bureau will be seeking this amendment to comply with the federal requirements for reciprocal licenses

3 CCR 3543 to require the laws and regulations course as a prerequisite to licensure not just a requirement to renew a license This amendment will ensure new licensees understand the laws and regulations before practicing

The Bureau intends to notice the following regulations shortly:

1 CCR 3661 to require the laws and regulations course include an examination to verify the student learned the material

2 CCR 3668 to require the laws and regulations be approved by the Bureau every two years, not four, to keep the course up-to-date

3 CCR 3542 to allow the Bureau to approve practicum courses Practicum courses could help trainees gain much needed appraisal experience without a supervisor Currently, AQB has not approved any practicum courses, but the Bureau believes course providers can design appropriate practicum courses that fulfill the need of trainees to gain experience The Bureau further proposes to amend CCR 3542 to clarify that standard four and five consulting appraisals can only be used as experience if completed prior to January 1, 2014 This is because USPAP retired standard four and five appraisals on January 1, 2014, so any appraisals completed after that date do not comply with USPAP and thus cannot be used as experience credit for trainees after January 1, 2014

The Bureau also intends to create a new regulation (CCR 3733) to create disciplinary guidelines This will be helpful to ensure consistent disciplinary actions

Any party interested in receiving a copy of the notice of any proposed action when they become available should e-mail Thu Tran at **thu.tran@orea.ca.gov**

Just the FAQs *continued from page 4*

> *"(Name of assisting appraiser) inspected the interior and exterior of the subject property and investigated other relevant subject information including zoning, flood zoning, hazards, and plat maps; researched and analyzed the subject neighborhood, market area and other influences on the subject's value; selected, inspected the exterior of, verified, and analyzed comparable properties; developed the sales comparison, cost, and income approaches to value; reconciled to an opinion of value; and prepared the appraisal report and all exhibits."*

If submitted as a work sample, the Bureau would expect this appraisal report to have a cost approach and an income approach because it says the assisting appraiser did them It also should have some element of market analysis and reconciliation If these elements are not included there is a possibility that there would be an issue during the work sample examination process

Summarizing the extent of any real property appraisal assistance is just an extension of the ever present Scope of Work requirement This always requires that a statement of what was done and that the person who was identified as doing the work actually did the work Similar disclosure holds true when significant real property appraisal assistance was provided

Education

Below are the available courses that satisfy the Supervisor/Trainee requirement Detailed information can be found on our website under the Online Services header and by clicking on Course Search for the classes listed here or by clicking on the links provided:

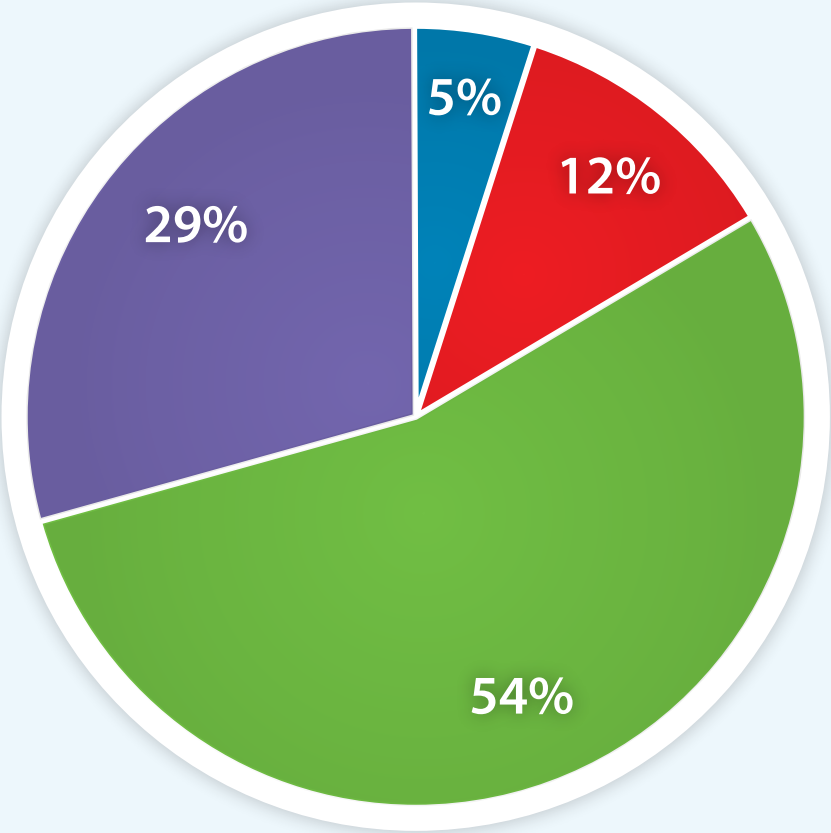
Available Supervisor/Trainee Courses	Course Provider	Online/Classroom
Real Estate Appraisal Trainee/Supervisor Course	**Allied Real Estate School**	Online
Supervisory Appraiser/ Trainee Appraiser Course	**Appraisal Institute**	Classroom
Supervisor Appraiser and Trainee Appraiser Course	**Dynasty School**	Online
Supervisor-Trainee Course for California	**McKissock Data Systems**	Online
Supervising the Trainee Appraiser	**Real Estate Trainers, Inc.**	Classroom

Licensing Statistics

This chart shows the majority of California's licensed appraisers (54 percent) are Certified Residential

BREA Licensing Statistics for 5/18/2016 10,961 Active Licensees

- Trainee
- Residential
- Certified Residential
- Certified General



***Our Vision**: Empowering real estate appraisal excellence.*

Legal Corner

Renewal Grace Period Troubles

Appraisers need to renew their license every two years from the date their license expires Late renewals are subject to specific provisions detailed in **California Code of Regulations, Title 10, Section 3682** Any appraiser who is late to renew their license should carefully review Section 3682 as well as read the following key points

Appraisers renewing their license late have two years from the expiration of their license to renew their expired license This two-year period is informally referred to as a grace period Failure to renew an expired license during this two-year grace period can be catastrophic This is because appraisers who exceed the two-year grace period must reapply for licensure which includes taking an examination and meeting education and experience requirements for the license level sought Qualifying for a license can be difficult if the appraiser no longer qualifies for the license level they previous held For example, all new certified level licensees must now have a bachelor's degree Late-renewing appraisers should also be aware they will be required to provide at least 14 hours (prorated semiannually) of continuing education for each year since the expiration of their license in addition to the continuing education needed to renew an active license Finally, expired licensees cannot appraise federal-related transactions while their license is expired Therefore, appraisers should always renew their license on time, but if an appraiser is late, the appraiser should make sure they renew their license during the grace period or prepare to reapply as an initial licensee

Enforcement Actions

Enforcement actions are based on the totality of the circumstances and the merits of each matter on a case-by-case basis, including the nature and severity of the offenses involved, prior disciplinary actions (if any), and circumstances that support a finding that the offender has been rehabilitated Violation descriptions may be partial and summarized due to space limitations For these reasons, cases may appear similar on the face yet warrant different sanctions

For a description of the criteria followed by the Bureau in enforcement matters, refer to Title 10, Article 12 (commencing with section 3721) of the California Code of Regulations Additional information on the individual actions is also available on the Bureau's website, **www.brea.ca.gov**

Published Disciplinary Actions				
Licensee	**License No.**	**Business City**	**Order Effective**	**Outcome**
Garcia, Pedro	AL 017556	Pasadena	12/15/2015	Voluntary Surrender
Ewing, Gregory	AG 011421	Corona Del Mar	1/11/2016	Fine
Elarmo, Ray	AR 030917	Fresno	1/22/2016	Additional Education, Fine, Probation

Citations

The following disciplinary actions are examples of citations issued from November 2015 through April 2016

Licensee	Fine	Violation
Certified Residential Licensee	$1,500 fine, 15 hours USPAP, 30 hours Residential Sales Comparison and Income Approaches	Violations of USPAP Standards 1 and 2, Conduct section of the Ethics Rule, Record Keeping Rule, and the Competency Rule: failed to accurately define and analyze the subject property's neighborhood and misrepresented neighborhood home prices, failed to accurately report and analyze relevant property characteristics for the subject and for the comparable sales, falsely reported that the subject property had sold recently, when it had not
Residential Licensee	$1,500 fine, 15 hours USPAP	Violations of USPAP Standards 1 and 2, Scope of Work Rule, Conduct section of the Ethics Rule: failed to provide a credible Sales Comparison Approach by providing incorrect information/ analysis and failing to consider additional alternative comparable sales that fit the stated search criteria, failed to meaningfully reconcile a disparate range of adjusted values in the Sales Comparison Approach, failed to provide a credible Income Approach by using erroneous comparable rental data, failed to reconcile the applicability and relevance of the three approaches to value, failed to adhere to an agreed upon assignment condition for level of license based on value, and misrepresented Multiple Listing Service (MLS) photographs as their own by cropping off the MLS logo
Certified Residential Licensee	30 hours Residential Sales and Income Approaches, and 15 hours Residential Report Writing and Case Studies	Violations of USPAP Standards 1 and 2, Record Keeping Rule and the Scope of Work Rule: failed to retain a true copy of the original appraisal report, failed to sufficiently analyze the agreement of sale of the subject property, failed to identify and analyze the actual location and physical and economic characteristics of the subject property, failed to report adequate physical and economic attributes of the improved comparable sales and failed report support for the various comparable sale adjustments, and failed to reconcile the quality and quantity of data analyzed within the Sales Comparison Approach

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Citations *continued from page 9*

Licensee	Fine	Violation
Certified Residential Licensee	$1,000 fine, 15 hours Residential Site Valuation and Cost Approach	Violations of USPAP Standards 1 and 2, Scope of Work Rule, and Competency Rule: failed to accurately report physical characteristics of the subject property, failed to properly develop an opinion of site value and physical depreciation estimates in the Cost Approach, failed to analyze a prior sale for the subject property, misrepresented MLS photographs of the comparable sales as their own, and failed to perform the scope of work necessary to develop credible assignment results
Certified Residential Licensee	$1,500 fine and 15 hours Advanced Residential Applications and Case Studies	Violations of USPAP Standards 1 and 2, Scope of Work Rule, and Record Keeping Rule: failed to properly identify the client, the intended use, and the intended users, failed to analyze market trends, failed to analyze comparable sales data, and failed to maintain the identity of the client in the work file
Residential Licensee	$1,000 fine; 15 hours Site Valuation and Cost Approach; 15 hours Residential Market Analysis and Highest and Best Use	Violations of USPAP Standards 1 and 2, Scope of Work Rule, and Competency Rule: failed to provide an accurate description of the neighborhood, failed to report correct zoning, represented the subject as conforming to the neighborhood when it was much larger and had more amenities, failed to analyze the crop trees on the property, failed to accurately identify the subject's market, failed to report the actual report dates in the second and third versions of the report, made erroneous adjustments to comparables based on misunderstanding of scope of practice limitation, made inconsistent adjustments, failed to adequately reconcile disparate adjusted sale prices, failed to produce a credible Cost Approach, and failed to understand and/or correctly employ recognized appraisal methods and techniques
Certified Residential Licensee	$1,000 fine, 15 hours USPAP, and 15 hours Residential Report Writing and Case Studies	Violations of USPAP Standards 1 and 2, Ethics Rule, Record Keeping Rule and Scope of Work Rule: failed to keep true copies of all reports delivered to the client, used and cropped MLS photos without disclosure, used inappropriate comparable sales, omitted relevant comparable sales, made unsupported adjustments to comparable sales, failed to properly reconcile within the Sales Comparison Approach, estimated site value based on the result of the Sales Comparison Approach, incorrectly estimated depreciation and failed to reflect functional obsolescence in Cost Approach
Certified Residential Licensee	$1,500 fine, 15 hours USPAP, and 30 hours Residential Sales Comparison and Income Approaches	Violations of USPAP Standards 1 and 2, Ethics Rule, Record Keeping Rule, and Scope of Work Rule: Respondent used and cropped MLS photos without disclosure, reported an incorrect zoning description, knowingly and falsely reported the number of subject property residential rental units, made incorrect and unsupported adjustments in the Sales Comparison Approach, made rent estimates which were not credible, failed to support the GRM used, made numerous technical errors
Certified General Licensee	15 hours Residential Report Writing and Case Studies	Violations of Standards 1 and 2: failed to describe the subject neighborhood properly by reporting boundaries that did not connect and by failing to report the size of homes in the neighborhood or why comparable sales from outside were appropriate, failed to justify why large differences in lot sizes were not adjusted for in the Sales Comparison Approach, failed to reconcile the comparable sale data in the Sales Comparison Approach

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Citations *continued from page 10*

Licensee	Fine	Violation
Certified Residential Licensee	$2,500 fine, 15 hours USPAP	Violations of USPAP Standards 1 and 2, the Conduct section of the Ethics Rule, and the Scope of Work Rule in multiple reports: used and cropped subject property photographs obtained online without disclosure thereby concealing their online public source and misleading the intended user, reported false subject neighborhood market conditions and falsely claimed the use of an MLS system not used
Certified Residential Licensee	$1,500 fine, 15 hours USPAP	Violations of USPAP Standards 1 and 2: Respondent failed to appropriately discuss and analyze the subject's location on a busy arterial while failing to apply relevant market based adjustments to the comparable sales used Additionally, respondent failed to disclose and analyze the commercial billboard located on the subject's site
Certified Residential Licensee	15 hours basic education, $1,000 fine	Violations of USPAP Standards 1 and 2, and Scope of Work Rule: failure to determine the appropriate scope of work necessary to develop credible assignment results by completing an appraisal assignment "as is" with a hypothetical condition; and failure to adequately identify the intended use and the intended user of the assignment
Certified Residential Licensee	15 hours, USPAP, $1,000 fine	Violations of USPAP Scope of Work Rule, Conduct Section of the Ethics Rule, and Standard Rules 1 and 2: failure in adequately identifying the client and the intended use, completing a misleading scope of work in that an interior inspection was not performed when an interior inspection was stated to have been done, and failure in disclosing a prior service on the subject performed by the appraiser within a three-year period immediately preceding acceptance of the assignment
Certified Residential Licensee	$1,000 fine, 15 hours USPAP	Violations of USPAP Standards 1 and 2: committed a series of errors and omissions, and failed to cite Google Maps and MLS as the source of photographs for the subject property and comparable sales

Frequently Asked Questions

"I renewed my license online; now what?"

Once you have completed the online renewal process (confirmed your contact information, uploaded course completion certificates, and paid with a VISA or MasterCard), you can sit back and relax. Our technicians will review the submitted information and mail out a physical copy of your license to the provided mailing address within the next two to three business days. If there are any issues during this review, you will be contacted directly. Mailing times may vary; however, if you do not receive your license within three weeks, please give the office a call so that we may see if it was returned to us. **Interested in renewing online?** The Online Renewal Application is on our website under the Online Services heading.

Please note that expired, suspended, and out-of-state licenses are not eligible to be renewed online.

"How much education do I owe for this renewal cycle?"

In a four-year period, you will need to submit a total of 56 hours of continuing education (CE) for your on-time renewal. The first two years, you will need to submit one, 7-Hour USPAP Update course; this is known as your USPAP cycle. In the following two years, you will need another 7-Hour USPAP Update course taken after your last renewal date. In addition, you will also need to submit a 4-Hour Laws & Regulations course, as well as 38 hours of elective courses. These courses may be taken at any time during your four-year cycle.

Let's take a look at an example:

- Your license expires on July 1, 2016, and it is your USPAP-only cycle. For this renewal, you will need to submit a USPAP course that was taken on or after July 2, **2014**, but before July 1, **2016**.
- Skipping ahead two years, your license now expires on July 1, 2018, and it is now your Full CE cycle. For this renewal, you will need to submit a 7-Hour USPAP course taken on or after July 2, **2016**, but before July 1, **2018**. In addition, you will need to submit a 4-Hour Laws and Regulations course taken on or after July 2, **2014**, but before July 1, **2018**. You will also submit the additional 38 hours of elective courses taken anytime during this same four-year time frame.

In summary, for on-time renewals you must take the 7-Hour USPAP course every two years and the 4-Hour Laws and Regulations course, and 38 hours of electives, every four years.

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