

# THE APPRAISER

Arkansas Appraiser Licensing and Certification Board



Summer 2019

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## Day with Appraisers event held May 9, 2019

The Arkansas Appraiser Licensing and Certification Board held the 2019 “Day with Appraisers” seminar at the Wyndham Hotel in North Little Rock on May 9, 2019. Thank you to all who attended!



Our morning speaker was Michelle Bradley, an Appraisal Standards Board (ASB) member. She discussed Hybrid Appraisals and the USPAP Scope of Work Rule. After a fabulous lunch, Brad Swinney, an Appraiser Qualifications Board (AQB) member, reviewed the proposed AQB changes regarding the Practical Applications of Real Estate Appraisal (PAREA) for experience hours credit for trainee appraisers. In the afternoon, Diana Piechocki also presented several office updates and discussed upcoming rule changes. We hope that everyone who attended enjoyed themselves and our speakers.

We also hope you took the time to fellowship with your peers. The staff always enjoys getting a chance to see those we only visit with on the phone.

Plans are underway for next years event on Thursday, May 7, 2020, at the same location. Please, “Save the Date.” We hope to see you there!

## Policy Statements

By Henk vanDuyvendijk

First, I would like to introduce myself; my name is Henk vanDuyvendijk and I am chief investigator for the Arkansas Appraiser Licensing & Certification Board (Board). I have been on staff since the end of May 2018. I previously worked for the Louisiana Real Estate Appraiser Board where I had been an investigator for three and a half years. I have also been an appraiser for approximately 20 years.

What I would like to cover in this article is to address some misunderstandings that may be out there concerning appraiser complaints and the complaint process.

In reading many internet articles and blogs it appears that many writers think that state boards and regulators are out to get them. I can assure you that this is far from the truth. The Arkansas Board strives to be fair and unbiased to all parties involved. The Board is made up of ten members, seven of which must be practicing appraisers.

I would like to briefly review the Board's complaint process. I have also included a link to the Appraisal Subcommittee's Policy Statements, see Policy Statement 7 which specifically outlines the guidelines for handling appraiser complaints from the Federal level. I have also included a link to the Arkansas Board's website that covers ALCB Rules, see Section I – General. Please see the steps below which covers the complaint process:

A complaint is received by the office – a file is opened. The complaint is review by the Investigator and prepared for the Jurisdiction Committee (a three-member Board panel). The Committee reviews the complaint to see if the Board has jurisdiction over the complaint and appraiser involved.

If jurisdiction is established the appraiser(s) involved are sent a letter informing then a complaint has been received by the Board and requesting a response in writing, a copy of the report in question, a copy of the workfile and any other supporting documentation the appraiser deems pertinent.

Once the response is received it is reviewed and a summary of the complaint and response is prepared by the investigator. At the same time a copy of the response received by the Board is mailed to the Complainant for review and rebuttal. After a reasonable time for response from the Complainant the case is set for Probable Cause.

At Probable Cause (a three-member Board panel) will review the complaint, the response & supporting documentation and rebuttal if provided by the Complainant. At this time the Panel may dismiss the complaint, dismiss the complaint with caution or ask the appraiser(s) to come in for a Non-Judicial Hearing (a three-member Board panel).

At a Non-Judicial Hearing the appraiser(s) may bring legal counsel to the hearing at their discretion. The purpose of the NJH is answer any questions that the Panel / Board feel need further clarification. At this time the Panel may dismiss, dismiss with caution, require education, put an appraiser's license on probation or refer to a Full Board Hearing (before the Full Board, a formal process). The appraiser also has the right to request a Full Board Hearing if he/she feels the Panel has been unfair in their findings.

At a Full Board Hearing, a formal process where the Board has legal counsel. There is also an Administra-

Con't on page 5

## Courses taken not on our pre-approved list

As you all know, there is a list of all of our approved education courses and our approved education providers available on our website, [www.arkansas.gov/alcb](http://www.arkansas.gov/alcb). In the event an appraiser chooses to complete a class that is not preapproved by the Board, he/she may apply for individual approval. The Board reviews each of the request for individual credit at every board meeting.

To submit a class to the Board for individual consideration, an appraiser must submit the following information.

### APPROVAL PROCESS



1. A Course Completion Certificate,
2. A timed outline provided by the education provider and a
3. A course description from the education provider.

If we do not have all three of these items, we will not submit the class for individual approval until provided by the appraiser. If you take an online course that is not preapproved, we must have the approval of the delivery mechanism as well.

The Board Staff cannot tell you if a course will be approved. Approval or disapproval is a decision of the Board.

Please submit classes for individual credit as soon as you complete the class. In the event the Board does not approve the class, you may need time to complete additional education hours.

## Update your Information

Please make sure that you keep our office up-to-date on all of your contact information. We are utilizing emails more and more regarding notices and renewals. If you do not keep us informed, you will miss out on those notices. There is a change form available on the Boards website, [www.arkansas.gov/alcb](http://www.arkansas.gov/alcb). Please fill out this form and send it to our office so we can ensure we have the most current information.

The Board Rules currently state in Section IX, "Credential holders must ensure that the address on file with the Board Office is current and that the Board is notified within thirty (30) days of any mailing address or email address change."

## Is this thing on...

Act 1028 of the Legislative Regular Session, 2019, requires all open public meetings to be recorded. The Act states in part, “...All officially scheduled, special, and called open public meetings shall be recorded in a manner that allows for the capture of sound including without limitation: (A) A sound-only recording; (B) A video recording with sound and picture; or (C) A digital or analog broadcast capable of being recorded.”

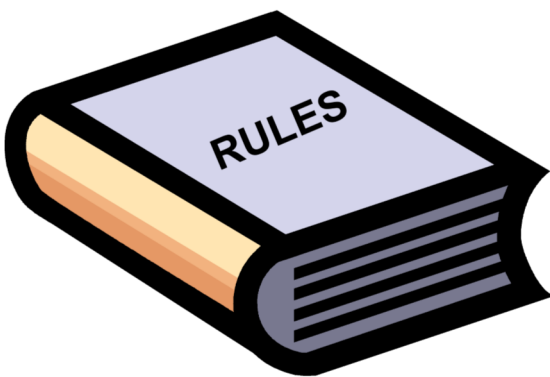
Therefore, the Arkansas Appraiser Licensing and Certification Board (AALCB) must record all interviews, hearings and board meetings, except an Executive Session, beginning on or after July 24, 2019. The AALCB will make a sound-only recording of the event.

We thank everyone for their cooperation as we navigate this new phase in our office.



## Legislative Statute Revisions

During the recent Legislative Regular Session, the General Assembly with Act 514 revised AALCB Statutes. This Act makes three key revisions to our laws.



The first creates a specific and distinct trainee classification. In Arkansas, a trainee appraiser is now a Registered Apprentice appraiser (RA). As a little background information, the Board is reviewed every two years for compliance with the Financial Institutions Reform, Recovery and Enforcement Act (Title XI) by the Appraisal Subcommittee (ASC). Title XI, as amended by the Dodd-Frank Act, expanded the ASC's authority to include monitoring a state's trainee program beginning in 2013. Before that time, we combined our trainee appraisers, who require supervision, with our State-Registered (SR) appraisers who do not require supervision. During our most recent compliance review in March 2018, the ASC noted that these groups needed to be separated. The Board Staff will begin contacting existing SR appraisers to make the necessary change.

Con't on page 5

Con't from page 4

A second revision adds language to clarify that an appraiser must be credentialed by the Arkansas Appraiser Licensing and Certification Board if he or she is performing an appraisal of a property located within the borders of the State of Arkansas.

The third revision is to § 17-14-206 with the addition of (c)(1) which adds, *“An action in tort or contract, whether oral or written, to recover damages for malpractice, negligence, error, mistake, omission, or breach shall not be brought against a registered apprentice appraiser, a state-registered appraiser, a state-licensed appraiser, or a state-certified appraiser, including any agent, firm, employee, or employer thereof, after three (3) years from the date on which the appraisal or appraisal-related service giving rise to the action was completed or should have been completed. (2) The time for commencement of an action contained in subdivision (c)(1) of this section does not apply to any claim alleging that a state-registered appraiser, state-licensed appraiser, registered apprentice appraiser, or state-certified appraiser knowingly and intentionally: (A) Committed fraud; or (B) Made misrepresentations when performing a real estate appraisal or when providing an appraisal-related service.*

This addition to the Board statutes codifies existing case law. And, mirrors the three (3) year statute of limitations for the AALCB to investigate a complaint filed against an appraiser.

Please give us a call if you have any questions or concerns regarding these changes.



## Con't from page 2

tive Law Judge and court reporter. Each side presents their case and the Full Board makes the final determination. At this time the Board may dismiss, dismiss with caution, require education, put an appraiser's license on probation, suspend or revoke an appraiser's license. The Board may also impose a Civil penalty of up to \$1,000 per violation. This finding may be appealed through the court system.

If anyone looks at the steps to the Board's Complaint Process it should be clear at no time is any one person making a determination about an appraiser's livelihood. At each step along the way a panel of at least three Board Members is involved.

I hope this outline sheds some light on the Complaint Process and how the Board strives to be fair and impartial to all involved.

Below is the link to the Appraisal Subcommittee (ASC) Policy Statements: (Policy Statement 7 addresses State Requirements)

<https://www.asc.gov/Documents/PolicyStatements/2018%20March%20-%20Revised%20ASC%20Policy%20Statements.pdf>

### **POLICY STATEMENT 7**

#### **State Agency Enforcement**

##### ***B. Enforcement Process***

##### **2. Effective Enforcement**

Effective enforcement requires that States investigate allegations of appraiser misconduct or wrongdoing, and if allegations are proven, take appropriate disciplinary or remedial action. Dismissal of an alleged violation solely due to an "absence of harm to the public" is inconsistent with Title XI. Financial loss or the lack thereof is not an element in determining whether there is a violation. The extent of such loss, however, may be a factor in determining the appropriate level of discipline.

Persons analyzing complaints for USPAP compliance must be knowledgeable about appraisal practice and USPAP and States must be able to document how such persons are so qualified.

States must analyze each complaint to determine whether additional violations, especially those relating to USPAP, should be added to the complaint.

Closure of a complaint based solely on a State's statute of limitations that results in dismissal of a complaint without the investigation of the merits of the complaint is inconsistent with the Title XI requirement that States assure effective supervision of the activities of credentialed appraisers.

Below is the link to the Arkansas Appraiser Licensing & Certification Board (ALCB) Rules: (Section I – General (D) and (P) address complaints)

[https://static.ark.org/eeuploads/appraiser/Rules\\_09\\_18\\_2017.pdf](https://static.ark.org/eeuploads/appraiser/Rules_09_18_2017.pdf)

## Rule Changes in process

As Board Staff mentioned at the seminar, there are rule changes currently in process. The first of these revisions reduce the requirements to become an appraiser to be equivalent to the Appraiser Qualification Board (AQB) minimums. It will also allow an appraiser the choice to complete USPAP in a classroom setting or online. There are several “clean-up” revisions as well. When the board receives approval to post the revisions for public comment, we will send out a notice to appraisers.

The second revision is to the Appraisal Management Company (AMC) rules. As you may know, the Board will be required to collect a pass-through fee from AMC’s beginning in 2020. The rule changes clarify the process to do so.

The third revision regards the creation of a separate and distinct trainee classification. Trainee appraisers will be known as Registered Apprentice (RA) appraisers. Current State Registered appraisers who are in the process of upgrading to a licensed or certified classification will need to transfer to the RA category. The Board Staff will work with each State Registered appraiser to make the process as easy as possible. This revision also makes the changes necessary for the Board to comply with requirements from the recent legislative session.

The Board Staff will be posting the revisions to the website and sending notice to appraisers as the process moves forward for each of the revisions.





**Arkansas Appraiser  
Licensing and Certification  
Board**

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**AALCB All Active Registered, Licensed  
and Certified Appraisers**

License Type	
State Registered	177
State Licensed	39
Certified Residential	317
Certified General	212
Total: *does not include temporary or non-resident appraisers	745

**Board Members**

Cary Matthews, Chair  
Randy Minton, Vice-Chair  
Josh Barkhimer  
Tom Ferstl  
James Gibson  
Brian Hester  
Charles Johnson  
Scott McKennon, Treasurer  
Shannon Mueller  
James Murphy



**Supervisor/Trainee Course  
2019**

Date:	City:	Location:
September 19	Rogers	NWACC
November 7th	Jonesboro	Farm Credit Office
December 19th	Little Rock	Main St. Mall

May 7th, 2020 at the Wyndham  
Hotel for our annual Day with  
Appraisers Seminar!

Lura Merrell's Certified Residential  
credential was suspended on 5-28-  
2019 for two years