



VIRGINIA REAL ESTATE APPRAISER BOARD  
***THE VIRGINIA APPRAISER***

Volume 17 Department of Professional and Occupational Regulation Summer 2008

**Message From the Chair**



**Diane Quigley**

Greetings to all appraisers and trainees in the Commonwealth! This is my first message as the newly elected Chair of the Real Estate Appraiser Board. I welcome the opportunity to lead the Board and hope that any licensee with questions, ideas or concerns will contact the Board. We welcome your input and suggestions and encourage you to contact us at 804-367-2039 or by email at [reappraisers@dpor.virginia.gov](mailto:reappraisers@dpor.virginia.gov).

Governor Kaine has appointed three new members to the Board, and I would like to introduce them to you. Betsy Critzer is a certified residential appraiser with Pape and Company, Inc. of Charlottesville. H. Glenn James is a certified general appraiser with Com-

mercial First Appraisers, LLC of Norfolk. Ryan Myers will serve as a citizen member and is the branch manager of Woodbury Financial Services in Vienna.

These new Board members replace Past Chairman Jack Harry, certified residential appraiser Janet Fuller, and citizen member Gina Burgin whose terms expired earlier this year. We appreciate Jack, Janet and Gina's excellent service to the Board during the past years.

I hope you enjoy the articles and information we provide in this newsletter. We have had some lively discussions at our recent meetings. Our goal for this newsletter is to help appraisers stay informed of current issues in the business and to encourage participation in the Board's work. I would personally appreciate any suggestions or offers of help to make this newsletter even better. I also strongly encourage you to attend our quarterly meetings. The 2008 meeting dates are listed in the next column.

Diane

Real Estate Appraiser Board  
 The Perimeter Center  
 9960 Mayland Drive, # 400  
 Richmond, VA 23233  
 804-367-2039

Timothy M. Kaine  
 Governor

Patrick O. Gottschalk  
 Secretary  
*Commerce & Trade*

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**2008 Board Meeting Dates**

All Board meetings are held on the Second Floor of the Perimeter Center at the above address.

August 19, 2008  
 November 18, 2008

# Real Estate Appraiser Board Members & Staff

## Board Members

Diane Quigley  
Centreville, VA  
Chair  
Term ends April 2, 2009

Harry O. Lewis  
Richmond, VA  
Vice Chair  
Term ends April 2, 2010

Betsy T. Critzer  
Earlysville, VA  
Licensee Member  
Term ends April 2, 2012

H. Glenn James  
Norfolk, VA  
Licensee Member  
Term ends April 2, 2012

Sandra Johnson  
Chesapeake, VA  
Mortgage Lending Industry  
Term ends April 2, 2010

Douglas Mullins, Jr.  
Wise, VA  
Citizen Member  
Term ends April 2, 2010

Ryan A. Myers  
Sterling, VA  
Citizen Member  
Term ends April 2, 2012

Richard A. Pruitt  
McLean, VA  
Licensee Member  
Term ends April 2, 2009

Perry E. Turner, Jr.  
Manakin-Sabot, VA  
Licensee Member  
Term ends April 2, 2009

## DPOR Staff

Jay DeBoer, Director

Mark Courtney, Deputy Director  
Licensing & Regulation Division

Nick Christner, Deputy Director  
Compliance & Investigations Division

Steven Arthur, Deputy Director  
Administration & Finance Division



## Real Estate Appraiser Board Staff

Christine Martine  
Executive Director

Kevin Hoeft  
Board Administrator

Maryanne Woo  
Office Manager

Regina Greene & Elaine Winn  
Licensing Specialists

Emily Trent  
Administrative Assistant

## Board Contact Information

Licensing Section - 804-367-2039

Executive Director - 804-367-8552

Fax Number - 804-527-4299

E-mail - REAppraisers@dpor.virginia.gov

Web - www.dpor.virginia.gov

DPOR Main Number - 804-367-8500

Complaints Section - 804-367-8504

## Board Considers the Use of “Electronic Portals”

The Board received a petition at its February 26, 2008, meeting from appraiser George W. Dodd and other Board licensees requesting the Board “take immediate action in prohibiting any entity doing business in the Commonwealth of Virginia from altering in any way real estate appraisals during the process of transmitting, in any form, from the appraiser to the final end user (Client).” The petition expressed concern that some electronically transmitted appraisal reports are being altered to the extent that these alterations may represent a violation of one or more USPAP rules.

The Board submitted this request as a “Petition for Rulemaking” (Petition) pursuant to §2.2-4007 of the *Code of Virginia*. The Petition, as published in the *Virginia Register of Regulations* on April 28, 2008, requested the Board to: “Amend its regulations to require providers of electronic portals to cease doing business in Virginia until such time as they provide the Board with sufficient evidence and documentation that ensures the integrity and unadulterated transmission of appraisal reports from the appraiser to the client.”

The Board received public comment on the Petition until May 19, 2008. The Board took up the Petition and the public comments at its May 22, 2008, meeting, and it established an “Electronic Portal Committee” to examine the use of electronic portals in Virginia and to provide the Board with a recommendation concerning the Petition. The Board appointed Pat Turner (Chairman), Harry Lewis and Richard Pruitt to the Committee. Board Chair Diane Quigley serves as an ex-officio Committee member.

The Committee met on June 4, 2008, and heard from a number of appraisers and a representative from FNC, Inc. The Committee met again on July 23, 2008, and heard presentations from Petitioner George W. Dodd, Robert L. Frazier, a member of the Property and Valuation Services Workgroup of the Mortgage Industry Standards Maintenance Organization (MISMO) and Neil Olson, Chief Legal Officer for FNC., Inc. The Committee also received input from many appraisers who attended the meeting.

Some of the key questions before the Committee included: 1) Does the Board have any authority to regulate electronic portal companies? 2) Is the transmittal of anything other than a “true copy” of the report considered to be misleading or fraudulent? 3) Where does an appraiser’s responsibility end in the electronic transmission of a report?

The Appraiser Standards Board (ASB) raised a similar question in its July 2008 publication of *USPAP Q&A*: “I am an appraiser who has been asked by my client to submit my appraisal reports electronically. Assuming that I have satisfied the reporting obligations in the creation of the report, what are my obligations in the use of electronic delivery systems?” The answer noted that although USPAP does not specifically address this issue, the Conduct Section of the ETHICS RULE states, in part: “An appraiser must not communicate assignment results in a misleading or fraudulent manner. An appraiser must not use or communicate a misleading or fraudulent report...”

The answer went on to say:

In the transmission of electronic reports, the appraiser’s obligation is to ensure that the report that is transmitted is not misleading or fraudulent. Therefore, the appraiser needs to be familiar with the electronic report created by the software used in the assignment. The appraiser must have a sufficient understanding of the report generating software used in an assignment to avoid the communication of misleading reports. In order to comply with USPAP, the electronic report that will be sent to the client must be examined by the appraiser prior to transmission to ensure that it is not misleading or fraudulent. An appraiser cannot control what a client or intended user does with his or her appraisal report. USPAP establishes requirements only for appraisers, not clients, intended users, or others. Once an appraisal report has been transmitted to the client, USPAP places no further responsibility on the appraiser for the client’s use of that report.

After considering this information at its July 23, 2008, meeting, Mr. Lewis made the motion that the Committee recommend that the Board, at its August 19, 2008, meeting, consider the information presented at the June 4, 2008, and July 23, 2008, Committee meetings and take appropriate action. Mr. Pruitt seconded the motion and it passed unanimously.

# The New Appraiser License Examinations

The new *Real Property Appraiser Qualifications Criteria* established by the Appraiser Qualifications Board (AQB) of The Appraisal Foundation required that the Board implement new and more rigorous National Uniform Licensing and Certification Examinations for the Trainee, Licensed Residential, Certified Residential and Certified General Real Estate Appraiser Licenses beginning on January 1, 2008. These new examinations were developed by the AQB and are administered by PSI Exams, the Board's examination vendor.

The new examinations test a candidate's ability to *apply* the knowledge (and possibly experience) he has obtained. The old examinations essentially tested the candidate's ability to recall information learned in pre-license education courses. Candidates taking the new examination will be required to not only *know* things, but to also *know how to do* things. To accomplish this, the AQB created fourteen new Examination Content Outlines (ECOs) identifying what appraisers should know (and be tested on) to qualify as competent entry level practitioners. The ECO's are broad conceptual topic areas, which are related to the Required Core Curriculum modules (topics) established by the AQB for each license or certification classification.

Each examination consists of 150 questions, and the AQB developed a number of different examinations for each license/certification type. A scaled score of at least 75 is required to pass each examination. A scaled score of 75 is not a percentage score or the actual number of test questions needed to be answered correctly to pass the examination. A scaled score of 75 varies from examination to examination based on the difficulty level of the test questions in any particular examination. The Licensed Residential and Certified Residential examinations are six hours long and the Certified General examination is eight hours long. The cost of the examination is \$75, and there are PSI Exams testing centers located across Virginia.

For more information on the new National Uniform Licensing and Certification Examinations, go to: [http://www.appraisalfoundation.org/s\\_appraisal/sec.asp?CID=292&DID=738](http://www.appraisalfoundation.org/s_appraisal/sec.asp?CID=292&DID=738) on The Appraisal Foundation's webpage. For specific information on the Board's Real Estate Appraiser Examinations, you can print out an "Examination Information Bulletin" on PSI Exams' webpage at: <http://candidate.psiexams.com>.

## Continuing Education

- Effective January 1, 2008, all Inactive Board licensees are required to complete all required continuing education hours that would have been required if the licensee was Active prior to submitting an application to activate the license. This requirement was mandated by The Appraisal Subcommittee and is located in 18 VAC 130-20-110.F of the Board's Regulations. Licensees are required to complete 28 hours of continuing education every two years to renew their license.
- You must **complete** any continuing education course, seminar, workshop or conference to receive CE credit from the Board. The Board will not give you any credit for partially completed continuing education courses.

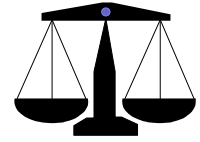
## DID YOU KNOW . . . ?

- On November 27, 2007, the Board voted to extend the segmented approach deadline for completing the experience requirement to June 30, 2010, for applicants who completed their pre-license education requirement prior to January 1, 2008.





# Board Disciplinary Actions



If a complaint is filed against an appraiser licensed by the Virginia Real Estate Appraiser Board (the Board), the complaint is reviewed by the Compliance and Investigations Division (CID) of DPOR to determine if a violation of the Board's laws or regulations may have occurred. If there is probable cause of a violation, an investigation is initiated. If the investigation reveals that one or more violations may have occurred, the licensee receives notice to appear at an informal fact-finding conference (IFF) to address these alleged violations.

In some cases the licensee may be offered a pre-IFF Consent Order. A Consent Order is an agreement between the licensee and the Board consisting of specific violations and sanctions. Pre-IFF Consent Orders eliminate the time and expense associated with conducting an IFF.

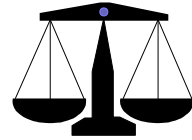
If an IFF is held, a recommendation from the IFF hearing officer consisting of violations and proposed sanctions is submitted to the Board for consideration at its next regularly scheduled meeting. The Board can take the following disciplinary actions against a licensee: assess a monetary penalty; suspend or revoke a license; place an individual on probation, require additional education, or deny renewal. A licensee can continue to practice as an appraiser throughout the disciplinary process until the Board either revokes or suspends his license.

The public can view the Board's Final Orders and Consent Orders on the DPOR website: [www.dpor.virginia.gov](http://www.dpor.virginia.gov). Click on "License Lookup." Then click on "Search Disciplinary Actions Occurring since April 1, 2002." A search page will appear with directions on how to search for Board disciplinary actions against licensed appraisers. The following disciplinary actions were rendered by the Board from August 2007 to the present:

<u>Case No.</u>	<u>Licensee</u>	<u>Violation/Sanction</u>
2006-02137	Michael S. Moore Chester, VA	18 VAC 130-20-180.E - Appraisal Report Requirements Fined \$1000; \$150 Board Costs; 30-day License Suspension; 30-hour upper level residential appraisal education course.
2006-04183	James M. Mattson Richmond, VA	18 VAC 130-20-170.3 - Misrepresentation Fined \$1000; \$150 Board Costs; 15-hour USPAP course.
2007-01697	Wendy F. Coates Tappahannock, VA	18 VAC 130-20-180.E - Appraisal Report Requirements Fined \$150.
2007-03361	Donna Cowan Goforth Independence, VA	18 VAC 130-20-180.E - Appraisal Report Requirements (3 counts) 18 VAC 130-20-180.K.1 - Unworthiness (2 counts) License Revocation.
2007-04481	Donna Cowan Goforth Independence, VA	18 VAC 130-20-180.E - Appraisal Report Requirements (2 counts) 18 VAC 130-20-180.K.1 - Unworthiness License Revocation.
2007-03131	Robbie L. Colwell McLean, VA	18 VAC 130-20-180.K.3 - Unworthiness License Revocation; \$150 Board Costs.
2007-03551	John Howard Chen Ijamsville, MD	18 VAC 130-20-180.K.1 - Unworthiness Fined \$1000; \$150 Board Costs; 40-hour upper level residential appraisal education course.
2007-02552	Robert L. Cole Aldie, VA	18 VAC 130-20-180.K.1 - Unworthiness Fined \$500; \$150 Board Costs.
2007-02433	Roberto G. Lovick, Sr. Norfolk, VA	18 VAC 130-20-180.D - Development of Appraisal (12 counts) 18 VAC 130-20-180.E - Appraisal Report Requirements (2 counts) Fined \$4200; License Suspended 180 Days; 2-year License Probation & submit three appraisal reports every three months; 30-hour upper level residential appraisal education course.
2008-02220	Douglas W. Persinger White Sul. Springs, WV	18 VAC 130-20-180.K.5 - Unworthiness Fined \$350.
2007-03991	Vicky A. Trang Springfield, VA	18 VAC 130-20-180.D - Development of Appraisal Fined \$500; \$150 Board Costs; 32-hour upper level residential appraisal education course.



## Board Disciplinary Actions (cont.)



<u>Case No.</u>	<u>Licensee</u>	<u>Violation/Sanction</u>
2007-04522	Glen W. Kirby Hartfield, VA	18 VAC 130-20-180.D - Development of Appraisal 18 VAC 130-20-180.E - Appraisal Report Requirements Fined \$1000; 1-year Probation; 32-hour upper level residential appraisal education course.
2008-00744	Kenneth W. Martin Virginia Beach, VA	18 VAC 130-20-180.D - Development of Appraisal 18 VAC 130-20-180.E - Appraisal Report Requirements (2 counts) Fined \$1050; \$150 Board Costs; 32-hour upper level residential appraisal education course.
2007-04114	Anthony Forte Leesburg, VA	18 VAC 130-20-180.D - Development of Appraisal Fined \$1000; \$150 Board Costs; 15-hour USPAP course; 32-hour upper level residential appraisal education course.
2008-00382	Sue S. Bowers Oakton, VA	18 VAC 130-20-180.D - Development of Appraisal (2 counts) Fined \$1000; \$150 Board Costs; 32-hour upper level residential appraisal education course.
2007-00817	Lennox S. Westney, II Washington, D.C.	18 VAC 130-20-180.D - Development of Appraisal (2 counts) 18 VAC 130-20-180.E - Appraisal Report Requirements (2 counts) 18 VAC 130-20-180.K.1 - Unworthiness Fined \$2000; \$500 Board Costs; License Revocation.
2007-01319	Lennox S. Westney, II Washington, D.C.	18 VAC 130-20-180.K.1 - Unworthiness 18 VAC 130-20-180.K.4 - Unworthiness 18 VAC 130-20-180.K.1 - Unworthiness \$500 Board Costs; License Revocation.

### **Board Sends Letter to Fannie Mae and Freddie Mac**

Real Estate Appraiser Board Chair Diane Quigley sent letters on May 22, 2008, to Fannie Mae and Freddie Mac stating, in part:

The Board is aware various valuation instruments are apparently being solicited and encouraged by many lenders in the national lending community that appear to conflict with Virginia law and regulations. Specifically, Automated Valuation Models (AVMs) have allegedly been utilized on transactions above the current \$250,000 "de minimus" exemption. Additionally, many lenders are evidently utilizing Broker Price Opinions in lieu of actual real estate appraisals by licensed real estate appraisers. Virginia law prohibits a real estate salesperson or broker from engaging in appraisal practice, with the exception of providing a prospective seller with a value estimate for the sole purpose of obtaining a listing of that property (in the normal course of business). While Virginia regulations are silent on electronically generated valuation services, federal mandates require appraisals by qualified licensees on transactions above the \$250,000 de minimus. Therefore, the Board has determined utilization of AVMs, as a substitute for appraisals, are also prohibited. The Board is concerned that your organization may inadvertently be encouraging individual real estate salespersons and brokers - who are not licensed real estate appraisers - to violate Virginia law and regulations and accompanying federal statutes.

Fannie Mae responded by letter on June 27, 2008, stating, in addition to the \$250,000 de minimus exception, federal banking regulations also exempt a transaction that:

"Involves a residential real estate transaction in which the appraisal conforms to the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation appraisal standards applicable to that category of real estate." Because this section provides an exception to the appraisal requirements for transactions that qualify for sale to Fannie Mae, we do not believe that Fannie Mae's purchase of loans from federally-regulated lenders in any way encourages individual real estate salespersons and brokers to violate this federal statute or any Virginia regulation or statutes based on this statute.

The Board has not yet received a response from Freddie Mac.

# Law and Regulations Update

## 2008 Virginia General Assembly Changes

### **Senate Bill 158 - Wet Settlement Act (Senator Donald McEachin)**

Amends the *Code of Virginia* by adding § 6.1-2.13:3. This provision requires: "Any lender providing a loan secured by a first deed of trust or mortgage on real estate containing not more than four residential dwelling units shall disclose on the settlement statement, as that term is defined in § 6.1-2.20, any fee charged to the borrower for an appraisal as that term is defined in § 54.1-2009 and any fee charged to the borrower for a valuation or

opinion of value of the property prepared using an automated or other mechanism prepared by a person who is not licensed as an appraiser under Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1." This law went into effect on July 1, 2008.



### **House Bill 1487 - Mortgage Lender & Broker Act (Delegate Terri Suit)**

Amends § 6.1-425.A of the *Code of Virginia*. This provision authorizes the Virginia State Corporation Commission to suspend or revoke any lender's or broker's license for: "Failure to pay when due reasonable fees to a licensed appraiser for appraisal services that are (i) requested from the appraiser in writing by the mortgage broker or mortgage lender or an employee of the mortgage broker or mortgage lender and (ii) performed, in accordance with the terms of the contract with the appraiser and all regulatory requirements related to such appraiser and appraisal, by the appraiser in connection with the origination or closing of a mortgage loan for a customer of the mortgage broker or mortgage lender." This law went into effect on July 1, 2008.

## Virginia Real Estate Appraiser Board Regulatory Changes

The Real Estate Appraiser Board Regulations were amended on January 1, 2008, to include Appraiser Qualifications Board (AQB) mandated changes. Go to: [http://www.dpor.virginia.gov/dporweb/Appraiser\\_Regs.pdf](http://www.dpor.virginia.gov/dporweb/Appraiser_Regs.pdf) to review and print a copy of the amended regulations.

In addition to the January 1, 2008, AQB-mandated changes, on November 27, 2007, the Board approved a different set of regulatory amendments that clarify the Board's definitions, course approval process and standards of professional practice. These final amendments were approved by Governor Kaine's office on June 6, 2008, were published in the *Virginia Register of Regulations* on July 21, 2008, and are scheduled to go into effect on September 1, 2008. You can review these regulations on the Department of Planning and Budget's "Virginia Regulatory Town Hall" webpage at: <http://www.townhall.virginia.gov/L/ViewStage.cfm?stageid=4459>. After September 1, 2008, the new regulations will be available on the Board's website.