



THE APPRAISAL FOUNDATION

Authorized by Congress as the Source of Appraisal
Standards and Appraiser Qualifications

January 18, 2018

Richard E. Livingston, Chair
Kansas Real Estate Appraisal Board
Jayhawk Tower
700 SW Jackson, Suite 804
Topeka, KS 66603

Re: Kansas House Bill No. 2414

Dear Chair Livingston:

It is my understanding that legislation introduced last March as House Bill No. 2414 (HB 2414) and referred to the Kansas House Committee on Federal and State Affairs may be taken up for consideration. Promoted by the Appraisal Institute (AI), this legislation would allow Kansas appraisers to comply with the AI standards of valuation practice (SVP) instead of the *Uniform Standards of Professional Appraisal Practice* (USPAP) when performing an appraisal of real property for any purpose other than a real-estate related financial transaction.

The Appraisal Foundation (TAF), a neutral third party authorized by Congress to establish appraisal standards and appraiser qualifications, has significant concerns regarding attempts to allow the use of appraisal standards that are below the minimum set for professional appraisal practice. As we emphasized when AI presented this concept to the Kansas Real Estate Appraiser Board (KREAB) in January 2017, **recognition of appraisal standards other than the USPAP would seriously erode public trust in valuation and such initiatives do not have the support of the appraisal profession.** The reasons for the lack of support and why to date, not one state has adopted an alternative or additional standard to be used in lieu of USPAP, include:

Regulatory Burden: Users of appraisal services will need to bolster, at considerable expense, their compliance operations in order to: (a) initially become knowledgeable about the AI's standards of valuation practice and valuers' code of conduct; and (b) continually monitor revisions to those standards. Monitoring revisions would be difficult as the AI makes changes to these documents without public notice or input.

Administrative and Financial Burden: Attempting to enforce numerous sets of valuation standards would create a significant administrative burden for KREAB. There would be substantial costs associated with training legal and investigative staff about the differences among the sets of valuation standards. The negative implications on the KREAB's complaint investigation program could be extensive.

Enforceability & Recognition: Of all valuation standards, only USPAP has been proven to be enforceable in federal courts, state courts, and administrative law proceedings for the past quarter century without issue and it has become deeply embedded in our legal system. USPAP consists of principles-based rules, whereas the AI's standards are essentially principles. The lack of specificity in AI's standards would create significant enforcement challenges for your legal staff.

Unlike standards offered by a trade association, USPAP is developed in a transparent manner to ensure public trust and is not written to accommodate the wishes of members. All proposed changes to USPAP are publicly exposed for comment, all comment letters are posted on our website, and public comment is received at meetings held around the country.

A Solution in Search of a Problem: No state has adopted alternative standards to be used in lieu of USPAP. That is because the current system is working quite well and the reasons being put forth to change it lack substance. The argument that USPAP prevents appraisers from being able to ethically perform various appraisal assignments is false. Please see Attachment #1, *Yes I Can Accept that Assignment* for a brief list of valuation assignments able to be performed under USPAP.

Minimal Support within the Appraisal Profession: One set of strong yet flexible standards provides stability, prevents confusion, and is the hallmark of a profession. It is for this reason that 16 professional organizations with a strong interest in valuation are opposed to multiple sets of valuation standards and support one national set of standards, USPAP. See Attachment #2 for a listing of these organizations and Attachment #3 for a letter from the National Association of REALTORS®. Only one appraiser membership organization that represents less than 20 percent of real property appraisers is advocating for such an initiative, and its own members have spoken against it at public meetings in California, Tennessee, Florida, Montana and Missouri.

AI Standards Fall Short of the Minimums Set Forth in USPAP: The AI's SVP are **not substantially equivalent to or consistent with** USPAP; on the contrary, they fall woefully short of the provisions of USPAP, which help ensure and preserve the public trust. Under sworn testimony before the Florida Real Estate Appraiser Board, an AI representative admitted that the SVP is deficient in multiple areas.

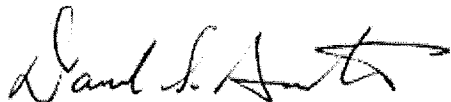
TAF has identified numerous areas where the AI's SVP are *substantially deficient* to USPAP. Attached is an analysis of the SVP (Attachment #4) that was prepared by Maggie Hambleton, former Chair of the Ohio Real Estate Appraisal Board, current Chair of the Appraisal Standards Board, and designated AI member.

For these many reasons and more, **we strongly urge the KREAB to preserve stability and consistency for the state's valuation profession, and oppose legislative or rulemaking activities to authorize the use of additional appraisal standards.**

Richard E. Livingston, Chair
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Should you wish to discuss these items in greater detail or need additional information, please contact me by telephone at 202-624-3040 or email at david@appraisalfoundation.org.

Sincerely,

A handwritten signature in black ink, appearing to read "David S. Bunton". The signature is fluid and cursive, with a long horizontal stroke at the end.

David S. Bunton
President

cc: Scott A. Brown, Member
Michelle Fales, Member
Bill Lansdowne, Member
Fred L. Samuelson, Member
James Stallbaumer, Member
Sally Pritchett, Director

YES, I CAN ACCEPT THAT ASSIGNMENT! USPAP FLEXIBILITY AT A GLANCE

Some appraisers may not be aware of the inherent flexibility built into the *Uniform Standards of Professional Appraisal Practice* (USPAP). Because USPAP is a set of standards that is built on the basic principles of ethics and competency, those who do not appreciate such flexibility can sometimes view USPAP as vague. However, the scope of work concept in USPAP enables appraisers to perform many types of assignments while maintaining compliance with standards. Following are examples of such flexibility:

Assignment Types	Some Examples	Allowed by USPAP?	How Does USPAP Apply?
<i>Oral Appraisal Reports</i>	A client does not require a written report	Yes	STANDARDS 2, 8, 10
<i>Purchase Price Negotiation</i>	A potential buyer is considering purchasing a property or business	Yes	STANDARDS 1 & 2, 7 & 8, 9 & 10
<i>Calculation Engagement</i>	A CEO is considering an acquisition and wants to know the calculated result given a specific valuation method	Yes	STANDARDS 9 & 10
<i>Consulting/Appraisal Consulting¹</i>	A client is considering developing a vacant parcel and is looking for maximum return	Yes	Advisory Opinion 21
<i>Appraisals for Litigation/Expert Witness Testimony</i>	An attorney needs an impartial opinion of value for legal proceedings	Yes	STANDARDS 1 & 2, 6, 7 & 8, 9 & 10
<i>Evaluations² for Lending</i>	A lender needs an evaluation providing an opinion of market value to ensure a loan is adequately collateralized	Yes	STANDARDS 1 & 2 and Advisory Opinion 13 ³
<i>Appraisals for Lending</i>	A lender needs an appraisal providing an opinion of value to ensure a loan is adequately collateralized	Yes	STANDARDS 1 & 2, 7 & 8
<i>Appraisal Review</i>	A client needs to know whether or not an appraisal is credible	Yes	STANDARD 3
<i>Appraisals for Charitable Contributions</i>	An individual donating real or personal property requires a qualified appraisal performed by a qualified appraiser ⁴	Yes	STANDARDS 1 & 2, 7 & 8
<i>Appraisals for Estates</i>	An executor needs to know the value of property in order to equitably settle an estate; an executor needs to know the Fair Market Value to pay estate taxes	Yes	STANDARDS 1 & 2, 7 & 8, 9 & 10
<i>Appraisals for Insurance</i>	A property owner wants to know how much insurance coverage is adequate; a property owner needs an independent appraisal to help settle a damage/loss claim	Yes	STANDARDS 1 & 2, 7 & 8
<i>Advocacy</i>	An individual who is an appraiser is asked to represent one party in a court proceeding	Yes (see footnote)	ETHICS RULE and Advisory Opinion 21 ⁵
<i>Assessment Appeals</i>	An appraiser is asked to work for a property owner in an assessment appeals hearing	Yes (see footnote)	ETHICS RULE and Advisory Opinion 21 ⁶
<i>Contingent Fee</i>	An appraiser agrees to be compensated for the appraisal only when the loan closes	No	Management Section, ETHICS RULE

As illustrated in the preceding chart, USPAP provides tremendous flexibility for appraisers. The SCOPE OF WORK RULE in USPAP requires appraisers to produce credible assignment results, but USPAP requires only those analyses that are necessary for credible results, given the intended use. In assignments performed for real property, personal property, or business valuation/intangible assets, USPAP also includes provisions for an abbreviated reporting format.⁷

In order to protect public trust, USPAP does not permit assignments where an appraiser's fee is contingent on the outcome, or on a subsequent event directly related to the appraiser's opinions.⁸

¹ Appraisal consulting is no longer defined in USPAP and the Real Property Appraisal Consulting Standards were retired; however, those services formerly called appraisal consulting are still permitted under USPAP.

² As defined in the *Interagency Appraisal and Evaluation Guidelines*, December 2010.

³ Advisory Opinion 13, *Performing Evaluations of Real Property Collateral to Conform with USPAP*, provides guidance on this topic.

⁴ Internal Revenue Service, Publication 561.

⁵ An individual may provide services as an advocate, or as an appraiser (one who expected to perform in a manner that is independent, impartial, and objective); however, one cannot act in both roles in the same assignment. When acting as an advocate, the individual must not misrepresent his or her role.

⁶ Appraisers may perform assignments for assessment appeals, but cannot do so if the fee is based on a percentage of the cost savings or other events as stated in the Management section of the ETHICS RULE. Appraisers must also ensure they do not misrepresent their role in such assignments.

⁷ *Restricted Appraisal Reports* are allowed under STANDARDS 2, 8 and 10.

⁸ Management section of the ETHICS RULE.



Professional Organizations Supporting
One Set of Valuation Standards

American Society of Appraisers

National Association of Independent Fee Appraisers

American Society of Farm Managers and Rural Appraisers

National Association of Realtors

Royal Institution of Chartered Surveyors

International Society of Appraisers

National Society of Real Estate Appraisers

Maryland Association of Appraisers

Association of Texas Appraisers

Mid-West Appraisers Association

North Carolina Professional Appraisers Coalition

South Carolina Professional Appraisers Coalition

Massachusetts Board of Real Estate Appraisers

Columbia Society of Real Estate Appraisers

Canadian National Association of Real Estate Appraisers

Institute of Professionals in Taxation

Chris Polychron, CIPS, CRS, GRI
2015 President

Dale A. Stinton
Chief Executive Officer

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June 25, 2015

David S. Bunton
President
The Appraisal Foundation
1155 15th Street, NW, Suite 1111
Washington, DC 20005

Dear Mr. Bunton:

On behalf of more than one million members of the National Association of REALTORS® (NAR), I am writing to express our commitment to responsible valuation principles and reaffirm our support for the work of The Appraisal Foundation (TAF).

The National Association of REALTORS® is America's largest trade association, including our eight affiliated Institutes, Societies and Councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®. NAR represents a wide variety of housing industry professionals, including approximately 30,000 licensed and certified appraisers, committed to the development and preservation of the nation's housing stock and making it available to the widest range of potential homebuyers.

NAR is committed to responsible valuation principles

NAR's Responsible Valuation Policy states that REALTORS® support and encourage credible, independent valuations of real property because credible independent valuations of real property are critical to the health of the overall real estate industry. A trustworthy valuation of real property ensures the real property value is sufficient to collateralize the mortgage, protects the mortgagor, allows secondary markets to have confidence in the mortgage products and mortgage backed securities, and builds public trust in the real estate profession.

NAR supports USPAP as the national valuation standard

NAR's Code of Ethics requires REALTORS®, who provide appraisal services, to conform to the standards of practice expected in that specific real estate discipline. Since 1989, the Uniform Standards of Professional Appraisal Practice (USPAP) has been the nationally accepted set of standards. NAR believes that appraisal standards should be uniform across the United States and territories, and does not support efforts to dilute USPAP or layer on additional sets of valuation standards.

NAR supports appraiser competency

NAR's Responsible Valuation Policy states that persons who perform appraisals of real property must be licensed or certified by their respective state regulatory agency. Competency is also required by the NAR Code of Ethics. REALTORS®, who are appraisers, follow the minimum education, experience, and examination requirements for real property appraisers to obtain a state license or certification



established by the Appraiser Qualifications Board (AQB). NAR recognizes the AQB Real Property Appraiser Qualification Criteria as one benchmark on the path to earning our Residential Accredited Appraiser (RAA) or General Accredited Appraiser (GAA) designations.

NAR is an active member of The Appraisal Foundation

As a long-time affiliate sponsor of The Appraisal Foundation, NAR has agreed to support and promote the mission and vision of the Foundation. The Appraisal Foundation promotes professionalism and ensures public trust in the valuation profession through the promulgation of standards (USPAP), appraiser qualifications (AQB), and guidance regarding valuation methods and techniques. NAR has a seat on TAF's Board of Trustees, appointing members to serve three-year terms, and also makes an annual financial donation to TAF. NAR has a long record of REALTOR® involvement with members serving on The Appraisal Foundation Advisory Council and as subject matter experts for TAF projects. NAR has agreed to co-brand TAF publications and promote their distribution via our member communications and website.

We look forward to continuing to work with The Appraisal Foundation to maintain the success of the appraisal profession and preserve access to homeownership. If I may be of any assistance to you, please do not hesitate to contact me or our Appraisal Foundation Board of Trustees member, Susan Martins-Phipps, at appraisal@realtors.org.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Polychron". The signature is fluid and cursive, with a long horizontal stroke at the end.

Chris Polychron
2015 President, National Association of REALTORS®