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To: House Federal and State Affairs
From: Patrick Vogelsberg
Date: February 8th, 2018
Subject: Opponent on HB 2414

Honorable Chairman Barker and members of the House Federal and State Affairs Committee, thank you for the opportunity to appear in front of you today on behalf of the Kansas Association of REALTORS® (KAR) in opposition to the provisions of HB 2414.

KAR represents over 9,500 members involved in both residential and commercial real estate and advocating on behalf of the state's property owners for over 95 years. REALTORS® serve an important role in the state's economy and are dedicated to working with our elected officials to create better communities by supporting economic development, a high quality of life and providing affordable housing opportunities while protecting the rights of private property owners.

Credible, independent valuations of real property are essential to the fidelity of the housing industry. Parties involved in real estate transactions, lending institutions, financial markets, and government all rely on appraisals of property. Therefore, it is important that appraisal standards are credible and standardized. As such, changes to appraisal standards should not be taken lightly. KAR supports the Uniform Standards of Professional Appraisal Practice (USPAP) and maintains that one, uniform standard for appraisals should continue. Since 1989, the USPAP has been the nationally accepted set of standards.

Therefore, we have concerns with adding alternative appraisal standards to the State Certified and Licensed Real Property Appraisers Act (K.S.A. 58-4101 *et. seq.*). KAR believes that HB 2414 could dilute USPAP and create hazards in layering on additional sets of valuation standards. Further, member-feedback from REALTOR-appraisers raised the concern that having a separate valuation standard will not relieve them of following USPAP regardless of whether the appraisal is for a non-financial, real estate related transaction.

Attached, for the committee's consideration, is a 2017 letter to the Kansas Real Estate Appraisal Board from the president of the Appraisal Foundation, which is authorized by Congress to promulgate appraisal standards and appraiser qualifications under USPAP.

In closing, we would respectfully request that the members of the House Federal and State Affairs Committee not advance HB 2414.

Thank you for the opportunity to provide written comments on this very important issue.

Respectfully submitted,

Patrick Vogelsberg

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Vice President of Governmental Affairs

Kansas Association of REALTORS®

Attachment



January 9, 2017

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

Dear Chair Livingston:

This letter is in regard to the upcoming Kansas Real Estate Appraisal Board (KREAB) meeting. It is my understanding that the January 13 KREAB Agenda includes a presentation by the Appraisal Institute on alternative standards.

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. **Recognition of appraisal standards other than the Uniform Standards of Professional Appraisal Practice (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:

Federally Related Transactions: Federal law mandates that appraisals performed in conjunction with federally related transactions comply with USPAP. However, **the vast majority (over 75%) of residential mortgage transactions fall outside the current definition of what constitutes a federally related transaction.** Therefore, if regulation permitting alternative standards was enacted, most of the loans made by federally insured banks and credit unions may not be afforded the protection of valuations in conformance with the nation's generally recognized valuation standards, USPAP. Put simply, the impact of a rule change that permits the use of alternative or additional appraisal standards in lieu of USPAP could be quite significant.

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 numerous sets of valuation standards that would be permitted to be used; and (b) continually monitor revisions to those standards. Please see Attachment #1 for a partial list of valuation standards that could be brought forth for KREAB's consideration under such rule change initiative.

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 numerous sets of valuation standards. When a similar initiative was being considered by the State of California last year, it was tabled because the California Bureau of Real Estate

Appraisers (BREA) estimated an expense to the State of \$260,000 in the first year alone. Many appraisers and others familiar with the profession have stated that they feel the cost estimate was too conservative. Additionally, the concerns expressed by the Appraisal Subcommittee in its letter of June 4, 2015 (Attachment #2) are valid and should be considered in Kansas as well. The negative implications on the KREAB's complaint investigation program could be numerous.

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 #3, *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 #4 for a listing of these organizations and Attachment #5 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 Standards of Valuation Practice (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. One primary area of inconsistency is that the SVP allows contingency fee assignments.

TAF has identified numerous areas where the AI's SVP are *substantially deficient* to USPAP. Attached is an analysis of the SVP (Attachment #6) 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.

Attempts to Reconcile Differences: Leadership of AI has openly expressed support for USPAP and preference for one set of uniform standards. To that end, AI is currently working with TAF's Appraisal Standards Board to explore possible edits to USPAP that would resolve what AI views as issues for its members. Success in these collaborative efforts would negate the need for the State of Kansas or the KREAB to authorize the use of alternative appraisal standards.

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.**

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: Robin Taggart Hannigan, Member
Kenton G. Landenburger, Member
James F. Stallbaumer, Member
Fred L. Samuelson, Member
Jeffrey D. Caudle, Member
Sally Pritchett, Director