

IllinoisAppraiser

AMCs: Two Years Later

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We started registering AMCs about this time back in 2013.

It was a slow roll from the nascent 9 applications received in March of 2013 to a peak of 42 applications received in August 2013 just ahead of the deadline to register.

Since that time the number of AMCs in Illinois has ebbed and flowed.

At one point we had 192. As of this writing, we stand at 155.

Nationwide there are less than 700 AMC entities. The universe is small.

We've already completed our first renewal that ended on December 31, 2014.

Like appraisers, many AMCs procrastinated or missed the renewal period completely. Some ended up renewing late and paid the \$500 late fee on top of the \$4,000 renewal.

A few complained about the \$4,000 renewal fee.

"You're the highest in the country!"

We aren't.

Our renewal fee works out to be \$2,000 per year (2 year cycle).

There are five states that have renewal fees higher than Illinois on a per year basis.

Why aren't all the states charging the same?

States charge what they need in order to recover expenses associated with their programs. Appraiser licensing fees vary from state-to-state. So do AMC fees.

Our needs differ from Vermont and Texas. Regulation costs money and every jurisdiction knows what it needs to maintain the integrity of a program.

What about the surety bond?

There are over 20 states with some sort of bond in place.

In Illinois, the bond is \$25,000.

Three states have \$100,000 bonds and Kentucky has a recovery fund in place of a bond.

The remaining states with bonds have face amounts of \$20,000 or \$25,000.

About 14 jurisdictions have no surety bond requirement.

States with bonds vary with regard to the bond's use.

In Illinois, the bond is used exclusively to recover fines. In some states the bond can be tapped by consumers, appraisers, or anyone with a claim.

Illinois may be revisiting the efficacy of the surety bond next year.



Going the Distance in USPAP

IllinoisAppraiser

Provided as a service to licensed and registered Illinois appraisal professionals as well as Illinois course providers and users of appraisals. This publication promotes a greater understanding of USPAP, the Act, and the Administrative Rules of the State of Illinois.

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When I was in private practice, much of my litigation work took me to Somauck, Sandwich and Plano, Illinois.

That's about 45 miles west of where I live.

Still, I had so much work in those areas, you'd think I had an office there.

However, if I were working for many AMCs, I'd have been considered too far out of my *area* for the assignment.

Some AMCs, under the guise of authenticating *geo-competency*, restrict assignments to Illinois certified appraisers based upon arbitrary distance limitations.

Most typically seen are 15 miles for urban/suburban locations and 25 miles for rural.

Then there are others who insist on 45 mile limits or 30 mile limits for any and everything.

What does USPAP say about geo-competency?

Specifically...nothing.

With regard to Competency in general:

The appraiser must determine, prior to accepting an assignment, that he or she can perform the assignment competently.

Comment: Competency may apply to factors such as, but not limited to, an appraiser's familiarity with a specific type of property or asset, a market, a geographic area, an intended use,

specific laws and regulations, or an analytical method. If such a factor is necessary for an appraiser to develop credible assignment results, the appraiser is responsible for having the competency to address that factor or for following the steps outlined below to satisfy this COMPETENCY RULE.

AMCs need to be reminded that under the Illinois AMC Administrative Rules:

Section 1452.190 Unprofessional Conduct "Dishonorable, unethical or unprofessional conduct" as used in Section 65(a)(9) of the Act includes but is not limited to:

i) Deliberately interfering with a licensed Illinois appraiser's ability to comply with USPAP;

Because USPAP states:

In an assignment where geographic competency is necessary, an appraiser who is not familiar with the relevant market characteristics **must acquire** an understanding necessary to produce credible assignment results for the specific property type and market involved.

AMCs that draw arbitrary circles around appraisers without knowing what the appraisers understand about a market area or segment are misleading their own clients on their vetting process.

Aside from that, they run the risk of enforcement action in Illinois.

AMCs need to qualify their panels *appropriately and thoroughly*.

If the distance between the appraiser and the subject is an issue, then perhaps the distance between an AMC and their appraiser should be called into question.

Let's all use common sense.



Don't Recycle

Trainee

Residential

General

Because so many residential trainees have trouble obtaining enough experience through *traditional* client work, IDFPR supports the *non-traditional* client option.

Section 1455.200 Acceptable Appraisal Experience Credit

c) A traditional client is not necessary for an appraisal to qualify for appraisal experience. Experience gained for work without a traditional client cannot exceed 50% of the total experience requirement. An hour of appraisal experience is defined as verifiable time spent in performing tasks in accordance with acceptable appraisal experience as identified by AQB 2008 Criteria.

For purposes of upgrading, IDFPR serves as the non-traditional client.

What we see are *recycled* reports completed for traditional clients that are cloned and readdressed to the Department.



This is inappropriate and simply an attempt to *game* the system.

How can we tell?

Proprietary forms are used. Approaches to value are missing without explanation. Fees are quoted. (*Trust me, nobody here is paying for these reports*) Fannie Mae guidelines are cited. HUD requirements are cited. Old language from the previous client can still be found in sections of the addenda.

These veiled attempts to circumvent actual work end up being rejected.

The Appraisal Unit will issue a specific **scope of work** for all such assignments beginning in June.

We will accept GPARs and narratives. No more 1004s, 1073s or 2055s.

This is an opportunity to gain experience otherwise denied by some traditional clients.

It's also a teaching tool to help trainees escape the form-filling habits of mortgage work.

Spring 2015—IMPORTANT information

Due to on-going delays in implementing the criminal background/fingerprint requirement for NEW real estate appraiser applicants; this portion of the application will be waived until *approximately July 1, 2015*. The revised application will NOT be posted until the process is fully in place.

However, ALL 2015 (*examination*) applicants for either Certified Residential or Certified General credentials must provide evidence that they've obtained a Bachelor's degree or greater as a condition of qualification.

In lieu of education is no longer accepted for these two credential classifications. The AQB's deadline has passed whereby in lieu of education could be accepted.



Condo Density Primer

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In the *project* section of Fannie Mae form 1073 the first line addresses topography, size, *density* and view.

Many appraisers still seem confused as to what the form means by *density*.

Appraisers enter and AMCs approve phrases like: *average* or *typical* or even a calculation such as 50 units / 12,975 square feet.

Appendix D regarding UAD reporting offers no guidance.

What are they asking for and what does it mean?

Fannie is looking to see if the existing density can be rebuilt following a catastrophic loss. In most instances the density limitations are found in the municipality's zoning code.

The density question is a math equation not a subjective term like *typical* or *average*.

A 3-unit condo building on a 3,125 square foot site has a density of 41.82 dwelling units per acre.

$$43,560 / (3,125 / 3)$$

The John Hancock building in Chicago sits on 2.38 acres and contains about 700 residential

condominium units. The density is 293.71 dwelling units per acre.

In Decatur, as in many other Illinois communities, the zoning ordinance parses out density based upon bedroom variables in their **R-6** zoning.

- Efficiency units—750 Sq.Ft. per D.U.
- 1 Bedroom units—900 Sq.Ft. per D.U.
- 2 Bedroom units—1,200 Sq.Ft. per D.U.
- 3+ Bedroom units—1,500 Sq.Ft. per D.U.

Appraisers and AMCs need to be aware of and understand the forms and what they're asking for.



| | | | |
|--|--|--|-----------------------------|
| Topography | Size | Density | View |
| Specific Zoning Classification | | Zoning Description | |
| Zoning Compliance | | Do the zoning regulations permit rebuilding to current density? | |
| <input type="checkbox"/> Legal | <input type="checkbox"/> Legal Nonconforming | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> No Zoning | | <input type="checkbox"/> Illegal (describe) | |
| Is the highest and best use of the subject property as improved (or as proposed per plans and specifications) the present use? | | <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe | |

AMCs and Compliance

Some AMCs, like some appraisers, are better at compliance than others.

Since the beginning we've had a rule regarding surety bonds that states:

Section 1452.80 Bonding Requirements

The bond required by Section 50 of the Act shall be for a term concurrent with the term of the registration, commencing with registrations issued by the Division with an expiration date of December 31, 2014 and concurrent with the 2-year term of each renewed registration thereafter. This provision does not prohibit the registrant from maintaining a continuing bond during any registration term. Failure to maintain the bond and to provide the Department with written proof of the bond, upon request, shall result in cancellation of the license without hearing.

As appraisers can attest from our previously published AMC lists, bonds were set to expire all over the calendar. Only nine AMCs were able to comply with the rule.

It became so problematic that I finally had to send 150+ letters to the remaining AMCs that they needed to comply or face cancellation.

Compliance at a rate of 9 out of 165 is astonishingly poor.

Some AMC contracts with Illinois appraisers contain inappropriate non-compete or non-solicitation language inconsistent with the Act and Administrative Rules.

Note the language below:

An AMC is not permitted to tell an independent contractor appraiser that they cannot solicit "their" clients for any length of time after the vendor relationship is terminated.

(225 ILCS 459/165) Sec. 165. **Prohibited activities.**

- (7) Requiring an appraiser to sign a non-compete clause when not an employee of the entity.

W2s; yes. 1099s; no. Simple.

Given the number of complaints we've received in recent months over this issue, this will be part of an upcoming audit on vendor agreements.

Most, but certainly *not all* indemnification language in a vendor contract is acceptable.

- (8) Requiring an appraiser to sign any sort of indemnification agreement that would require the appraiser to defend and hold harmless the appraisal management company or any of its agents, employees, or independent contractors for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser.

Appraisers can most certainly be held liable for what *they* do. An AMC cannot off-load liability onto a vendor appraiser for what the AMC does.

Everyone needs to read or re-read the AMC Act and Administrative Rules.

Non-Solicitation. During the term of this Agreement and for a period of one (1) year immediately following the date of termination of this Agreement, Vendor shall not directly or indirectly, by any means or devices whatsoever, in any individual or representative capacity: (a) hire, employ, or attempt to hire or employ any employee or subcontractor of [REDACTED] who participated in the negotiation of this Agreement or who have or had worked with Vendor with respect to the Services hereunder ("Key Employee"); (b) otherwise solicit, request, entice, or induce any Key Employee to terminate his or her employment with or services to [REDACTED] or (c) solicit, request, entice, or induce any customer of [REDACTED] to work directly with Vendor or to terminate its relationship with [REDACTED]. The preceding restriction does not apply to any Key Employee who responded to any position the Vendor offered through a general advertisement for employment or through an employment agency.

Unpermitted Additions

This is a “zombie” assignment condition that seems to never die.

Let’s agree that *unpermitted* means something was constructed without a *required* written permit.

There are plenty of jurisdictions that don’t issue permits because the permit process doesn’t exist.

The assignment condition goes something like this:

The appraiser is not to include any GLA from any unpermitted additions unless they use comparables that have similar unpermitted additions.

ables that have similar unpermitted additions.

Here’s what Fannie Mae stated in their *September 2014 FAQs*:

If the subject property features an unpermitted addition, can the square footage of the unpermitted addition be included in the total gross living area reported on the appraisal report?

If the appraiser has identified an addition(s) that does not have the required permit, the appraiser must comment on the quality and appearance of the work and assess the impact, if any, on the market value of the subject.

Fannie’s position is that the appraiser must support the market impact of any unpermitted additions. But there is no flat out instruction to not include the GLA.

That’s fair and reasonable.

Note that Fannie also distinguishes the *required* permit.

Too many AMCs are making the blanket requirement that appraisers are *forbidden* from including GLA without permit documentation.

USPAP’s Take—

An appraiser must not allow assignment conditions to limit the scope of work to such a degree that the assignment results are not credible in the context of the intended use.

If relevant information is not available because of assignment conditions that limit research opportunities (*such as conditions that place limitations on inspection or information gathering*), an appraiser must withdraw from the assignment unless the appraiser can:

- * modify the assignment conditions to expand the scope of work to include gathering the information; or:
- * use an extraordinary assumption about such information, if credible assignment results can still be developed.

Appraisers have **three** options and **three** options, only.

1. Modify the SOW to allow for more time to go permit digging.
2. Use an extraordinary assumption about the *existence* of a permit.
3. Walk away.

There is no fourth option of completing an “*as is*” assignment by magically making the 500 square foot add-on suddenly disappear.

AMCs are cautioned from insisting upon such assignments and appraisers are cautioned from taking such assignments.



Ten years ago this was someone’s idea of a swell DIY addition. Did I include it in the GLA?

Yes.

Did I back out the functional and physical issues?

Of course.

Was it “permitted”?

No way. But then, it was in a county that had no zoning or building code enforcement.

We Were Lucky



It was only a little over four years ago when **LeeAnn Moss** was appointed by the governor to the Illinois Real Estate Appraisal Administration and Disciplinary Board.

Come July, she would've easily ascended to the position of Board Chair and it would've been well deserved.

What happened?

The same thing that always happens.

Life.

New opportunities arise. Other commitments and obligations slowly eclipse the best of intentions and plans.

Such is the caducity of volunteer government service. There are just so many hours in a day.

Sadly for all of us, and I include the profession at large, LeeAnn's last board meeting is this May. A month shy of her first appointment cycle.

We will all miss her keen intellect, her integrity, dedication and commitment to the board and to the profession.

She received respect from *everyone* because she was respectful of *everyone*.

To the agricultural appraisal community, this is a real loss.

Illinois is a farm state. There are nearly 75,000 farms

covering 27 million acres. That's 75% of our state's land area.

I would argue that we should always have an *ag* appraiser on the board. There was no one else better qualified to do what she did.

Far and away, as I struggled to point to just one of her many gifts, it had to be her equanimity in dealing with whatever arose.

It's one thing to try to balance life and work as we all do. It's quite another to be able to bring that balance to something as complicated and technical as real estate appraisal regulation.

As with all of our former Board members, we wish her all the best and we thank her for her service to the profession.

We were lucky. We hope she thought she was too.

"The best way to find yourself is to lose yourself in the service of others."

- Mahatma Gandhi

