South Dakota Real Estate
VIEW
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In this issue from the South Dakota Real Estate Commission:

In this issue from the South Dakota Appraiser Certification Program:

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From the Director

The beginning of a new year is here and with that, the 2016 Legislature is in full swing and bills are moving through the House and Senate. The Commission will be keeping an eye on legislation being proposed. It's always a good idea to talk to your legislators and keep an eye on bills that may be of interest to you.

The renewal time has come to an end and as usual, there are several licensees who failed to complete their continuing education, didn't renew their errors and omissions insurance or didn't renew their license. It is very easy for the Commission staff to see if these licensees are actively practicing real estate. The Commission is taking a serious approach to try to control the problem of licensees who engage in real estate activities requiring a license but do not have an active license to do so. An agent that doesn't have any listings is still considered to be practicing real estate simply by being listed on the company's website as available for representation. I have been busy issuing Consent Agreements with $100 penalties pursuant to the Commission's citation program.

Another issue to be reminded of and I have seen an increase in numbers, is that of changing broker affiliation or moving an entire office. These changes must be filed in the Commission offices within 10 days of transfer/moving. Failure to do so will result in a Consent Agreement and payment of a $100 penalty.

Please watch for more information on the Spring Caravan registration in the next newsletter.

Stay warm!

Save the Date – Spring Education Caravan

You have asked and we have listened! **Len Elder** is coming back to South Dakota for the 2016 Spring Caravan! The topic is still to be determined, but we promise it will be a lively and informative class!

Monday, April 18 – Rapid City Rushmore Plaza Civic Center
Tuesday, April 19 – Pierre Red Rossa
Wednesday, April 20 – Aberdeen Ramkota
Thursday, April 21 – Sioux Falls Ramkota
Friday, April 22 – Sioux Falls Ramkota

Detailed course and registration information will be in the March/April issue of the *Real Estate VIEW*. Online registration will be available beginning in mid-March. Registration forms will also be mailed to brokerage/property management/home inspection companies.

Fair Housing Laws Apply to Real Estate Auctions

All real estate licensees in the state have had considerable education on the subject of fair housing. Everyone knows examples of common violations: refusal to rent an apartment to someone with a disability or because of their color or steering someone to purchase a home in a specific neighborhood based on race.

What about discriminatory practices relating to real estate auctions? Recently, a student in a prelicense course here in South Dakota asked the instructor about possible fair housing violations in a real estate auction environment. It was a good class discussion and prompted the instructor to contact the SDREC office and the SD Division of Human Rights for guidance. It is information worth sharing.

It is unlawful for an owner, or their representative (i.e. real estate broker or auctioneer) to refuse to sell or treat people differently based on their race, color, sex, creed, ancestry, religion, family status, disability, or national origin. Examples of discrimination in a real estate auction would be holding a "closed" auction in order to exclude persons belonging to a religious community from attending or declaring a "no-sale" based on the winning bidder's race or ancestry.

The SD Division of Human Rights and the US Department of Housing and Urban Development (HUD) vigorously pursue cases involving discrimination. Violations of state and federal fair housing laws can result in thousands of dollars in fines, as well as compensatory and punitive damages for both the seller and the real estate professional involved in the violation. If a licensee is found to have engaged in discriminatory practices, he/she may also likely face serious disciplinary action by the commission.

Real estate licensees, including auctioneers, need to inform their clients that their company and its agents adhere to the fair housing laws. It is important to follow a consistent company policy when dealing with fair housing issues and be prepared to walk away from a customer or client who wishes to engage in discriminatory activity. It's not worth the risk of state/federal prosecution and losing a real estate license!

For more information on fair housing requirements, contact the SD Division of Human Rights - http://dlr.sd.gov/humanrights/ or the U.S. Dept. of Housing and Urban Development (HUD) – www.hud.gov

Disciplinary Actions

The following actions by the Commission have become effective since the last report in the newsletter. A **Consent Agreement** is an admission of violation and voluntary acceptance of the terms determined by the Commission in lieu of a formal hearing. **Findings of Fact, Conclusions of Law, and Order** are the result of a formal hearing.

Stanley Houk, Rapid City, Broker. Consent Agreement. Violation of 36-21A-71(1), and 36-21A-52 for failure to register a new place of business or change of business location within ten days. Administrative fine of $100.

Ronald Keil, Belle Fourche, Broker. Consent Agreement. Violation of 36-21A-71(1), and 36-21A-52 for failure to register a new place of business or change of business location within ten days. Administrative fine of $100.

John Keene, Lead, Broker. Consent Agreement. Violation of 36-21A-71(1), and 36-21A-52 for failure to register a new place of business or change of business location within ten days. Administrative fine of $100.

Dennis Kriech, Watertown, Broker. Consent Agreement. Violation of 36-21A-71(1), and 36-21A-52 for failure to register a new place of business or change of business location within ten days. Administrative fine of $100.

Freddie Mac Warns of Lesser-Known Credit Score Scams **Used with permission from ARELLO**

Government-sponsored enterprise (GSE) Freddie Mac recently issued a news release that is intended to raise awareness about credit score scams that have not received as much industry attention as other forms of mortgage fraud. After all, notes the GSE, “Who doesn’t want the highest credit score possible to garner the most-favored [mortgage loan] terms?”

Mortgage fraud reports and studies tend to sort scams into two general categories: “Fraud for housing (or property)” and “fraud for profit”. “Fraud for profit” may involve complex schemes such as builder bailouts, equity skimming, short sale fraud, fraudulent property flipping and others. “Fraud for property” usually involves misrepresentation of the employment, income or other qualifications of a mortgage loan applicant. Of course, mortgage fraud scams can involve elements of both. In the latter category, Freddie Mac identifies three types of credit repair scams that will land borrowers in “scalding hot water” and raise costs for mortgage loan sellers/servicers:

Disputing Credit With Credit Bureaus: Freddie Mac notes that credit report errors that negatively affect credit ratings, such as FICO® Scores, can be hard to fix but the biggest credit reporting agencies in the U.S. have been taking steps to improve that process. Freddie Mac says that’s good news for “honest consumers” but fraudsters may “play” the system by directing consumers to falsely and repeatedly dispute defaulted debt. The idea is that the debt will disappear temporarily from the credit history, there is a resulting jump in the credit score and the borrower can qualify for and close on a mortgage loan before the credit report is corrected.

False Claims of Identity Theft: Freddie Mac says that a lesser-known form of mortgage application fraud involves false claims of identity theft in an attempt to remove debt from a credit report. Some go “...as far as providing affidavits of identity theft and police reports. In some instances, lenders discover that the ‘police report’ is fake, never actually filed, or from a police department that doesn’t exist.”

Misusing Credit Protection Numbers (CPNs): According to the Federal Trade Commission (FTC), scammers are still selling nine-digit “credit privacy numbers” (also known as “Credit Protection Numbers”, or “CPNs”) that look like social security numbers. The perpetrators promise that CPNs help hide a bad credit history or bankruptcy, and tell consumers to apply for credit using a CPN instead of their social security numbers. Scammers also tell consumers that the process is legal, but the FTC says it’s a scam and the numbers actually may be stolen Social Security numbers. Freddie Mac’s news release adds, “Given that [a CPN] helps shield your finances from the public eye, it’s most commonly used by borrowers in the public eye, such as celebrities and politicians. But some consumers with poor credit acquire a CPN with the intent of creating a new, clean and misleading-credit profile.” The news release warns that using a CPN in that way is illegal and mortgage loans using CPNs are ineligible for sale to Freddie Mac. Freddie Mac also warns that consumers who use a CPN “...are in for a rude awakening. As the [FTC] bluntly points out, ‘By using a stolen number as your own, the con artists will have involved you in identity theft’, for which you may face legal trouble.” Freddie Mac observes that it is easy for consumers whose credit has been negatively impacted by the housing crisis and fluctuating economy to be lured by the promise of a raised credit score. So, it is asking its sellers/servicers to remind borrowers that ploys to circumvent official credit controls will likely set consumers up to fail. And, “A quick jump in credit score is never worth the stain on their records.”

[Sources: Freddie Mac, “Combating Mortgage Fraud Aimed at Falsely Raising Credit Scores”;Federal Trade Commission]

Commission Calendar

February 15 – SDREC office closed, Presidents' Day

March 15-16 – Commission Meeting, Pierre

New Licenses

Broker Associate

Bentley, Daniel R – Yankton
Berry, Joan A – Sioux Falls
Brizendine, Judith D – Manchester, NH
Byron, Christina M – Sioux Falls
Carda, Janelle R – Sioux Falls
Chicoine, John S – Parker
Clary, Patrick M – Sioux Falls
Cline, Melissa J – Rapid City
Crews, Craig S – Black Hawk
Dalchow, Andrew C – Sioux Falls
DeGon, Shelley M – Rapid City
Emery, Michael L – Dell Rapids
Farmer, Jon M – Sioux Falls
Gates, Nicholas A – Sioux Falls
Gebauer, Beth A – Sioux Falls
Gill, Kristen L – Timber Lake
Hanson, Michael T – Box Elder
Harvey, Shawn D – Huron
Hewitt, Audra R – Belle Fourche
Hohn, Joshua K – Sioux Falls
Hunt, Colleen M – Mitchell
Hyland, Jacob D – Rapid City
Jamison, Jessica M – Sioux Falls
Jensen, Richard L – Rapid City
Johnson, Dennis A – N. Sioux City
Johnson, Marsha N – Aberdeen
Kelting, Kari E – Hill City
Knight, Eric – Sioux Falls
Lacher, Collin – Sioux Falls
Mackey, Sarah M – Rapid City
Merryfield, Margaret R – Huron
Muilenburg, Rita M – Rapid City
Needham, David D – Rapid City
Northcutt, Jr., Michael C – Rapid City
Oberbroekling, Kelly R – Sioux Falls
O'Donnell, Dobby D – Sioux Falls
Peterson, Shelly R – Yankton
Pulscher, Deborah G – Flandreau
Redmond, Jill C – Sioux Falls
Robbins, Renae R – Sioux Falls
Sheehan, Steven J – Watertown
Slettedahl, Jessica A – Aberdeen
Thomas, Wade C – Harrisburg
Ubben, Lance – Sioux Falls
Van Middendorp, Kaylee – Harrisburg
Vliem, Cindy M – Sturgis
Wegner, Nathan D – Sioux Falls
Wilber, Anthony K – Sioux Falls
Winston, Scott W – Broomfield, CO

Salesperson

Gorder, Jon M – Canby, MN
Herman, Julie S – Mound, MN
Romero, Andrea K – Peoria, AZ

Residential Rental Agent

Bortnem, Beth A – Brookings
Inboden, Sara J – Sioux Falls
Mattingly, Joseph R – Sioux Falls
Saffel, Tania C – Box Elder
Sanow, Stefanie A – Brookings
Schwasinger, Kristen – Sioux Falls
Sy, Sharleen C – Sioux Falls
Washington, Demetrius – Sioux Falls
Zens, Ashley L - Emery

Property Manager

Broker, Jodi – Sioux Falls
Rypkema, Travis O – Rapid City
Servold, Amy M – Sioux Falls

Registered Home Inspector

Barr, Randall L – Wagner
Jennings, Heath J – Larchwood, IA
Lacey, John J – S. Sioux City, NE
McKeown, Todd M - Harrisburg

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Appraiser Update

New Licensees – November/December 2015

Michael D. Vowles, State-Certified General – Ogden, UT
Wade J. Landreville, State-Certified General – West Bend, WI
Richard D. Hauge, State-Certified General – Redwood Falls, MN
Kevin C. Cleary, State-Certified Residential – St. Louis, MO

Review of Cases – January 1 - December 31, 2015

For the period January 1, 2015 through December 31, 2015, the Department has opened seven complaint investigations, eight upgrades, and four new applicants claiming experience.

Complaints – Three pending, four closed.
Upgrade – Two pending, six closed.
New With Experience – One pending, three closed.

Appraisal Management Companies – Non-Renewals

(Expired December 31, 2015)

Company Name	Registration Number
AAA Appraisal Advantage, Inc.	AMC-SD-1129-2015
EPIC Property Solutions, LLC	AMC-SD-1069-2015
Goodman Dean, Inc.	AMC-SD-1013-2015
Solutionstar Appraisals, LLC	AMC-SD-1108-2015
WHR Group, Inc.	AMC-SD-1091-2015

Information Regarding Disciplinary Actions

Public information regarding disciplinary action taken against an appraiser is available upon written request to the Department of Labor and Regulation, Appraiser Certification Program, 308 South Pierre Street, Pierre, South Dakota 57501 or e-mail: sherry.bren@state.sd.us. Include in the request for information the name of the appraiser and the appraiser's city and state of residence. (Disciplinary action includes but may not be limited to denial, suspension, censure, reprimand, or revocation of a certification by the department. (ARSD 20:14:11:03)

The following disciplinary actions have been taken by the Department of Labor and Regulation, Appraiser Certification Program:

Steven L. Bales, Huron, South Dakota - Case # 14-470. The Department of Labor and Regulation executed an Order dated June 30, 2015 denying the application of Steven L. Bales for State-Licensed Appraiser.

Jon A. DeLuzio, Orlando, Florida – Case # 15-486. The Department of Labor and Regulation executed an Order dated December 2, 2015 denying the application of Jon A. DeLuzio for Non-Resident Appraiser Temporary Practice.

Continuing Education Requirements
7-Hour National USPAP Update Course

In order to renew a state-registered, state-licensed, state-certified residential or state-certified general certificate in 2017 the applicant for renewal must successfully complete the most current edition of the 7-hour National USPAP Update Course by June 30, 2016. [ARSD 20:14:13:01]

If your license was issued:

On or after 10/01/2015 (odd numbered year)	28 hours (7 USPAP-Penalty Applies)
On or after 07/01/2016 (even numbered year)	28 hours (7 USPAP-No Penalty)
On or after 10/01/2016 (even numbered year)	
Prior to 03/30/2017 (odd numbered year)	14 hours (no USPAP)
On or after 03/30/2017 (odd numbered year)	No CE hours

USPAP Q&A
November 17, 2015

2015-14: APPRAISAL REVIEW

Review For an Ethics Committee

Question: Does STANDARD 3 apply to a review of an appraisal report performed by an Ethics committee or a Board of Examiners for a professional appraisal organization?

2015-15: ETHICS RULE – CONDUCT

Does Disclosure of Prior Services Apply to Appraiser or Property?

Question: an appraiser performed a review of an appraisal report for 123 Main Street. Seven months later, he was asked to review another appraisal report regarding the same property prepared by the same appraiser. The appraiser is unsure if he must disclose to the client that he provided a prior service regarding the subject property. He knows an appraisal review is the development and communication regarding the quality of another appraiser's work. He thinks a review assignment is not about a property, it is about an appraiser. Is the reviewer correct that the subject of an appraisal review is the appraiser and no disclosure of any prior services is necessary?

2015-16: APPRAISAL REVIEW

Definition of Value in Appraisal Review Reports

Question: USPAP is clear with regard to the rules reviewers must follow when developing their own opinions of value. In assignments like this, are review appraisers required to provide their own definitions of value in the Appraisal Review Reports?

A commonly used residential review form does not provide this information nor have a field for reviewers to provide this information in those cases when reviewers provide their own opinions of value. I recognize that the onus is on the appraiser for USPAP compliance rather than form.

I'm not clear on whether the market value definition used in the original appraisal is implied, should be clarified with an extraordinary assumption, or simply defined in the Appraisal Review Report.

[Answers to these questions may be found at The Appraisal Foundation's website – www.appraisalfoundation.org.

2016-2017 Edition
Uniform Standard of Professional Appraisal Practice

REVISIONS TO USPAP AND USPAP ADVISORY OPINIONS

After the publication of the 2014-15 edition of USPAP, a series of four exposure drafts were released to obtain feedback on possible modifications for the 2016-17 edition. On February 6, 2015, the Appraisal Standards Board (ASB) adopted modifications for the 2016-17 edition of the *Uniform Standards of Professional Appraisal Practice* (USPAP). These modifications included:

1. **Revisions to the DEFINITION of "Report" and to the RECORD KEEPING RULE** – The ASB adopted edits to the RECORD KEEPING RULE that were proposed for the purpose of clarity. The changes to the RECORD KEEPING RULE include an edit to make it more clear that data and information (in addition to documentation) may be included in the workfile by referring to its location elsewhere.

2. **Revisions to STANDARD 3** – The ASB adopted edits deleting the requirements to identify and report the effective date of an appraisal review. The effective date of the appraisal review added confusion and is unnecessary in an appraisal review assignment. The information necessary to understand the perspectives of both the original appraiser and the reviewer are covered with disclosure of: the date of the report under review; the effective date of the appraisal under review; and the date of the appraisal review. Additionally, the ASB became aware of issues in STANDARD 3 that were handled differently than they are in other Standards. The Board revised the language to bring STANDARD 3 in line with the language in other Standards. This led to the edits to the Comment to Standards Rule 3-4(c) and the addition of Standards Rule 3-5(j).

3. **Revisions to the DEFINITION of "Assignment Results" and to the Confidentiality section of the ETHICS RULE** – The ASB adopted changes to the definitions of assignment results. The change was put forth to ensure that an appraiser is able to share non-confidential information with other appraisers to facilitate higher-quality appraisals by allowing the exchange of this information. The ASB added two paragraphs to the Confidentiality section of the ETHICS RULE, which deal with protecting confidential information within the appraiser's office. This language requires the appraiser to ensure that anyone who may have access to confidential information or assignment results is made aware of the prohibitions on disclosure of such information or results.

4. **Changes to Reporting Standards** – The ASB adopted language in the reporting Standards requiring that, when the client's name is withheld from the report, the appraiser retain the client's name in the workfile and state in the report that the client's name was withheld based on a request by the client. The specific language adopted by the ASB is similar to what had been in SMT-9. In addition to the notice requirement, the ASB adopted proposed edits to the Comments to Standards Rules 2-2(a)(i), 2-2(b)(i), 8-2(a)(i), 8-2(b)(i), 10-2(a)(i), and 10-2(b)(i) which clarified that the identity of intended users may be stated by name or type. Language that is included in the Comment to Standards Rule 2-2(a)(i) regarding examples of types of intended users was not part of Standards Rule 8-2(a)(i) and 10-2(a)(i). The ASB adopted the addition of this language to these rules. The same edits were applied to SR 8-2 and 10-2, and similar edits were made to SR 3-5 and SR 6-8. In addition, edits to Standards Rules 2-2(b)(i), 8-2(b)(i), and 10-2(b)(i) were adopted to address those situations in which clients have requested that their identity be withheld from a Restricted Appraisal Report.

2016-2017 Edition USPAP – cont.

5. **Exposure Time** – USPAP previously required that the appraiser develop an opinion of reasonable exposure time whenever exposure time was a component of the definition of value being applied. There may be cases when exposure time, but not reasonable exposure time is a component of that value definition and thus, an opinion of reasonable exposure time would not be necessary. In fact, stating such an opinion might even cause confusion. Therefore, the ASB has adopted the revision to the Comment at the end of Standards Rule 1-2(c) and 7-2(c).

6. **Retirement of all STATEMENTS ON APPRAISAL STANDARDS** – After evaluating the content of the five remaining Statements, the Board concluded that most of the content was guidance. In order to make USPAP a clearer, more user-friendly document, the Board retired all of the remaining Statements. The few requirements that were in the Statements were moved into other parts of USPAP and the guidance was reissued in the form of new Advisory Opinions.

7. **Revisions of ADVISORY OPINION 7: Marketing Time Opinions; creation of ADVISORY OPINION 33: Discounted Cash Flow Analysis; ADVISORY OPINION 34: Retrospective and Prospective Value Opinions; ADVISORY OPINION 35: Reasonable Exposure Time in Real and Personal Property Opinions of Value; and ADVISORY OPINION 36: Identification and Disclosure of Client, Intended Use, and Intended Users** – The guidance that had been included in retired STATEMENT 2, 3, 4, 6, and 9 has been adapted into Advisory Opinions, with administrative edits and revisions to language and guidance that better reflect current practices and terminology.

The revisions to AO-7 were made to better reflect current practices and to more clearly differentiate between exposure time and marketing time.

Administrative edits were also made to USPAP and all guidance material, including the *USPAP Advisory Opinions* and *USPAP Frequently Asked Questions*, for conformity and consistency. The details of the changes to the 2016-17 edition of USPAP can be read on The Appraiser Foundation's website, www.appraisalfoundation.org in a document entitled *2015 Summary of Actions Related to Proposed USPAP Changes*.