

IllinoisAppraiser

The Through Line of USPAP

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A *through line* can be defined as, a theme or idea that runs from the beginning to the end of a book, film, etc.

USPAP has a through line.

Don't make big mistakes. Don't make a bunch of little mistakes and don't be misleading.

That *through line* hasn't changed since 1989.

Investigators, boards, lawyers, administrative law judges and licensees in every jurisdiction wrestle with USPAP's *through line*.

In Illinois, licensees must satisfactorily complete the *current* seven-hour version of USPAP within six months of its effective date.

Why did Illinois do this?

It forces appraisers to be current with whatever version of USPAP is released. Too many licensees waited until September of a renewal year before taking a version of USPAP that was on its way out.

In Illinois, USPAP is incorporated into state law in the Administrative Rules.

In example, the 2008-2009 USPAP that became widely used by the profession on January 1, 2008 was not adopted by Administrative Rule until **May 14, 2009**.

Why so late?

While the Act is voted on by the legislature and signed by the governor into law, the Administrative Rules are handled through JCAR (*Joint Committee on Administrative Rules*).



JCAR is a bipartisan legislative oversight committee created by the General Assembly in 1977. Pursuant to the Illinois Administrative Procedure Act, the committee is authorized to

conduct systematic reviews of administrative rules promulgated by State agencies.

In simpler terms, our statutes follow two different tracks and timelines.

This can be confusing for those wondering which version USPAP to follow.

In the 2008-2009 version of USPAP the following definition existed:

JURISDICTIONAL EXCEPTION: *an assignment condition that voids the force of a part or parts of USPAP, when compliance with part or parts of USPAP is contrary to law or public policy applicable to the assignment.*

When the 2010-2011 version emerged, the definition became:

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The Through Line of 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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JURISDICTIONAL EXCEPTION: *an assignment condition established by applicable law or regulation, which precludes an appraiser from complying with a part of USPAP.*

The differences are subtle but important.

The first definition gave wider authority to skirt USPAP based upon an assignment condition.

The second definition narrowed the meaning to assignment conditions established by law or regulation as well as from parts (*plural*) to part (*singular*).

For an Illinois appraiser this would mean that if they chose to comply with the first definition, they could legally do so until **May 13, 2009** after which the Administrative Rules were changed.

This could be problematic for appraisers as well as department prosecutors due to the legislative overlap.

But it isn't.

We've never had a JE enforcement issue based upon legal overlap.

Our issues are rarely nested in the *one-off* changes found in the definitions.

The issues that the Board deals with are found in **Standards 1 and 2.**

Those haven't changed much. They rarely do.

My **1998** copy of USPAP's **Standard Rule 1-1a** reads exactly the same as the current **2014-2015** version.

With every release of USPAP there is, at the front of the book, a page or two of revisions to USPAP since the previous version.

Some changes are deletions while others are additions or clarifications.

In the **2014-2015** version report options such as *Summary Appraisal Report* were abandoned in favor of *Appraisal Report*.

Does this mean that an Illinois appraiser must continue to use the *old* report option terminology until the new rules are released?

No.

Reporting options are *not* part of the through line of USPAP.

Terms like *Self-Contained* and *Summary* tend to change over time as did the term *Limited Report*.

Illinois appraisers *never* face enforcement issues because they comply with the most recent version of USPAP.

By statute, appraisers not only must take the most recent USPAP but they must understand it in order to practice.

The **2014-2015 USPAP** may not be adopted by JCAR until May of this year.

The *through line* never really changes.

Required Course for Newbies

Trainee
Residential
General

As of January 1, 2015, those seeking to become new Associate Real Estate Trainee Appraisers must complete **ILST-15—The Illinois Supervisor—Trainee Course**.

There is six-hour (*classroom only*) version that includes both the AQB material as well the Illinois material.

There is the three *or* four-hour AQB portion that can be completed in class *or* on-line.

There is the three-hour (*classroom only*) Illinois jurisdictional portion.

What's the difference?

The AQB portion is required in order for prospective trainees to be issued their first (*trainee*) credential after January 1, 2015.

If a person takes the AQB portion they have up to *one year* to complete the three-hour (*classroom only*) Illinois jurisdictional portion.

The courses have been taught to hundreds of supervisors and trainees.

We've recently opened up the application process for interested, licensed providers to teach the Illinois portion.

Instructors will need to be taught how to answer questions about our paperwork.

They will be invited to Chicago for a session covering our forms and typical questions (*prior to approval*).

The volume of questions that we receive on the Illinois portion demonstrates the deep need for the offering.

It also illustrates the need for the various appraiser organizations to establish mentorships for their fledgling members.



January 2015—IMPORTANT information

Due to delays in implementing the criminal background/fingerprint requirement for NEW real estate appraiser applicants; this portion of the application will be waived until *approximately* March 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 better as a condition of qualification.

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



CU and Appraiser Regulation

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Whether you believe Fannie Mae's comprehensive rollout of **Collateral Underwriter** will finally weed out the lazy form-fillers or it will end up *euthanizing* the aging residential leg of the profession once and for all, is not the subject of this article.

There are plenty of blogs, articles, and seminars that are wrestling with the efficacy of **CU** and its long-term impact.

To be sure, the profession has entered the new age of *big data*.

Residential appraisers will need to navigate regression analysis, heat maps, trend lines, oblique aerial images, and especially how to tie it all together into something meaningful.

From a regulator's perspective, the new paradigm creates compliance challenges for appraisers *and* AMCs.

Collateral Underwriter will be analyzing its own model data and data provided by an appraiser's peers.

Everyone needs to be aware that Fannie Mae's label of "*peer*" is not necessarily synonymous with the **USPAP** definition of "*peer*".

From **USPAP**:

APPRAISER'S PEERS: other appraisers who have expertise and competency in a similar type of assignment.

Appraisers who are provided rebuttal data through **CU** will need to justify their own analysis against an unknown group of "*peers*".

No one will know for certain whether this pool of "*peers*" truly fits the **USPAP** definition that includes *expertise* and *competency*.

A *peer* in USPAP is not just *anyone* with a license. To **CU**...they might be.

AMCs will need to steer clear of making *demands* of their panel based upon **CU** output.

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Bob Murphy of Fannie Mae addresses issues and concerns regarding the rollout of Collateral Underwriter to a grateful crowd of 270+ appraisers in Lisle on February 11, 2015.

CU and Appraiser Regulation

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From the 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;
- j) Failing to deliver all information that supports a change in property value to a licensed Illinois appraiser without good cause;

When these two sections (*i and j*) were drafted back in 2010, it was already clear as to the direction the appraisal profession was headed. The law was written so that AMCs wouldn't be able to filter the data toward one result or another.

CU data, when provided by an AMC must be complete and support any change, up *or* down, to an appraiser. There will be no *tilting* of data to produce a more favorable score.

However, appraisers are also cautioned to understand that AMCs are legally permitted to ask for three things on any assignment:

Nothing in this Act shall prohibit an appraisal management company from requesting that an appraiser:

(1) consider additional appropriate property information, including the consideration of additional comparable properties to make or support an appraisal;

(2) provide further detail, substantiation, or explanation for the appraiser's value conclusion; or

(3) correct factual errors in the appraisal report.

These dovetail perfectly with the intent of CU.

Changing Landscape—

Why is Fannie doing this? Why are there so many different algorithms? Why so many different AVM models?

Fannie Mae, like everyone else that pours money into real estate is looking for ways to minimize risk.

The entire real estate collapse that began in 2008 was all about risk management through commoditizing and off-loading risk.

Today, big players are on the hunt for technological ways to minimize and manage their exposure to loss.

The first thing I was taught when I got into real estate in 1980 was that real estate was *dynamic*.

Dynamic, meaning ever changing.

Algorithmic tools embedded in AVMs and platforms like CU are trying to hedge the bets of their entities in residential real estate.

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CU and Appraiser Regulation

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The big players would like to know about the *future* of residential values but the mechanism by which conventional residential valuation is built, is by looking backward.

The *dynamic* nature of real estate makes it a moving target—every day.

To CU, comparable sales closer to the effective date of value are important when the trend lines are pointing toward rapid appreciation or rapid decline.

Conversely, sales going back twelve months are acceptable in a flat or stable market.

In either reality whatever the appraiser chooses as a comparable is *always* in the rear view mirror.

Appraisers base the future trend upon events of the past.

Steven Wright the comedian said, “I had a friend who asked me if I’d ever seen any pictures of him when he was younger. ALL of the pictures I had seen of him were when he was younger.”

Even if *all* of your comparable sales closed yesterday for an appraisal completed today, *all* of the sales would still be in the past.

Imagine an appraiser completing a ten-year DCF for the Twin Towers on September 10, 2001, with all of the as-



sumptions that were reasonable on that day. What was the value of those reasonable assumptions on the following day?

What Do Residential Appraisers Need Now?

Regression analysis is here to stay.

Because so many of us in the profession grew up with an *intuitive approach* to valuation, there’s a profound need for statistical education.

Most of the residential appraisers in Illinois may only have a cursory understanding of regression techniques.

You’ll need it to survive the data avalanche coming your way. You’ll need it to be able to defend your analysis and the risk scores that will be the result.

As for the brokerage business, there’s going to be a need for more *reliable* listing information across Illinois.

The days of haphazard reporting of GLA, room counts, baths, basement finishes, etc., need to come to an end.

Too much is riding on *data integrity*.

Appraisers need to get in front of their lenders and brokers so as to educate them on the new reality that has become big data and analytics.

AMCs need to do more to educate their own panels.

https://www.census.gov/geo/maps-data/maps/2010ref/st17_tract.html

Suspension: No Appraisal Needed

A few appraisers end up with a suspended license or a revocation due to seriously deficient reports.

Everybody knows that.

But there are other things that can trigger an enforcement action that have nothing to do with **USPAP** or shoddy appraisal practices.

Delinquent Child Support—

If the Illinois Department of Healthcare and Family Services has determined that a licensee is delinquent 30 days or more in their child support obligation, you will face revocation, suspension, or other enforcement. It's their call. Not yours. Not ours.

Stay current.

Student Loans—

If a licensee has *defaulted* on a loan or scholarship guaranteed by ISAC (*Illinois Student Assistance Commission*), you could be looking at a revocation, suspension, non-renewal, or denial of a license. A satisfactory repayment history is your key to keeping your credential.

Taxes—

Remember. This is how they got Al Capone. If you fail to pay your state taxes, you could lose your credential until you're all caught up.



Termination—

A termination of a license generally occurs when a licensee sends a bad check to **IDFPR**.

Renewal time is when we see most of these. An NSF check will result in a terminated license and remain so until the Department is made whole.



You'll be notified of the NSF check and you'll have limited time to make it good plus a \$50 fine.

All of these enforcement actions are on *auto-pilot*. The Department merely follows the law. **IDFPR** does not prosecute these issues.

A suspension, termination or revocation is always reported to the National Registry just like every other *public* enforcement action.

The National Registry does not distinguish a child support suspension from a misleading report-based suspension.

A suspension is a suspension.

To the National Registry, a *termination* is exactly the same as a suspension.

The last item is *inoperative*. This happens to supervisors with too many Associate Real Estate Trainee Appraisers.

Aside from USPAP considerations, licensing has other obligations that everyone needs to understand in Illinois.

Functions of the Board

Article by Board Chair Lee
Lansford and Vice-Chair
LeeAnn Moss



The role of the Real Estate Appraisal Administration & Disciplinary Board in matters which most affect appraisers—licensing, education, and discipline—is best understood through awareness of the Board’s responsibilities and duties.

While some may assume that the powers of the Board are all-encompassing (including having a semi-legislative function), such an understanding is certainly far from the truth.

What follows is intended to provide a foundation for understanding the role of the Board and its relationship with others.

In brief, the Board is comprised of 10 voting members and one non-voting member (the Appraisal Coordinator). The 10 voting members are appointed by the Governor. Five of the members are Certified General appraisers and three are Certified Residential appraisers. Additionally, one member is a representative of a financial institution and one member shall represent the interests of the public at large.

It is important to understand that this is an *advisory* Board; the Board makes recommendations to the Department and the Director for their consideration in decision-making.

The role of the Board is defined in (225ILCS 458/) Real Estate Appraiser Licensing Act of 2002.

Regarding license upgrades—Sec 25-10, (4), (h) states “The Board shall ad-

vised and make recommendations...on the education and experience qualifications of any applicant for initial licensure as a State certified...appraiser.”

Most every month, Board members review appraisals submitted by licensees who are seeking to upgrade their license status. The reviewing member, during closed session at the meeting of the Board, makes a recommendation to the full Board as to the acceptability of the work under review. At the conclusion, the Board’s recommendation is provided to the Department for consideration.

Regarding matters of discipline—Sec. 25-10, (4), (i) states “the Board shall hear and make recommendations to the Secretary on disciplinary matters that require a formal evidentiary hearing.”

These are proceedings that occur in a courtroom setting before an Administrative Law Judge (ALJ). After receiving the findings and recommendations of the ALJ, the Board deliberates (in closed session at a Board meeting) over the findings and makes recommendations—sometimes in agreement with the ALJ’s findings, and, sometimes not—to the Director for disposition of the case.

It is only for a formal evidentiary hearing where the Act mandates that the Board make a recommendation in a disciplinary pro-

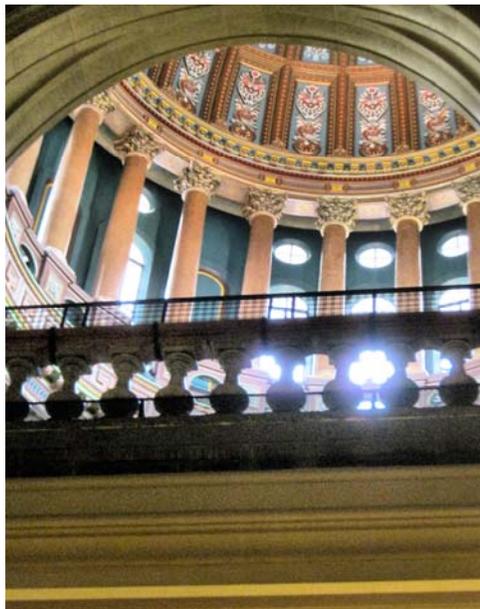


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ceeding. However, by custom, the Board does provide a service in matters that might result in the discipline of a license. One such service is the Board's ad hoc committee for Probable Cause.



Following receipt and recording by the Department's Complaint Intake, Board members screen complaints and make recommendations to the Department. Such recommendations might include investigating further, proceeding to settlement conference, issuing a letter of warning, closing the file, et cetera. Also, the Board is invited by Prosecutions to participate in Settlement Conferences. *(It is not mandated by Act or Rules that the Board need to be included)*

Board participation is important and customary because discussion requires appraisal expertise. These conferences *(5 to 10 in a day)* typically occur one day per month and require the presence of 2 to 4 Board members.

During each settlement conference, the appraiser *(and, if desired, the attorney for the appraiser)* meets with an attorney from Prosecutions and two Board members in order to discuss the substance of the complaint and to determine whether or not the matter can be resolved. At the conclusion of a conference, the attending Board members—in collaboration with the attorney for the Department—make a recommendation for a settlement offer *(with or without a public discipline)*, closure or other action such as proceeding to a formal evidentiary hearing with an Administrative Law Judge.

As to matters regarding education, Sec. 25-10 (4), (k) states *"The Department shall seek and the Board shall provide recommendations to the Department on the approval of all courses submitted to the Department..."* and *"The Department shall not approve any courses without having first received the recommendation of the Board and shall give due consideration..."*

Most every month, individual Board members review both QE and CE courses submitted by education providers for licensing approval in Illinois. The reviewing member, during closed session at the meeting of the Board, makes a recommendation to the full Board as to the acceptability of the course under review. At the conclusion, the Board's recommendation is provided to the Department for consideration.

Also in the Act is the requirement in Sec 25-10 (4), (j) that *"The Department shall seek and the Board shall provide rec-*

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Functions of the Board

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ommendations...for the administration and enforcement of all rules..." and "The Department shall give consideration to such recommendations prior to adopting rules."

As you see, the Board has an advisory role in that it makes recommendations.

Finally, many appraisers have appraisal management companies (AMCs) as clients and certainly many appraisers have great interest in the relationship between themselves and AMCs.

However, the Appraisal Board does not have oversight of AMCs.

In the "*Appraisal Management Company Registration Act*", the Appraisal Board is mentioned once. In Sec. 25 (3) of the AMC Act we find "*The Department may formulate all rules required for the administration of this Act*"; also, "... *any proposed rules, amendments...or policy statements concerning (AMCs) shall be presented to the (Appraisal Board) for re-*

view and comment. The recommendations of the Board shall be presented to the Secretary for consideration in making final decisions."

Thus, the Department will ask the Appraisal Board for the Board's input (*recommendations*) for the Department's consideration in the decision-making process.

In summary, the Board is an *advisory* board only.

Nonetheless, Board members take very seriously their responsibilities toward protecting the people of Illinois, and in doing so contributing to the appropriate, fair and consistent treatment of licensees in education, licensing, and disciplinary matters.

