

IllinoisAppraiser

AMC Indemnification

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When we crafted the language in the AMC Act back in 2011-2012, we followed what most every other state included insofar as indemnification was concerned.

(225 ILCS 459/165)

Sec. 165. Prohibited activities.

(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.*

Everyone seemed to understand what this meant.

Appraisers and AMCs correctly understood it to mean that an appraiser could not be *required* to take a liability hit for things that the AMC might do, that was beyond the control of the appraiser.

Easy. Right?

Most indemnification clauses in AMC contracts go something like this:

"Vendor (appraiser) will indemnify and defend the AMC, its subsidiaries, and affiliates and their respective officers, em-

ployees and directors, and hold them harmless from any and all claims, demands, liabilities, losses, costs and damages, including without limitation, court costs and reasonable attorney's fees for: personal omissions, injury, property damage...arising out of the Vendor's personal or personnel acts..."



The key to this language is holding the AMC *harmless* as to what the appraiser or the appraiser's employee does.

Meaning...if you knock over the homeowner's priceless flower vase on an inspection...that's on you.

That's fair.

However, I still see appraisers signing off on similar *catch-all* certifications:

"I will adhere to the Dodd-Frank Act, Appraiser Independence Requirements (AIR), Uniform Standards of Professional Appraisal Practice and/or FNMA, FHLMC, FHA Appraisal Standards, existing on the effective date of the appraisal, as applicable. I will comply with all federal, state and local laws and regulations."

First, the **Dodd-Frank Act** (DFA) is not another burden for appraisers. It is the responsibility of the AMC to comply; **not the appraiser.**

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AMC Indemnification

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Next, **AIR** is meant for AMC compliance; again, **not for the appraiser**.

There is absolutely **no** reason for AMCs to offer this in an attempt to offload *their singular* responsibilities onto an appraiser with this language, or anything like it.

If AMCs want to attach a certification that *they* are in compliance with AIR... then they are free to do so.

This is not something that an appraiser signs. Ever.

Next, AMCs are already under the singular obligation, *by every state*, to employ or contract with appraisers who adhere to USPAP.

In Illinois, AMCs, as a *condition* of registration must certify to four points.

(225 ILCS 459/40)

Sec. 40. **Qualifications for registration.**

(a) The Department may issue a certification of registration to practice under this Act to any applicant who applies to the Department on forms provided by the Department, pays the required non-refundable fee, and who provides the following:

(6) a certification that the applicant will utilize Illinois licensed appraisers to provide appraisal services within the State of Illinois;

(7) a certification that the applicant has a system in place utilizing a licensed Illinois appraiser to review the work of all employed and independent appraisers that are

performing real estate appraisal services in Illinois for the appraisal management company on a periodic basis, except for a quality control review, to verify that the real estate appraisal assignments are being conducted in accordance with USPAP;

(8) a certification that the applicant maintains a detailed record of each service request that it receives and the independent appraiser that performs the real estate appraisal services for the appraisal management company;

(9) a certification that the employees of the appraisal management company working on behalf of the appraisal management company directly involved in providing appraisal management services, will be appropriately trained and familiar with the appraisal process to completely provide appraisal management services;

None of these can be waived or dumped on their panel in the form of an indemnification, which is exactly what that DFA/AIR appraiser certification language is trying to do.

AMCs need to remove that language, immediately.

If not, they are in violation of **Section 165**.

To assure that AMCs are in compliance with this along with the *four* required certifications, we will be conducting an audit of their engagements and contracts beginning in October.

Updated Matrix

Tentative Schedule of Formal Hearings

IDFPR v Bisanz
September 20

Trainee
Residential
General

The Experience Matrix was taken up by the Board in open session and updated a few months ago.

Rather than launch it now, we will launch it on **January 1, 2017** in order to minimize confusion.

Below is what the new Matrix will look like with changes marked in yellow.

Some hours increased. Some decreased.

For all applicants, its important to note that that the hours posted are not "what you're entitled to". These aren't gameshow points that the Board is assigning to every appraisal.

The Matrix is a guide.

As a guide, it is designed to help applicants understand what are norms that the Board sees when grading appraisal experience.

In column 1 for URAR reports, the Board agrees that a garden-variety residential assignment should take about ten hours to complete if the applicant signs the certification.

Columns 2 and 3 are zeroed out because the URAR only has room for ONE appraiser signing on the left and one supervisor signing on the right.

For commercial appraisals there tends to be multiple signatures.

Looking at the line for **Subdivision Appraisal (All Types)**, column 1 has 40 hours. Column 2 has 20 hours and column 3 has 10 hours.

If an appraisal company has THREE appraisers plus the supervisor signing the certification, each appraiser typically puts in about 10 hours into the 40 hour job.

What the Board has seen is all three appraisers claiming 40 hours each, for a 40 hour assignment.

That's 120 hours into a 40 hour job. That makes no sense.

We've seen other applicants add together all three columns in order to arrive at a time.

Again, that is incorrect and leads to delays and sometimes charges of submitting a false log.

Remember, any hours exceeding the Matrix must be explained on the **LOG-7575** form.

REAL ESTATE APPRAISER EXPERIENCE CREDIT MAXIMUMS – Beginning January 1, 2017

Report Type	Form I.D.	Maximum Hours Supervisor + 1 Participant	Maximum Hours Supervisor + 2 Participants	Maximum Hours Supervisor + 3 Participants
URAR	1004	10	0	0
Individual Condominium Unit Appraisal Report	465/1073	10	0	0
Exterior-Only Individual Condominium Unit Appraisal Report	1075	10	0	0
Individual Cooperative Interest Appraisal Report	2090	15	0	0
Exterior-Only Individual Cooperative Interest Appraisal Report	2095	15	0	0
Exterior-Only Inspection Residential Appraisal Report	2055	10	0	0
Desktop Underwriter Qualitative Analysis (Interior Inspection)	2065	10	0	0
Employee Relocation Summary Report	ERC	20	0	0
Small Residential Income Report	1025	20	0	0
Manufactured Home Appraisal Report	1004C	15	0	0
Mobile Home Report		10	0	0
General Purpose Residential Report	GPAR	10	0	0
Uniform Agricultural Appraisal Report	UAAR	20	10	5
Agricultural (Land ONLY)		20	10	5
Agricultural (with Modest Improvements: i.e. improved with farmstead, and/or grain or machinery storage)		30	15	8
Agricultural (Complex or Highly Improved: i.e. multiple valuations in one report, grain elevator, confinement livestock facility, permanent planting)		60	30	15
Multi-Family (Proposed or Existing) 5 to 12 Units	Form or Narrative	20	10	5
Multi-Family (Proposed or Existing) 13 to 48 Units	Form or Narrative	40	20	10
Multi-Family (Proposed or Existing) 49+ Units	Form or Narrative	60	30	15
Commercial or Industrial (Proposed or Existing)		40	20	10
Vacant Land – Single Lot		10	0	0
Subdivision Appraisal (All Types)		40	20	10
Standard 3 Field Review (NO TRAINEES)		10	0	0
Standard 3 Field Review with value (NO TRAINEES)		15	0	0
Standard 3 Desk Review (NO TRAINEES)		10	0	0
Special Use (religious facilities, schools, power plants, pipelines, wind farms, government facilities, etc.)		60	30	15

If a **Certified Residential** or an **out-of-state Licensed** appraiser seeking to upgrade did not require the signature of a supervisor then apply the maximums from the **first column**. Any assignment that **exceeds** the indicated participant hours **MUST** include a separate **LOG-7575** form for each assignment.

Request for Variance



Our profession is small.

While I do not know everyone, personally, I'm familiar with many.

In 2015 I received a call from a licensee, **Dominic Nappi**.

Nappi.

I was not a close personal friend of Dominic, although, as with many in our close-knit profession, I was familiar with his name.

Dominic had a problem.

He had a serious health issue that had sapped his ability to focus on his appraisal work and made it impossible to take some of his required CE.

What Dominic was asking for was permission to renew his certified residential credential in the 2015 cycle without completing his USPAP obligation.

Over the years I've received many such requests.

The requests ranged from the sublime to the ridiculous.

Some requests have been just crazy.

In all such cases, these are referred to as a "request for a variance".

Neither I, nor the Board decide such things. These are strictly within the discretion of the **Secretary**.

The Administrative Rule addressing such discretion can be found at:

Section 1455.330 Granting of Variances

The Secretary may grant variances from this Part in individual cases when he or she finds:

- a) *The provision from which the variance is granted is not statutorily mandated;*
- b) *The granting of the variance would not be contrary to the public welfare; and*
- c) *The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.*

Anything contained in the **Act** cannot be waived with a variance.

In all such cases, the appraiser should send *me* a detailed e-mail outlining the request and the reason behind it.

I will send it up the chain.

It took a couple of months but the Secretary signed off on the request.

It was the only variance that has been granted since I've been here.

Dominic and I spent some time on the phone throughout the process. He was very candid about his issues and his prognosis.

We were saddened to learn of his passing in December, sometime after the variance was granted.

He was only 49.

Bruce Rauner, Governor

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Non-Traditional Client Scope

Trainee
Residential
General

For those trying to move up from trainee into a certified credential we are clarifying what is acceptable insofar as appraisal Log submissions are concerned.

Because trainees trying to move up have the most difficulty, this article focuses on them.

The Department has always understood the plight of *residential-tracking* trainees.

This has always been the elephant in the room.



"The AMC won't let me sign the certification."

While some assignments, like FHA, are targeted only to certified appraisers, AMCs tend to use this as a context to globally ban **Associate Real Estate Trainee Appraisers** from *every* assignment.

This is inconsistent with Illinois law, as I've stated repeatedly at ICAP seminars. An AMC that places an outright ban on trainees signing a certification in this state leave themselves exposed to an **Unprofessional Conduct** charge under the AMC Administrative Rules.

"Fannie Mae's UAD has a portal hard-

stop when we submit our report with my trainee's signature."

First, Fannie Mae isn't engaging the appraiser at all. The lender or the AMC is client.

The *hard-stop* is because the trainee is not listed on the ASC's National Registry. Because trainees are not "*certified*", they will never appear on the National Registry. To the National Registry; trainees don't exist.

We get calls and e-mails from trainees complaining that they're not on the National Registry.

This is not an oversight by DRE. This is how the system was designed in the early 1990s.

We don't like it anymore than you do.

Either way, a *hard-stop* can be overwritten by either the lender or the AMC. In most cases, they're not interested in the problems of trainees or their supervisors. They just want to get the appraisal through the system with as few hiccups as possible.

We regulate AMCs; not lenders.

There are only two portions of our Administrative Rules that we need to re-view:

Section 1455.190 Verification of Experience Credit

No less than 50% of the total experience submitted shall contain signed certifications by the applicant.

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Non-Traditional Client Scope

IllinoisAppraiser

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Trainees require no less than 2,500 hours worth of experience in no less than 24 months.

The 50% rule means that in a 2,500 hour experience Log, no less than 1,250 hours of it must contain a signature by the trainee in the certification.



The Board will **not** accept two years of *significant contribution work*, alone.

The next Rule to consider is:

Section 1455.200 Acceptable Appraisal Experience Credit

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 2015 Criteria.

This means that trainees can name the Department as a client and perform supervised work in order to avoid the *hard-stops* and *banned work* issues.

So, if the Department accepts 50% significant contribution work *and* 50%

non-traditional client work...that should fulfill the experience requirements.

Instead, we have some trainees and their supervisors trying to *game* the system by recycling significant contribution work for *traditional* clients and repackaging that same appraisal naming the Department as a client with a signed certification from the trainee.

This *is* and has *always* been unacceptable.

Experience Logs are read *line-by-line* and *page-by-page*. The odds of a trainee *double-dipping* a report are almost nil.

How to Successfully Comply—

If you choose to name the Department as a client, you will need to name the **Division of Real Estate** as the *client* and *intended user*.

All such reports will be limited in format to a **GPAP** or a **narrative**.

No other format will be considered.

No URARs. No Condo forms. No 1025 forms. Only a GPAP or a narrative.

You must amend or supplement the existing SOW in any **GPAP** with:

SCOPE OF WORK: The scope of work for this appraisal is defined by the complexity of this appraisal assignment and the reporting requirements of this appraisal report form, including the following definition of market value, statement of assumptions and lim-

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Trainee
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Non-Traditional Client Scope

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iting conditions, and certifications. The appraiser must, at a minimum:

- (1) perform a complete visual inspection of the interior and exterior areas of the subject property,
- (2) inspect the neighborhood,
- (3) inspect each of the comparable sales from at least the street,
- (4) research, verify, and analyze data from reliable public and/or private sources, and
- (5) report his or her analysis, opinions, and conclusions in this appraisal report.

INTENDED USE: The intended use of this appraisal report is **for license upgrade**.

INTENDED USER: The intended user of this appraisal report is the **Division of Real Estate**.

If you include the wrong SOW, your report will be rejected.

If you incorporate the wrong intended use and/or user, your report will be rejected.

The Board is singularly interested in **USPAP compliance** when applicants are upgrading.

The Board does NOT want to see any references to Fannie Mae, MPS, FHA, VA, specific lender or any AMC guidelines. UAD formatting will NOT be accepted. If they see it, your report will be rejected.

Nobody here cares about bracketing, adjustment percentages or anything else that smacks of secondary market

reporting obligations.

Finally, you, the trainee, will sign the certification along with your supervisor.

If you do not sign the certification, your report will be rejected.

If your supervisor doesn't sign the certification, your report will be rejected.

Significant contribution work will **not** be accepted under the *Non-Traditional Client option*.

The world of appraising does not spin on the axis of what some underwriter requires.

Not when you're trying to upgrade.

What properties will you be able to appraise?

Whatever your supervisor is allowed to perform and supervise.

It's up to you to fill in the blanks of your own career. Hundreds of trainees have successfully gotten through this process over the years.

Complaining about what a barrier this all seems to be will get you nowhere.

If I could reinvent the system it would include a singular demo report in narrative format. Not 2,500 hours worth of Fannie Mae guidelines and checked boxes.

But this what we have. Make the best of it.

Trainee

Residential

General

Tom Gooding's Farewell



Reliable.
Steady.
An asset to the Appraisal Board.

These are just the *first* things that came to mind when I learned that Tom was leaving the Board as of September 1.

Tom Gooding was our banking representative on the Real Estate Appraisal Administration and Disciplinary Board.

Tom is from Hillsboro, about 250 miles away from our Chicago offices. More often than not, he made the trip back and forth for Board meetings.

That was his reliability.

When he was here, he raised valid points and offered thoughtful sugges-

tions. He asked the right questions and represented the Illinois banking community exceptionally well.

He understood appraisal issues and brought his banking experience to the discussions.

He was even tempered and highly professional at all times.

These attributes made him steady.

As with other Board members whose personal situations no longer allowed them to participate, Tom is leaving us.

We are, of course, sad to see his experience leave us. But we are equally saddened to see another friend move on.

Thanks for your service.

Video Board Meetings

One of the Director's initiatives is to offer a video link between Chicago and Springfield for board meetings.

This means that there's a very good chance that the October board meeting in Springfield will be able to be attended by some board members and the public in both locations through a video feed.

The Appraisal Board will *not* have a September meeting.

However, our October meeting will be held at our alternate location on the 3rd floor of the 320 W Washington building.

Rather than require board participation in Springfield, one or more members will be able to remain in our Chicago location at JRTC and participate fully.

Members of the public, including ICAP members who routinely travel to Chicago to monitor our open session, will be able to see and hear the full board.

As always, the closed session, where licensing issues, education submissions, and enforcement issues are discussed, will be restricted to staff and the board.

A new agenda will provide details as to how to participate.

