

July 17, 2015

Ms. Ann Barry
Associate Executive Director
Commonwealth of Massachusetts
Board of Registration of Real Estate Appraisers
1000 Washington Street
Boston, MA 02118

RE: Review of Regulations

Dear Ann,

The MBREA | The Association for Valuation Professionals is grateful for the opportunity to contribute to a review of existing regulations applicable to real estate appraisers. We have several recommendations, some of which are general in nature while others are specific to sections.

General recommendations

1. We recommend the Regulations be written in plain English. The Regulations Manual published by the Secretary of the Commonwealth advocates "writing in clear, simple English" by using "simple everyday words" and provides many useful suggestions. Plain English facilitates a higher level of understanding by the reader and consequently a higher level of compliance.
2. We recommend reordering the Regulations by moving 264 CMR 1.00 with all its subsections to the end of the Regulations. The placement of Disciplinary Proceedings as the first section is a harsh welcome to someone exploring the requirements to become an appraiser.
3. Licensees should have protection -- a form of "statute of limitations" -- from complaints filed about appraisals that are several years old. We recommend the following language be added to 1.04.1, "The Board shall not take action on a complaint unless the complaint is filed with the Board within 5 years after the date the report's certification is signed or within 2 years after final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last."

4. We have two recommendations relative to education approval that involves process rather than regulation. First, the Board should implement an expedited review and approval of one-day, one-time educational programs. These focus on timely topics and often feature multiple presenters who are subject matter experts. Examples of these programs are the New England Appraisers Expo, Breakfast with the Experts and similar events produced by the MA/RI Chapter of the Appraisal Institute.

The second recommendation is to eliminate the requirement that applications for educational approval be notarized. Massachusetts is the only state out of the six we do business with that has this requirement. Additionally, the form we are asked to notarize is not in compliance with an Executive Order published several years ago.

5. Definitions are contained in two separate sections. We recommend consolidating all definitions to one section and eliminating definition that are not specific to the Board's operation. Examples are appraisal related definitions such as Absorption Period, Atypical, etc.
6. The Regulations have more than one definition of USPAP. One, contained in 265 CMR 1.02 requires bi-annual amending of the Regulations. We recommend the adoption of one definition of the Uniform Standards of Professional Appraisal Practice (USPAP) that does not reference a specific edition. Vermont regulations provides an example where the following definition is used, *"USPAP" means the "Uniform Standards of Professional Appraisal Practice" as published by the Appraisal Standards Board of the Appraisal Foundation.*
7. We encourage the Board to adopt the Appraisal Foundation's "Voluntary Disciplinary Action Matrix", developed by a task force including regulators and updated for each version of USPAP.
 - a. The matrix is designed to assist state regulatory agencies in enforcement action by providing fair and consistent application of sanctions in disciplinary proceedings.
 - b. Adoption of the matrix provides a high level of transparency by informing licensees of potential sanctions.
 - c. Most importantly, it assures both the Board and licensees that there will be no disparate treatment from case to case.
8. Due to the implementation of 2015 criteria changes the Regulations contain several references to "prior to" or "after" January 1, 2015. Those referring to "prior to" should be deleted and those referring to after should have the reference to "after" removed.

Specific recommendations

1. The definition of a quorum in 1.02 requires updating to conform to Chapter 236 of the Acts of 2014.
2. Two separate references (5.06(1)8 and 6.01(1)c.4) to report types are inconsistent with the current edition of USPAP. We do not believe in the second instance that the Regulations needs to refer to different report types, but could be simply stated as "Type of report".

3. Section 5.08.7 should be amended to read, "Except for a Trainee Applicant there is no time frame within which Primary Education must be obtained. All pre-licensure Primary Education by a Trainee Applicant must be completed within five (5) years of the date of the submission of a Trainee application." (See the Trainee Application checklist.)
4. Section 5.08.3 should be deleted as it is no longer applicable.
5. We recommend a wording change to the end of 6.01.a. The words "license or certificate holder" should be replaced by "trainee or appraiser-in-training".
6. The following language should be added at the end of the opening clause 9.07A., "... [only if it] meets one of the following criteria."

We are available to meet with the Board and staff to discuss these and any other issues. The Board may wish to establish a working group with stakeholders as members to assist in revising the Regulations. If so, the MBREA would be happy to participate.

Sincerely,

Stephen E. Sousa
Executive Vice President