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APPRAISERS
BOARD**

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Real Estate Commissioner

March 16, 2006

NOTICE OF INTENT

NOTICE IS HEREBY GIVEN that the Georgia Real Estate Appraisers Board proposes to amend the following Rules:

- 539-3-.01 Federally Related Transactions.**
- 539-3-.02 Standards for Developing and Reporting An Appraisal.**
- 539-3-.04 Departure in Non-federally Related Transactions.**

Any party wishing to **express opinions or views** on the proposed Rules listed above may do so **no later than April 17, 2006**, by contacting or writing Charles Clark, Georgia Real Appraisers Board, Suite 1000 - International Tower, 229 Peachtree Street, N. E., Atlanta, Georgia 30303-1605.

This Rule is being promulgated pursuant to O.C.G.A. '43-39A-13. The Board proposes to amend this Rule at its regularly scheduled meeting on April 19, 2006, at 8:30 a.m. at the address listed above. If adopted would these amendments become effective July 1, 2006.

GEORGIA REAL APPRAISERS BOARD

CHARLES CLARK

Real Estate Commissioner

Synopsis & Rationale:

These proposed changes to the Board's Standards for Appraisals result from changes in federal standards and the board's experience in disciplinary matters.

Rule 539-3-.01

Federal standards now require appraisers to report a three year sales history on a subject property in a federally related transaction. The Board proposes to change Georgia's standards accordingly. This revised rule will also require an appraiser to include in an appraisal report all listings of the subject property and the list prices within the year preceding the date of the appraisal.

Rule 539-3-.02

To be enforceable in Georgia, laws and rules must be consistent with the Appraiser Act, be reasonable, prescribe or proscribe with specificity any behavior to be avoided or undertaken, and be capable of being readily understood by those affected by them. In its experience with its disciplinary process, the Board has found that some of its standards and some of the Uniform Standards of Professional Appraisal Practice may not meet those enforceability standards. For example, standards such as "Select properties that are comparable to the subject" or "Use data from a reliable source" seem reasonable but they lack specificity and are subject to many interpretations.

In revising its Standards for Appraisals, the Board seeks to address three goals:

- 1. to give appraisers specific statements of actions that the Board expects them to undertake or avoid in producing credible appraisals;*
- 2. to help new appraisers to identify more readily basic appraisal principles and practices; and*
- 3. to recognize that while those specific statements of actions may serve appraisers well in the majority of appraisals, some appraisal assignments will require different actions. Thus, the new standards provide a mechanism for the appraiser to use differing professional judgment as long as he or she provides in the appraisal report credible real estate appraiser justification for doing so.*

In addition to these revised standards for the content of appraisals, Rule 539-2-.02 also:

- 1. modifies the language of certifications in appraisal reports;*
- 2. requires disclosure in the appraisal report of the nature of any professional assistance the appraiser receives;*
- 3. prohibits falsification of a report;*
- 4. in light of the broad use of electronic signatures, describes how an appraiser should control her or his signature;*
- 5. prohibits the use of any URAR for any purpose other than reporting an appraisal; and*

6. *describes the steps an appraiser must undertake when providing an existing appraisal report to a new intended user.*

539-3-.04

The Board will delete its old rule entitled “Departure in Non-federally Related Transactions” since the “departure” concept has been deleted from the Uniform Standards of Professional Appraisal Practice. The Board has incorporated any surviving relevant ideas therein into 539-3-.02.

CHAPTER 539-3

STANDARDS FOR APPRAISALS

539-3-.01 Federally Related Transactions

539-2-.02 ~~Non-federally Related Transactions~~ Standards for Developing and Reporting an Appraisal

539-3-.03 Review Appraisals

~~539-3-.04 Departure in Non-federally Related Transactions~~

539-3-.01 Federally Related Transactions.

(1) A federally related transaction is any real estate related financial transaction that (A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and (B) requires the services of an appraiser.

(2) In developing and reporting an appraisal of real property in a federally related transaction, an appraiser must comply with the standards required by the federal financial institutions regulatory agency that regulates the financial transaction for which the appraisal assignment was undertaken. For each appraisal assignment, it is the responsibility of the appraiser to determine what standards a federal financial institutions regulatory agency requires.

(3) In developing and reporting an appraisal of real property in a federally related transaction; an appraiser must take reasonable efforts to identify and report (a) the identity of the current owner of the property, (b) whether the property is listed for sale and identify and state in the appraisal report any other list prices within the preceding year; (c) whether the property is under contract for sale, and (d) whether the property has sold within the last three years prior to the date of the appraisal (~~if residential, or three years if other than residential~~). While documenting compliance with this requirement may be met in a variety of ways, an appraiser who attaches to the appraisal report the following items, obtained contemporaneously with the appraisal, shall be deemed to have met the requirements of this rule:

(a) a copy of the most recently recorded deed transferring ownership of the property or county tax records showing the name(s) of the property’s current owner(s) of record;

(b) a copy of any existing listing agreement or documentation from a multiple listing service that reflects the listing period of the property and its owner(s) and identify and state in the appraisal report any other list prices within the preceding year; and

(c) a written statement signed by the party ordering the appraisal that such party has disclosed to the appraiser all pending agreements to sell the property of which it is aware and has supplied to the appraiser all written agreements to sell the property of which it is aware.

Authority O.C.G.A. §§ 43-39A-8, 43-39A-13, & 43-39A-18.

539-3-.02 ~~Non-federally Related Transactions~~ Standards for Developing and Reporting An Appraisal. Amended.

(1) In developing and reporting an appraisal of real property, an appraiser shall not:

(a) perform any appraisal assignment beyond the scope of authority granted in the appraiser classification held;

(b) fail to disclose clearly and accurately the appraiser classification and number granted to the appraiser by the state;

(c) fail to employ correctly methods and techniques that are necessary to produce a credible appraisal. Unless the appraiser expressly provides a credible real estate appraisal justification in the appraisal report, the appraiser may not vary from the following guidelines:

1. appraisers reaching a conclusion of value for a real property must:

a. Obtain all data used in every appraisal from a reliable source and verify that data from at least one additional reliable source. For purposes of this rule a reliable source shall be one typically utilized by appraisers in the area and includes, but is not limited to, a personal inspection by the appraiser; publicly filed records; property tax records; an appropriate local multiple listing service; and commercially available data based and publications reasonably relied upon by appraisers in the ordinary course of their business. An appraiser may also rely upon information obtained from real estate appraisers, brokers, and closing attorneys provided that the appraiser maintains (1) documentation of any information obtained from appraisers, brokers, and closing attorneys and (2) the name, telephone number, and address of each source in the appraiser's file for at least five years;

b. report the tax value of the property, and indicate its percentage of fair market value;

c. identify and state in the appraisal report any list prices of the property if listed within the preceding year; and

d. comment on the impact on the market value of the subject of any foreclosures in the market area of the subject property.

2. appraisers utilizing the market approach for reaching a conclusion of value for a real property must:

a. identify and describe the market area as a geographic location;

b. select comparable properties that are the most recent sales and that reflect current market conditions for valuation of the subject property. Absent a credible real estate appraisal explanation for a different definition of most recent sales, most recent sales shall be within one year and in the market area. The most recent sales shall be presumed to be properties that have sold within the preceding year of the date of the appraisal;

c. select comparable properties for valuation of a residential property that require the net total of any adjustments not to exceed 15% and the gross total of all adjustments (whether positive or negative) not to exceed 25%;

d. select comparable properties for valuation of a property that are located within the market area of the subject. Absent a credible real estate appraisal explanation for a different market area, the market area shall be presumed to be comparable properties located first within the same subdivision as the subject and second located within one mile of the subject;

e. identify and list in the appraisal report all dates of sale and sales prices of the subject property within the preceding three years and all dates of sale and sale prices of the comparable properties within the preceding year;

f. identify and report any evidence of flip transactions in the market area of the subject.

3. appraisers utilizing the cost approach for reaching a conclusion of value for a real property must include in the appraisal report the relevant replacement cost data from a source reasonably relied upon by appraisers in the ordinary course of their business. Said source must be identified by title on the appraisal report;

4. appraisers utilizing the income approach for reaching a conclusion of value for a real property shall identify in the appraisal report the source of any income data used in the appraisal report; identify any ownership or other interest which such source has in the subject property; and maintain in the appraiser's file for a period of five years written verification of such income data.

(d) commit a substantial error of omission or commission that significantly affects the appraisal;

(e) render appraisal services in a careless or negligent manner;

(f) communicate the appraiser's analyses, opinions, or advice in a manner that is misleading to the client;

(g) fail to include in a report of an appraisal sufficient information to enable the person(s) who are expected to receive or rely on the report to understand it properly;

(h) perform an independent appraisal assignment with partiality or an accommodation of personal interest;

(i) accept an independent appraisal assignment when the employment itself is contingent upon the appraiser's reporting a predetermined estimate, analysis, valuation, or opinion or where the fee to be paid is contingent upon the opinion, conclusions, analysis, or valuation reached or upon the consequences resulting from the appraisal assignment;

(j) perform any appraisal assignment without (1) disclosing any lack of knowledge and/or experience to the client before accepting the assignment; (2) taking all steps necessary to complete the assignment competently; (3) describing the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the appraisal report; and (4) having the client expressly identify any other persons or entities that the client expects to rely on the appraisal report;

(k) report the results of a real property appraisal without disclosing the nature, extent, and detail of the appraisal processes undertaken;

(l) fail to disclose clearly and accurately in the appraisal report any assumption or any limiting condition that directly affects the appraisal and to indicate its impact on value; ~~and~~

(m) fail to include in an appraisal report a certification as follows:

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report, and I have no (or the specified) personal interest or bias with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved in this assignment.
- my engagement in this assignment or in any future assignment is not contingent upon developing or reporting predetermined results.
- my compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Georgia Real Estate Appraiser Classification and Regulation Act and the Rules and Regulations of the Georgia Real Estate Appraisers Board.
- I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)
- no one provided significant professional assistance to the person signing this report. (If there are exceptions, the name of each individual providing significant professional assistance must be stated and the professional assistance provided must be disclosed.);

(n) falsify any part of an appraisal report;

(o) fail to maintain at all times direct control of the appraiser's signature and the method by which that signature is affixed to an appraisal report. An appraiser may grant permission to another to affix the appraiser's signature to an appraisal report provided that the permission is in writing, the permission extends to only one specific appraisal report, the writing identifies the report, and the appraiser maintains a copy of the written permission in the appraiser's work file. An appraiser shall not grant blanket authority to another person to affix the appraiser's signature to an appraisal report or reports; and

(p) use of any Uniform Residential Appraisal Report form for reporting appraisal work for any purpose other than to report an appraisal.

(2) An appraiser who signs a real property appraisal report prepared by another accepts full responsibility for the appraisal and the contents of the appraisal report.

(3) An appraiser shall not disclose confidential information or the results of an appraisal assignment to anyone other than:

(a) the client and persons specifically authorized by the client;

(b) state enforcement agencies and such third parties as may be authorized by due process of law; and

(c) a duly authorized professional peer review committee.

(4) In developing and reporting an appraisal of real property in a non-federally related transaction; an appraiser must take reasonable steps to identify and report (a) the identity of the current owner of the property, (b) whether the property is listed for sale and identify and state in the appraisal report any other list prices within the preceding year, (c) whether the property is under contract for sale, and (d) whether the property has sold within the last three years prior to the date of the appraisal ~~(if residential, or three years if other than residential)~~. While documenting compliance with this requirement may be accomplished in a variety of ways, an appraiser who attaches to the appraisal report the following items, obtained contemporaneously with the appraisal, shall be deemed to have met the requirements of this rule:

(a) a copy of the most recently recorded deed transferring ownership of the property or county tax records showing the name(s) of the property's current owner(s) of record,

(b) a copy of any existing listing agreement or documentation from a multiple listing service that reflects the listing period of the property and its owner(s); and

(c) a written statement signed by the party ordering the appraisal that such party has disclosed to the appraiser all pending agreements to sell the property of which it is aware and has supplied to the appraiser all written agreements to sell the property of which it is aware.

(5) When a client of an appraiser requests an appraisal of a property that was the subject of an appraisal performed by that appraiser for a different client and intended user(s), then if the appraiser uses any data from the original appraisal in the appraisal for the new client, then, unless the appraiser expressly provides a credible real estate appraisal justification in the appraisal report, the appraiser must, at a minimum:

(a) perform an exterior and interior inspection of the subject property;

(b) verify any data from the first appraisal that is being re-used in the new appraisal;

(c) review the comparable sales that were used in the original appraisal and analyze any comparable sales that have occurred or on which information has become available since the date of the original; and

(d) identify the new client and intended user(s).

Authority O.C.G.A. §§ 43-39A-8, 43-39A-13, & 43-39A-18.

539-3-.03 Review of Appraisals. Amended.

(1) An appraisal review assignment shall consist of developing and reporting an opinion of the quality of another appraiser's work.

(2) In undertaking an appraisal review assignment, the appraiser must:

(a) identify for the appraisal review assignment the client, the intended users, the subject, the effective date, the purpose of the assignment, and the scope of work to be performed;

(b) develop and report a credible opinion of the quality of another appraiser's work including, but not limited to an opinion as to whether the data is adequate and relevant, the appraisal methods used are appropriate, and the analyses, opinions, and conclusions in the work being reviewed are reasonable and appropriate; and

(c) disclose in the appraiser's report the nature, extent, and detail of the review process undertaken and include all known pertinent information.

(3) Anytime an appraiser develops and reports an opinion of value that agrees or disagrees with the opinion of value developed and reported in an appraisal assignment performed by another appraiser, that opinion is an appraisal, not a review of an appraisal. When the purpose of an appraisal review assignment also requires that the appraiser develop an opinion of value of the subject of the review assignment, that requirement must be identified in the purpose and scope of work of the appraisal review assignment and the appraiser must comply with the applicable standards for developing an appraisal.

Authority O.C.G.A. §43-39A-8 & §43-39A-18(a)(8).

~~**539-3-.04 Departure in Non-federally Related Transactions.**~~

~~(1) An appraiser may not depart from the requirements of this chapter in independent appraisal assignments. In other appraisal assignments an appraiser may not depart from the requirements of 539-3-.02(1) (a) through (g).~~

~~(2) An appraiser may depart from the requirements of 539-3-.02(1)(h) through (m) and 539-3-.02(4) in other than an independent appraisal assignment only if:~~

~~(a) the appraiser has lawful written instructions from the client;~~

~~(b) the appraiser has advised the client that the assignment calls for something less than, or different from, the work and content required for an independent appraisal assignment under this chapter and that the report will clearly identify and explain the departure(s); and~~

~~(c) the appraiser has determined that the appraisal or consulting process to be performed is not so limited that the resulting opinions and report of those opinions would tend to mislead or confuse the client. The burden of proof is on the appraiser to decide before accepting an assignment and invoking this departure provision, that the result will not confuse or mislead the client. In addition, the appraisal must clearly state the nature and extent of any departures so that any unintended users (other than the client) will be adequately warned as to the limited scope of the work.~~

~~Authority O.C.G.A. §§43-39A-8, 43-39A-13, & 43-39A-18.~~