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By Opinion Committee at 11:24 am, May 28, 2020



May 20, 2020

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The Honorable Ken Paxton
Attorney General of Texas
ATTN: Opinion Committee
P.O. Box 12548
Austin, TX 78711-2548

RQ-0355-KP

File# **ML-48806-20**

I.D.# **48806**

RE: Request for OAG opinion regarding appraiser performance of evaluations

Dear General Paxton:

At its meeting on September 6, 2019, the Texas Appraiser Licensing & Certification Board (TALCB or Board), by majority vote, authorized this request for an opinion regarding the options available to the Board to allow real estate appraisers who are licensed in Texas to perform an "evaluation" as permitted under the *Interagency Appraisal and Evaluation Guidelines* adopted in 2010 by federal banking regulatory agencies. These *Interagency Guidelines* do not require a person performing an evaluation to be licensed or certified as a real estate appraiser. Rather, they allow an evaluation to be completed by anyone with "the requisite education, expertise and experience to competently complete the assignment" resulting in "an unbiased opinion" of market value. Under the federal guidelines, an appraiser is allowed to perform an evaluation. An evaluation may also be performed by others, including a real estate broker or a mortgage professional.

Federal agencies have recently raised the financial thresholds under which lenders may rely upon an "evaluation" instead of an appraisal performed by a licensed or certified appraiser. Generally, licensed and certified appraisers must comply with the Uniform Standards of Professional Appraisal Practice (USPAP) when performing an appraisal. There is concern some appraisers will lose business opportunities if they are required to conduct evaluations under the more stringent USPAP standards solely because of their professional certification while others are able to conduct evaluations without following those same standards. Some appraisers sought a regulatory exemption or exception from TALCB that would allow appraisers to perform an evaluation without complying with USPAP. Some appraisers argue that USPAP compliance requires additional time and effort, and therefore often results in higher costs to the lender.

To better understand the options available to TALCB, the Board asks the following question:

- May TALCB adopt a rule exempting appraisers licensed or certified under Chapter 1103 of the Texas Occupations Code from the statutory requirement to comply with USPAP when performing an evaluation under the *Interagency Guidelines*?

The Board and its stakeholders appreciate your guidance on this matter. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Sara Oates". The signature is written in a cursive, flowing style.

Sara Oates
Texas Appraiser Licensing & Certification Board

SO/CB

cc: TALCB Members
Chelsea Buchholz, TALCB Commissioner
Tony Slagle, TALCB Deputy Commissioner
Kathleen Santos, TALCB General Counsel