



Illinois Department of Financial and Professional Regulation

Division of Professional Regulation

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Governor

JAY STEWART
Acting Secretary

JAY STEWART
Director
Division of Professional Regulation

February 6, 2015

Richard deVerdier
President
Illinois Coalition of Appraisal Professionals
richdeverdier@hotmail.com

Re: ICAP Concerns about Appraisal Management Company Requirements

Dear Mr. deVerdier:

This letter is in response to the concerns ICAP has raised both in our December meeting and in the written materials that you provided me regarding the requirements for appraisal management companies contained in the Appraisal Management Company Registration Act (225 ILCS 459) and the Rules for the Administration of the Act (68 Illinois Administrative Code 1452) and your proposed solution to address these concerns.

In your written materials, you identified the issue as follows:

Illinois real estate appraisal firms have been forced to register as Appraisal Management Companies (AMC's) and forced to comply with the Appraisal Management Company Registration Act based on ownership not activity.

This statement is mostly correct but not entirely. It is an oversimplification. Ownership is the primary factor but activity also plays a part. As provided in the Act, any corporation, limited liability company, partnership, sole proprietorship, subsidiary, unit, or other business entity that directly or indirectly performs appraisal management services must register with the Department. As a general rule, an appraisal firm that is 100% owned by licensed Illinois appraiser(s) is not required to register. An appraisal firm that is not 100% owned by licensed Illinois appraiser(s) is required to register. However, an appraisal firm that is 100% owned by licensed Illinois appraiser(s) must register if it performs appraisal management services as defined in the Act. The rationale for this system was the lack of a bright line between what an appraisal firm does and an appraisal management company does and the strong likelihood that a company with non-appraisers in ownership is performing more than basic appraisal services. Some companies are a blend of both functions. For example, a company may employ its own appraisers and directly provide its appraisals to its clients. For other clients, it may provide appraisal management services and not appraisal services.

Your written materials submitted to me list six concerns or problems you see with the Act and Rules as they presently exist. The central idea of these six concerns or problems is that the

Act and Rules impose certain requirements germane to providing appraisal management services on all companies required to register, including some companies that are only providing appraisal services and not appraisal management services, and that compliance with these requirements by companies providing only appraisal services is burdensome, unnecessary, or impossible. What you are missing is that these requirements only apply, as stated in Section 165 of the Act, to a person or entity "acting in the capacity of an appraisal management company..." A company required to register under the Act but only performing appraisal service and not appraisal management services may not be subject to these requirements. My comments as to each of your identified concerns or problems follows.

Your first concern is as follows:

The AMC Act identifies an appraisal firm's employees as an Approved Appraiser panel and requires the appraisal firm to maintain detailed records of Illinois active and approved fee panel appraiser vendors, including the name of the appraiser, each appraiser's Illinois credential number, the date the appraiser was placed on the panel, and the date and reason an appraiser was removed from the panel. Section 1452.90 – Record Retention

Comment: The AMC Act does not identify an appraisal firm's employees as an approved appraiser panel. The records required to be maintained referenced above relate to providing appraisal management services and a company's use of an appraiser panel as part of providing these services. However, some of these items are records that any company providing appraisal services (not appraisal management services) would keep anyway.

Your second concern is as follows:

An appraisal company forced to register as an AMC based on ownership is required to notify appraiser, in writing, within 30 calendar days, prior to removing the appraiser from the list of approved appraisers. Requiring an appraisal firms employee be given 30-day's prior to termination. Section 1452.110 – Prior Written Notice

Comment: The prior notice requirement above refers to appraisers serving on an appraiser panel. The Act and Rules do not regulate a company's employees or provide an employee with a right to 30 day's notice prior to the termination of his or her employment.

Your third concern is as follows:

The registrant shall notify the Division within 30 days after appraiser removals based upon a reasonable belief that the appraiser prepared an appraisal report in violation of Illinois law, administrative rules and/or USPAP. When an employee leaves the firm (with a reasonable belief of a violation) the appraisal firms must notify the Division. Section 1452.110 – Prior Written Notice

Comment: This requirement refers to appraisers serving on an appraiser panel. The Act and Rules do not regulate a company's employees.

Your fourth concern is as follows:

The AMC Act Prohibits a Supervisory Appraiser from reviewing and/or revising an appraisal completed by their employee by indicating that it is “dishonorable, unethical or unprofessional conduct” to altering, modifying or otherwise changing a completed appraisal report submitted by an independent appraiser. Section 1452.190 – Unprofessional Conduct

Comment: The Act does not address the role of a supervising appraiser and his or her trainee. That is addressed by the Real Estate Appraiser Licensing Act (225 ILCS 458) and its Rules. It is correct that no person may alter or change an appraisal report submitted by an independent appraiser. That is also a violation of federal law.

Your fifth concern is as follows:

The Certification is required to list the fee that the affected firm pays to the individual appraisers who work on each individual assignment. Real Estate Appraiser Licensing Act of 2002

Comment: This requirement does not apply to all appraisers. It applies to those who are providing appraisal services in connection with a company engaging in appraisal management services. This subject is governed by Section 1455.250(c) of the Appraisal Rules (68 Illinois Administrative Code 1455) which is as follows in pertinent part:

When an appraisal management company engages:

- 1) An independent appraiser by employment or contract for a specific assignment, the appraiser shall prominently display the appraisal fee received from the appraisal management company in the certification as follows: “The compensation for this appraisal assignment is \$_____.”
- 2) An employee appraiser for a specific assignment, the appraiser shall prominently display the appraisal fee received from the appraisal management company in the certification as follows: “The compensation for this appraisal assignment is \$_____.”
- 3) An employee appraiser who receives a salary and does not receive a fee for the assignment, the employee appraiser shall prominently display the following language: “The appraiser is a salaried employee and received no appraisal fee for the assignment.”

Your sixth concern is as follows:

All reports prepared by appraisers employed by the affected firms must be addressed to the firm (as an appraisal management company) with the “end-user” (the forms’ actual client) listed as an “additional intended user.” The affected firms are prohibited from completing restricted appraisal when the intended users include parties other than the client. 2014-2015 Uniform Standards of Professional Appraisal Practice

Comment: This is not entirely correct. Again, the application of this requirement depends on whether the appraisal services are provided in connection with a company engaging in

appraisal management services. While appraisal management companies are identified as the "client" when engaged as an appraisal management company by the end-user, no such limitation exists when these registrants "act as" appraisal firms. They are free to provide restricted appraisal reports to any of their clients so long as the written agreement clearly identifies their role in the assignment.

In the materials you submitted to me, you recommend changing the Appraisal Management Company Rules to address the concerns or problems you have raised. Your proposed Rule amendment is as follows:

Section 1452.20 Application for Registration

An individual or entity solely engaged in performing appraisals required to register as an appraisal management company based on an ownership percentage less than 100%, but acting as an appraisal firm and not as an appraisal management company, must at a minimum;


- (1) Submit an application for registration as an appraisal management company with the Division;
- (2) Obtain a surety bond pursuant to Section 50 of the Act.

No other reporting requirements, additional education or forced reviews are required.

Comment: The proposed amendment is not necessary because the concerns or problems listed above are based upon misinterpretation or misreading of the Act and Rules. Further, the proposed rule amendment may have the effect of trying to change statutory requirements which a rule cannot do.

I hope that this letter will be helpful and promote a greater understanding among your membership of the requirements relating to appraisal management companies.

Sincerely,



Mark Thompson
Deputy General Counsel

cc: Andy Raucci
ilobby30n@me.com