



**PROFESSIONAL APPRAISERS ASSOCIATION OF SD**

Bev Luke, Executive Secretary

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[admin@paasd.com](mailto:admin@paasd.com)

April 5, 2008

John Gustafson  
SDAR President  
323 22<sup>nd</sup> Avenue  
Brookings, SD 57006

President Gustafson:

Thank you for your letter dated February 14, 2008.

Over the course of the last two months, our leadership team has spoken with many of the Directors of the SD Association of REALTORS, some of whom are also members of its Government Affairs Committee. With few exceptions, we have found that they were unaware of the efforts of the Professional Appraisers Association of SD (PAASD) and the SD Chapter of the American Society of Farm Managers and Rural Appraisers (ASFMRA) to craft and sponsor the legislation known as HB1270. Very few knew that the SD Real Estate Commission, the SD Appraisal Certification Program, and the SD Division of Banking had worked in a collaborative effort with PAASD, the ASFMRA, and the SD Home Builders Association to form a unique regulatory-industry partnership in support of the legislation. When asked, most considered themselves to have only a limited understanding of the details within HB1270 or the reasons that such legislation has been enacted into law in so many other states.

What we found heartening was the number of SDAR Directors that were unaware of the repeated attempts made by our organizations to seek the support of SDAR and its GA Committee and to discuss, explain, and modify HB1270, if necessary, prior to this year's legislative session. Very few of the Directors we spoke with were aware that SDAR's dues paying appraisers were barred from a constructive meeting with its elected leaders despite repeated requests over several months. We also heard supportive comments for the letter written to you by SDAR Past-President Yuill and recently by the REALTOR Association of the Sioux Empire.

Contrary to the statements made in your letter, we did not find many SDAR Directors that knew they had voted to oppose HB1270 specifically on January 30, 2008, nor that would again in the future having now become more knowledgeable about its details. We have discovered that a few on the GA Committee voted in opposition based only upon the explanation offered by Lobbyist Krogman during their evening meeting on January 29, 2008. Recall that Lobbyist Krogman made these same incorrect assertions to the House Commerce Committee during the HB1270 hearing on January 30, 2008 and the misstatements were publicly corrected by Dee Jones of the SD Real Estate Commission. Finally, we have found that none of the GA Committee members that we contacted were aware that PAASD 'waited in the wings' on the night of January 29, 2008 for yet another missed opportunity to talk to them about HB1270.

You stated in your letter that you have seen no first-hand evidence of the negative feelings among appraisers statewide towards SDAR. That clearly must be true given this legacy that you leave behind for the incoming President. Although we have always recognized SDAR's right to support or oppose legislation as it sees fit, your decision to shun an informational meeting with a portion of SDAR's own membership for months has touched off a firestorm in the appraisal community and has jeopardized years of cooperation between our professions. If you truly are not aware of the way in which this action has been received, I invite you to spend some time on the phone with any of the members of PAASD or ASFMRA. I believe the first-hand knowledge about which you write will then be more current and accurate.

The leaders of PAASD and ASFMRA continue to diligently endeavor to funnel those strong feelings among SD appraisers into constructive and cooperative initiatives with the REATOR community. Let there be no doubt that your actions have made that task more difficult. We had hoped that your letter would contain an assurance that the lack of professional courtesy shown to the appraiser members of SDAR by your administration was uncharacteristic and atypical; but it did not.

Instead, then, we look to the future. It is our strong hope that President Elect Costello and Vice President Rau will be more responsive to the needs of all of the Association's members in the coming year. The appraiser professionals in SD will offer legislation similar to HB1270 in the next session and we will once again seek the opportunity to discuss its implications with SDAR – preferably before decisions are made and implemented.

Sincerely,



Craig Steinley  
Past President and Legislative Chair, PAASD

cc: SD Association of REALTORS  
PAASD and ASFMRA Membership  
SD Real Estate Commission  
SD Appraiser Certification Program  
SD Division of Banking  
SD Home Builders Association  
House and Senate Sponsors





February 14, 2008

Mr. Steinley  
P. O. Box 7722  
Rapid City, S.D. 57709-7722

Mr. Steinley:

I would like the opportunity to address some of the statements made in your letter dated February 5, 2008.

Michelle Kleven and Dean Krogman are employed by the SDAR and do not act upon their personal opinions concerning SDAR issues. In re to HB 1270, Ms. Kleven and Mr. Krogman were advised that SDAR would continue to monitor the bill until, SDAR's committee, could meet in Pierre during our quarterly meeting on January 29<sup>th</sup>. On that evening, the SDAR Government Affairs (GA) Committee met and discussed any and all bills affecting the SDAR. Out of this meeting, it was recommended that SDAR oppose HB 1270 if Section 7 and Section 8 were to remain a part of HB 1270. However, if Section 7 and Section 8 were removed, it was recommended that SDAR have a neutral stance.

It was felt that this bill, as stated, would adversely affect the SDAR members. Therefore, the GA sent the above mentioned recommendations to the Board of Directors (BOD), who met on the morning of January 30<sup>th</sup>, prior to the scheduled House Commerce committee meeting re this bill (HB 1270).

Contrary to Mr. John Yuill's statements from his letter dated February 12, 2008, the BOD did indeed discuss HB 1270 based on a motion set in place by the GA. The BOD voted **unanimously** to oppose this bill as long as Section 7 and Section 8 were to remain based on the recommendation of the GA Committee.

This direction was then given to our lobbyist, Mr. Dean Krogman, who acted according to our wishes. Per your implications that Ms. Kleven and Mr. Krogman withheld information from the SDAR membership, or in fact implied that we were in complete and total agreement with HB 1270, are indeed false.

As per the carefully studied acts of unprofessional Real Estate conduct contained in the SDCL 36-21A-71 section, it is a possibility that certain verbiage relating to undue influence upon appraisers could (and I stress could) become the 40<sup>th</sup> act of unprofessional conduct. However, this would need to be thoroughly discussed by the GA Committee with their recommendation to the BOD with subsequent approval.





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I am also concerned by your implication, both in your letter and in your e-mails to Mr. Mahowald that no cooperation exists between the leadership team of SDAR and most appraiser members. I have not witnessed first-hand the animosity that you claim exists. Furthermore, by absolutely no means did we oppose HB 1270 for any other reason than the above said purposes.

I would hope that we can keep the channels of discussion open. It is also my wish that we continue to hold our communication in a professional manner.

Sincerely,

A handwritten signature in dark ink, appearing to read 'John Gustafson', written over a horizontal line.

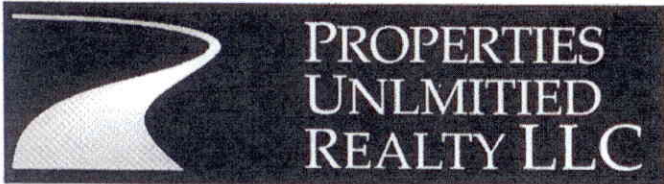
John Gustafson

President of the South Dakota Association of REALTORS®

Cc: Michelle Kleven, EO of SDAR  
Dean Krogman, SDAR Lobbyist  
Executive Board Committee Members



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February 12, 2008

Mr. John Gustafson, President  
South Dakota Association of Realtors®  
323 22<sup>nd</sup> Avenue  
Brookings, South Dakota 57006

Dear President Gustafson:

I have two issues to bring to your attention.

First is the issue regarding Mr. Steinley, the appraisers and HB 1270. While I understand that our Government Affairs Committee chose to oppose HB 1270, I don't recall the board of directors being asked to support the committee's recommendation. As with any other recommendation by committees, the board of directors should make the final decision regarding SDAR policy. I understand that hindsight is 20-20, but two things concern me. If Mr. Steinley tried to work with our organization as he purports in his letter, why was he ignored? Why wasn't HB 1270 distributed to our Government Affairs Committee early in the process to get their input? It may have allowed for an acceptable compromise without putting us in this situation.

Secondly is the treatment of Ms. Angela Raber of Real Estate Executive Magazine. She is an affiliate of SDAR that was invited to Legislative Appreciation Night by Greg Wick. While she may have a lack of understanding of our organization, its purpose and governance structure, it seems her intent and enthusiasm is pure. Certainly our industry has suffered from enough bad press the past six months that an opportunity to put a positive spin on Realtors® should be welcome. But without even knowing what this woman was going to write, we seem to be censuring her, scolding her like a 4 year old, and accusing her of "selling" herself, and telling her she is not allowed to network with our members again. Networking with our members is why affiliates join our organization in the first place. It is my opinion that her letter to our Executive Officer did not warrant the response she received from you or whoever wrote the letter.

I am saddened at the lack of respect we have shown these two members of SDAR. My apologies go out to both of them. Perhaps we have abdicated so much responsibility to our lobbyist and our Executive Officer that SDAR policy is now being dictated by our employees, not by the members.

Sincerely,

A handwritten signature in cursive script that reads "John Yuill".

John Yuill, Immediate Past President  
South Dakota Association of Realtors®

Cc: Craig Steinley, PAASD Legislative Chair  
Angela Raber, Real Estate Executive Magazine  
SDAR Executive Committee





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## Real Estate Appraisals And Consulting

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CRAIG STEINLEY, S.D. State Certified Residential Appraiser #296

February 5, 2008

Officers and Directors  
South Dakota Association of REALTORS  
204 North Euclid Avenue  
Pierre, SD 57501

Leaders of the SD Association of REALTORS:

It is with great sadness that the real estate appraisers of South Dakota write to express our disappointment with the recent legislative decisions of SDAR concerning HB 1270. Those inside of the political process, along with all of the appraisers in the room, know full well that your unexpected actions single handedly led to the defeat of the bill in committee.

### **Background Information**

In case you were not previously made aware by Executive Vice President Kleven, the Professional Appraisers Association of SD (PAASD) and the SD Chapter of the American Society of Farm Managers and Rural Appraisers (ASFMRA) sponsored legislation in the current session (HB 1270) to "prohibit improper influence regarding real estate appraisals and establish certain penalties". Together, PAASD and ASFMRA represent about half of the 300+ licensed/certified appraisers in South Dakota and perhaps three-quarters of those that are truly active in the profession. HB 1270 was based on laws that were recently passed in Iowa (effective 7-01-07) and California (effective 10-07-07). Several other states are currently considering similar legislation, including South Carolina (bill introduced about 10 days ago). According to our national legislative contact, some 24 states now either have similar laws or are actively considering them at this time. This is due primarily to the increasing awareness of the economic damage caused by the current sub-prime mortgage crisis. A copy of the bill is available at our website ([www.paasd.com](http://www.paasd.com)) or from the state (<http://legis.state.sd.us/sessions/2008/DisplayBill.aspx>).

To develop the South Dakota version of the bill, PAASD and ASFMRA spent the last few months working with the three regulatory agencies that are directly affected: the Appraiser Certification Program (Sherry Bren), the Division of Banking (Bret Afdahl), and the SD Real Estate Commission (Dee Jones-Noordermeer). Presentations were made to these groups and, in the end, all three supported the legislation. Additionally, we asked for the support of the South Dakota Bankers Association, which agreed to remain neutral on the bill. At the House Commerce Committee hearing last Wednesday, Mr. Afdahl and Ms. Jones-Noordermeer testified in favor of HB 1270. Also present as proponents of the bill were under secretaries from the Department of Revenue and Regulation, which oversees these three agencies.

### **Real Estate Appraisers**

The first three sections of HB 1270 sought to impose the 'independence guidelines' on any registered/licensed/certified appraiser in the state. In other words, HB 1270 sought to hold our own appraisers to the very same standards that we had hoped the Legislature would impose on licensed mortgage brokers and real estate brokers/salespeople.



### **Mortgage Brokers**

Sections 4 through 6 of the legislation would have imposed the 'independence guidelines' on the licensed mortgage brokers in the state. We had an opportunity to work with the small group that formed the South Dakota Association of Mortgage Brokers (SDAMB). They boast some 35 members on their website ([www.sdamb.org](http://www.sdamb.org)) out of about 600+ licensed mortgage brokers in the state. Recall that the mortgage brokers are regulated by the Division of Banking, which as noted above was in favor of HB 1270 and the increased regulation it offered. Additionally, the national Code of Ethics on the SDAMB website requires its members to support the provisions contained in HB 1270 (almost identically). In spite of that, Lobbyist Duncan for SDAMB spoke as an opponent of HB 1270. The legislative sponsors of HB 1270 and the members of both PAASD and ASFMRA expected the opposition of the mortgage brokers. We knew in advance that their testimony would not jeopardize HB 1270 in committee because, to their credit, they had taken the time to talk with PAASD and ASFMRA and had drafted a statement that outlined the reasons for their opposition. Although this seems counterintuitive, it is likely that Lobbyist Duncan's testimony actually helped the cause for HB 1270 as evidenced by the reaction of some on the House Commerce Committee, both publicly during the hearing and in private conversations with them after the vote was taken. The entire hearing can be heard at (<http://legis.state.sd.us/sessions/2008/QuickFind.aspx>). Simply click on the audio symbol to the far right of the HB 1270 entry for 01/30/2008 to hear all of the testimony.

### **SD Home Builders Association**

The SDHBA accepted our invitation to discuss the contents of HB 1270. After consideration, they voted to support HB 1270.

### **REALTORS**

Sections 7 and 8 of HB 1270 sought to impose the 'independence guidelines' on any licensed real estate broker or salesperson in the state.

After sending the proposed legislation to Michelle Kleven by email in early November, my first contact with SDAR was a telephone call I initiated to Michelle on November 7, 2007. She advised me that the REALTOR Code of Ethics had similar language since about 1999, so she saw little difficulty with the legislation. Three follow up emails to Michelle during November, including one with an updated copy of the legislation on 11/14/07 drew no response. On November 21, I emailed Michelle to let her know that the Real Estate Commission had scheduled our presentation on November 28. I asked to meet with her before or after the RE Commission meeting to discuss SDAR's position on the eventual HB 1270. She responded that she would not be available either before or after, although she was present during the RE Commission meeting. Ms. Kleven mentioned the REALTOR Code of Ethics to the Commissioners and the likely neutral stance of SDAR on the legislation.

After a careful study of the thirty-nine listed acts of unprofessional conduct in statute (contained in SDCL 36-21A-71), the SD Real Estate Commission agreed that Sections 7 and 8 of our legislation should become essentially the fortieth (40<sup>th</sup>) act of unprofessional conduct defined in 36-21A-71. They offered their support of HB 1270 and some of its members made contacts with legislators on our behalf.

As this letter indicates, I made several trips to Pierre at my own expense during the past several months to work with all of the agencies and professional organizations involved with HB 1270. I offered to meet with Michelle Kleven, the leadership team of SDAR, and/or its Legislative Committee on several occasions. Several phone calls and emails in December and January were unreturned. Letters to Ms. Kleven and Lobbyist Krogman as late as January 4, 2008 were unanswered. However, as the Legislative session started, Lobbyist Krogman assured our sponsoring legislators on repeated occasions that SDAR was neutral on HB 1270 – in fact, up through and including last Tuesday, January 29.

Last Wednesday, Lobbyist Krogman unexpectedly testified in opposition of HB 1270 on behalf of SDAR. His testimony was inaccurate, and he was corrected by Dee Jones-Noordermeer of the Real Estate Commission during the hearing. Despite that, the unexpected nature of your opposition and the confusion that Lobbyist Krogman created on behalf of SDAR crippled the bill. The tactic was effective but distasteful. I again invite the Directors of SDAR to listen to the entire hearing using the website address outlined above. I think you will have a better understanding as to why these actions reflected poorly on SDAR, particularly in the eyes of the many legislators that cosponsored HB 1270.

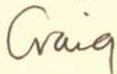
Lobbyist Krogman testified that this was the first time in 16+ years that SDAR had opposed the RE Commission. We wonder why that occurred on a simple bill like HB 1270, whose mandates are already apparently contained in the REALTOR Code of Ethics. We also wonder why SDAR was the only organization or agency involved in this entire process that chose not to meet or talk with PAASD and ASFMRA.

**Final Thoughts**

The majority of the members of PAASD and ASFMRA are dues paying members of SDAR. Many, like me, have paid to belong for decades. Despite that, we were unable to convince your leadership to meet with us on HB 1270. Even last Tuesday evening, when SDAR apparently voted to oppose HB 1270, the PAASD Legislative Committee waited in Pierre for an opportunity to present our reasons for sponsoring the legislation. Once more and like many before it, this opportunity to talk to PAASD and ASFMRA was disregarded by the leaders of SDAR.

Clearly, requiring appraisers across the state to be members of SDAR for MLS access and then ignoring their requests for representation is a slippery slope that is fraught with significant danger. Your recent actions have not inspired the good will that your mission statement boasts; I hope it does not signal a permanent change in the direction of your (our?) organization. PAASD and ASFMRA intend to bring the legislation forward again next year, presumably with the continued cooperation of the Real Estate Commission and all of the other seasoned sponsors that were caught off guard this year by SDAR. We have resolved to be better prepared for your unexpected actions yet undoubtedly will again ask for your cooperation - always mindful, of course, of your tactics this year.

Sincerely,



Craig Steinley  
Independent Fee Appraiser  
PAASD Immediate Past President and Legislative Chair

CS/fgs

cc: Department of Revenue and Regulation, Real Estate Commission, Appraiser Certification Program,  
Division of Banking, Members of PAASD and ASFMRA