



2010



Winter Newsletter

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No. 1

**COMMON APPRAISAL ISSUES
(FROM A BLEARY-EYED OPINIONATED REVIEWER)**

BY DAN COLLINS, MAI,

The following are some comments regarding common issues that I've found in reviewing appraisals. Since I am also an appraiser and this is directed to appraisers, I have chosen to include some of our basic terminology.

- **Intended User:** Any appraiser who will take the time to read this.
- **Intended Use:** To allow an old head-picky appraiser to ramble on about his pet peeves.
- **Effective Date:** January, 2009
- **Scope of Work:**

Remember as best an old person can, the 250+ appraisals I have reviewed each of the last four years.

Try to analyze and determine what is way too picky and what is just picky.

Assimilate and try to report the just picky.

This article is intended to comply with my personal standards, which many of you will agree, are substantially higher than USPAP, FIRREA, AI, or any other governing body.

History of the property: Most appraisers do a good job of reporting prior and current sales of the subject property. However, very few analyze earlier sales; especially, in comparison to the current sales price (if one), or to the current appraised value in the report. A statement regarding the difference in the prices (values) is extremely helpful in an understanding of what is happening at the property as well as helping to justify a current value substantially different than a historic or current sales price.

Just because Standards Rule 1-5 refers to a time period of three years, try to include as much historical information as is pertinent regardless of the time it occurred. I don't mean to go back to when it was stolen from the Indians; but if a substantial renovation occurred five years ago, maybe that is important to the current condition or the

need for more renovation now. Possibly the property had a substantial tenant move out four years ago that required releasing at reduced rates that still affect the property.

Standards Rule 1-5 also refers to reporting and analyzing current listings and options. Rarely do I find a history of the listing information. What better source for an estimate of exposure and marketing time than a reference to the historical experience of the subject?

Another issue is the lack of listing information on vacant space in the subject. Too many times this is glossed over or is provided with insufficient detail regarding base rates, increases over the base, tenant improvements allowances, free rent, overage rent, expense stops, renewal options, and other pertinent lease terms.

The final issue in this area is the reporting of historical expense. I would like to see the regulations require the same 3-year history of operating expense when available. Too often I will see one or two years even though I know the property has operated under the same ownership for longer. Surely, the purchaser would not make a decision based upon less information. Why should appraisers?

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Prospective Value Dates: From my old S&L days in the 1980's, I take issue with the ability of appraisers under USPAP to use an Extraordinary Assumption or Hypothetical Condition in order to use a current value date assuming the property is either complete and/or operating at a stabilized occupancy. While this is allowed under USPAP, I do not see this truly clarified in FIRREA and other regulations.

One of the major issues within the S&L Crisis were appraisals that did not address the time necessary to bring a project from dirt to completion and stabilization. I think it is very important to require the use of prospective value dates certain to make sure lenders acknowledge how much time will pass before the loan reaches completion and stabilization. Also, it would help with adequately allowing for interest carry and other holding costs not only during construction, but during stabilization. I don't know how many times there have been cost overruns due to inadequate interest carry.

From the appraiser's point of view, it is much easier to analyze as a current date and not consider future changes in the market. However, I believe this should always be analyzed and taken into consideration when estimating highest and best use as well as the approaches to value. Some projects are truly not financially feasible when considering the time necessary.

Scope of Work: Although not required by USPAP and FIRREA, most appraisers use a separate section to describe the scope of work. I find this to be generally the same boilerplate depending on the type of property and report option. However, rarely do I find narrative that is specific to the subject appraisal problem. As most commercial appraisers will agree, every property is slightly different with its own intrinsic valuation issues.

For example, say the subject is a national credit single tenant leased property where the lease expires in four years. While the boilerplate describes the general process, it does not indicate the real problem within the problem and solution. Most commercial appraisers can reasonably value the remaining lease payments. The real problem within the problem is what is the property worth when the lease expires? Who will buy or lease it and at what price or rent? How should I adjust this future value to a present value?

I could cite additional examples of the problem within the problem. This is rarely addressed in the scope of work. Rather than the reader having to ferret this out reading between the lines or looking in several sections in the report, I find it helpful to see the issue up front.

Then the report can present reasonable support for the conclusions drawn throughout. This could include a market section addressing second use big boxes, deferred maintenance for alternate users, functional issues, and external obsolescence for alternate users and so on.

Future Property Tax Analysis: Here is one of my pet peeves. First of all, the Market Value definition assumes a sale of the property. Consequently, not to address future taxes considering a sale is not appropriate. Some will argue that possibly the assignment involves just a current valuation possibly for refinancing or other purposes, but does not contemplate a sale. However, if you

choose not to consider taxes, then the definition of value is not Market Value.

In our bi-state area, we have a very tough time estimating how the various local assessment authorities will address the value of the property in the future. In Johnson County, Kansas, an appraiser would be hard-pressed to defend any value for taxes that is not fairly close to a sale price. Because Kansas is a disclosure state, other Kansas counties follow this same practice likely to a lesser ratio of sales price (from personal experience). However, be aware, that an annual sales ratio study where the combined ratio of assessed value to sales prices falls below 90%, the state can mandate a re-assessment. In Missouri, assessment values and methodologies are all over the board with only Jackson and St. Louis counties providing mandated disclosure. And it appears that there is no relationship between disclosed sales price and assessment values. Finally, the timing of re-assessment varies from state-to-state and county-to-county adding to the issue.

Consequently, it is very important to analyze and report the extent of research into and support for a future tax amount. I've seen instances where taxes have increased substantially and were underestimated by an analyst causing a significant reduction in the actual market value after the fact. Be sure you know how the local authority will assess your subject property and includes a tax analysis based upon good information.

Disclosure of Non-Realty Contribution: Many properties require a certain level of business personal property, machinery and equipment, furniture and fixtures to operate. For example, hotels and elderly care need beds. C-stores need coolers, freezers, display racking, as well as petroleum equipment.

Standards Rule 1-4(g) requires the contribution to value be analyzed and estimated. However, Standard 2 does not provide any guidance as to reporting this value. Many times appraisal reports do not disclose this contribution when reporting Market Value. Further, the contribution may be buried in a Cost Approach valuation with little or no explanation of the scope of work completed.

What I like to see in reports is what I learned from my years with David and Dan Craig. If it contributes to value, disclose what it is and its contribution wherever Market Value is reported. This is important for a couple of reasons. It puts the reader on notice that there are items included in the value that are not real estate. For lenders this is important since they have asset categories with different lending requirements and may have to place the contributory value in a different "basket" for underwriting.

When valuing non-realty I also found it helpful to use language similar to this wherever I reported the contribution *"The contribution of the non-realty item(s) is estimated In Use and In Place. Salvage value in place or removed would be substantially less."*

Fee Simple vs. Leased Fee Valuations: The Collins definition of when the value is leased fee is "If you, as the landlord, cannot use any portion of it, the whole dang thing is leased fee." Consequently apartments are leased fee, self-storage is leased fee, a 10% non-owner-occupied building is leased fee. Now, I will say that there

may be no difference between the values in leased fee and fee simple to the extent that income, vacancy, and expense as leased are equal to market rates for the same. However, that does not change the legal estate. Common issues associated with valuing leased fee estates:

- Inclusion of the cost of marketing and leasing a property in the Cost Approach
- Recognition of added or diminished value from an over- or under-market lease in all approaches
- Inclusion of an appropriate property interest adjustment in Sales Comparison or discussion of same when including fee simple sales
- Appropriate analysis of how the length of an over- or under-market rent affects the value by the Income Approach
- Appropriate analysis of actual lease terms including renews, options, and expense reimbursement terms.

Finally, these are some other issues (some probably border on the too picky):

- Inclusion and analysis of the developer's cost (Budget for a proposed or actual for a newly constructed property.)
- Use of subjective percentage adjustments in sales comparison
- Use of sales not truly comparable necessitating all sales to be adjusted up or down overall
- Use of unsupported positive or no time adjustments (If cap rates are up ½%, shouldn't a time adjustment be negative?)
- Recognizing the relationship between cap and discount rates as indicated by the yield formula (Yield or discount rate = cap rate + annual change in value.)

I hope this is helpful for some of you – especially those who work for M&I Bank. As always, I am open to dialogue...preferably at the local Irish Pub (bring your credit card).



SCOPE OF PRACTICE AND COMPETENCY

By Tim Keller, Kansas Real Estate Appraisal Board

Recently the Kansas Real Estate Appraisal Board explored making changes to the Kansas Regulations regarding the scope of practice.

The issue before the board was whether or not to remove an existing provision in the regulations allowing both certified and licensed residential appraisers to perform work typically outside the realm of residential practice when such work is permitted by a regulatory agency.

Currently the regulations allow this type of practice under the scope of work.

For example, a licensed or certified residential appraiser can perform an appraisal on a property outside the normal residential scope of practice as long as the client is a federal or state financial institution and the property being appraised is below the federal or state agency's de mini-

mus threshold/transaction amount - \$250,000 for residential and \$1 million for commercial properties.

This is highlighted in the scope of practice described in K.A.R. 117-2-4 and 117-3-4, under sections (c) shown below:

"(c) The licensed classification (or certified residential classification) may also apply to the appraisal of any other property permitted by the regulations of the applicable federal financial institution's regulatory agency, other agency, or regulatory body."

Prior to addressing this issue, the board instructed board staff to send out a memo to all licensed or certified appraisers in the state asking for comments and suggestions.

Comments were received from various appraisers. These comments were reviewed by the board at their October 2009 board meeting. After deliberations, the board elected to keep the current scope of practice the same.

In doing so, the board wants to remind all licensed or certified residential appraisers that while work outside the typical residential practice remains within the current scope of work allowed under state regulation; all such work must conform to USPAP.



SELLER CONCESSIONS AND ASSIGNMENT CONDITIONS

By Mark Freitag, Certified General Appraiser

The 2009 Winter Newsletter included a short article containing several facts related to appraisal assignments in which the client dictates the treatment of seller concessions. The article states that USPAP requires the appraiser to comply with any assignment conditions accepted by the appraiser. The article also notes that USPAP does not currently address issues of appraisal methodology, but does require the appraiser to understand and correctly employ recognized methods and techniques necessary to produce credible assignment results.

So what do these facts mean to appraisers? If the appraiser believes that compliance with a client's guidelines regarding seller concessions (or any other assignment condition) would not produce credible assignment results, the appraiser cannot accept that assignment. An appraiser can only accept assignment conditions that are compatible with credible assignment results. Therefore, if an appraiser accepts or completes an appraisal assignment which includes assignment conditions, the appraiser must both comply with the assignment conditions and produce credible assignment results. (Comments are welcome)



2010 RENEWAL OF LICENSE/CERTIFICATE

The 2010 renewal application will mail to each appraiser's mailing address on record the week of March 1, 2010. Keep in mind that as this is the first year of the education cycle, **no continuing education** needs to be logged. You will simply complete the renewal application form and submit it with the fee on or prior to May 31, 2010 (for an on-time renewal.)

CONFIDENTIALITY

The Confidentiality section of the ETHICS RULE states:

An appraiser must protect the confidential nature of the appraiser-client relationship.

An appraiser must act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of assignment results.

An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment.¹

An appraiser must not disclose: (1) confidential information; or (2) assignment results to anyone other than:

- the client;
- persons specifically authorized by the client;
- state appraiser regulatory agencies;
- third parties as may be authorized by due process of law; or
- a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.

A member of a duly authorized professional peer review committee must not disclose confidential information presented to the committee.

Comment: When all confidential elements of confidential information and assignment results are removed through redaction or the process of aggregation, client authorization is not required for the disclosure of the remaining information, as modified.

¹ Pursuant to the passage of the Gramm-Leach-Bliley Act in 1999, numerous agencies have adopted privacy regulations. Such regulations are focused on the protection of information provided by consumers to those involved in financial activities "found to be closely related to banking or usual in connection with the transaction of banking." These activities have been deemed to include "appraising real or personal property." (Quotations are from the Federal Trade Commission, Privacy of Consumer Financial Information; Final Rule, 16 CFR Part 313.)

WHAT IS THE APPROPRIATE ACTION OF AN APPRAISER WHEN AN ERROR IS DISCOVERED IN HIS OR HER APPRAISAL REPORT?

Many of the complaints received by the Kansas Real Estate Appraisal Board are the result of typographical and clerical errors in appraisal reports. A majority of errors occur simply because reports are not being proofread before they are signed. Often an appraiser will write over an old report, forgetting to make changes as necessary. The result may be a misleading report that confuses the intended users and other readers of the report.

USPAP addresses this issue in Standards Rule 1-1(c). That rule states that "An appraiser must not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results."

Appraisers should carefully proofread their reports before sending them to clients. If a mistake is discovered in a report after it has been transmitted, the appraiser should let the client know about the error and ask the client to send the original report back to the appraiser for corrections. It obviously is more difficult to obtain the original if the report was transmitted electronically. The appraiser should then make the appropriate corrections and issue a new report with a new signature date. The second report should clearly state that it is a revision of a report signed on an earlier date, and that the prior report should be discarded. Copies of both the original report and the revised report should be kept in the work file.



CONTENTS OF A WORKFILE

Q. What information must be retained in an appraiser's workfile?

A. An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment. The Record Keeping section of the ETHICS RULE states:

The workfile must include:

- the name of the client and the identity, by name or type, of any other intended users;
- true copies of any written reports, documented on any type of media;
- summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification; and
- all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with this Rule in all

other applicable Standards, or references to the location(s) of such other documentation.

The appraiser's assignment workfile serves several purposes. As in many other professions, the discipline of enforcement by public agencies and peer review, together with one's self-discipline and dedication of effort, serves to ensure performance of assignments in compliance with professional standards. In addition to facilitating enforcement, a workfile aids the appraiser in handling questions from the client or an intended user subsequent to the date of the report.

An appraiser's assignment workfile preserves evidence of the appraiser's compliance with USPAP and other information as may be required to support the appraiser's opinions, conclusions, and, in the case of an appraisal consulting assignment, recommendations.

While not required by USPAP, the Board strongly recommends that when a supervising appraiser, during their review of the trainee's appraisal report, makes changes to or edits the report, a copy of the edited (red-lined) report be placed in the workfile.

CREATING A WORKFILE AFTER REPORT DELIVERY

Q. I was recently told that USPAP allows appraisers to wait and create a workfile after the report has been delivered to the client for an appraisal, appraisal review, or appraisal consulting assignment. Is this true?

A. No. The Record Keeping section of the ETHICS RULE states:

*A workfile must be in existence **prior to and contemporaneous with** the issuance of a written or oral report. A written summary of an oral report must be added to the workfile within a reasonable time after the issuance of the oral report. (Bold added for emphasis)*

It is advisable to create a workfile as soon as an agreement between an appraiser and a client results in an assignment.



NEW EDITION OF USPAP EFFECTIVE JANUARY 1, 2010

The 2010-2011 edition of USPAP has been adopted by the Appraisal Standards Board and will be valid for two years, effective January 1, 2010 through December 31, 2011. As with the 2008-2009 edition of USPAP, the new edition will include guidance from the ASB in the form of the USPAP Advisory Opinions and the USPAP Frequently Asked Questions (FAQs). A summary of the actions taken in the new USPAP may be viewed at the following link:

http://www.appraisalfoundation.org/s_appraisal/bin.asp?CID=3&DID=1359&DOC=FILE.PDF



ADDRESS CHANGES

Have you moved your residence or business during 2009? K.S.A. 58-4114 requires that any change of address be reported to the Board immediately upon the move.

A change of address form can be accessed from the Board's website at:

http://www.kansas.gov/kreab/pdf/licensing/Address_Change.pdf



USPAP Q & A

Q. If an appraiser is bound by USPAP for a particular assignment, when must the appraiser comply with the USPAP appraisal reporting requirements?

A. Whenever a value opinion is communicated, compliance with USPAP's appraisal reporting requirements is required. It may seem obvious in many cases that an appraiser must abide by the appraisal reporting requirements. However, in other cases it is not as obvious, such as the following examples:

- Selecting and providing a client with comparable sales for a known property is an appraisal assignment as defined by USPAP.
- Informing a property owner that their property tax assessment is too high is an appraisal report as defined in USPAP
- Providing an opinion of market rent is an appraisal report as defined in USPAP.
- Providing an opinion of the most probable selling price for a homeowner is an appraisal report as defined in USPAP.
- Preparing, analyzing, and communicating the results of an automated valuation model (AVM) for a property is an appraisal assignment.

It is important to remember that the applicability of USPAP is not affected by the amount or the lack of a fee.

Q. May I perform an appraisal with multiple intended uses and communicate the results in a single report with a single valuation and be in compliance with USPAP? All of the intended uses have the same type and definition of value and were performed with the same scope of work.

A. Yes. USPAP requires the appraiser to identify the intended use of the appraisal opinions and conclusions. USPAP requires that the report states the intended use of the appraisal. Intended use is defined as:

*The **use or uses** of an appraiser's reported appraisal, appraisal review, or appraisal consulting assignment opinions and conclusions, as identified by the appraiser based on communication with the client at the time of the assignment. (Bold added for emphasis)*

Therefore an assignment may have multiple intended uses with a single value opinion in the same report as long as the uses have the same definition of value and the same scope of work.

An example with multiple intended uses with the same type and definition of value and same scope of work could include a market value appraisal being prepared for a possible donation and being prepared for a possible sale.

It should be noted that there are many circumstances when appraisers provide multiple value opinions in a single report with multiple intended uses (such as for market value, liquidation value and insurable value all in the same report). In this example, each intended use has a different type and definition of value, different scope of work, and likely will have differing conclusions.

Q. I understand that the Home Valuation Code of Conduct (HVCC) prohibits mortgage brokers or real estate agents from engaging appraisers in appraisals for loans eligible for sale on the secondary mortgage market to Fannie Mae or Freddie Mac. What are my obligations as an appraiser if a mortgage broker or real estate agent contacts me and attempts to engage me in such an assignment?

A. Similar to the guidance provided in Advisory Opinion 25, *Clarification of the Client in a Federally Related Transaction*, appraisers have certain obligations when being engaged in appraisal assignments that fall under HVCC requirements.

If a mortgage broker or real estate agent attempts to engage an appraiser in an assignment subject to HVCC requirements, the appraiser is obligated to inform the mortgage broker or real estate agent that they are prohibited from engaging appraisers under provisions of the HVCC.

If the mortgage broker or real estate agent wishes to engage the appraiser despite the appraiser's disclosure, the appraiser may accept the assignment. It would be prudent to recite disclosures in the engagement letter and in the report.

Also refer to STATEMENT ON APPRAISAL STANDARDS NO. 9 (SMT-9) for additional information relating to intended use and intended users.

Q. Does an appraiser have an obligation to determine whether or not the appraisal is to be used in a transaction that is subject to the requirements of HVCC?

A. Yes. Appraisers are obligated to identify the intended use and intended users in an assignment, along with all applicable assignment conditions.

Q. I am aware of and comply with the workfile retention requirements in the Record Keeping section of the ETHICS RULE in USPAP. However, once the required

retention period has passed, does USPAP dictate a method I must employ to dispose of the workfiles?

A. No, USPAP does not dictate a particular method for disposal of workfiles. However, because there are no provisions in USPAP for termination of the appraiser-client relationship and the appraiser's respective confidentiality obligations, appraisers must ensure that they do not violate the Confidentiality section of the ETHICS RULE even when disposing of workfiles.

This means that appraisers must ensure that whatever method they employ to dispose of workfiles does not allow for the communication of *assignment results* or *confidential information* (both, as defined in USPAP) in the disposal process.

Q. An appraiser completed an appraisal for Client A. Client B received a copy of the appraisal from Client A and finds it acceptable for their purposes, but wants to be identified as the client in the appraisal report. Client B is aware that appraisers are prohibited from readdressing (or transferring) a completed report to a different client's name. As a result, Client B would like to engage the appraiser in a new assignment, limiting the appraiser's scope of work to only identifying them as the new client. Can the appraiser complete the assignment from Client B under these terms?

A. No. USPAP requires the scope of work performed to produce credible assignment results. USPAP clearly establishes that the scope of work is determined by the appraiser. If a client's instructions (i.e. assignment conditions) limit the appraiser's scope of work in a new assignment to simply identifying a new client, the client, not the appraiser, has made the scope of work decision.

In addition, even if the appraiser accepted the client's proposed scope of work as his or her own, that scope of work may not be adequate to produce credible assignment results as required by USPAP.

As is the case with all assignments, when a client's assignment conditions are too restrictive to produce credible assignment results, an appraiser must decline or withdraw from an assignment.

Q. I am aware of the ASB's June 2008 Q&A which addressed the implementing regulation, 49 CFR Part 24, for *The Uniform Relocation Assistance and Real Property Acquisitions Act of 1970*, as Amended (the Uniform Act). The topic of this Q&A is the relationship of Standard Rule 1-4(f) and "Before Acquisition Value." The ASB pointed out that such a situation does not create a jurisdictional exception under USPAP, but is rather an assignment condition.

My state has a similar law that requires the appraiser to disregard any decrease or increase in market value of the property prior to the effective date of value caused by the public improvement for which the property is being acquired. Is this state law a jurisdictional exception under USPAP?

A. No. The state law is not a jurisdictional exception in this case. USPAP SR 1-4(f) becomes applicable in an

assignment only if the scope of work includes the analysis of anticipated improvements:

When analyzing anticipated public or private improvements, located on or off the site, an appraiser must analyze the effect on value, if any, of such anticipated improvements to the extent they are reflected in market actions. (Bold added for emphasis)

As was pointed out in the June 2008 Q&A response, the key word in SR 1-4(f) is "**When**." Your state law does not conflict with USPAP because the word **When** indicates that SR 1-4(f) is only applicable in the circumstance that public or private improvements must be analyzed in order to develop credible assignment results.

The recently adopted 2010-2011 edition of USPAP that becomes effective on January 1, 2010, is intended to enhance clarity and understanding in application of the JURISDICTIONAL EXCEPTION RULE. While there are no new requirements, the following four steps have been added to the RULE:

In an assignment involving a jurisdictional exception, an appraiser must:

- 1. identify the law or regulation that precludes compliance with USPAP;**
- 2. comply with that law or regulation;**
- 3. clearly and conspicuously disclose in the report the part of USPAP that is voided by that law or regulation; and**
- 4. cite in the report the law or regulation requiring this exception to USPAP compliance.**

Q. I am aware that development of an opinion of market value also requires development of an opinion of reasonable exposure time linked to the value opinion. The assignment I am working on has an assignment condition under the *Uniform Appraisal Standards for Land Acquisitions* (the Yellow Book) that requires me to disregard any decrease or increase in market value of the property prior to the effective date of value that is caused by the public improvement for which the property is being acquired. My research indicates the time frames of buyers and sellers are often influenced by pending public improvement projects. Does this requirement represent a jurisdictional exception?

A. Yes. In this case, the implementing law for what is commonly known as the Yellow Book **precludes** you from complying with the USPAP requirement stated in the Comment to USPAP SR 1-2(c), which requires an appraiser to develop an opinion of exposure time when an opinion of market value is developed. In contrast, the Yellow Book provides that "the appraiser shall not link an estimate of market value for federal land acquisitions to a specific exposure time."

Q. The Federal Highway Administration (FHWA) permits a "waiver valuation." To quote 49 CFR 24.102(c)(2), "The term waiver valuation means the valuation process used and the product produced when the agency determines that an appraisal is not required, pur-

suant to 24.102(c)(2) appraisal waiver." Is this an application of the JURISDICTIONAL EXCEPTION RULE?

A. No. There is no jurisdictional exception in the situation described. USPAP does not establish who or which assignments must comply. An agency may determine that an appraisal is not required for a specific situation, and may elect to rely on a waiver valuation.

An appraiser who is required to practice under USPAP, or chooses to do so, must still comply with USPAP. However, nothing in the definition of waiver valuation *precludes the appraiser from complying with USPAP*. Compliance with USPAP sometimes requires an appraiser to develop an expanded level of analyses, or communicate results with a different minimum set of requirements, distinct from what might be desired by a particular intended use or user. These additional obligations may impact an appraiser's decision whether they *choose* to accept the assignment.

It is important that an appraiser take the time and effort to clearly understand all the assignment elements, and make an appropriate scope of work decision that complies with the appraiser's obligation to be able to demonstrate that the scope of work is sufficient to produce credible assignment results.

Q. The Federal Highway Administration (FHWA) publishes a "Guide for Preparing an Appraisal Scope of Work." One of the items listed is that the property being acquired should be "appraised as if free and clear of contamination," unless otherwise specified. Is this a jurisdictional exception, extraordinary assumption, or hypothetical condition?

A. This situation is not an application of the JURISDICTIONAL EXCEPTION RULE. Rather, if contamination is an aspect of the valuation, the situation calls for either an extraordinary assumption or a hypothetical condition. In the DEFINITIONS section, an extraordinary assumption is defined as:

an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions.

A hypothetical condition is defined as:

that which is contrary to what exists but is supposed for the purpose of analysis.

If the contamination status of the property is uncertain and cannot be determined, an extraordinary assumption is appropriate. If the property is known to be contaminated, a hypothetical condition to the contrary would be required.

Q. I received an appraisal order from an appraisal management company (AMC) which has requested to be identified as the client in the appraisal report. The AMC will not provide its client's name. Does USPAP allow me to identify the AMC as the client if the AMC will not disclose the name of its client?

A. There is nothing in USPAP that precludes an AMC from being a client; however, appraisers must comply with all applicable assignment conditions. Assignment conditions required by some users of appraisal services, including those prepared for federally-regulated financial institutions, specify who the client must be.

Therefore, the AMC may be the client under USPAP, but there could be additional applicable assignment conditions depending on the intended use and intended users.

Having an AMC as the client can be similar to the situation in which an appraiser is engaged by an attorney. The identity of the party that engaged the attorney might not be made available to the appraiser, but USPAP does not preclude the appraiser from naming the attorney as the client.

Q. What is the change effective January 1, 2010 regarding the Restricted Use Appraisal Report?

A. In the 2008-09 edition of USPAP the ETHICS RULE included a requirement that when utilizing the Restricted Use Appraisal Report option, "the workfile must be available for inspection by the client." However, STANDARDS 2, 8 and 10 also included a requirement that all appraisal reports must "contain sufficient information to enable the intended users of the appraisal to understand the report."

The second requirement above made the initial requirement for the workfile to be available to the client when using a Restricted Use Appraisal Report unnecessary. Therefore, it was removed for the 2010-11 edition of USPAP.

Revision of Previously Published (April 2009) Q&A:

In April 2009, the ASB published Q&As following the adoption of the changes to USPAP for 2010-11. These Q&As specifically addressed the new disclosure requirement within the Conduct section of the ETHICS RULE.

The response to Question 4 in the April 2009 Q&A publication has been revised to more clearly convey the ASB's guidance regarding application of this new requirement. The question and the revised answer are included below, with deletions shown in strikethrough text and additions shown in underlined text. These changes will also be reflected in the April 2009 edition of the Q&As on The Appraisal Foundation's website.

Q. Some of my best clients require me to keep all information regarding any assignments that I perform for them confidential. The Comment states, in part, "If an appraiser has agreed with a client not to disclose that he or she has appraised a property, the appraiser must decline all subsequent assignments that fall within the three-year period." Will this prevent me from appraising a property for a different client during that three-year period?

A. Perhaps. ~~but~~ The new requirement states, in part, "...an appraiser must disclose...any services...performed by the appraiser..." ~~USPAP does not~~

~~The appraiser is not required that the disclosure provide any to disclose specific details beyond noting the type of service.~~ For example, the disclosure, both prior to accepting the assignment and in the report's certification, could include a statement similar to one of the following:

- "I have ~~provided a previous service performed (note type of services(s))~~ regarding the subject property within the three years prior to this assignment"; or
- "I have previously appraised this property in the three years prior to this assignment."

But, ↓ if an appraiser cannot make such a statement without violating an agreement with a previous client, ~~then~~ the appraiser must not accept the new assignment. Appraisers should review their client agreements to specifically determine what information they have agreed to keep confidential.

The Appraisal Standards Board (ASB) of The Appraisal Foundation develops, interprets, and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. The USPAP Q&A is a form of guidance issued by the ASB to respond to questions raised by appraisers, enforcement officials, users of appraisal services and the public to illustrate the applicability of USPAP in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems. The USPAP Q&A may not represent the only possible solution to the issues discussed nor may the advice provided be applied equally to seemingly similar situations. USPAP Q&A does not establish new standards or interpret existing standards. USPAP Q&A is not part of USPAP and is approved by the ASB without public exposure and comment.



ELDRIDGE, BRADLEY A. (G-1680) BALDWIN CITY
COMPLAINT NOS. 601 & 603

A Consent Order was entered into on October 20, 2009, with the following terms and conditions: That Eldridge's general certification be suspended for a period of two (2) years, commencing the date of the Order; that prior to reinstatement to active status on October 21, 2011, Eldridge must file his renewal application for the instant renewal, logging the 28 hours required for the 2009/2011 education cycle, with the applicable renewal fee, as well as any missed national registry fees; that for the 12 months following the end of the suspension, Eldridge must perform any appraisal work under the supervision of a certified general appraiser who has been approved by the Board; that during the period of supervised appraisal work, Eldridge will maintain a log of all appraisals he performs or in which he participates; said log is to be submitted to the Board office on or immediately following the first working day of each month; that the Board may select up to three (3) reports for additional review; should any review show non-compliance with USPAP, a new complaint will be filed; that Eldridge

pay a fine of \$1,000 prior to the end of the two (2) year suspension; and that Eldridge pay \$2,970 to cover the cost of the reviews associated with these complaints on or prior to the end of the two (2) year suspension.

ROHRBAUGH, PAUL J. (R-2301) PARKVILLE, MO
COMPLAINT NO. 636

A Consent Order was entered into on November 16, 2009, with the following terms and conditions: That Rohrbaugh take and pass the examination of Qualifying Education Module (QEM) #3, USPAP, on or prior to June 30, 2010; that Rohrbaugh take and pass the examination of QEM #5, Residential Appraiser Site Valuation and Cost Approach, on or prior to June 30, 2010; that Rohrbaugh take and pass the examination of QEM #6, Residential Sales Comparison and Income Approaches, on or prior to June 30, 2010; and that Rohrbaugh pay \$500 to cover the cost of the review associated with this complaint within 30 days from the date of the Order.

SPILLANE, DONNA A. (L-1741) ABILENE
COMPLAINT #630

A Consent Order was entered into on November 16, 2009, with the following terms and conditions: That Spillane take and pass the examination of Qualifying Education Module (QEM) #3, USPAP, on or prior to June 30, 2010; that Spillane take and pass the examination of QEM #5, Residential Appraiser Site Valuation and Cost Approach, on or prior to June 30, 2010; that Spillane take and pass the examination of QEM #6, Residential Sales Comparison and Income Approaches, on or prior to June 30, 2010; and that Spillane pay \$1,050 to cover the cost of the review associated with this complaint within 30 days from the date of the Order.

ELLISON, RUSSELL L. (R-2173) KC, MO.
COMPLAINT NO 624

A Consent Order was entered into on November 18, 2009, with the following terms and conditions: That Ellison take and pass the examination of Qualifying Education Module (QEM) #3, USPAP, on or prior to June 30, 2010; that Ellison take and pass the examination of QEM #5, Residential Appraiser Site Valuation and Cost Approach, on or prior to June 30, 2010; that Ellison take and pass the examination of QEM #6, Residential Sales Comparison and Income Approaches, on or prior to June 30, 2010; and that Ellison pay \$500 to cover the cost of the review associated with this complaint within 30 days from the date of the Order.

WILSON, BILL R. (G-346) HAYS
COMPLAINT NO. 617

A Consent Order was entered into on December 31, 2009, with the following terms and conditions: That Wilson take and pass the examination of Qualifying Education Module (QEM) #3, USPAP, on or prior to June 30, 2010; that Wilson take and pass the examination of QEM #5, Residential

Appraiser Site Valuation and Cost Approach, on or prior to June 30, 2010; that Wilson take and pass the examination of QEM #6, Residential Sales Comparison and Income Approaches, on or prior to June 30, 2010, and that Wilson pay \$500 to cover the cost of the review associated with this complaint within 30 days from the date of the Order.

MCCALL, MARK D. (L-2074) WICHITA
COMPLAINT #608

A Consent Order was entered into on January 4, 2010, with the following terms and conditions: That McCall take and pass the examination of Qualifying Education Module (QEM) #3, USPAP, on or prior to June 30, 2010; that McCall take and pass the examination of QEM #6, Residential Sales Comparison and Income Approaches, on or prior to June 30, 2010; that McCall take and pass the examination of QEM #9, Advanced Residential Applications and Case Studies on or prior to June 30, 2010; and that McCall pay \$500 to cover the cost of the review associated with this complaint within 30 days from the date of this Order.

ROOT, ROBERT R. (R-2520) FALLS CHURCH, VA
CASE NO. 009-14

On January 14, 2010, a Summary Proceeding Order of Revocation of Certificate was issued for failure to comply with the 2009 Education Audit.



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