

CERTIFICATE

**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Patricia McCormack, Deputy Secretary, Wisconsin Department of Regulation and Licensing and custodian of the official records of the Department of Regulation and Licensing, hereby certify that the annexed rules were duly approved and adopted by the Department of Regulation and Licensing on the 19th day of April, 1996.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

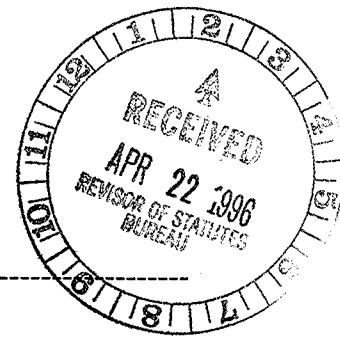


IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 1400 East Washington Avenue, Madison, Wisconsin this 19th day of April, 1996.

Patricia McCormack

**Patricia McCormack, Deputy Secretary
Department of Regulation and
Licensing**

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING



IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION AND
DEPARTMENT OF REGULATION : LICENSING ADOPTING RULES
AND LICENSING : (CLEARINGHOUSE RULE 95-163)

ORDER

An order of the Department of Regulation and Licensing to repeal RL 80.03 (16), 81.02 and 82.02 (1); to renumber RL 80.03 (1), 82.02 (1) and (3) and 83.02 (7); to amend RL 80.02, 80.03 (3), (8), (9) and (17), 81.01 (intro.), (1), (2), (3), (4), (5), (6) and (7), 81.03 (2) (intro.) and (2) (d), 82.01, 82.04 (1) (intro.) and (3), 83.01 (3) (a) and (b), (4) (a) and (b), 83.02 (2) and (3), 84.01 (6) (intro.), 84.02 (1) and (3) (intro.), 84.03 (2) (a) and (3) (intro.), 85.01 (4), 85.02 (2) and (8) (intro.) and 86.01 (8), and the Uniform Standards of Professional Appraisal Practice; and to create RL 80.03 (1), (2a), (8a), (8b), (8c) and (8d), 83.02 (6) and 86.01 (9) relating to real estate appraisers.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2), 458.03 and 458.085, Stats.

Statutes interpreted: ss. 458.06; 458.08; 458.085, 458.09, 458.095, 458.11, 458.13 and 458.24, Stats.

In this proposed rule-making order the Department of Regulation and Licensing amends, repeals and recreates numerous provisions contained in chs. RL 80 to 87, and Appendix I, relating to the regulation of certified and licensed appraisers. Significant changes to the current rules are as follows:

1. Section RL 80.03 is revised to create definitions for the following terms: "ad valorem tax appraisal," "appraisal course instruction," "feasibility analysis," "fee and staff appraisal," "highest and best use" and highest and best use study." These terms are used, but are not defined, in ch. RL 83, to refer to the various types of acceptable appraisal experience.
2. Section RL 82.04 (3), relating to claim of examination error, is amended to clarify that an applicant may retake an examination if the department's decision relating to a claim of examination error does not result in a passing grade. If the department's decision results in the denial of the credential application, the applicant may request a hearing under ch. RL 1.

3. Section RL 83.02 (6) is created for purposes of identifying the type of documentation which an applicant seeking a credential must submit in order to receive credit under s. 458.09, Stats., for assessor experience.

4. Sections RL 80.03 (16) and 81.02, and the Note following s. RL 87.01 (3), relating to "transitional licenses" are being repealed. These changes are being made in anticipation of the phase-out of transitional licenses on January 1, 1996. Under s. 458.08 (5), Stats., transitional licenses are valid for 2 years or until January 1, 1996, whichever occurs first.

5. Appendix I is being amended to reflect modifications to the Uniform Standards of Professional Appraisal Practice ("USPAP") by the Appraisal Standards Board of the Appraisal Foundation. These include changes to the Record Keeping section of the Ethics Provision and to Standard 3. In addition, the USPAP *Statements on Appraisal Standards (No. 1-8)*, are being adopted by the department. These *Statements* are authorized by the bylaws of the Appraisal Foundation and are "specifically for the purpose of clarification, interpretation, explanation or elaboration of USPAP." *Statements* have the full weight of a Standards Rule and can only be adopted by the Appraisal Standards Board after exposure and comment. The department is required under s. 458.24, Stats., to periodically review USPAP and, if appropriate, revise the administrative rules to reflect revisions to the Standards.

TEXT OF RULE

SECTION 1. RL 80.02 is amended to read:

RL 80.02 INTENT. The intent of the department in adopting chs. RL 80 to 87 is to establish minimum standards for professional appraisal practice for certified and licensed appraisers which are consistent with the uniform standards of professional appraisal practice promulgated by the appraisal standards board of the appraisal foundation. It is further intended that these rules shall establish standards of competency such that persons certified as ~~certified general appraisers and certified residential appraisers~~ or licensed as ~~licensed~~ appraisers are qualified to perform appraisals for federally related transactions under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 ~~USC~~ U.S.C. 3331 et seq, (Title XI).

SECTION 2. RL 80.03 (1) is renumbered RL 80.03 (1a).

SECTION 3. RL 80.03 (1) is created to read:

RL 80.03 (1) "Ad valorem tax appraisal" means a mass appraisal performed by an assessor, as defined in s. 458.09 (1), Stats., in accordance with standard 6 of the uniform Standards of professional appraisal practice, as in effect at the time the appraisal was prepared.

SECTION 4. RL 80.03 (2a) is created to read:

RL 80.03 (2a) "Appraisal course instruction" means the teaching of an appraisal course which has been approved by the department as a component of a program of study for licensed or certified appraisers.

SECTION 5. RL 80.03 (3) and (8) are amended to read:

RL 80.03 (3) "Appraisal experience" means experience obtained by the application of methods, procedures, documents and analyses which collectively, lead to and support an estimate of the market value of real estate performance of fee and staff appraisals, ad valorem tax appraisals, review appraisals, appraisal analyses, highest and best use studies, real estate counseling assignments or real estate broker's market analyses in accordance with the uniform Standards of professional appraisal practice, as in effect at the time the experience was obtained, or by the teaching of appraisal courses.

(8) "Dwelling unit" means a structure or that part of a structure that is used or intended to be used as a ~~home, residence, or place of abode.~~

SECTION 6. RL 80.03 (8a), (8b), (8c) and (8d) are created to read:

RL 80.03 (8a) "Feasibility analysis" means a study of the cost-benefit relationship of an economic endeavor conducted in accordance with Standards 4 and 5 of the uniform standards of professional appraisal practice, as in effect at the time the study was conducted.

(8b) "Fee and staff appraisal" means a real property appraisal developed and reported in accordance with Standards 1 and 2 of the uniform standards of professional appraisal practice, as in effect at the time the appraisal was prepared.

(8c) "Highest and best use" means the reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value.

(8d) "Highest and best use study" means a study of the highest and best use of real estate conducted in accordance with Standards 4 and 5 of the uniform standards of professional appraisal practice, as in effect at the time the study was conducted.

SECTION 7. RL 80.03 (9) is amended to read:

RL 80.03 (9) "Hour of appraisal experience" means 60 minutes of verifiable time spent in performing tasks as identified in s. RL 83.01 (3) (b) in accordance with ~~acceptable appraisal experience as defined in this section~~ the uniform standards of professional appraisal practice, as in effect at the time the tasks were performed, or in the case of teaching experience, 50 minutes of verifiable time spent providing instruction in an approved course.

SECTION 8. RL 80.03 (16) is repealed.

SECTION 9. RL 80.03 (17) is amended to read:

RL 80.03 (17) "Two years of appraisal experience" means at least 2,000 hours of experience acquired in a period of 24 months or more. No more than 1,000 hours of appraisal experience may be credited in any period of 12 consecutive months. A year is defined in terms of hours within a calendar year. One thousand hours constitutes a year of appraisal experience. Hours may be treated as cumulative in order to achieve the necessary 2,000 hours of appraisal experience any 2 calendar years.

SECTION 10. RL 81.01 (intro.), (1), (2), (3), (4), (5), (6) and (7) are amended to read:

RL 81.01 APPLICATIONS FOR CERTIFIED AND LICENSED APPRAISERS.

(intro.) An applicant for certification or licensure shall apply on a form provided by the department. Any applicant who files an application for certification or licensure, but does not comply with a request for information related to the application or meet all requirements within one year from the date of filing, shall file a new application and fee if certification or licensure is sought at a later date. A qualified applicant with a disability shall be provided with reasonable accommodations. The complete application shall include:

(1) A fee as established by the department plus the annual registry fees ~~established by~~ required under s. 458.21, Stats.;

(2) A statement of ~~arrest~~ relating to any pending criminal charge or conviction record, subject to ss. 111.321, 111.322 and 111.335, Stats. An applicant who has a pending criminal charge or has a conviction record shall provide the department with all related information necessary for the department to determine whether the circumstances of the ~~arrest~~ pending charge or conviction substantially relate to the practice of appraisal.;

(3) A transcript or proof of 75, ~~105~~, 120 or 165 hours of instruction as provided for in ss. RL 84.02, 84.03 and 84.04.;

(4) Evidence of successful completion of 15 hours of instruction in professional standards and code of ethics as required in s. 458.06 (2) (d), Stats.;

(5) Evidence of successful completion of ~~a written examination on the professional standards, code of ethics and state law approved or conducted by the department;~~ the national and state examinations as specified in s. RL 82.01.

(6) An affidavit verifying the ~~required~~ appraisal experience as required in s. RL 83.01 (4) (a).;

(7) A ~~roster~~ log of appraisal experience as required in s. RL 83.01 (4) (b).;

and.

SECTION 11. RL 81.02 is repealed.

SECTION 12. RL 81.03 (2) (intro.) and (2) (d) are amended to read:

RL 81.03 (2) APPLICATION. (intro.) An appraiser seeking a temporary registration shall apply on a form provided by the department. An applicant who fails to comply with a request for information related to the application or to meet all requirements for registration within one year from the date of filing, shall submit a new application and fee if registration is sought at a later date. The ~~complete~~ application shall include:

(d) A statement ~~of arrest~~ relating to any pending criminal charge or conviction record, subject to ss. 111.321, 111.322 and 111.335, Stats. An applicant who has a pending criminal charge or has a conviction record shall provide the department with all related information necessary for the department to determine whether the circumstances of the ~~arrest~~ pending charge or conviction substantially relate to the practice of appraisal.

SECTION 13. RL 82.01 is amended to read:

RL 82.01 EXAMINATION. (1) Prior to issuance of a residential or general appraiser's ~~certifieate~~ certification or appraiser's license, an applicant shall pass ~~a written~~ the national examination approved or conducted by the department required for certification as a residential appraiser or general appraiser or for licensure, and the examination on Wisconsin statutes and rules governing appraisers.

Note: The examination on Wisconsin statutes and rules is administered by the Department of Regulation and Licensing and the national examination is administered by a provider approved by the Department of Regulation and Licensing.

(2) The national examination required for applicants seeking appraiser certification or licensure as a certified or licensed appraiser shall be consistent with and equivalent to the uniform state certification examination issued or endorsed by the appraiser qualifications board of the appraisal foundation.

(3) A score determined by the department to represent minimum competence to practice is required to pass ~~the~~ each examination. The department may adopt the passing grade on the national examination recommended by the examination provider. Following consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, the department shall make a determination of the passing grade on the Wisconsin statutes and rules examination and shall set the passing score for the examination at that point which represents minimum acceptable competence in the profession.

SECTION 14. RL 82.02 (1) is repealed.

SECTION 15. RL 82.02 (2) is renumbered RL 82.02 (1).

SECTION 16. RL 82.02 (3) is renumbered RL 82.02 (2) and RL 82.02 (2) (d), as renumbered, is repealed and recreated to read:

RL 82.02 (2) (d) Failing to comply with additional written instructions provided at the time of examination relating to cheating other than those specified in pars. (a) to (c).

SECTION 17. RL 82.04 (1) (intro.) and (3) are amended to read:

RL 82.04 CLAIM OF EXAMINATION ERROR. (1) (intro.) To claim examination an error on the Wisconsin statutes and rules examination, an applicant shall file a written request with the department within 30 days of the date the applicant reviews the examination. The request shall include:

(3) ~~If the decision does not result in the applicant passing the examination, a notice of denial of certification or licensure shall be issued. The applicant may request a hearing under ch. RL 1 if a denial is issued~~ a passing grade, the applicant may retake the examination.

SECTION 18. RL 83.01 (3) (a) and (b) and (4) (a) and (b) are amended to read:

RL 83.01 (3) (a) ~~Be in compliance with generally accepted standards which were in effect at the time the appraisals were prepared. If the experience is acquired after July 1, 1991, the experience shall conform with the uniform standards of professional appraisal practice set forth in Appendix I to ch. RL 86, as in effect at the time the appraisals were prepared.~~

(b) ~~Include, but not be limited to one or more of the following types of appraisal experience:~~ fee and staff appraisal, ad valorem tax appraisal, review appraisal, appraisal analysis, highest and best use analysis study, feasibility analysis, real estate counseling, real estate broker's market analysis and or appraisal course instruction.

(4) (a) ~~An affidavit verifying the required appraisal experience;~~

(b) ~~A roster log of appraisal experience; and.~~

SECTION 19. RL 83.02 (2) and (3) are amended to read:

RL 83.02 (2) Records of teaching experience in residential or commercial appraising obtained at any accredited college or university, technical college or vocational, technical and adult education school or obtained by teaching an approved appraisal course offered by a national or statewide appraisal organization which is a charter member of the appraisal foundation and an affidavit from the employer.

(3) Employment records provided by an employer which verify the applicant's experience as an appraiser, assessor, or appraisal course instructor. Employment

records shall include an affidavit which verifies the number of hours employed, the type of experience, and a description of the applicant's duties.

SECTION 20. RL 83.02 (6) is renumbered 83.02 (7).

SECTION 21. RL 83.02 (6) is created to read:

RL 83.02 (6) Records of the department of revenue or a local governmental body which document the applicant's experience as an assessor, including but not limited to:

(a) A job description which identifies the job components relevant to practice as an assessor and the number of hours spent performing each component.

(b) Documents which demonstrate the applicant's performance of the following components of the mass appraisal process in accordance with Standard 6 of the uniform standards of professional appraisal practice, as in effect at the time the components were prepared:

1. Highest and best use study.
2. Model specification.
3. Model calibration.

SECTION 22. RL 84.01 (6) (intro.) is amended to read:

RL 84.01 (6) (intro.) Credit may be allowed for a correspondence course, video or remote television presentation which satisfies the following requirements:

SECTION 23. RL 84.02 (1) and (3) (intro.) are amended to read:

RL 84.02 CERTIFIED RESIDENTIAL APPRAISER COURSE REQUIREMENTS.

(1) A program of study for certified residential appraisers shall include at least ~~105 hours of instruction.~~ After April 1, 1994, a program of study for certified residential appraisers shall include at least 120 hours of instruction.

~~Note: After April 1, 1994, an individual who files an application under s. RL 81.01 for certification as a residential appraiser will be required to submit evidence of completion of 120 hours of instruction.~~

(3) (intro.) Any approved program of study for certified residential appraisers shall include one or more of the following subject areas:

SECTION 24. RL 84.03 (2) (a) and (3) (intro.) are amended to read:

RL 84.03 (2) (a) Not less than 15 hours of instruction in professional standards, and code of ethics ~~and state laws~~ applicable to appraisers; ~~and~~.

(3) (intro.) Any approved program of study for certified general appraisers shall include one or more of the following subject areas:

SECTION 25. RL 84.04 (3) (intro.) is amended to read:

RL 84.04 (3) (intro.) Any approved program of study for licensed appraisers shall include one or more of the following subject areas:

SECTION 26. RL 85.01 (4) is amended to read:

RL 85.01 (4) The number of hours of attendance at and completion of continuing education programs or courses of study required under s. 458.13 (1), Stats., shall be reduced by one hour for each hour of attendance and completion of, within the 2 years immediately preceding the date on which the renewal application is submitted, continuing education programs or courses of study that the applicant has attended and completed in order to continue to qualify for employment as an assessor and that the department determines is substantially equivalent to attendance at ~~the~~ and completion of continuing education programs or courses of study for certified general appraisers, certified residential appraisers, or licensed appraisers, as appropriate.

SECTION 27. RL 85.02 (2), (8) (intro.) and (9) (a) are amended to read:

RL 85.02 (2) The program shall relate to one or more of the subject areas described in s. RL 84.02 (3), 84.03 (3) or 84.04 (3) or other subject areas relevant to competent practice. If the subject area is not described in s. RL 84.02 (3), 84.03 (3) or 84.04 (3), the applicant shall include with the application a statement explaining how the subject area is relevant to competent practice and ~~must be~~ is consistent with the course content and criteria established by the appraiser qualifications board of the appraisal foundation.

(8) (intro.) A correspondence course, video or remote television presentation which satisfies the following requirements may be approved:

(9) (a) Be an instructor of appraisal courses who teaches or has taught appraisal courses at an accredited institution of higher education, ~~or~~.

SECTION 28. RL 85.02 (9) (c) is created to read:

RL 85.02 (9) (c) Be an instructor of assessor education courses who is approved by the department of revenue to teach continuing assessor education programs.

SECTION 29. RL 86.01 (8) is amended to read:

RL 86.01 (8) All certified and licensed appraisers shall maintain records as required in s. 458.18, Stats. Such records shall be made available to the department, board, or agents of the department or board upon request for purposes of investigation, review, or audit ~~and shall be readily available to the department, board, or agents of the department or board for inspection.~~

SECTION 30. RL 86.01 (9) is created to read:

RL 86.01 (9) A certified or licensed appraiser shall not solicit from or knowingly disclose to any person or entity the content of an examination for appraiser certification or licensure conducted under ch. RL 82.

SECTION 31. The Note following RL 87.01 (3) is repealed.

SECTION 32. Appendix I introduction is amended to read:

UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

The Uniform Standards of Professional Appraisal Practice ("USPAP") Copyright (c) ~~1995~~ 1996 by The Appraisal Foundation, are reproduced with permission of The Appraisal Foundation. All rights reserved. No part of the USPAP may be reproduced without prior consent of The Appraisal Foundation.

Copies of the USPAP (including advisory opinions ~~and statements on appraisal standards~~) are available from the Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. ~~20005~~ 20005-3517, (202) 347-7722.

SECTION 33. The Record Keeping section of the Ethics Provision is repealed and recreated to read:

Record Keeping

An appraiser must prepare written records of appraisal, review, and consulting assignments - including oral testimony and reports - and retain such records for a period of at least five (5) years after preparation or at least two (2) years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last. The written records of an assignment are the workfile.

Comment: Written records of assignments include true copies of written reports, written summaries of oral testimony and reports (or a transcript of testimony), all data and statements required by these Standards, and other information as may be required to support the findings and conclusions of the appraiser. A workfile may also include

information stored on electronic, magnetic, or other media as well as a reference indicating the location of other information utilized in the appraisal.

A workfile preserves evidence of the appraiser's consideration of all applicable data and statements required by USPAP and other information as may be required to support the findings and conclusions of the appraiser. For example, the content of a workfile for a Complete Appraisal must reflect consideration of all USPAP requirements applicable to the specific Complete Appraisal assignment. However, the content of a workfile for a Limited Appraisal need only reflect consideration of the USPAP requirements from which there has been no departure and that are applicable to the specific Limited Appraisal assignment.

A photocopy or an electronic copy of the entire actual written appraisal, review, or consulting report sent or delivered to a client satisfies the requirement of a true copy. As an example, a photocopy or electronic copy of the Self-Contained Appraisal Report or the Summary Appraisal Report or Restricted Appraisal Report actually issued by an appraiser for a real property Complete Appraisal or Limited Appraisal assignment satisfies the true copy requirement for that assignment.

Care should be exercised in the selection of the form, style, and type of medium for written records, which may be handwritten and informal, to ensure they are retrievable by the appraiser throughout the prescribed record retention period.

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.

A workfile must be made available by the appraiser when required by due process of law. In addition, a workfile in support of a Restricted Appraisal Report must be available for inspection by the client in accordance with the Comment to Standards Rule 2-2 (c) (viii).

SECTION 34. Standards Rule 3-1 (a) Comment and Standards Rule 3-1 (f) Comment are amended to read:

Standards Rule 3-1

In reviewing an appraisal, an appraiser must:

- (a) identify the report under review, the real estate and real property interest being appraised, the effective date of the opinion in the report under review, and the date of the review;

Comment: The review should be conducted in the context of market conditions as of the effective date of the opinion in the report being reviewed.

Information that could not have been available to the appraiser on the date of the report being reviewed should not be used by a review appraiser in the development of a review.

The introduction of new information requires separate analyses and opinions by the review appraiser consistent with Standards Rule 3-1 (f).

- (f) form an opinion as to whether the analyses, opinions, and conclusions in the report under review are appropriate and reasonable, and develop the reasons for any disagreement.

Comment: Departure from binding requirements (a) through (f) above is not permitted.

An opinion of a different estimate of value from that in the report under review, or a statement that the value estimate in the report under review remains reasonable as of a more current effective date, may be expressed, provided the review appraiser:

1. satisfies the requirements of STANDARD 1;
2. identifies and sets forth any additional data relied upon and the reasoning and basis for the different estimate of value; and,
3. clearly identifies and discloses all assumptions and limitations connected with the different estimate of value to avoid confusion in the marketplace.

SECTION 35. Origin and History of USPAP is amended to read:

These standards are based on the original Uniform Standards of Professional Appraisal Practice developed in 1986-87 by the Ad Hoc Committee on Uniform Standards and copyrighted in 1987 by The Appraisal Foundation. Prior to the establishment of the ASB in 1989, USPAP had been adopted by major appraisal organizations in North America and became recognized as the generally accepted standards of appraisal practice.

At its organizational meeting on January 30, 1989, the ASB unanimously approved and adopted the original USPAP as the initial appraisal standards promulgated by the ASB. USPAP may be altered, amended, interpreted, supplemented, or repealed by the ASB after exposure to the appraisal profession, users of appraisal services and the public in accordance with established rules of procedure.

Effective Date of Original Uniform Standards: April 27, 1987

Amendments by the Appraisal Standards Board to Date:

Preamble	April 20, 1990
Ethics Provision	December 4, 1989 <u>March 21, 1995</u>
Competency Provision	April 20, 1990
Departure Provision	March 22, 1994

Jurisdictional Exception and Supplemental Standards sections	July 19, 1994
Definitions section	March 22, 1994 <u>July 18, 1995</u>
Standard 1	April 20, 1990
Standard 2	March 22, 1994
Standard 3	March 22, 1994 <u>November 2, 1994</u>
Standards 4 and 5	June 5, 1990
Standard 6	September 10, 1991
Standards 7 and 8	March 3, 1992
Standards 9 and 10	September 16, 1992

SECTION 36. Uniform Standards of Professional Appraisal Practice is created to read:

These standards are based on the original Uniform Standards of Professional Appraisal Practice developed in 1986-87 by the Ad Hoc Committee on Uniform Standards and copyrighted in 1987 by The Appraisal Foundation. Prior to the establishment of the SBC in 1989, USPAP had been adopted by major appraisal organizations in North America and became recognized as the generally accepted standards of appraisal practice.

At its organizational meeting on January 30, 1989, the ASB unanimously approved and adopted the original USPAP as the initial appraisal standards promulgated by the ASB. USPAP may be altered, amended, interpreted, supplemented, or repealed by the ASB after exposure to the appraisal profession, users of appraisal services and the public in accordance with established rules of procedure.

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STATEMENTS ON APPRAISAL STANDARDS

Statements on Appraisal Standards are authorized by the by-laws of The Appraisal Foundation and are specifically for the purpose of clarification, interpretation, explanation or elaboration of the Uniform Standards of Professional Appraisal Practice (USPAP). Statements have the full weight of a Standards Rule and can only be adopted by the Appraisal Standards Board after exposure and comment.

To date the ASB has adopted eight Statements:

SMT - 1	Standards Rule 3-1 (f) (Review Appraisal)	July 8, 1991
SMT - 2	Discounted Cash Flow Analysis	July 8, 1991
SMT - 3	Retrospective Value Estimates	July 8, 1991
SMT - 4	Prospective Value Estimates	July 8, 1991
SMT - 5	Confidentiality Rule of the Ethics Provision	September 10, 1991
SMT - 6	Reasonable Exposure Time in Market Value Estimates	September 16, 1992
SMT - 7	Permitted Departure from Specific Guidelines for Real Property Appraisals	March 22, 1994
SMT - 8	Electronic Transmission of Reports	July 18, 1995

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STATEMENT ON APPRAISAL STANDARDS NO. 1 (SMT-1)

SUBJECT: Review Appraisal--Clarification of Comment on Standards Rule 3-1 (f)

Standards Rule 3-1(f) and the explanatory comment relating to this rule are stated below:

In reviewing an appraisal, an appraiser must. . .

- (f) **form an opinion as to whether the analysis, opinion, and conclusions in the report under review are appropriate and reasonable, and develop the reasons for any disagreement.**

Comment: Departure from binding requirements (a) through (f) above is not permitted.

An opinion of a different estimate of value from that in the report under review may be expressed, provided the review appraiser:

1. satisfies the requirements of STANDARD 1;
2. identifies and sets forth any additional data relied upon and the reasoning and basis for the different estimate of value; and
3. clearly identifies and discloses all assumptions and limitations connected with the different estimate of value to avoid confusion in the marketplace.

THE ISSUE:

If the review appraiser develops an opinion of a different estimate of value from that in the appraisal report under review, how does the review appraiser satisfy the requirements of Standard 1 and what type of report is required?

THE STATEMENT:

The review appraisal is a different product in both the process and report than the appraisal and appraisal report. The review appraisal process is set forth in Standards Rule 3-1. The requirements for reporting the results of an appraisal review are contained in Standards Rule 3-2. A review appraisal that does not include all of the requirements contained in Standards Rule 3-2 is in violation of the USPAP, since departure from this rule is not permitted.

Review appraisers may have additional information available to them--either locally, regionally, or nationally--that was not available to the original appraiser. It is appropriate for the review appraiser to use this information in estimating value. If the review appraiser finds an error due to omission or commission in the original appraisal report, a different opinion and conclusion may be expected. In complying with Standards Rule 3-1, the review appraiser is checking the compliance of the original appraisal with Standard 1. Those items deemed to be in compliance can be extended to the review appraiser's report. Those items not deemed to be in compliance must be explained and handled in conformity with Standard 1 to produce a credible valuation estimate by the review appraiser. The USPAP does not allow departure from Standards Rules 1-1 and 1-5.

STANDARD 3 requires the review appraiser to produce a review appraisal report in conformity with Standards Rule 3-2. The reporting standard for a review appraisal is different than for the appraisal report under review because the reports serve different purposes. The report under review must be capable of standing alone as a self-contained document, whereas the review appraisal report is a supplementary critique intended for use in conjunction with the report under review. If the review appraiser forms an opinion of value different from that in the report being reviewed, it is not necessary that the opinion be set forth in a separate appraisal report prepared in conformity with Standard Rule 2-2. The opinion of value may be set forth in the review appraisal report, provided that the report identifies and discloses all assumptions and limitations affecting both the development and

SMT-1: Standards Rule 3-1(f) (continued)

the reporting of the review appraiser's opinion of value with the information and data considered, the appraisal procedures followed, and the reasoning supporting the estimate of value.

Conclusions

- The review appraisal is a different product in both the process and report than the appraisal and appraisal report.
- Review appraisers may have additional information available to them. It is appropriate for the review appraiser to use this information in estimating value.
- Those items deemed to be in compliance can be extended to the review appraiser's report.
- Those items not deemed to be in compliance must be explained and handled in conformity with Standard 1.
- The review appraisal report is a supplementary critique intended for use in conjunction with the report under review.
- If the review appraiser forms an opinion of value different from that in the report being reviewed, it is not necessary that the opinion be set forth in a separate appraisal report prepared in conformity with Standard Rule 2-2. The opinion of value may be set forth in the review appraisal report.

Adopted unanimously on July 8, 1991.

Appraisals Standards Board

John J. Leary, Chairman
Sherwood Darington, Vice Chairman
Charles B. Akerson
Daniel A. Dinote, Jr.
John L. Gadd

STATEMENT ON APPRAISAL STANDARDS NO. 2 (SMT-2)

SUBJECT: DISCOUNTED CASH FLOW ANALYSIS

THE ISSUE:

Discounted cash flow (DCF) analysis is an accepted analytical tool and method of valuation within the income capitalization approach to value. DCF is not a new method, but it did not enjoy widespread use until modern computer technology enabled appraisers to automate the process. Because DCF analysis is profit oriented and dependent upon the analysis of uncertain future events, it is vulnerable to misuse. What steps can the appraiser take to avoid misuse of DCF analysis?

THE STATEMENT:

The acceptance of DCF analysis as a method of valuation began in the institutional real estate market and has spread to investment real estate in the general real estate market. DCF techniques may be applied in the valuation or analysis of proposed construction; land development; condominium development or conversion; rehabilitation development; and income-producing real estate of various types. DCF analysis is becoming a requirement of advisors, asset managers, fiduciaries, portfolio managers, syndicators, underwriters and others dealing in investment grade real estate. These users of appraisal services favor the inclusion of DCF analysis as a management tool in projecting cash flow and return expectations, capital requirements, refinancing opportunities and timing of future property dispositions. DCF analysis is regarded as one of the best methods of replicating steps taken to reach investor buy/sell/hold decisions, and is often a part of the exercise of due diligence in the evaluation of an investment.

DCF methodology is based on the principle of anticipation, i.e., value is created by the anticipation of future benefits. DCF analysis reflects investment criteria and requires the appraiser to make empirical and subjective assumptions. DCF analysis can be used for investment value and market value appraisals, as well as for other purposes such as sensitivity tests.

DCF analysis is an additional tool available to the appraiser and is best applied to value estimates in the context of one or more other approaches. This statement focuses on the criteria for proper DCF analysis and does not imply that DCF analysis is or should be the only method employed.

To avoid misuse or misunderstanding when DCF analysis is used in an appraisal assignment to estimate market value, it is the responsibility of the appraiser to ensure that the controlling input is consistent with market evidence and prevailing market attitudes. Market value DCF analyses should be supported by market derived data, and the assumptions should be both market and property specific. Market value DCF analyses are intended to reflect the expectations and perceptions of market participants along with available factual data. They should be judged on the market support for the forecasts when made, not whether specific items in the forecasts are realized. An appraisal report which includes the results of DCF analysis must clearly state the assumptions on which the analysis is based and must set forth the relevant data used in the analysis.

Standards Rule 1-1(b) states that the appraiser must not commit a substantial error of omission or commission that significantly affects the appraisal. Standards Rule 1-1(c) states that the appraiser must not render appraisal services in a careless or negligent manner, such as a series of errors that, considered individually, may not significantly affect the results of an appraisal but which, when considered in the aggregate would be misleading. These two rules are significantly for DCF analysis because of the potential for the compounding effect of errors in the input, unrealistic assumptions, and programming errors.

Computer printouts showing the results of DCF analysis may be generated by commercial software or by

SMT-2: Discounted Cash Flow Analysis (continued)

software prepared by the appraiser. Either way, the appraiser is responsible for the entire analysis including the controlling input, the calculations, and the resulting output. The appraiser should cite the name and version of the software and provide a brief description of the methods and assumptions inherent in the software.

Standards Rule 1-4(h) requires realistic forecasts in the appraisal of proposed improvement and development projects. Standards Rule 1-4(c) requires that estimates of anticipated future rent and expenses be based on reasonable clear and appropriate evidence. The explanatory comment to this rule makes specific reference to cash flow projections, the essence of DCF analysis.

DCF accounts for and reflects those items and forces that affect the revenue, expenses and ultimate earning capacity of real estate and represents a forecast of events that would be considered likely within a specific market. For example, in the appraisal of a multi-tenant property, a lease-by-lease analysis addresses contract and market rents, specific escalations, operating expenses, pass-through provisions, market derived or specific concessions, capital expenditures, and any other measurable specific provisions applicable. Revenue growth rate or decline rate assumptions are premised upon analysis of supply/demand factors and other economic conditions and trends within the market area of the subject. Operating expense change rates should reflect both overall expense trends and the specific trend of significant expense items.

Discount rates applied to cash flows and estimates of reversion should be derived from data and information in the real estate and capital markets. Surveys of investor opinion and yield indices are also useful in the rate selection process, but only when the type of and market for the real estate being appraised is consistent with the type of and market for the real estate typically acquired by the investors interviewed in the survey. Considerations used in the selection of rates are risk, inflation, and real rates of return.

When reversion capitalization rates are used, they should reflect investor expectations considering the real estate type, age and condition, cash flow characteristics, and related factors. The projection period is a variable and should be set on the basis of the facts and circumstances of each analysis.

The results of DCF analysis should be tested and checked for errors and reasonableness. Because of the compounding effects in the projection of income and expenses, even slight input errors can be magnified and can produce unreasonable results. As examples, it is good practice to test whether cash flows are changing at reasonable rates, and to compare the reversion capitalization rate with the inferred entrance capitalization rate to see if the relationship between these rates is reasonable and explainable.

Standards Rule 2 requires the appraiser to communicate each analysis, opinion and conclusion in a manner that is not misleading. Appraisals using the DCF method in the income capitalization approach may contain computerized projects of itemized future cash flow supported by exhaustive printouts that can be misleading. The seeming precision of computer generated projects may give the appearance of certainty to projections that are actually variable within a wide range. In DCF analysis, all the assumptions (growth rates, decline rates, rental rates, discount rates, financing terms, expenses trends, capitalization rates, etc.) directly affect the conclusion and must be clearly and accurately disclosed in the appraisal report.

Conclusions

- DCF analysis is an additional tool available to the appraiser and is best applied to value estimates in the context of one or more other approaches.
- It is the responsibility of the appraiser to ensure that the controlling input is consistent with market evidence and prevailing market attitudes.

SMT-2: Discounted Cash Flow Analysis (continued)

- Market value DCF analyses should be supported by market derived data, and the assumptions should be both market and property specific.
- The appraiser should cite the name and version of the software and provide a brief description of the methods and assumptions inherent in the software.
- DCF accounts for and reflects those items and forces that affect the revenue, expenses and ultimate earning capacity of real estate and represents a forecast of events that would be considered likely within a specific market.
- The results of DCF analysis should be tested and checked for errors and reasonableness.
- Standards Rule 1-1(b) states that the appraiser must not commit a substantial error of omission or commission that significantly affects the appraisal.

Adopted unanimously on July 8, 1991.

Appraisal Standards Board

John J. Leary, Chairman
Sherwood Darington, Vice Chairman
Charles B. Akerson
Daniel A. Dinote, Jr.
John L. Gadd

STATEMENT ON APPRAISAL STANDARDS NO. 3 (SMT-3)

SUBJECT: Retrospective Value Estimates

THE ISSUE:

Two dates are essential to an appraisal report. Standards Rules 2-2(a)(v), 2-2(b)(v) and 2-2(c)(v) require that each appraisal report specify the effective date of the appraisal and the date of the report. The date of the report indicates the perspective from which the appraiser is examining the market. The effective date of the appraisal establishes the context for the value estimate. Three categories of effective dates--retrospective, current, or prospective--may be used according to the purpose and function of the appraisal assignment. When a retrospective effective date is used, how can the appraisal be prepared and presented in a manner that is not misleading?

THE STATEMENT:

Retrospective appraisals (effective date of the appraisal prior to the date of the report) may be required for property tax matters, estate or inheritance tax matters, condemnation proceedings, suits to recover damages, and similar situations.

Current appraisals occur when the effective date of the appraisal is contemporaneous with the date of the report. Since most appraisals require current value estimates, the importance of specifying both the date of the report and effective date of the analysis is sometimes lost.

Prospective appraisals (effective date of the appraisal subsequent to the date of the report) may be required for valuations of property interests related to proposed developments, as the basis for value at the end of a cash flow projection, and for other reasons (See SMT-4 on Prospective Value Estimates.)

The use of clear and concise language and appropriate terminology in appraisal reports helps to eliminate the preparation of misleading reports. To avoid confusion, the appraiser must clearly establish the date to which the value estimate applies. In retrospective value estimates, use of a modifier for the term market value and past verb tenses increases clarity (e.g. "... the retrospective market value was ..." instead of "... the market value is ...").

A retrospective appraisal is complicated by the fact that the appraiser already knows what occurred in the market after the effective date of the appraisal. Data subsequent to the effective date may be considered in estimating a retrospective value as a confirmation of trends that would reasonably be considered by a buyer or seller as of that date. The appraiser should determine a logical cut-off since, at some point distant from the effective date, the subsequent data will not reflect the relevant market. This is a difficult determination to make. Studying the market conditions as of the date of the appraisal assists the appraiser in judging where he or she should make this cut-off. In the absence of evidence in the market that data subsequent to the effective date was consistent with and confirmed market expectations as of the effective date, the effective date should be used as the cut-off date for data considered by the appraiser.

Use of direct excerpts from then current appraisal reports prepared at the time of the retrospective effective date helps the appraiser and the reader understand market conditions as of the retrospective effective date.

Conclusions

--- A retrospective appraisal is complicated by the fact that the appraiser already knows what occurred in the market after the effective date of the appraisal.

SMT-3: Retrospective Value Estimates (continued)

- Data subsequent to the effective date may be considered in estimating a retrospective value as a confirmation of trends.
- The appraiser should determine a logical cut-off.
- Use of direct excerpts from then current appraisal reports prepared at the time of the retrospective effective date helps the appraiser and the reader understand market conditions as of the retrospective effective date.
- In the absence of evidence in the market that data subsequent to the effective date was consistent with and confirmed market expectations as of the effective date, the effective date should be used as the cut-off date.

Adopted unanimously on July 8, 1991.

Appraisal Standards Board

John J. Leary, Chairman
Sherwood Darington, Vice Chairman
Charles B. Akerson
Daniel A. Dinote, Jr.
John L. Gadd

STATEMENT ON APPRAISAL STANDARDS NO. 4 (SMT-4)

SUBJECT: Prospective Value Estimates

THE ISSUE:

Two dates are essential to an appraisal report. Standards Rules 2-2(a)(v), 2-2(b)(v) and 2-2(c)(v) require that each appraisal report specify the effective date of the appraisal and the date of the report. The date of the report indicates the perspective from which the appraiser is examining the market. The effective date of the appraisal establishes the context for the value estimate. Three categories of effective dates--retrospective, current, or prospective--may be used according to the purpose and function of the appraisal assignment. When a prospective effective date is used, how can the appraisal be prepared and presented in a manner that is not misleading?

THE STATEMENT:

Retrospective appraisals (effective date of the appraisal prior to the date of the report) may be required for property tax matters, estate or inheritance tax matters, condemnation proceedings, suits to recover damages, and similar situations (See SMT-3 on Retrospective Value Estimates.)

Current appraisals occur when the effective date of the appraisal is contemporaneous with the date of the report. Since most appraisals require current value estimates, the importance of specifying both the date of the report and effective date of the analysis is sometimes lost.

Prospective appraisals (effective date of the appraisal subsequent to the date of the report) may be required for valuations of property interests related to proposed developments, as the basis for value at the end of a cash flow project, and for other reasons.

The use of clear and concise language and appropriate terminology in appraisal reports helps to eliminate the preparation of misleading reports. To avoid confusion, the appraiser must clearly establish the date to which the value estimate applies. In prospective value estimates, use of the term market value without a modifier such as forecasted or prospective and without future verb tenses is improper (i.e., "... the prospective market value is expected to be ..." and not "... the market value is ...").

Prospective value estimates are intended to reflect the current expectations and perceptions of market participants along with available factual data. They should be judged on the market support for the forecasts when made, not whether specific items in the forecasts are realized.

When prospective value estimates are required with regard to proposed improvements, Standards Rule 1-4(h) regarding the scope, character and probable time of completion of the proposed improvements and Standards Rule 1-4(c) regarding the basis for anticipated future rent and expenses are relevant. Evidence that proposed improvements can be completed by the effective date of the appraisal is important. Support for estimated income and expenses at the time of completion of proposed improvements and during the rent-up or sell-out period requires the incorporation of sufficient market research in the appraisal and the consideration of existing and future competition. It is appropriate to study comparable projects for evidence of construction periods, development costs, income and expense levels, and absorption. Items such as rental concessions, commissions, tenant finish allowances, add-on factors, and expense pass-throughs, must be studied to estimate realistic income expectancy.

With regard to proposed developments, two prospective value estimates may be required: as of the time the development is to be completed and as of the time the development is projected to achieve stabilized occupancy. These prospective values form a basis for investment decisions and loan underwriting.

SMT-4: Prospective Value Estimates (continued)

In a prospective appraisal, the appraiser analyzes market trends to provide support for forecasted income and expense or sell-out estimates, absorption periods, capitalization rates, and discount rates as of the effective date of the appraisal. Economic trends such as growth in population, employment, and future competition are also analyzed. The overall economic climate and variations in the business cycle should be considered and weighed in the performance of the valuation process. All value conclusions should include reference to the time frame when the analysis was prepared to clearly delineate the market conditions and point of reference from which the appraiser developed the prospective value estimates. It is essential to include a limiting condition citing the market conditions from which the prospective value estimate was made and indicating that the appraiser cannot be held responsible for unforeseeable events that alter market conditions prior to the effective date of the appraisal.

Conclusions

- Prospective value estimates are intended to reflect the current expectations and perceptions of market participants along with available factual data. They should be judged on the market support for the forecasts when made, not whether specific items in the forecasts are realized.
- It is appropriate to study comparable projects for evidence of construction periods, development costs, income and expenses levels, and absorption.
- Items such as rental concessions, commissions, tenant finish allowances, add-on factors, and expense pass-throughs, must be studied to estimate realistic income expectancy.
- All value conclusions should include reference to the time frame when the analysis was prepared to clearly delineate the market conditions and point of reference from which the appraiser developed the prospective value estimate.
- It is essential to include a limiting condition citing the market conditions from which the prospective value estimate was made and indicating that the appraiser cannot be held responsible for unforeseeable events that alter market conditions prior to the effective date of the appraisal.

Adopted unanimously on July 8, 1991.

Appraisal Standards Board

John J. Leary, Chairman
Sherwood Darington, Vice Chairman
Charles B. Akerson
Daniel A. Dinote, Jr.
John L. Gadd

STATEMENT ON APPRAISAL STANDARDS NO. 5 (SMT-5)

SUBJECT: Confidentiality Rule of the ETHICS PROVISION

The Confidentiality rule and the explanatory comment relating to this rule are stated below:

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

Comment: An appraiser must not discuss confidential factual data obtained from a client or the results of an assignment prepared for a client to anyone other than: 1) the client and persons specifically authorized by the client; 2) such third parties as may be authorized by due process of law; and 3) a duly authorized professional peer review committee. As a corollary, it is unethical for a member of a duly authorized professional peer review committee to disclose confidential information or factual data presented to the committee.

THE ISSUE:

The appraiser-client relationship begins with and is governed by a written or oral contract or engagement between the appraiser and the client. What are the confidential aspects of the appraiser-client relationship that the appraiser must protect under the USPAP?

THE STATEMENT:

Fiduciary responsibilities are inherent in professional appraisal practice. The confidential nature of the appraiser's relationship with the client was recognized by the appraisal profession before December 4, 1989, the date of the ETHICS PROVISION amendment to the USPAP, as evidenced by codes of professional ethics of a number of professional appraisal organizations.

The obligation of the appraiser to protect the confidential nature of the appraiser-client relationship is neither absolute nor clearly understood.

Under USPAP, an appraiser must act in good faith with regard to the legitimate interests of the client in the use of the written or oral appraisal report and the disclosure of confidential elements of the appraisal report or disclosure of confidential information given to the appraiser by the client for use in connection with the appraisal.

Obviously, there is no violation of the Confidentiality rule when an appraiser discloses the results of an assignment or confidential factual data obtained from a client to the client and all other persons specifically authorized by the client.

However, the appraiser-client relationship envisioned in the USPAP is not comparable, for example, to the attorney-client relationship because there is no violation of the Confidentiality rule when an appraiser discloses, without the client's permission, the results of an assignment or confidential factual data obtained from a client to third parties authorized under due process of law or to a duly authorized professional peer review committee. Disclosure under these circumstances serves the superior interests of the public and the appraisal profession in uncovering suppression of material information or advocacy through misuse or abuse of the Confidentiality rule.

The results of an assignment prepared for a client are the appraiser's analyses, opinions, and conclusions pertinent to the assignment. These are clearly confidential matters under the USPAP and may only be disclosed to the three groups cited in the comment to the Confidentiality rule.

Under the USPAP, an appraiser may only disclose confidential data obtained from client to the persons within the same three cited groups. Consequently, the meaning of "confidential factual data obtained from the client" is

SMT-5: Confidentiality Rule of the Ethics Provision (continued)

critically important because factual data obtained from a client that is not deemed confidential may be disclosed by an appraiser without the client's permission.

Market data is necessary to the appraisal profession and the quality of work that the public has a right to expect from professionals. To hold that all factual data obtained from the client are confidential simply because they were given to the appraiser for use in connection with the appraisal is an extremely broad and arbitrary construction that unduly burdens the appraiser without a compensating benefit to the public. Less available data tends to diminish the quality of appraisal services.

With regard to factual data supplied to the appraiser by the client, the client is in the best position to decide what data must be considered confidential and to provide an explanation for such a determination. The USPAP recognize that such data are to be treated as confidential only when the client specifically instructs the appraiser that the factual data are confidential. Data furnished by the client to potential buyers or mortgagees without a confidentiality condition do not become confidential when given to the appraiser. All other factual data obtained by the appraiser from any source are not recognized as confidential by the USPAP, unless the appraiser knows of the confidential nature of the data.

When the appraisal report is addressed to the client, any confidential factual data given to the appraiser by the client and relied upon in the appraiser's analyses, opinions, or conclusions may be specifically cited in the report without violation of the Confidentiality rule.

Conclusions

- Fiduciary responsibilities are inherent in professional appraisal practice.
- Under USPAP, an appraiser must act in good faith with regard to the legitimate interests of the client.
- The results of an assignment prepared for a client are the appraiser's analyses, opinions, and conclusions pertinent to the assignment. These are clearly confidential matters under USPAP and may only be disclosed to the three groups cited in the comment to the Confidentiality rule.
- With regard to factual data supplied to the appraiser by the client, the client is in the best position to decide what data must be considered confidential and to provide an explanation for such a determination.
- Data furnished by the client to potential buyers or mortgagees without a confidentiality condition do not become confidential when given to the appraiser.

Adopted unanimously on September 10, 1991.

Appraisal Standards Board

John J. Leary, Chairman
Sherwood Darington, Vice Chairman
Charles B. Akerson
Daniel A. Dinote, Jr.
John L. Gadd

STATEMENT ON APPRAISAL STANDARDS NO. 6 (SMT-6)

SUBJECT: Reasonable Exposure Time in Market Value Estimates

THE ISSUE:

In the USPAP, the Comment to Standards Rule 1-2(b) states:

When estimating market value, the appraiser should be specific as to the estimate of exposure time linked to the value estimate.

The Comments to Standards Rules 2-2(a)(v) and 2-2(b)(v) state:

. . . Defining the value to be estimated requires both an appropriately referenced definition and any comments needed to clearly indicate to the reader how the definition is being applied [See Standards Rule 1-2(b)]. . . .

How is this reasonable exposure time estimated? When is it presumed to occur, i.e., prior to or starting from the effective date of the appraisal?

THE STATEMENT:

Reasonable exposure time is one of a series of conditions in most market value definitions. Exposure time is always presumed to precede the effective date of the appraisal.

Exposure time may be defined as follows: The estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal; a retrospective estimate based upon an analysis of past events assuming a competitive and open market.

Exposure time is different for various types of real estate and under various market conditions. It is noted that the overall concept of reasonable exposure encompasses not only adequate, sufficient and reasonable time but also adequate, sufficient and reasonable effort. This statement focuses on the time component.

The fact that exposure time is always presumed to occur prior to the effective date of the appraisal is substantiated by related facts in the appraisal process; supply/demand conditions as of the effective date of the appraisal; the use of current cost information; the analysis of historical sales information (sold after exposure and after completion of negotiations between the seller and buyer); and the analysis of future income expectancy estimated from the effective date of the appraisal.

Rationale and Method for Estimating Reasonable Exposure Time

The estimate of the time period for reasonable exposure is not intended to be a prediction of a date of sale or a one-line statement. Instead, it is an integral part of the analysis conducted during the appraisal assignment. The estimate may be expressed as a range and can be based on one or more of the following:

- * statistical information about days on market;
- * information gathered through sales verification; and,
- * interviews of market participants

SMT-6: Reasonable Exposure Time in Market Value Estimates (continued)

Related information garnered through this process include the identification of typical buyers and sellers for the type of real estate involved and typical equity investment levels and/or financing terms.

The reasonable exposure period is a function of price, time and use, not an isolated estimate of time alone. As an example, an office building could have been on the market for two years at a price of \$2,000,000 that informed market participants considered unreasonable. Then, the owner lowers the price to \$1,600,000 and starts to receive offers, culminating in a transaction at \$1,400,000 six months later. While the actual exposure time was 2.5 years, the reasonable exposure time at a value range of \$1,400,000 to \$1,600,000 would be six months. The answer to the question "what is reasonable exposure time?" should always incorporate the answers to the question "for what kind of real estate at what value range?" rather than appear as a statement of an isolated time period.

Discussion of Exposure Time in the Appraisal Report

The discussion of reasonable exposure time should appear in an appropriate section of the appraisal report that presents the discussion and analysis of market conditions and be referenced at the statement of the value definition and value conclusion.

Applications to Client Uses of an Appraisal

When an appraisal is commissioned as the result of a mortgage application after a potential seller and buyer enter into a Contract for Sale, no conflict exists between the presumption in the appraisal process that exposure time occurs prior to the effective date of the appraisal and the function (client use) of the appraisal.

When an appraisal is commissioned for employee relocation, asset evaluation, foreclosure, or asset management purposes, the presumption in the appraisal process that exposure time occurs prior to the effective date of the appraisal may conflict with the function of the appraisal as envisioned by the client.

Problems arise when clients attempt to make business decisions or account for assets without understanding the difference between reasonable exposure time and marketing time (see related Advisory Opinion G-7 on Marketing Time Estimates).

Conclusions

- The reasonable exposure time inherent in the market value concept is always presumed to precede the effective date of the appraisal.
- Exposure time is different for various types of real estate and under various market conditions.
- The answer to the question "what is reasonable exposure time?" should always incorporate the answers to the question "for what kind of real estate at what value range?" rather than appear as a statement of an isolated time period.

Adopted unanimously on September 16, 1992.

Appraisal Standards Board

John J. Leary, Chairman
Sherwood Darington, Vice Chairman
Daniel A. Dinote, Jr.
John L. Gadd
Ritch LeGrand

STATEMENT ON APPRAISAL STANDARDS NO. 7 (SMT-7)

SUBJECT: Permitted Departure from Specific Guidelines for Real Property Appraisals

THE ISSUE:

When is it appropriate to invoke the Departure Provision in performing real property appraisals, and what are the reporting requirements when the Departure Provision is utilized?

Throughout the history of real property appraisal practice, a perception has existed that certain types of transactions in the real estate market require something less than or different from a Complete Appraisal. The phrase *something less than or different from* in this context has meant a Limited Appraisal and a condensed report. To distinguish this type of assignment from a Complete Appraisal, different names have been created for this activity, including Letter Opinion of Value, Update of an Appraisal, Recertification of Value, and, more recently, Evaluation of Real Property Collateral.

When legitimate requests are made by a knowledgeable client or client group for a Limited Appraisal for a particular transaction or type of transaction, do the Uniform Standards of Professional Appraisal Practice allow an appraiser to perform such a service? If so, under what conditions?

THE STATEMENT:

Relevant USPAP References

In the DEFINITIONS Section of USPAP, the Comment to the definition of Appraisal Practice states:

“... The use of other nomenclature by the appraiser (e.g. analysis, counseling, evaluation, study, submission, valuation) does not exempt an appraiser from adherence to these standards.”

The DEPARTURE PROVISION of USPAP states:

“An appraiser may enter into an agreement to perform an assignment that calls for something less than, or different from, the work that would otherwise be required by the specific guidelines...”

This provision goes on to permit limited departures from specific guidelines provided the appraiser determines the appraisal process is not so limited as to mislead the client and intended users of the report, the appraiser advises the client of the limitations and discloses the limitations in the report, and the client agrees that the limited service would be appropriate.

The following definitions from the DEFINITIONS section of USPAP are also relevant to the understanding of the response to this issue:

Appraisal: (noun) The act or process of estimating value; an estimate of value.

Complete Appraisal: The act or process of estimating value or an estimate of value performed without invoking the Departure Provision.

Limited Appraisal: The act or process of estimating value or an estimate of value performed under and resulting from invoking the Departure Provision.

Binding Requirement: All or part of a standards rule of USPAP from which departure is not permitted.

SMT-7: Permitted Departure from Specific Guidelines for Real Property Appraisals (continued)

Specific Guideline: All or part of a standards rule of USPAP from which departure is permitted under certain limited conditions.

Report: Any communication, written or oral, of an appraisal, review or consulting service that is transmitted to the client upon completion of an assignment.

Self-Contained Appraisal Report: A written report prepared under Standards Rule 2-2(a) of a Complete or Limited Appraisal performed under Standard 1.

Summary Appraisal Report: A written report prepared under Standards Rule 2-2(b) of a Complete or Limited Appraisal performed under Standard 1.

Restricted Appraisal Report: A written report prepared under Standards Rule 2-2(c) of a Complete or Limited Appraisal performed under Standard 1.

In STANDARD 1 (Developing a Real Property Appraisal), the specific guidelines from which an appraiser is permitted to depart are Standards Rules 1-2, 1-3, and 1-4. These standards rules outline most of the operational steps in the valuation process (See Attached Chart).

In STANDARD 2 (Reporting the Results of a Real Property Appraisal), Standards Rule 2-2 is a binding requirement that mandates one of three options for report formats, and all three options state:

When the Departure Provision is invoked, the assignment is deemed to be a Limited Appraisal. Use of the term Limited Appraisal makes it clear that the assignment involved something less than, or different from the work required by the specific guidelines. The report of a Limited Appraisal must contain a prominent section that clearly identifies the extent of the appraisal process performed and the departures taken.

Response to the Issue

The DEPARTURE PROVISION and STANDARD 1 permit the development of two types of appraisal (Complete Appraisal and Limited Appraisal). Appraisers are trained and qualified to identify when a Limited Appraisal is appropriate. At the same time, appraisers must adhere to USPAP in the performance of all types of assignments.

As long as the appraiser determines that the request for something less than or different from a Complete Appraisal would not result in a misleading analysis, then the DEPARTURE PROVISION can be invoked and the assignment can be accepted and performed.

Limited Appraisal

The client or client group that requests a Limited Appraisal is often a frequent user of appraisals and has determined that a Complete Appraisal is not required for the matter at hand, or wants to monitor the validity of a prior Complete Appraisal.

To make the initial determination that the requested Limited Appraisal is appropriate, the appraiser must at least know the level of understanding that the client has of the type of real estate and market conditions involved and the intended use of the appraisal. In addition, the appraiser would have to believe that the valuation method (s) to be

SMT-7: Permitted Departure from Specific Guidelines for Real Property Appraisals (continued)

used were of primary relevance to the appraisal of the type of real estate involved in order to conclude that the resulting analysis and report would not be misleading. As examples: for residential real estate or owner-occupied real estate, a limited assignment might consist of only developing a sales comparison approach; for income-producing real estate, only the income capitalization approach might be developed.

It is not always appropriate to expect a single point estimate of value when a Limited Appraisal is authorized and performed. The resulting estimate of value may be expressed as a single point value estimate, a range in value, or a value relationship (e.g. not less than, not more than) from a previous value estimate or established benchmark (e.g. assessed value, collateral value).

Reporting Requirements

Standards Rule 2-2 is a binding requirement that sets forth three options for any written report (Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Appraisal Report) and content items for each option.

USPAP does not dictate the form, format, or style of appraisal reports. The form, format and style of a report are functions of the needs of users and providers of appraisal services. USPAP also does not mandate that each appraisal report be lengthy and full of disclaimers. In fact, the opposite is true. The comment to Standards Rule 2-2(a)(viii) is significant in this regard and includes the following statements:

“...Each item must be addressed in the depth and detail required by its significance to the appraisal...The substantive content of the report, not its size, determines its compliance.”

Clarification of Nomenclature

Various nomenclature has been developed by clients and client groups for certain appraisal assignments. The development of this Statement on Appraisal Standards is a response to inquiries about several types of appraisal assignments, and it is appropriate to clarify the meaning of these terms for future reference.

The term *Letter Opinion of Value* has been used to describe a one-page letter sent to a client that stated a value estimate and referenced the file information and experience of the appraiser as the basis for the estimate. This type of services does not comply with USPAP, and should be eliminated from appraisal practice. USPAP recognizes that the results of any appraisal assignment may be presented in a letter format provided that the content items in one of the three report options under Standards Rule 2-2 are addressed. The Restricted Report is the minimum report format and replaces the concept of the *Letter Opinion of Value*.

The term *Update of an Appraisal* is defined as an extension of an original Complete or Limited Appraisal and report relied on by a client for a prior business decision. The Update of an Appraisal changes the effective date of the value estimate. See Advisory Opinion G-3 for a further discussion and description of this type of appraisal assignment.

The term *Recertification of Value* has been mistakenly used in lieu of the term *Update of an Appraisal* by some clients. A *Recertification of Value* is a Limited Appraisal performed in order to confirm whether or not the completed improvements and market conditions at the time of completion are consistent with statements in an earlier prospective appraisal that was made based on plans and specifications for proposed improvements. A Recertification of Value does not change the effective date of the value estimate.

The term *Evaluation of Real Property Collateral* is used by financial institutions. When an appraiser accepts an

SMT-7: Permitted Departure from Specific Guidelines for Real Property Appraisals (continued)

assignment from a financial institution to perform an *Evaluation of Real Property Collateral*, the assignment becomes a Limited Appraisal as outlined in this statement.

Levels of Reliability

While no appraisal conclusion is a guarantee, USPAP allows for different levels of reliability in real property appraisals. The highest level of reliability is a Complete Appraisal performed without invoking the DEPARTURE PROVISION. Limited Appraisals performed under and resulting from invoking the DEPARTURE PROVISION have varying levels of reliability.

Both appraisers and users of appraisal services must realize that, as the degree of departure increases, the corresponding level of reliability of the Limited Appraisal decreases and the user of the appraisal service accepts a higher level of risk.

The reliability of the results of a Complete Appraisal or a Limited Appraisal developed under STANDARD 1 is not affected by the type of appraisal report prepared under STANDARD 2. The extent of the appraisal process performed under STANDARD 1 is the basis for the reliability of the value conclusion.

When reporting the result of a Limited Appraisal, the appraiser must disclose permitted departures in compliance with Standards Rule 2-2(a)(xi), (b)(xi), or (c)(xi) so that the client and intended users of the report can understand the level of reliability of the Limited Appraisal. Specifically, these rules require that the report of a Limited Appraisal must contain a prominent section that clearly identifies the extent of the appraisal process performed and the departures taken.

Conclusions

- Appraisers are trained and qualified to identify when a Limited Appraisal is appropriate. At the same time, appraisers must adhere to USPAP in the performance of all types of assignments.
- As long as the appraiser determines that the request for something less than or different from a Complete Appraisal would not result in a misleading analysis and report, then the DEPARTURE PROVISION can be invoked and the assignment can be accepted and performed.
- To make the initial determination that the requested Limited Appraisal is appropriate, the appraiser must at least know the level of understanding that the client has of the type of real estate and market conditions involved and the intended use of the appraisal.
- It is not always appropriate to expect a single point estimate of value when a Limited Appraisal is authorized and performed. The resulting estimate of value may be expressed as a single point value estimate, a range in value, or a value relationship (e.g. not less than, not more than) from a previous value estimate or established benchmark (e.g. assessed value, collateral value).
- Standards Rule 2-2 is a binding requirement that sets forth three options for any written report (Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Appraisal Report) and content items for each option.
- While no appraisal conclusion is a guarantee, USPAP allows for different levels of reliability in real property appraisals. The highest level of reliability is a Complete Appraisal performed without invoking

**SMT-7: Permitted Departure from Specific Guidelines for Real Property Appraisals
(continued)**

the DEPARTURE PROVISION.

- Limited Appraisals performed under and resulting from invoking the DEPARTURE PROVISION have varying levels of reliability.
- Both appraisers and users of appraisal services must realize that, as the degree of departure increases, the corresponding level of reliability of the Limited Appraisal decreases and the user of the appraisal service accepts a higher level of risk.
- The reliability of the results of a Complete Appraisal or a Limited Appraisal developed under STANDARD 1 is not affected by the type of appraisal report prepared under STANDARD 2. The extent of the appraisal process performed under STANDARD 1 is the basis for the reliability of the value conclusion.
- When reporting the result of a Limited Appraisal, the appraiser must disclose permitted departures in compliance with Standards 2-2(a)(xi), (b)(xi), or (c)(xi) so that the client and intended users of the report can understand the level of reliability of the Limited Appraisal.

Adopted unanimously on March 22, 1994.

Appraisal Standards Board

Sherwood Darington, Chairman
Daniel A. Dinote, Jr., Vice Chairman
John J. Leary
Tim Leberman
Ritch LeGrand

RELATIONSHIP BETWEEN USPAP STANDARDS 1-2 AND THE REAL PROPERTY VALUATION PROCESS

THE REAL PROPERTY VALUATION PROCESS

UNIFORM STANDARDS REFERENCES

DEFINE THE APPRAISAL PROBLEM

Identify and Locate the Real Estate
 Identify the Property Rights to be Valued
 Establish Date(s) of Value Estimate(s)
 Identify the Use of the Appraisal
 Define Value(s) to be Estimated
 Identify Limiting Conditions or Limitations

DEVELOPMENT RULES	REPORTING RULES
Ethics Provision Competency Provision Departure Provision Definitions Standards Rules 1-1, 1-2	Standards Rule 2-1 Standards Rule 2-2: (a) (i) through (vii) (b) (i) through (vii) (c) (i) through (vii)

PRELIMINARY ANALYSIS AND PLAN: SELECT AND COLLECT DATA

General (Market):	Subject Property:	Competitive Properties:
Market Analysis	Property Analysis	Comparison Analysis
Demand Components	Site/Improvements	Sales
Supply Components	Size	Rentals
Trends	Age and Condition	Costs
Forecasts	Location	Elements of Comparison
	Legal (Title, Use)	Units of Comparison

Standards Rule 1-3	Standards Rule 2-2: (a) (viii) (b) (viii) (c) (viii)
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ESTIMATE HIGHEST AND BEST USE

Land as if Vacant and Available
 Property as Improved (Existing or Proposed)

Standards Rule 1-3	Standards Rule 2-2: (a) (ix), (b) (ix), (c) (ix)
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ESTIMATE LAND/SITE VALUE (AS DEFINED)

Sales Comparison	Income Capitalization	Subdivision/Development
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Standards Rule 1-4(a)	Standards Rule 2-2: (a) (x) and (xi) (b) (x) and (xi) (c) (x) and (xi)
Standards Rule 1-4	
Standards Rule 1-5	

ESTIMATE IMPROVED PROPERTY VALUE (AS DEFINED)

Cost	Sales Comparison	Income Capitalization
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RECONCILE VALUE INDICATORS; REACH DEFINED VALUE ESTIMATE

REPORT ESTIMATE(S) OF VALUE(S) AS DEFINED

Standard 2	Standards Rule 2-3
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STATEMENT ON APPRAISAL STANDARDS NO. 8 (SMT-8)

SUBJECT: Electronic Transmission of Reports

THE ISSUE:

The Record Keeping section of the **ETHICS PROVISION** states that written records of assignments include true copies of written reports. The term *written records* also includes information stored on electronic, magnetic, or other media. Standards 2, 3, 5, 6, 8 and 10 specify the reporting requirements for reports. What constitutes an acceptable electronic transmission of appraisal, consultation or review appraisal reports?

THE STATEMENT:

Relevant USPAP References

The requirement that a report must "clearly and accurately set forth the appraisal in a manner that will not be misleading" appears in Standards Rules 2-1(a), 5-1(a), 6-7(a), 8-1(a) and 10-1(a).

Standards Rule 3-2(c) requires that an appraiser must set forth the opinions, reasons, and conclusions required in Standards Rule 3-1(c), (d), (e) and (f).

Standards Rules 2-2(a)(xii), (b)(xii), (c)(xii); 3-2(e); 5-2(j); 6-7(1); 8-2(n); and 10-2(j) require each written report to contain a signed certification. Suggested specific content items for a certification are included in Standards Rules 2-3, 3-2(e), 5-3, 6-8, 8-3 and 10-3.

Effective January 1, 1996, the Explanatory Comment to the Record Keeping section of the **ETHICS PROVISION** will state: "... A workfile may also include information stored on electronic, magnetic or other media ..."

Transmission Standards

Technology now permits a report to be transmitted to the client by electronic means, thereby making the additional submission of a paper copy unnecessary. An electronically transmitted report is a written report and must meet the USPAP reporting requirements.

Submission of a report by modem or other computer to computer link constitutes electronic transmission subject to the requirements of this Statement. For clarification, submission of a paper copy report by facsimile with a hand written mark for the signature does not constitute electronic transmission as discussed in this Statement.

Integrity of Report Transmission

Report transmission addresses data integrity, not the format of the report. However, every transmitted report must meet minimum USPAP reporting content requirements, including a signed certification.

Appraisers must take reasonable steps to protect the data integrity of transmitted reports. The following steps should be used depending on the client and type of report to be transmitted:

- * Enter into a written agreement with the client that clearly states the responsibilities and obligations of the appraisers and the client;

SMT-8: Electronic Transmission of Reports (continued)

- * Use computer software that provides, at a minimum, the following security measures:
 - Identifies transmission errors during the transmission process;
 - Confirms date, time and quantity of data transmitted by the appraiser and the date, time and quantity of data received by the client (which could be different from transmission dates); and
 - Protects signature integrity.

Signed Certification

Any software program used to electronically transfer a report must provide, at minimum, a digital signature security feature for all appraisers signing a report. The appraiser(s) should ensure the signature(s) are protected and that only the appraiser(s) maintain control of the signature. This control may be maintained by passwords (e.g. PIN numbers), hardware devices (e.g. secure cards) or other means. Electronically affixing a signature to a report carries the same level of authenticity and responsibility as an ink signature on a paper copy report.

The definition of signature in a signed certification under USPAP is as follows:

SIGNATURE: personalized evidence indicating authentication of the work performed by the appraiser and the acceptance of the responsibility for content, analyses, and the conclusions in the report.

Comment: A signature can be represented by a hand written mark, a digitized image controlled by a personalized identification number, or other media, where the appraiser has sole personalized control of affixing the signature.

Record Keeping

The Record Keeping section of the **ETHICS PROVISION** applies to all reports and permits storage on electronic, magnetic or other media. A true electronic and/or paper copy of the transmission must be retained by the appraiser. A paper copy of an electronically transmitted report is not required.

Conclusions

- * An electronically transmitted report is a written report and must meet the USPAP reporting requirements.
- * Appraisers must take reasonable steps to protect the data integrity of transmitted reports.
- * Any software program used to electronically transfer a report must provide, at a minimum, a digital signature security feature for all appraisers signing a report.
- * Electronically affixing a signature to a report carries the same level of authenticity and responsibility as an ink signature on a paper copy report.

DRAFT OF AUGUST 31, 1995

SMT-8: Electronic Transmission of Reports (continued)

The Record Keeping section of the **ETHICS PROVISION** applies to all reports and permits storage on electronic, magnetic or other media. A true electronic and/or paper copy of the transmission must be retained by the appraiser.

Adopted unanimously on July 18, 1995.

Appraisal Standards Board

Sherwood Darington, Chair
Tim Leberman, Vice-Chair
Daniel A. Dinote, Jr.
W. David Snook
Laurie Van Court

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register pursuant to s. 227.22 (2) (intro.), Stats.

Dated

4/19/96

Agency

Patricia C. McCormack
Patricia McCormack, Deputy Secretary
Department of Regulation and Licensing

4/19/96

