

Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute

2008 Edition

Note About the Standards of Professional Appraisal Practice of the Appraisal Institute

The Standards of Professional Appraisal Practice of the Appraisal Institute are composed of the Uniform Standards of Professional Appraisal Practice (USPAP), promulgated by the Appraisal Standards Board (ASB) of The Appraisal Foundation, and the Certification Standard of the Appraisal Institute; or the International Valuation Standards (IVS), promulgated by the International Valuation Standards Committee (IVSC), applicable national Standards, and the Certification Standard of the Appraisal Institute.

USPAP is printed in a separate booklet entitled **Uniform Standards of Professional Appraisal Practice**. The IVS can be ordered online at www.ivsc.org/standards/index.html.



Preamble to the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute

Effective July 1, 2006

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Preamble to the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute

Real estate is one of the basic sources of wealth in the global economy. Therefore, homeowners, business entities, governments, individuals, and others who own, manage, sell, purchase, invest in, or lend money on the security of real estate must have ready access to the services of Appraisal Institute Members who provide unbiased opinions of value, as well as sound information, analyses, and advice on a wide range of real estate-related issues. Members of the Appraisal Institute also are increasingly called upon to use their expertise to value other property types such as personal property, machinery and equipment, and businesses. Therefore, the services of Appraisal Institute Members are vital to the well being of our society and the global economy, and foster economic growth, stability, and public confidence.

Because of this vital role and the commitment of Appraisal Institute Members to professionalism, the Appraisal Institute has adopted its Code of Professional Ethics and Standards of Professional Appraisal Practice to establish requirements for ethical and competent practice. These requirements also serve to promote and maintain a high level of public trust and confidence in Appraisal Institute Members.

The Code of Professional Ethics is composed of the Canons, Ethical Rules, and Explanatory Comments. The Standards of Professional Appraisal Practice are composed of the Uniform Standards of Professional Appraisal Practice (USPAP), promulgated by the Appraisal Standards Board (ASB) of The Appraisal Foundation, and the Certification Standard of the Appraisal Institute; or the International Valuation Standards (IVS), promulgated by the International Valuation Standards Committee (IVSC), applicable national Standards, and the Certification Standard of the Appraisal Institute. The Appraisal Institute has also issued Guide Notes that provide guidance on how the Standards of Professional Appraisal Practice may apply to specific issues.

Each Appraisal Institute Member must comply with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute, which establish requirements not only for appraisal, appraisal review, and appraisal consulting services, but also for real property consulting services. These obligations exceed those imposed on state certified and licensed real estate appraisers and distinguish Appraisal Institute Members in the marketplace. Moreover, if a Member fails to comply with the Code of Professional Ethics or Standards of Professional Appraisal Practice, the Member will be subject to disciplinary or remedial action under Regulation No. 6 of the Appraisal Institute.

The commitment of Appraisal Institute Members to professionalism extends to helping ensure that other Members understand and comply with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute. Therefore, each Member of the Appraisal Institute has a responsibility to provide the Director of Ethics and Standards Counseling of the Appraisal Institute with any significant factual information that reasonably suggests that another Member may have violated the Code of Professional Ethics or Standards of Professional Appraisal Practice. Each Member also has a responsibility to volunteer to serve on peer review committees reviewing possible violations under Regulation No. 6 of the Appraisal Institute.



Code of Professional Ethics of the Appraisal Institute

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DEFINITIONS

1 The following definitions apply to the Code of Professional Ethics. Each Member must know and
2 understand each defined term in the Code of Professional Ethics. Where a definition in the Code of
3 Professional Ethics is used verbatim or adapted from a definition in the Uniform Standards of
4 Professional Appraisal Practice (USPAP), such source is noted. Since the Code of Professional Ethics
5 applies to Members of the Appraisal Institute, whereas USPAP applies solely to appraisers as defined by
6 USPAP, some references in USPAP definitions to "appraiser" have been changed to "Member." Further,
7 because the Code of Professional Ethics also applies to real property consulting, some USPAP
8 definitions have been adapted to incorporate real property consulting where appropriate.

9 **Admissions Matter**

10 Any action relating to a requirement for admission to Appraisal Institute Affiliate, Associate, or
11 Designated Membership.

12 **Appraisal** (Source: adapted from USPAP definition of "appraisal" as a noun)
13 The act or process of developing an opinion of value; an opinion of value. Also known as valuation.

14 Comment: An appraisal must be numerically expressed as a specific amount, as a range of numbers, or
15 as a relationship (e.g., not more than, not less than) to a previous value opinion or numerical benchmark
16 (e.g., assessed value, collateral value).

17 **Appraisal Consulting** (Source: USPAP)
18 The act or process of developing an analysis, recommendation, or opinion, where an opinion of value is a
19 component of the analysis leading to the assignment results.

20 Comment: An appraisal consulting assignment involves an opinion of value but does not have an
21 appraisal or an appraisal review as its primary purpose.

22 **Appraisal Review** (Source: Adapted from USPAP)
23 The act or process of developing and communicating an opinion for a client about the quality of another
24 appraiser's work.

25 Comment: The subject of an appraisal review assignment may be all or part of an appraisal report,
26 workfile, or a combination of these.

27 **Assignment**
28 An appraisal, appraisal review, or appraisal consulting service provided for a client.

29 **Assumption** (Source: USPAP)
30 That which is taken to be true.

DEFINITIONS (continued)

31 Biased

32 Not reasonably supported, and favoring or promoting the cause or interest of the client, one's self, or
33 another.

34 Comment: A Member may never develop, prepare, use, or report a biased analysis, opinion, or
35 conclusion.

36 Evidence that a Member developed, prepared, used, or reported a biased analysis, opinion, or
37 conclusion may include, but is not limited to, deviation from reasonable appraisal, appraisal review,
38 appraisal consulting, or real property consulting practices resulting in an analysis, opinion, or conclusion
39 that is not reasonably supported and that favors or promotes the client's, the Member's, or another's
40 interest or cause. Many of these reasonable practices are outlined in the Standards of Professional
41 Appraisal Practice of the Appraisal Institute, Guide Notes to the Standards of Professional Appraisal
42 Practice, and Appraisal Institute courses, seminars, and textbooks such as *The Appraisal of Real Estate*.
43 The intended use of the analysis, opinion, or conclusion is relevant in determining the direction of a
44 client's interest.

45 Client (Source: Adapted from USPAP)

46 The party or parties who engage a Member (by employment or contract) in a specific service.

47 Comment: The client identified by the Member in an appraisal, appraisal review, appraisal consulting
48 service (or in the service workfile), or real property consulting service is the party or parties with whom
49 the Member has a relationship in the related service, and may be an individual, group, or entity.

50 Committee

51 Any Board, Committee, Subcommittee, Council, or Panel formed pursuant to the Bylaws or Regulations
52 of the Appraisal Institute.

53 Confidential Information (Source: Adapted from USPAP by changing "appraiser" to "Member")

54 Information that is either:

- 55 • identified by the client as confidential when providing it to a Member and that is not available
56 from any other source; or
- 57 • classified as confidential or private by applicable law or regulation*.

58 *NOTICE: For example, pursuant to the passage of the Gramm-Leach-Bliley Act in November 1999, some
59 public agencies have adopted privacy regulations that affect Members. As a result, the Federal Trade
60 Commission issued a rule focused on the protection of "non-public personal information" provided by
61 consumers to those involved in financial activities "found to be closely related to banking or usual in
62 connection with the transaction of banking." These activities have been deemed to include "appraising
63 real or personal property." (Quotations are from the Federal Trade Commission, Privacy of Consumer
64 Financial Information; Final Rule, 16 CFR Part 313.)

DEFINITIONS (continued)

65 Consulting

66 See appraisal consulting and real property consulting.

67 Extraordinary Assumption (Source: Adapted from USPAP)

68 An assumption, directly related to a specific service, which, if found to be false, could alter the
69 Member's opinions or conclusions.

70 Comment: Extraordinary assumptions presume as fact otherwise uncertain information about physical,
71 legal, or economic characteristics of the subject property; or about conditions external to the property,
72 such as market conditions or trends; or about the integrity of data used in an analysis.

73 Hypothetical Condition (Source: USPAP)

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

75 Comment: Hypothetical conditions assume conditions contrary to known facts about physical, legal, or
76 economic characteristics of the subject property; or about conditions external to the property, such as
77 market conditions or trends; or about the integrity of data used in an analysis.

78 Intended Use (Source: Adapted from USPAP)

79 The use or uses of a Member's reported appraisal, appraisal review, appraisal consulting, or real
80 property consulting service analyses, opinions, and conclusions, as identified by the Member based on
81 communication with the client at the time of the service.

82 Intended User (Source: Adapted from USPAP)

83 The client and any other party as identified, by name or type, as users of the appraisal, appraisal review,
84 appraisal consulting, or real property consulting report by the Member on the basis of communication
85 with the client at the time of the service.

86 Know or Knowingly

87 The Member realizes what he or she is doing, is aware of the nature of his or her conduct, and is not
88 acting through mistake or accident.

89 Knowledge can be inferred from the Member's conduct and from all the facts and circumstances
90 surrounding the case. The determination of "knowingly" should be made in the context of the Member's
91 training, background, and other relevant experience. A Member will be deemed to have acted (or failed to
92 act) "knowingly" if he or she acted in disregard of the requirements of the Code of Professional Ethics or
93 Standards of Professional Appraisal Practice or the recognized methods and techniques such as those
94 set forth in Appraisal Institute courses, seminars, textbooks, and other publications. The term
95 "knowingly" includes not only what the Member knew, but also what the Member reasonably should have
96 known given all the facts and circumstances of the case and the Member's training, appraisal
97 background, and experience.

98 Member

99 A Designated Member, Associate Member, or Affiliate Member of the Appraisal Institute.

DEFINITIONS (continued)

100 Peer Review Committee

101 The Professional Ethics and Counseling Committee, the Ethics Appeals Panel, the Ethics Administration
102 Division, any Grievance Committee, or any Hearing Committee duly constituted under Regulation No. 6 of
103 the Appraisal Institute.

104 Peer Review Proceeding

105 All actions taken pursuant to Regulation No. 6 of the Appraisal Institute to determine whether a Member
106 may have violated or did violate the requirements of the Standards of Professional Appraisal Practice or
107 Code of Professional Ethics of the Appraisal Institute and to take appropriate remedial or disciplinary
108 measures. The term "peer review proceeding" also applies to actions taken pursuant to this Regulation
109 to determine whether a Member has failed to comply with the terms of suspension; has been convicted
110 of a crime committed prior to becoming a Member; or has knowingly made false statements, submitted
111 false information, or failed to fully disclose information requested in an application for admission to
112 membership, candidacy, or affiliate status and to take appropriate disciplinary action.

113 Real Property Consulting

114 The act or process of developing and reporting an analysis, recommendation, or opinion concerning real
115 property, where an opinion of value is not a component of the analysis, recommendation, or opinion.

116 Report (Source: Adapted from USPAP)

117 Any communication, written or oral, of an appraisal, appraisal review, appraisal consulting, or real
118 property consulting service that is transmitted to the client.

119 **Comment:** Most reports are written and most clients mandate written reports. Oral report requirements
120 (see the Record Keeping section of the Ethics Rule of USPAP) are included to cover court testimony and
121 other oral communications of an appraisal, appraisal review, appraisal consulting, or real property
122 consulting service.

123 Service

124 Work that a Member performs for a client that is subject to the Code of Professional Ethics and
125 Standards of Professional Appraisal Practice of the Appraisal Institute. Services include appraisal,
126 appraisal review, appraisal consulting, and real property consulting.

127 Value (Source: USPAP)

128 The monetary relationship between properties and those who buy, sell, or use those properties.

129 **Comment:** Value expresses an economic concept. As such, it is never a fact but always an opinion of the
130 worth of a property at a given time in accordance with a specific definition of value. In appraisal practice,
131 value must always be qualified—for example, market value, liquidation value, or investment value.

DEFINITIONS (continued)

132 **Workfile** (Source: Adapted from USPAP)

133 Documentation necessary to support a Member's analyses, opinions, and conclusions. A workfile must
134 include at a minimum the following:

135 • the name of the client and the identity, by name or type, of any other intended users;

136 • true copies of any written reports, documented on any type of media;

137 • summaries of any oral reports or testimony, or a transcript of testimony, including the Member's
138 limiting and hypothetical conditions, and the Member's signed and dated certification; and

139 • all other data, information, and documentation necessary to support the Member's analyses,
140 opinions, and conclusions and to show compliance with the Code of Professional Ethics and
141 Standards of Professional Appraisal Practice of the Appraisal Institute, or references to the
142 location(s) of such other documentation accessible to the Member.

EXCEPTIONS TO ETHICAL RULES

- 143 If any part of an Ethical Rule is contrary to the law or public policy of any jurisdiction, such part shall be void and of no force or effect in such jurisdiction.
- 144 When a Member violates an Ethical Rule due to an event beyond the Member's control, such as an act of God or illness, the peer review committee(s) (or any member or duly authorized agent thereof) reviewing the Member's conduct should consider such event and all the relevant facts about the case to avoid an inequitable result.

149 **A Member Must Refrain from Conduct that is**
150 **Detrimental to the Appraisal Institute, the**
151 **Profession, and the Public**

152 Ethical Rules

153 **E.R. 1-1**

154 It is unethical to knowingly:

155 (a) act in a manner that is misleading or fraudulent;

156 (b) use, or permit an employee or third party to use, a misleading analysis, opinion, conclusion, or
157 report;

158 (c) communicate, or permit an employee or third party to communicate, any analysis, opinion,
159 conclusion, or report in a manner that is misleading;

160 (d) contribute to or participate in the development, preparation, or use of an appraisal, appraisal review,
161 appraisal consulting, or real property consulting analysis, opinion, or conclusion that reasonable
162 appraisers would not believe to be justified; or

163 (e) contribute to or participate in the preparation or delivery of a report containing an appraisal,
164 appraisal review, appraisal consulting, or real property consulting analysis, opinion, or conclusion
165 that reasonable appraisers would not believe to be justified, whether or not such report is signed or
166 delivered by the Member.

167 **E.R. 1-2**

168 It is unethical to engage in misconduct of any kind that leads to a conviction of a crime involving fraud,
169 dishonesty, or false statements or a crime involving moral turpitude.

170 **E.R. 1-3**

171 It is unethical to fail to properly identify the issue to be addressed and have the knowledge and
172 experience to complete the service competently prior to agreeing to perform any service, or alternatively,
173 to:

174 (a) disclose the lack of knowledge and/or experience to the client before agreeing to perform the
175 service;

176 (b) take all steps necessary or appropriate to complete the service competently; and

177 (c) describe the lack of knowledge and/or experience and the steps taken to complete the service
178 competently in the report.

CANON 1 (continued)

179

E.R. 1-4

180

It is unethical in the performance of a service to knowingly fail to:

181

(a) identify the appropriate Standards to be applied;

182

(b) disclose in any report the Standards applied; or

183

(c) take all steps necessary or appropriate to understand the Standards applied.

184 **A Member Must Assist the Appraisal Institute in**
185 **Fulfilling Its Role Relating to Member Qualifications and**
186 **Member Compliance with Ethics and Standards**

187 Ethical Rules

188 **E.R. 2-1**

189 It is unethical:

- 190 (a) to knowingly violate the rules set forth in the Regulations of the Appraisal Institute that govern the
191 confidentiality of an admissions matter or the confidentiality of a peer review proceeding.
- 192 (b) for a Member who has made a referral initiating a peer review proceeding, or who has any knowledge
193 of the existence of such referral or any subsequent screening or review of the matter, to fail to treat
194 such knowledge confidentially.

195 **E.R. 2-2**

196 It is unethical to accept an appointment to, or to fail to immediately resign from, an Appraisal Institute
197 committee dealing with an admissions matter or peer review proceeding if the Member is unable or
198 unwilling to fulfill the responsibilities of a member of said committee.

199 **E.R. 2-3**

200 It is unethical to knowingly:

- 201 (a) make false statements or submit misleading information to the Appraisal Institute, an Appraisal
202 Institute committee or member thereof, or one of their duly authorized agents;
- 203 (b) fail or refuse to promptly submit any relevant documentation or information that is or should be in
204 the possession or control of such Member when requested to do so by the Appraisal Institute, an
205 Appraisal Institute committee or member thereof, or one of their duly authorized agents;
- 206 (c) fail or refuse to promptly answer all relevant questions when requested to do so by the Appraisal
207 Institute, an Appraisal Institute committee or member thereof, or one of their duly authorized agents;
- 208 (d) fail or refuse to appear for a personal interview or participate in an interview conducted by telephone
209 when requested to do so by the Appraisal Institute, an Appraisal Institute committee or member
210 thereof, or one of their duly authorized agents;
- 211 (e) fail to comply with the terms of a summons issued by a duly authorized Hearing Committee;
- 212 (f) fail or refuse to cooperate with the Appraisal Institute, an Appraisal Institute committee or member
213 thereof, or one of their duly authorized agents; or

CANON 2 (continued)

214 (g) fail or refuse to fulfill each of the Member's obligations under the Bylaws, Regulations, and
215 policies of the Appraisal Institute.

216 **E.R. 2-4**

217 It is unethical to fail to prepare a workfile for each service (appraisal, appraisal review, appraisal
218 consulting, or real property consulting). The workfile must be prepared for each service prior to the
219 issuance of an oral or written report.

220 **E.R. 2-5**

221 It is unethical to fail to preserve each workfile for:

222 (a) a period of five years from the date of preparation of such workfile;

223 (b) a period of two years following final disposition of a proceeding in which the Member gave testimony
224 pertaining to the subject matter of the workfile;

225 (c) a period commencing upon notification that a service is the subject of a peer review proceeding
226 under Regulation No. 6 until notification by the Appraisal Institute of final disposition of such peer
227 review proceeding;

228 (d) a period commencing upon a request from Admissions relating to a service (appraisal, appraisal
229 review, appraisal consulting, or real property consulting) until notification by the Appraisal Institute of
230 the completion of review by Admissions; or

231 (e) a period of two years following the final disposition of a review of a service (appraisal, appraisal
232 review, appraisal consulting, or real property consulting) by a state licensing and/or certification
233 board,

234 whichever period shall be the last to expire.

235 **E.R. 2-6**

236 It is unethical to enter into a contract that:

237 (a) places one or more obligations on the Member that are inconsistent with the requirements of the
238 Code of Professional Ethics, Standards of Professional Appraisal Practice, Bylaws, or Regulations of
239 the Appraisal Institute; or

240 (b) does not provide that the Member will develop and report a service (appraisal, appraisal review,
241 appraisal consulting, or real property consulting) in conformity with and subject to the requirements
242 of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal
243 Institute.

CANON 2 (continued)

244 **E.R. 2-7**

245 It is unethical to fail to sincerely and demonstrably seek other employment if:

246 (a) the Member's employer prevents such Member from complying with the requirements of the Code of
247 Professional Ethics or Standards of Professional Appraisal Practice of the Appraisal Institute; or

248 (b) the Member knows that the Member's employer fails to comply with the Code of Professional Ethics
249 or Standards of Professional Appraisal Practice of the Appraisal Institute.

250 **In Providing Services (Appraisal, Appraisal Review,**
251 **Appraisal Consulting, or Real Property Consulting),**
252 **A Member Must Develop and Report Unbiased Analyses,**
253 **Opinions, and Conclusions**

254 Ethical Rules

255 **E.R. 3-1**

256 It is unethical to knowingly contribute to or participate in the development, preparation, use, or reporting
257 of an analysis, opinion, or conclusion that is biased.

258 **E.R. 3-2**

259 It is unethical to knowingly permit an entity that is wholly or partially owned or controlled by a Member to
260 contribute to or participate in the development, preparation, use, or reporting of an analysis, opinion, or
261 conclusion that is biased.

262 **E.R. 3-3**

263 It is unethical to agree to provide or provide a service (appraisal, appraisal review, appraisal consulting,
264 or real property consulting) that is contingent upon reporting a predetermined analysis, opinion, or
265 conclusion.

266 **E.R. 3-4**

267 It is unethical to agree to or accept compensation for an appraisal, appraisal review, or appraisal
268 consulting assignment when such compensation is contingent on the analysis, opinion, or conclusion
269 reached, the attainment of a stipulated result, or the occurrence of a subsequent event, unless:

270 (a) it is appropriate to perform the assignment under the International Valuation Standards;

271 (b) contingent fee arrangements are customary for the assignment and are permitted by appropriate
272 national Standards; and

273 (c) the Member clearly and conspicuously discloses the existence and basis of any contingent fee in
274 reporting the results of the assignment.

275 **E.R. 3-5**

276 It is unethical to agree to or accept compensation for a real property consulting service when such
277 compensation is contingent on the analysis, opinion, or conclusion reached or the occurrence of a
278 subsequent event, unless:

279 (a) the Member is not acting in a disinterested manner and would not reasonably be perceived as
280 performing a service that requires impartiality; and

281 (b) the Member clearly and conspicuously discloses the existence and basis of any contingent fee in
282 reporting the results of the service.

CANON 3 (continued)

283 E.R. 3-5 does not apply to a Member when providing real property consulting services that are subject to
284 the requirements of another licensed occupation or profession.

E.R. 3-6

286 It is unethical to agree to provide or provide a service (appraisal, appraisal review, appraisal consulting,
287 or real property consulting) that includes a hypothetical condition, unless:

- 288 (a) use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable
289 analysis, or for purposes of comparison; and
- 290 (b) use of the hypothetical condition results in a credible analysis.

E.R. 3-7

292 It is unethical to agree to provide or provide a service (appraisal, appraisal review, appraisal consulting,
293 or real property consulting) that includes an extraordinary assumption unless:

- 294 (a) the extraordinary assumption is required to properly develop credible opinions and conclusions;
- 295 (b) the Member has a reasonable basis for the extraordinary assumption;
- 296 (c) use of the extraordinary assumption results in a credible analysis; and
- 297 (d) the Member complies with the applicable disclosure requirements set forth in USPAP for
298 extraordinary assumptions.

E.R. 3-8

300 It is unethical to agree to provide or to provide a service (appraisal, appraisal review, appraisal
301 consulting, or real property consulting) if a Member has any direct or indirect, current, or prospective
302 personal interest in the subject or outcome of the service or with respect to the parties involved in the
303 service, unless:

- 304 (a) prior to agreeing to provide the service, the Member carefully considers the facts and reasonably
305 concludes that his or her judgment will not be affected and reasonable persons, under the same
306 circumstances, would reach the same conclusion;
- 307 (b) such personal interest is fully and accurately disclosed to the client prior to the Member agreeing to
308 provide the service; and
- 309 (c) such personal interest is fully and accurately disclosed in each report resulting from such service.

E.R. 3-9

311 It is unethical, during the period that commences at the time that a Member is contacted concerning a
312 service (appraisal, appraisal review, appraisal consulting, or real property consulting) and expires a
313 reasonable length of time after the completion of such service, to knowingly acquire an interest in
314 property or assume a position that could possibly affect the Member's judgment or violate the Member's
315 responsibilities to the client unless, prior to such acquisition or change of position,

CANON 3 (continued)

- 316 (a) the Member carefully considers the facts and reasonably concludes that the proposed acquisition or
317 change of position will not affect the Member's judgment or violate the Member's responsibilities to
318 the client;
- 319 (b) the Member makes full disclosure to the client and obtains from the client a written statement
320 consenting to or approving such acquisition or change of position;
- 321 (c) at the time of such disclosure, the Member gives the client the right to terminate the service without
322 payment of any fee or other charge; and
- 323 (d) the facts concerning such acquisition or change of position are fully and accurately described in
324 each report resulting from the service.

325 **A Member Must Not Violate the**
326 **Confidential Nature of the Member-Client Relationship**

327 **Ethical Rules**

328 **E.R. 4-1**

329 It is unethical to disclose confidential information or an analysis, opinion, or conclusion specific to a
330 service (appraisal, appraisal review, appraisal consulting, or real property consulting) to anyone other
331 than:

332 (a) the client and those persons specifically authorized by the client;

333 (b) third parties, when and to the extent that the Member is legally required to do so by statute,
334 ordinance, or court order; and

335 (c) the duly authorized committees of the Appraisal Institute.

336 **E.R. 4-2**

337 If a Member is furnished confidential information by a client and a third party subsequently requests a
338 service (appraisal, appraisal review, appraisal consulting, or real property consulting) that will be
339 materially affected by the use of, or the failure to use, such confidential information, it is unethical to
340 agree to provide such subsequent service, unless:

341 (a) the source that provided such confidential information permits the information to be used in the
342 subsequent service; or

343 (b) such information has subsequently been made public or is available from another source and
344 therefore is no longer confidential.

345 **E.R. 4-3**

346 It is unethical for a current or former Appraisal Institute committee member to discuss or disclose
347 confidential information, analyses, opinions, conclusions, or factual data derived through committee
348 activities with anyone other than:

349 (a) the Member whose report or workfile contains the confidential information, analyses, opinions,
350 conclusions, or factual data;

351 (b) such Member's client and those persons specifically authorized by that client to receive the
352 confidential information, analyses, opinions, conclusions, or factual data;

353 (c) third parties, when and to the extent that the committee member is legally required to do so by
354 statute, ordinance, or court order; and

CANON 4 (continued)

- 355 (d) committee members and their duly authorized agents within the scope of the Bylaws and
356 Regulations of the Appraisal Institute.

357 **A Member Must Not Advertise or Solicit in a Manner that is**
358 **Misleading or Otherwise Contrary to the Public Interest**

359 Ethical Rules

360 **E.R. 5-1**

361 It is unethical to utilize misleading advertising. Further, it is unethical to knowingly permit a business
362 entity that is wholly or partially owned or controlled by a Member to utilize misleading advertising.

363 **E.R. 5-2**

364 It is unethical to use or refer to the Appraisal Institute or its membership designations in a manner that
365 is misleading, or to use or display the registered designations, logos, or emblems of the Appraisal
366 Institute in a manner contrary to Regulation No. 5.

367 **E.R. 5-3**

368 It is unethical to solicit services (appraisal, appraisal review, appraisal consulting, or real property
369 consulting) in a misleading manner. Further, it is unethical to knowingly permit an entity wholly or partially
370 owned or controlled by a Member to solicit services in a misleading manner.

371 **E.R. 5-4**

372 It is unethical to fail to disclose the payment by the Member, or by an entity wholly or partially owned or
373 controlled by the Member, of a fee, commission, or thing of value for the procurement of a service
374 (appraisal, appraisal review, appraisal consulting, or real property consulting). The disclosure of fees,
375 commissions, and things of value paid in connection with the procurement of a service must appear in
376 the certification of any resulting written report and in any transmittal letter in which an analysis, opinion,
377 or conclusion is stated.

378 Intra-company payments to employees or partners for business development are not deemed to be a
379 “fee, commission, or thing of value” for the purpose of this Rule. E.R. 5-4 does not apply to a Member
380 when providing real property consulting services that are subject to the requirements of another licensed
381 occupation or profession.

382 **E.R. 5-5**

383 It is unethical to prepare or use in any manner a resume or statement of qualifications that is
384 misleading.

385 CANON 1 COMMENT

386 Public confidence and trust in the Appraisal Institute, Members, and the profession is essential to the
387 well being of our society and the global economy. The Appraisal Institute serves a vital public need by
388 educating and training professionals concerning real property, by conferring professional membership
389 designations on individuals who meet stringent requirements, and by conducting peer review that
390 enhances the quality of Members' work product, and disciplines and deters unethical conduct. In turn,
391 the services of Appraisal Institute Members foster economic growth and stability. If a Member engages
392 in conduct that is detrimental to the Appraisal Institute, the profession, or the public, the Member
393 undermines the public confidence and trust that is necessary for the Appraisal Institute, Members, and
394 the profession to perform their vital roles in our society and the global economy.

395 E.R. 1-1(a) Comment

396 If an Appraisal Institute Member knowingly acts in a misleading or fraudulent manner when providing a
397 service or when engaged in an activity unrelated to a service, the Member harms the reputation of the
398 Appraisal Institute, its Members, and the profession, thereby undermining the confidence and trust that
399 the public and clients must have in the integrity of the Appraisal Institute, Members, and the profession.
400 Therefore, the prohibition in Ethical Rule 1-1(a) against acting in a misleading or fraudulent manner
401 applies to all activities of a Member, including appraisal, appraisal review, appraisal consulting, and real
402 property consulting, as well as activities unrelated to such services.

403 For example, if a Member prepares a report that includes information that the Member knows or should
404 know will lead the intended users of the report to an improper conclusion, the Member acts in a manner
405 that is misleading, in violation of Ethical Rule 1-1(a).

406 A second example is that if a Member acts in a misleading or fraudulent manner while engaged in real
407 estate brokerage, such Member violates Ethical Rule 1-1(a). Any such misleading or fraudulent conduct
408 will be contrary to the public interest, and will reflect adversely upon the Member, the Appraisal Institute,
409 Members generally, and the profession.

410 A third example is that if a Member misleads the Appraisal Institute, by an act of omission or
411 commission, as to the Member's eligibility for a particular membership status or category, the Member
412 violates Ethical Rule 1-1(a). Such conduct undermines the confidence that the public and clients must
413 have in the integrity of the Member's services, Members generally, the Appraisal Institute, and the
414 profession. If a Member acts in a misleading or fraudulent manner in activity unrelated to a service, the
415 public and clients can legitimately question whether such a lack of personal integrity will impact the
416 services a Member provides.

417 E.R. 1-1(b) Comment

418 A misleading analysis, opinion, conclusion, or report harms the public interest and undermines the
419 confidence of the public and clients in Members, the profession, and the Appraisal Institute.
420 Furthermore, because the public and clients rely on a Member's expertise and integrity, they will give
421 credibility to any analysis, opinion, conclusion, or report that a Member uses, or permits an employee or
422 third party to use, even if it is misleading. Therefore, Ethical Rule 1-1(b) prohibits a Member from
423 knowingly using an analysis, opinion, conclusion, or report that is misleading. Further, to the extent that
424 such Member is in a position to control such use, Ethical Rule 1-1(b) prohibits a Member from knowingly
425 permitting an employee or third party to use a misleading analysis, opinion, conclusion, or report. A

EXPLANATORY COMMENTS TO CANON 1 (continued)

426 Member cannot avoid ethical responsibility by doing indirectly that which the Member cannot do directly.
427 Further, a Member who uses, or permits an employee or third party to use, a misleading analysis,
428 opinion, conclusion, or report, but who does not take the appropriate steps to ascertain whether such
429 analysis, opinion, conclusion, or report is in fact misleading, is responsible for the use of the misleading
430 analysis, opinion, conclusion, or report under this Ethical Rule.

431 One example of a violation of Ethical Rule 1-1(b) is if in the performance of an appraisal a Member
432 knowingly develops a misleading analysis of comparable sales.

433 A second example is that if a Member knowingly develops a misleading opinion concerning the
434 appropriate depreciation for an industrial building and provides the opinion to another appraiser to use in
435 developing a conclusion as to the value of the industrial building, such Member violates Ethical Rule 1-
436 1(b) even though the Member did not develop the final conclusion.

437 A third example is that if a Member incorporates a misleading conclusion prepared by the Member's
438 partner into a report prepared by the Member, such Member is in violation of Ethical Rule 1-1(b) if the
439 Member found or should have found the misleading conclusion given the Member's training and
440 background, as well as all of the relevant facts and circumstances.

E.R. 1-1(c) Comment

442 A misleading analysis, opinion, conclusion, or report harms the public interest and undermines the
443 confidence of the public and clients in Members, the profession, and the Appraisal Institute.
444 Furthermore, because the public and clients rely on a Member's expertise and integrity, they will give
445 credibility to any analysis, opinion, conclusion, or report that a Member communicates, or permits an
446 employee or third party to communicate. Therefore, Ethical Rule 1-1(c) prohibits a Member from
447 knowingly communicating an analysis, opinion, conclusion, or report in a manner that is misleading.
448 Further, to the extent that such Member is in a position to control such use, Ethical Rule 1-1(c) prohibits
449 a Member from knowingly permitting an employee or third party to communicate an analysis, opinion,
450 conclusion, or report in a manner that is misleading. A Member cannot avoid ethical responsibilities by
451 doing indirectly that which the Member cannot do directly. Further, a Member who communicates, or
452 permits an employee or third party to communicate, an analysis, opinion, conclusion, or report in a
453 manner that is misleading, but who does not take the appropriate steps to ascertain whether such
454 analysis, opinion, conclusion, or report is in fact communicated in a manner that is misleading, is
455 responsible for the communication of the misleading analysis, opinion, conclusion, or report under this
456 Ethical Rule.

457 Under this Ethical Rule, a Member must pay particular attention to a client's request for permission to
458 quote all or a portion of an analysis, opinion, conclusion, or report to ensure that the client will not
459 communicate the analysis, opinion, conclusion, or report in a misleading manner.

460 **E.R. 1-1(d) Comment**

461 A Member must use the Member's expertise to develop, prepare, and use analyses, opinions, and
462 conclusions that are justified. To do otherwise harms the public interest and undermines public and
463 client confidence in the Member, Members generally, the Appraisal Institute, and the profession.
464 Therefore, Ethical Rule 1-1(d) prohibits a Member from knowingly contributing to or participating in the
465 development, preparation, or use of an appraisal, appraisal review, appraisal consulting, or real property
466 consulting analysis, opinion, or conclusion that reasonable appraisers would not believe to be justified.
467 This Ethical Rule applies to a Member regardless of whether the Member is publicly identified with the
468 analysis, opinion, or conclusion because the ethical issue is the same in either situation.

469 The test under Ethical Rule 1-1(d) is whether reasonable appraisers would believe the analysis, opinion,
470 or conclusion to be "justified," rather than "misleading." Members can and do differ as to the
471 appropriate solutions to a real property issue. If, however, reasonable appraisers conclude that an
472 analysis, opinion, or conclusion is not reasonably supported, then such analysis, opinion, or conclusion
473 would not be "justified" under this Ethical Rule. Evidence that a Member did not develop, prepare, or use
474 an analysis, opinion, or conclusion that reasonable appraisers would believe to be justified may include,
475 but is not limited to, deviation from reasonable appraisal, appraisal review, appraisal consulting, or real
476 property consulting practices such as those outlined in the Standards of Professional Appraisal Practice
477 of the Appraisal Institute, Guide Notes to the Standards of Professional Appraisal Practice, and Appraisal
478 Institute courses, seminars, and textbooks such as *The Appraisal of Real Estate*.

479 One example of a violation of Ethical Rule 1-1(d) is if a Member knowingly develops an opinion that is not
480 reasonably supported and the Member provides such opinion to another appraiser to use in the
481 performance of an appraisal service, even if the Member does not sign the final report.

482 A second example is if in the performance of an appraisal service that requires a sales comparison
483 approach, a Member knowingly makes inappropriate adjustments to the sales comparables resulting in a
484 conclusion that is not reasonably supported, the Member violates Ethical Rule 1-1(d).

485 **E.R. 1-1(e) Comment**

486 A Member must utilize the Member's expertise to prepare or deliver reports that contain analyses,
487 opinions, and conclusions that are justified. To do otherwise harms the public interest and undermines
488 public and client confidence in the Member, Members generally, the Appraisal Institute, and the
489 profession. Therefore, Ethical Rule 1-1(e) prohibits a Member from knowingly contributing to or
490 participating in the preparation or delivery of an appraisal, appraisal review, appraisal consulting, or real
491 property consulting analysis, opinion, or conclusion that reasonable appraisers would not believe to be
492 justified. This Ethical Rule applies to a Member regardless of whether the Member signs or delivers the
493 report because the ethical issue is the same in either situation.

494 The test under Ethical Rule 1-1(e) is whether reasonable appraisers would believe the analysis, opinion,
495 or conclusion to be "justified," rather than "misleading." Members can and do differ as to the
496 appropriate solutions to a real property issue. If, however, reasonable appraisers conclude that an
497 analysis, opinion, or conclusion is not reasonably supported, then such analysis, opinion, or conclusion
498 would not be "justified" under this Ethical Rule. Evidence that a Member did not develop, prepare, or use
499 an analysis, opinion, or conclusion that reasonable appraisers would believe to be justified may include,
500 but is not limited to, deviation from reasonable appraisal, appraisal review, appraisal consulting, or real

EXPLANATORY COMMENTS TO CANON 1 (continued)

501 property consulting practices such as those outlined in the Standards of Professional Appraisal Practice
502 of the Appraisal Institute, Guide Notes to the Standards of Professional Appraisal Practice, and Appraisal
503 Institute courses, seminars, and textbooks such as *The Appraisal of Real Estate*.

504 One example of a violation of Ethical Rule 1-1(e) is if a Member knowingly develops an opinion of the
505 highest and best use of a property that is not reasonably supported and the Member provides such
506 opinion to another appraiser to use in a report, even if the Member does not sign the final report.

507 A second example is if a Member prepares an appraisal report that contains a sales comparison
508 approach that is not reasonably supported because the Member knowingly makes inappropriate
509 adjustments to the sales comparables, the Member violates Ethical Rule 1-1(e).

E.R. 1-2 Comment

511 The public and clients must have confidence in the personal honesty and integrity of Members, whom
512 they entrust with matters of critical personal, corporate, and public importance. If a Member fails to
513 comply with the Member's legal obligations to society in all activities, not just in the services the
514 Member performs, the public and clients will lose confidence and trust in the honesty and integrity of the
515 Member, Members generally, and those who practice the profession. The public and clients will also lose
516 confidence and trust in the Appraisal Institute. As a consequence, the ability of Members, the
517 profession, and the Appraisal Institute to perform their vital roles in our society and the global economy
518 will be adversely affected. If a Member fails to comply with the Member's obligations to society,
519 particularly those relating to fraud, dishonesty, false statements, or moral turpitude, the public and
520 clients can legitimately question whether such Member will fail to comply with the Member's obligations
521 under the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal
522 Institute when providing services. Therefore, a Member must not engage in misconduct of any kind that
523 leads to conviction of a crime involving fraud, dishonesty, false statements, or moral turpitude. The types
524 of crimes referred to in E.R. 1-2 are not limited to felonies.

525 For the purposes of E.R. 1-2, "moral turpitude" means an act of baseness, vileness, or depravity in
526 private and social duties which a person owes to other people, or to society in general, an act contrary to
527 accepted and customary rules of right and duty between people, in essence contrary to justice, honesty,
528 or good morals.

529 One example of a violation of Ethical Rule 1-2 is if a Member prepares a fraudulent appraisal as part of a
530 "flipping scheme" resulting in a conviction of the Member of a crime. A second example is if a Member
531 knowingly underreports income received for work as a general contractor that leads to a conviction of the
532 Member of a crime, such Member violates Ethical Rule 1-2.

533 Under the Regulation No. 6 of the Appraisal Institute, a violation of Ethical Rule 1-2 will result in
534 automatic expulsion from membership in the Appraisal Institute subject to the right of appeal.

535 **E.R. 1-3 Comment**

536 Ethical Rule 1-3 generally relates to the competency that a Member must have or obtain to accept and
537 perform a service. While a similar requirement appears in the Competency Rule of USPAP, the Appraisal
538 Institute has adopted this requirement as an Ethical Rule in its Code of Professional Ethics because a
539 Member's failure to comply with its requirements constitutes a lack of integrity and so that violation can
540 result in disciplinary action.

541 CANON 2 COMMENT

542 The Appraisal Institute serves a vital public need by conferring professional membership designations on
543 individuals who meet stringent requirements and by conducting peer review that enhances the quality of
544 Members' work product, and disciplines and deters unethical conduct. As a result of these programs,
545 the public associates Appraisal Institute membership with a high degree of personal integrity and a
546 commitment to professionalism. To facilitate these critical objectives and maintain the reputation of the
547 Appraisal Institute and its Members, a Member must preserve confidentiality in admissions matters and
548 peer review proceedings, fulfill committee responsibilities, cooperate with appropriate committees,
549 prepare and preserve their workfiles, and ensure that they do not place themselves in a position where
550 they cannot comply with the Code of Professional Ethics and Standards of Professional Appraisal
551 Practice of the Appraisal Institute.

552 E.R. 2-1 Comment

553 Confidentiality encourages Associate Members to advance their qualifications through the admissions
554 process, encourages peer review to occur, fosters candid and valuable interchange on the issues of
555 qualifications and the quality of services, and ensures that the consequences of an admissions matter
556 or peer review proceeding are proper and proportionate. Therefore, each Member who has contact with
557 or is involved in an admissions matter or peer review proceeding must scrupulously observe the rules
558 governing the confidentiality of those functions. If a Member fails to observe such confidentiality rules,
559 the judicial protection given to the Appraisal Institute with respect to admissions matters and peer review
560 proceedings may erode, thereby impairing the ability of the Appraisal Institute to carry out these critical
561 functions. Such a result would harm the public, the Appraisal Institute, its Members, and the profession.

562 E.R. 2-2 Comment

563 While the Appraisal Institute recognizes that Members who serve on committees dealing with
564 admissions matters and peer review proceedings are volunteers, such Members must fulfill their
565 responsibilities diligently, objectively, and completely for the Appraisal Institute to effectively fulfill the
566 vital functions of admissions and peer review. If after appointment to a committee dealing with an
567 admissions matter or a peer review proceeding, a Member is unable or unwilling to fulfill any of the
568 Member's responsibilities on such committee, the Member must immediately resign from the
569 committee.

570 E.R. 2-3 Comment

571 For the Appraisal Institute to effectively fulfill the vital functions of admissions and peer review, as well
572 as continuing education and other programs, Members must honestly and fully cooperate with the
573 Appraisal Institute, its committees, and their authorized agents. Such cooperation includes but is not
574 limited to Members fulfilling the obligations they have under the Bylaws and Regulations of the Appraisal
575 Institute, submitting full and accurate documentation and information promptly upon request and when
576 otherwise required, participating in requested interviews, responding fully and honestly to any questions,
577 and fully complying with the terms of a summons issued by a Hearing Committee. Members may not
578 mislead any Appraisal Institute committee, or member or authorized agent thereof.

EXPLANATORY COMMENTS TO CANON 2 (continued)

- 579 Therefore, for example, a Member violates Ethical Rule 2-3 if the Member submits a continuing
580 education log to the Appraisal Institute representing that the Member took a course that the Member did
581 not in fact take or represents that the course provided a greater number of hours of continuing education
582 than it actually did. As another example, a Member violates Ethical Rule 2-3 if the Member fails or
583 refuses to submit relevant information in the Member's possession about the status of litigation related
584 to a peer review file, when requested to do so by a peer review committee or authorized member or
585 agent thereof.
- 586 A Member violates Ethical Rule 2-3 if the Member fails to promptly comply with a request for information
587 or documentation that the Member was required to preserve under Ethical Rule 2-5, even if such
588 information is not physically in the Member's possession or control. As used in Ethical Rule 2-3,
589 "relevant information" means information the appropriate committee (or member or agent thereof)
590 reasonably believes may be relevant in fulfilling its responsibilities. As used in Ethical Rule 2-3, "relevant
591 question" means a question that the appropriate committee (or member or duly authorized agent
592 thereof) reasonably believes may be relevant in fulfilling its responsibilities.
- 593 Ethical Rule 2-3 also uses the phrase "Appraisal Institute, an Appraisal Institute committee or member
594 thereof, or one of their duly authorized agents." The Articles of Incorporation, Bylaws, and Regulations of
595 the Appraisal Institute provide the authority for the Appraisal Institute and the establishment, powers,
596 and duties of various committees. As a corporate entity, the Appraisal Institute will carry out its functions
597 and exercise its authority through various agents. Committees of the Appraisal Institute will sometimes
598 fulfill their powers and duties as committees of the whole, but such committees may also carry out some
599 powers and duties through individual members of the committees and authorized agents. For the
600 Appraisal Institute to effectively carry out critical functions, including, but not limited to, peer review,
601 admissions, and continuing education, Members' obligations under Ethical Rule 2-3 extend not only to
602 the Appraisal Institute and its committees, but to their authorized agents as well. Authorized agents of
603 the Appraisal Institute and its committees include but are not limited to appropriate Appraisal Institute
604 staff such as the Director of Ethics and Standards Counseling, a paralegal in the Professional Practice
605 Department, the Director of Experience Screening and Review, or a member of the Products and Services
606 Department staff.
- 607 Under Regulation No. 6 of the Appraisal Institute, a violation of Ethical Rule 2-3(b), (c), or (d) will result in
608 automatic expulsion from membership in the Appraisal Institute subject to the right of appeal.

609 **E.R. 2-4 Comment**

610 The Appraisal Institute has promulgated the Code of Professional Ethics and Standards of Professional
611 Appraisal Practice in part to establish requirements that will help ensure that Members will develop and
612 report credible analyses, opinions, and conclusions. Such requirements also give the public and clients
613 confidence that Members' analyses, opinions, and conclusions are based on sound data and reasoning,
614 and that such analyses, opinions, and conclusions are not predetermined or mere speculation.

EXPLANATORY COMMENTS TO CANON 2 (continued)

615 Ethical Rule 2-4 requires that Members prepare a workfile for each service and that Members prepare
616 such workfile prior to the issuance of an oral or written report. This Ethical Rule helps ensure that
617 Members have sound bases for their analyses, opinions, and conclusions prior to issuance of a report.
618 The Rule also ensures that Members can provide support for their analyses, opinions, and conclusions
619 to clients, courts, the Appraisal Institute, regulatory agencies, and others. By providing such support
620 when needed or requested, the public and clients will have greater confidence in Members' analyses,
621 opinions, and conclusions, and the rules to which Members are subject can be enforced. A Member's
622 workfile provides evidence of whether the Member complied with the Code of Professional Ethics and
623 Standards of Professional Appraisal Practice.

E.R. 2-5 Comment

624 For the Appraisal Institute to effectively fulfill the vital functions of admissions and peer review,
625 appropriate committees, as well as members and authorized agents thereof, must have access to
626 relevant workfiles of the Members. Therefore, the Appraisal Institute not only has adopted Ethical Rule 2-
627 4 requiring Members to prepare a workfile for each service, but it also has adopted Ethical Rule 2-5
628 requiring Members to preserve their workfiles for specified periods of time.

630 Members have a responsibility to consider and correctly apply the factors that can affect the retention
631 period for a workfile before disposing of such workfile. For example, if a Member prepares an appraisal
632 on April 30, 2002, the Member must initially maintain the workfile relating to that appraisal until at least
633 April 30, 2007. If, however, the Member then gives testimony on April 15, 2005 in a judicial proceeding
634 concerning the appraisal and the judicial proceedings are not completed until May 30, 2006, the
635 retention period changes and the workfile must be maintained until at least May 30, 2008.

E.R. 2-6 Comment

636 As a condition of membership in the Appraisal Institute, Members agree to comply with the Bylaws,
637 Regulations, Code of Professional Ethics, and Standards of Professional Appraisal Practice of the
638 Appraisal Institute. Members cannot avoid this obligation by entering into a contract that is inconsistent
639 with their agreement with the Appraisal Institute. Therefore, Ethical Rule 2-6(a) prohibits Members from
640 entering into any contract that places one or more obligations on the Member that are inconsistent with
641 the Bylaws, Regulations, Code of Professional Ethics, or Standards of Professional Appraisal Practice of
642 the Appraisal Institute. Ethical Rule 2-6(b) places an affirmative obligation on Members to include in their
643 written contracts for services a statement that they will develop and report their services in conformity
644 with and subject to the requirements of the Code of Professional Ethics and Standards of Professional
645 Appraisal Practice of the Appraisal Institute. For oral agreements for services, Members must ensure
646 that their clients understand and agree that the Members will develop and report their services in
647 conformity with and subject to the requirements of the Code of Professional Ethics and Standards of
648 Professional Appraisal Practice of the Appraisal Institute.

E.R. 2-7 Comment

650 As a condition of membership in the Appraisal Institute, Members agree to comply with the Code of
651 Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute. Further,
652 the Code of Professional Ethics and Standards of Professional Appraisal Practice serve the public
653 interest by establishing requirements for the ethical and competent provision of services. Because of
654 this agreement and the importance of each Member's resulting obligations, Ethical Rule 2-7 requires a
655 Member to seek other employment if the Member's employer prevents the Member from complying with

EXPLANATORY COMMENTS TO CANON 2 (continued)

657 the requirements of the Code of Professional Ethics or Standards of Professional Appraisal Practice. A
658 Member cannot avoid responsibility for his or her failure to comply with such requirements because the
659 Member's employer prevents the Member from complying. Therefore, for example, a Member must
660 demonstrably seek other employment if the Member's employer mandates that the Member not identify
661 extraordinary assumptions necessary in an assignment.

662 Because the Code of Professional Ethics and Standards of Professional Appraisal Practice elevate the
663 quality of services provided in the marketplace and enhance confidence of the public and clients in the
664 profession, Ethical Rule 2-7 also requires that a Member demonstrably seek other employment if such
665 Member knows that the Member's employer fails to comply with the requirements of the Code of
666 Professional Ethics and Standards of Professional Appraisal Practice.

667 For example, if a Member sees an advertisement that the Member's employer plans to place and that
668 advertisement refers to an Appraisal Institute designation in a misleading manner, the Member must
669 demonstrably seek other employment if the employer proceeds to run the advertisement.

670 A second example is if a Member's employer implements a workfile retention policy that results in the
671 disposal of workfiles that must be retained under Ethical Rule 2-5 and the Record Keeping section of the
672 Ethics Rule of USPAP, the Member must demonstrably seek other employment.

673 Evidence that a Member sincerely and demonstrably sought other employment may include but not be
674 limited to a significant number of letters seeking employment with other companies, correspondence
675 received from potential employers, a log of calls made to potential employers, or documents indicating
676 the Member's efforts to form a new business.

CANON 3 COMMENT

Given the role that Members serve in our society and the global economy, the public interest demands that each Member develop and report unbiased analyses, opinions, and conclusions. Therefore, Canon 3 and its associated Ethical Rules prohibit a Member from rendering an analysis, opinion, or conclusion that is not reasonably supported and that favors or promotes the cause or interest of the client, the Member, or another. The Ethical Rules associated with this Canon prohibit Members from developing and reporting biased analyses, opinions, and conclusions and address how a Member must handle issues that may offer an incentive to provide biased analyses, opinions, or conclusions or can create a perception that analyses, opinions, or conclusions are biased. The Ethical Rules set forth requirements concerning how a Member must address situations where a client requests a predetermined analysis, opinion, or conclusion as a condition of engaging the Member; where the Member has a personal interest in the subject or outcome of the service or with respect to the parties involved; and where the Member acquires an interest in property or assumes a position that could possibly affect the Member's judgment. The Ethical Rules also provide requirements relating to contingent fees, hypothetical conditions, and extraordinary assumptions. Actual and perceived bias can undermine the confidence that the public and clients must have in the integrity of Members.

E.R. 3-1 Comment

Ethical Rule 3-1 contains the basic prohibition on a Member from knowingly contributing to or participating in the development, preparation, use, or reporting of an analysis, opinion, or conclusion that is biased. Violation of Ethical Rule 3-1 is one of the most serious ethical violations a Member can commit.

A Member may never develop, prepare, use, or report a biased analysis, opinion, or conclusion. A biased analysis, opinion, or conclusion is: a) not reasonably supported; and b) favors or promotes the cause or interest of the client, one's self, or another.

Evidence that a Member developed, prepared, used, or reported a biased analysis, opinion, or conclusion may include, but is not limited to, deviation from reasonable appraisal, appraisal review, appraisal consulting, or real property consulting practices resulting in an analysis, opinion, or conclusion that is not reasonably supported and that favors or promotes the client's, the Member's, or another's interest or cause. Many of these reasonable practices are outlined in the Standards of Professional Appraisal Practice of the Appraisal Institute, Guide Notes to the Standards of Professional Appraisal Practice, and Appraisal Institute courses, seminars, and textbooks such as *The Appraisal of Real Estate*. The intended use of the analysis, opinion, or conclusion is relevant in determining the direction of a client's interest.

For example, assume that a seller and a prospective buyer have a dispute as to the market value of Blackacre on X-date. The seller would benefit from a high opinion of value. The seller retains a Member to develop an opinion of the market value of Blackacre on X-date and requests that the value opinion be "as high as possible." The intended use is to assist in establishing a sale price. The Member subsequently delivers a report with a cover letter stating that "subject to the terms and conditions in the report, the market value of Blackacre on X-date was \$1,000,000," with a footnote on page 97 of the report stating that the Member's opinion of value is based upon the hypothetical condition that the zoning allows development when, in fact, it does not. The hypothetical condition was not required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison. The hypothetical

719 condition had a substantial effect upon the Member's opinion of value. In this example, the Member
720 developed and reported a biased opinion of value in violation of Ethical Rule 3-1. The Member deviated
721 from recognized appraisal methods and techniques, resulting in an opinion of value that was not
722 reasonably supported and that deviated in a direction favoring the client's interest. This Member also
723 violated Ethical Rule 3-6 concerning extraordinary assumptions and Ethical Rule 1-1 (misleading opinion
724 that reasonable appraisers would not believe to be justified).

725 A Member can violate Ethical Rule 3-1 by signing a report that the Member has not read or has partially
726 read, and that contains a biased analysis, opinion, or conclusion. Not only is the Member responsible for
727 the report by signing it, but the Member has knowingly contributed to or participated in the use and
728 reporting of an analysis, opinion, or conclusion that is biased. The Member acted knowingly because the
729 Member acted in disregard of the requirements of the Code of Professional Ethics and Standards of
730 Professional Appraisal Practice of the Appraisal Institute, as well as recognized methods and techniques.
731 The Member reasonably should have known about the biased analysis, opinion, or conclusion given the
732 all the facts and circumstances and the Member's training, background, and experience.

E.R. 3-2 Comment

734 A Member cannot avoid ethical responsibility by doing indirectly that which the Member cannot do
735 directly. Therefore, Ethical Rule 3-2 prohibits a Member from knowingly permitting an entity that is wholly
736 or partially owned or controlled by a Member to contribute to or participate in the development,
737 preparation, use, or reporting of an analysis, opinion, or conclusion that is biased. The discussion in the
738 E.R. 3-1 Comment concerning an analysis, opinion, or conclusion that is biased also applies to Ethical
739 Rule 3-2.

E.R. 3-3 Comment

740 A Member must use the Member's expertise and independent judgment to develop and report a
741 reasonably supported analysis, opinion, or conclusion in accordance with the Code of Professional Ethics
742 and Standards of Professional Appraisal Practice of the Appraisal Institute. Therefore, a Member clearly
743 cannot accept or provide a service that is contingent upon reporting a predetermined analysis, opinion,
744 or conclusion. Doing so would undermine the trust and confidence that the public must have in Members
745 to provide unbiased and credible analyses, opinions, and conclusions.

746 Nothing in Ethical Rule 3-3 should be construed to prohibit a Member from accepting services in phases,
747 with the right to provide a subsequent service contingent upon the results of a prior service, as long as
748 the Member does not render an analysis, opinion, or conclusion that is biased and the Member complies
749 with the requirements of Ethical Rules 3-8 and 3-9, where applicable. Those Ethical Rules concern a
750 Member's personal interest and a Member assuming a position that could possibly affect the Member's
751 judgment or violate the Member's responsibilities to the client.

752 To illustrate the point involved, assume the following facts. A government agency makes an offer to a
753 property owner to purchase the owner's property in order to expand a roadway. The agency has not
754 begun condemnation proceedings at this point, but may in the future. The attorney working with the
755 property owner contacts a Member to obtain the Member's opinion as to whether the market value of
756 the property is more than the amount of the agency's offer. The Member prepares a Restricted Use
757 Appraisal Report, for the attorney's use only, in which the Member's value opinion is "not less than" the
758 amount of the offer. Subsequently, the attorney asks the Member to prepare a Self-Contained Appraisal
759

760 Report, for which the intended users will be both the government agency and the attorney for the
761 property owner, for purposes of the condemnation litigation. Note that these are two separate
762 assignments, with different, though related, intended uses and different intended users. If the Member
763 accepts these assignments, the Member will not violate Ethical Rule 3-3. The Member was required to
764 develop and report both the first and second service in an unbiased manner. The second service was in
765 essence contingent on the results of the first service, but was not contingent on a "predetermined"
766 analysis, opinion, or conclusion.

E.R. 3-4 Comment

768 Appraisers are participants in the global economy. In the global economy the norms for ethical practice
769 concerning specific conduct may differ depending on applicable national customs and standards. The
770 matter of contingent fee arrangements is an example of an area where the norms for ethical practice
771 differ. For example, USPAP prohibits contingent fee arrangements for valuation services. On the other
772 hand, the International Valuation Standards allow contingent fee arrangements for valuation services as
773 long as the appraiser's fee does not depend on the predetermined outcome of any valuation or other
774 independent, objective advice contained in the valuation report, and the appraiser discloses whether the
775 fee is contingent upon any aspect of the report.

E.R. 3-6 Comment

777 The requirements set forth in Ethical Rule 3-6 concerning hypothetical conditions reflect those set forth
778 in USPAP. The Appraisal Institute has placed these requirements in the Code of Professional Ethics
779 because a Member's failure to comply with such requirements constitutes a lack of integrity and so that
780 a violation can result in disciplinary action.

E.R. 3-7 Comment

782 The requirements set forth in Ethical Rule 3-7 concerning extraordinary assumptions reflect those set
783 forth in USPAP. The Appraisal Institute has placed these requirements in the Code of Professional Ethics
784 because a Member's failure to comply with such requirements constitutes a lack of integrity and so that
785 a violation can result in disciplinary action.

E.R. 3-8 Comment

787 If a Member has a personal interest in the subject or outcome of a service or with respect to the parties
788 involved in the service, such interest may provide an incentive for the Member to render an analysis,
789 opinion, or conclusion that is biased, misleading, or otherwise unreliable. At a minimum, such a personal
790 interest may create an appearance that any resulting analysis, opinion, or conclusion may be biased,
791 misleading, or otherwise unreliable. An analysis, opinion, or conclusion that is biased, misleading, or
792 otherwise unreliable, or that may be perceived to be so, undermines the confidence and trust that the
793 public and clients must have in Members.

794 In deciding whether to accept a service when the Member has a direct or indirect, current or prospective
795 personal interest in the subject or outcome of the service or with respect to the parties involved in the
796 service, the Member must make a reasonable determination as to whether the Member's judgment will
797 be affected. A Member's determination is reasonable if reasonable persons in the same circumstances
798 would reach the same determination. If the Member concludes that the Member's judgment will be
799 affected or if reasonable persons in the same circumstances would conclude that judgment will be

- 800 affected, the Member must refuse the proffered service. In appraisal review assignments, "parties
801 involved in the service" include the individual who prepared the report being reviewed.
- 802 Prior to accepting a service where the Member has a personal interest in the subject or outcome of a
803 service or with respect to the parties involved in the service, a Member must also fully and accurately
804 disclose the personal interest to the client so that the client can make an informed decision as to
805 whether to retain the Member. Should the Member ultimately accept the service, the Member must fully
806 and accurately disclose the personal interest in each report resulting from such service so that any
807 reader can consider any analyses, opinions, and conclusions in the context of the Member's personal
808 interest.
- 809 E.R. 3-9 Comment**
- 810 If a Member knowingly acquires an interest in property or assumes a position that could possibly affect
811 the Member's judgment or violate the Member's responsibilities to the client between the time the
812 Member is contacted concerning a service and expires when the Member completes the service, such
813 interest or change in position may provide an incentive for the Member to render an analysis, opinion, or
814 conclusion that is biased, misleading, or otherwise unreliable and harms the client. At a minimum, such
815 interest or change in position may create an appearance that any resulting analysis, opinion, or
816 conclusion may be biased, misleading, or otherwise unreliable and that the Member's interest or
817 position is in conflict with the Member's responsibilities to the client.
- 818 If a Member knowingly acquires an interest in property or assumes a position that could possibly affect
819 the Member's judgment or violate the Member's responsibilities to the client between the time the
820 Member completes a service and expires a reasonable length of time after the completion of such
821 service, such interest or change in position, if anticipated, may provide an incentive for the Member to
822 render an analysis, opinion, or conclusion that is biased, misleading, or otherwise unreliable and harms
823 the client. If acquiring such an interest or the change in position was not anticipated, the Member at a
824 minimum may create an appearance that the Member's analysis, opinion, or conclusion may be biased,
825 misleading, or otherwise unreliable and that the Member's interest or position is in conflict with the
826 Member's responsibilities to the client.
- 827 An analysis, opinion, or conclusion that is biased, misleading, or otherwise unreliable, or that may be
828 perceived to be so, can undermine the confidence and trust that the public and clients must have in
829 Members, the profession, and the Appraisal Institute. Further, a Member who violates or appears to
830 violate the Member's responsibilities to the client also undermines the confidence and trust that the
831 public and clients must have in Members, the profession, and the Appraisal Institute.
- 832 In deciding whether to acquire an interest in property or assume a position that could possibly affect the
833 Member's judgment or violate the Member's responsibilities to the client, the Member must make a
834 reasonable determination as to whether the Member's judgment will be affected or will violate the
835 Member's responsibilities to the client. A Member's determination is reasonable if reasonable persons
836 in the same circumstances would reach the same determination. If the Member concludes that the
837 Member's judgment will be affected or will violate the Member's responsibilities to the client, or if
838 reasonable persons in the same circumstances would so conclude, the Member must not acquire the
839 interest in property or assume the position.

EXPLANATORY COMMENTS TO CANON 3 (continued)

840 Even if the Member reasonably concludes that the proposed acquisition or change of position will not
841 affect the Member's judgment or violate the Member's responsibilities to the client, the Member still
842 cannot go forward with such acquisition or change in position without fulfilling a number of other
843 requirements. The Member must make full and accurate disclosure to the client and give the client the
844 right to terminate the service without payment, and the client must provide written permission to the
845 Member consenting to or approving the acquisition or change of position. Finally, if the Member meets
846 all of these conditions and is able to proceed with the service, the Member must fully and accurately
847 describe the acquisition or change of position in the Member's report so that the analyses, opinions,
848 and conclusions can be understood in the context of such information.

849 CANON 4 COMMENTS

850 Confidentiality is a critical component of any relationship between a professional and a client. For a
851 Member providing services, confidentiality fosters full and candid disclosure of relevant information by
852 the client. Such disclosure enables the Member to provide credible analyses, opinions, and conclusions
853 to the client.

854 The client has a legitimate interest in controlling the disclosure of confidential information, analyses,
855 opinions, and conclusions in part because the client pays for services rendered and because the
856 disclosure of such information, analyses, opinions, and conclusions may harm the client. At the same
857 time, a Member must be able to use market data, and at the Member's option, provide other Members
858 and the profession with access to such data, to serve the public and clients generally.

859 To facilitate these objectives, the Appraisal Institute has adopted a definition of confidential information
860 and a series of Ethical Rules relating to and protecting the confidentiality of the Member-client
861 relationship.

862 E.R. 4-1 Comment

863 Ethical Rule 4-1 sets forth the general requirements relating to the confidentiality of the Member-client
864 relationship. It is unethical for a Member to disclose confidential information or an analysis, opinion, or
865 conclusion specific to a service except under specified circumstances. Confidential information is
866 defined as information that is either identified by the client as confidential when providing it to a Member
867 and that is not available from any other source; or is classified as confidential or private by applicable
868 law or regulation. Therefore, for example, information that is not confidential includes data secured from
869 public records and information a Member can obtain from a source other than the client. General
870 analyses, opinions, and conclusions about the community in which the subject property is located are
871 also not confidential.

872 One example of the application of Ethical Rule 4-1 is where a Member is provided with information about
873 the sale of a property from a client, who tells the Member that the information is confidential and the
874 information is not available from any other source. If the Member subsequently shares this information
875 with another appraiser seeking comparable data, the Member is in violation of this Ethical Rule.

876 Another example would be if a Member casually states at a social function that the Member appraised a
877 certain property for \$X. This Ethical Rule prohibits the disclosure of service results in such a manner
878 without the client's express permission.

879 E.R. 4-2 Comment

880 Ethical Rule 4-2 addresses the situation where a client requests a service that will be materially affected
881 by the Member's use of, or failure to use, confidential information the Member has received from
882 another client. A Member may only accept such service if the previous client permits the Member to use
883 such information or the information is no longer confidential.

884 E.R. 4-3 Comment

885 For the Appraisal Institute to effectively fulfill the vital functions of admissions and peer review,
886 appropriate Appraisal Institute committees must and will have access to confidential information
887 provided to Members by their clients. Clients understand and are on notice that appropriate Appraisal
888 Institute committees will have access to their confidential information, as well as confidential analyses,
889 opinions, and conclusions, because Members must inform their clients that their reports are subject to
890 review by the duly authorized representatives of the Appraisal Institute. Further, clients retain Appraisal
891 Institute Members because of the admissions and peer review functions of the Appraisal Institute and
892 such clients benefit from the resulting increased quality of the services that Members provide. At the
893 same time, Members who serve on committees relating to admissions and peer review functions must
894 not act in a manner that would harm a client or take advantage of serving in these important roles to
895 obtain professional advantage by discussing or disclosing confidential information, analyses, opinions,
896 conclusions, and factual data derived from such activities. Therefore, Ethical Rule 4-3 provides that it is
897 unethical for a Member to discuss or disclose confidential information, analyses, opinions, conclusions,
898 and factual data with limited exceptions. Since committee members must keep strictly confidential the
899 information, analyses, opinions, conclusions, and factual data derived through committee activities, the
900 client is protected.

901 CANON 5 COMMENT

902 To serve the public and clients effectively, members of a profession must not only offer their expertise,
903 but they must also properly and accurately inform the public and prospective clients about their
904 qualifications and the functions of the profession. In this way, prospective clients can make informed
905 decisions as to the type and extent of services they need and can identify competent and ethical
906 professionals to provide such services. Such information can also help clients evaluate a service and
907 help hiring parties evaluate potential employees or contractors. Advertising, solicitations, promotions,
908 resumes, and statements of qualifications that are misleading or are otherwise contrary to the public
909 interest undermine these important goals.

910 E.R. 5-1 Comment

911 Members of the Appraisal Institute may utilize advertising to inform the public and prospective clients of
912 the services they offer, the cost of such services, and their qualifications. However, Member advertising
913 must not be misleading or calculated to create unrealistic expectations in the minds of the parties to
914 whom the advertising is directed. In promoting their services, Members must take particular care not to
915 state or imply that they will develop, prepare, use, or report an analysis, opinion, or conclusion that is
916 biased or that they will deviate from the strict Standards and Ethical requirements that they have agreed
917 to comply with as Appraisal Institute Members.

918 A Member cannot avoid ethical responsibility by using a corporation, partnership, or other entity (or
919 multiple entities) to advertise services in a misleading manner. Therefore, a Member may not knowingly
920 permit an entity that is wholly or partially owned or controlled by such Member to utilize misleading
921 advertising, even if the name of a Member is not specifically mentioned in the advertisement.

922 E.R. 5-2 Comment

923 The Appraisal Institute has established the categories of Designated, Associate, and Affiliate
924 membership in part to help the public and clients understand the qualifications that Members hold and
925 the requirements to which they are subject. The different Appraisal Institute designations serve a similar
926 purpose.

927 The Appraisal Institute is the sole owner of its name, corporate logo, membership designations, and
928 emblems ("marks"), which are registered with the United States Patent and Trademark Office.

929 Based on these considerations, the Appraisal Institute has established rules for the use of its name,
930 corporate logo, designations, and designation emblems. The authorized or permitted uses of these
931 marks are set forth in the Bylaws, Code of Professional Ethics, Regulation No. 5, Trademark Usage
932 Manual, and various other Regulations of the Appraisal Institute, and are subject to federal law.

933 The general rule governing any reference to or use of the Appraisal Institute name, corporate logo,
934 membership designations, and designation emblems is that such reference or use must be authorized
935 or permitted and must not be misleading or deceptive.

EXPLANATORY COMMENTS TO CANON 5 (continued)

- 936 Therefore, for example, under Ethical Rule 5-2, a Member may only use a membership designation and
937 its associated emblem if the Member currently holds such designation and is a Member in good
938 standing. A Member may not use such designation in a manner that suggests that a partnership,
939 corporation, or other organization holds such designation.
- 940 A second example is that under Ethical Rule 5-2, a Member may use or refer to the Appraisal Institute
941 name to convey membership, but must do so in a manner that clearly and accurately sets forth the type
942 of membership held. Therefore, for example, a General Associate Member can use the words "General
943 Associate Member, Appraisal Institute," but cannot place those words under a heading entitled
944 "Professional Designations" or abbreviate those words to appear like a designation.
- 945 A third example is that the Appraisal Institute permits some Designated Members to use the Appraisal
946 Institute corporate logo under very limited circumstances to convey a very specific message to the
947 public. If a Member uses the corporate logo but does not meet the requirements for such use, the
948 Member misleads the public and potential clients, thereby violating Ethical Rule 5-2.
- 949 The Appraisal Institute name, corporate logo, membership designations, and designation emblems must
950 be used in a manner that preserves and respects the federal trademark rights of the Appraisal Institute
951 and interests therein. Appropriate use ultimately strengthens these marks, which benefits Appraisal
952 Institute Members. Therefore, for example, Designated Members who use the corporate logo and
953 designation emblems must use exact reproductions of the official versions in the appropriate colors and
954 in an appropriate size.
- 955 Finally, when a Member uses an advertisement or promotion that refers to the Appraisal Institute marks,
956 such use must be dignified, conservative, and in keeping with the highest professional standards.
- 957 E.R. 5-3 Comment**
- 958 Members may solicit for services in a manner consistent with the public interest. Therefore, a Member
959 may not solicit for services in a manner that is misleading.
- 960 For example, a Member not may inform a prospective client that the Member has qualifications or
961 expertise that the Member does not possess. As another example, a Member may not state or imply
962 that the Member can develop, prepare, use, or report an analysis, opinion, or conclusion that is biased.
- 963 A Member cannot avoid ethical responsibility by using a corporation, partnership, or other entity (or
964 multiple entities) to solicit services in a misleading manner. Therefore, a Member may not knowingly
965 permit an entity that is wholly or partially owned or controlled by such Member to solicit services in a
966 manner that is misleading, even if name of a Member is not specifically mentioned in the solicitation.

967 **E.R. 5-4 Comment**

968 The primary basis for someone to refer a service to a Member should be the Member's qualifications,
969 rather than financial incentive. At the same time, federal law prohibits a professional organization from
970 prohibiting all referral fees. Therefore, a Member may pay a fee, commission, or thing of value to procure
971 a service, but the Member must disclose such payment in the certification of any resulting written report
972 and in any transmittal letter in which an analysis, opinion, or conclusion is stated. The intended user(s)
973 is(are) entitled to know that the Member paid a fee, commission, or thing of value to procure the service
974 and to consider such information in evaluating the service.

975 In construing this rule, disclosure is required only if the payment made is a condition of the referral. For
976 example, if the party to whom a referral is made subsequently invites the referring party to dinner as a
977 token of appreciation, this act would not be payment of a "thing of value" and disclosure would not be
978 required.

979 Ethical Rule 5-4 does not apply to a Member when providing real property consulting services that are
980 subject to the requirements of another licensed occupation or profession. Therefore, for example, if a
981 Member is licensed as a real estate broker and is acting in a capacity as a real estate broker, the
982 Member's payment and disclosure of a fee, commission, or thing of value for procurement of a real
983 property consulting service are governed by the laws and regulations governing real estate brokers,
984 rather than Ethical Rule 5-4.

985 **E.R. 5-5 Comment**

986 Potential clients, parties hiring employees and contractors, as well as others, need clear and accurate
987 information on which to evaluate Members' qualifications and work product. Therefore, a Member may
988 not prepare or use in any manner a resume or statement of qualifications that is misleading.



Certification Standard of the Appraisal Institute

Effective July 1, 2006

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A Member's Certification for a Service (Appraisal, Appraisal Review, Appraisal Consulting, or Real Property Consulting) Must Also Include Statements Relating to Special Commitments Made by Appraisal Institute Members

Certification Standard Rules

C.S.R. 1-1

Each written report Member must contain a certification that includes the following statement:

The reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.

Comment

Members must use the exact text of the statement required by this Rule.

C.S.R. 1-2

Each written report must contain a certification that includes the following statement:

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

Comment

Members must use the exact text of the statement required by this Rule.

C.S.R. 1-3

Each written report of a Designated Member must contain a certification that includes one of the following statements:

Either

As of the date of this report, I (or Designated Member's name or Designated Members' names) have/has completed the continuing education program of the Appraisal Institute.

Or

As of the date of this report, I (or Designated Member's name or Designated Members' names) have not/has not completed the continuing education program of the Appraisal Institute.

Comment

Under the continuing education program of the Appraisal Institute, Designated Members who complete one hundred hours of creditable continuing education in a five-year cycle are deemed "continuing education completed." Certification Standard Rule 1-3 requires all Designated Members to include a statement in their written reports as to whether they have completed the continuing education program and are therefore "continuing education completed." Those Designated Members who do not hold the status "continuing education completed" must state in their written reports that they have not completed the continuing education program of the Appraisal Institute, regardless of whether they are required to complete the one hundred hours.

The continuing education program of the Appraisal Institute is maintained only for its Designated Members. Associate and Affiliate Members may attend continuing education courses and seminars but they do not receive continuing education credit. Therefore, it is inappropriate for Associate Members, Affiliate Members, and non-members to make the statement found in C.S.R. 1-3.

Designated Members must use the exact text of the statement required by this Rule. If a Designated Member seeks to explain his or her failure to complete the requirements of the continuing education program of the Appraisal Institute, extreme care must be used. The Appraisal Institute does not deem other activities to be the equivalent of its continuing education requirements. Misleading statements that relate to a Member's qualifications violate Ethical Rule 5-5 of the Code of Professional Ethics. Misleading statements of any kind may violate Ethical Rule 1-1(a) of the Code of Professional Ethics.



Guide Notes to the Standards of Professional Appraisal Practice of the Appraisal Institute

Effective January 1, 2003

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Valuation of Real Estate Component of Real Estate Limited Partnership Interests

Introduction

The limited partnership has become a recognized form of ownership. Creation of such a partnership often begins when an individual or group (the general partner) purchases interests in real estate for the purpose of transferring them to a limited partnership. Problems may arise when an appraiser is asked to value the real estate interests at the time of their purchase by the general partner because this purchaser frequently is buying more than an interest in real estate. Problems also arise when the general partner sells these limited partnership interests because of the inherent difficulty in separating the value of the interest in the real estate from the aggregate value of the limited partnership interest.

The value of the interests in real estate at the time of acquisition by the general partner sometimes may be referred to as *wholesale value*. The aggregate value of the individual limited partnership interests sold by the general partnership is sometimes referred to as *aggregate market value* or *retail value*. If used by an appraiser, these terms must be defined clearly and precisely so that the intended users of the report will not be misled.

Valuation problems often relate to non-real estate items or conditions involved in the transaction such as special financing and guarantees of occupancy or income. These items are difficult to isolate and evaluate even when all the facts are known. In the context of limited partnership purchases, the problem of analyzing comparable sales becomes more difficult than usual due to the difficulty in obtaining all the relevant data.

When a general partner sells a real estate limited partnership interest, the price of this limited partnership interest may include management services and other benefits in addition to the interests in real estate.

The sale of a limited partnership interest in real estate involves the marketing of a highly specialized interest, both real and personal, to a specifically defined group of purchasers having varying motivations. Unless extreme care is taken to distinguish the exact nature of the interests being appraised, valuation conclusions can be greatly distorted or misleading, and an appraiser may become liable under security and tax regulations that have often been described as punitive.

Basis for Proper Evaluation

All applicable approaches should be considered in developing an opinion of value. When analyzing comparable sales in the sales comparison approach, all transactions should be specifically analyzed to determine whether non-real estate items were included in the purchase price. If non-real estate items were included, they should be separately identified and their effect on the sale price should be carefully considered and measured.

General partners frequently assert that the aggregate price paid for a limited partnership interest represents the market value of these interests in real estate. This may be an important item since this value may be used to establish the basis for certain tax benefits. The appraiser must carefully analyze the aggregate sale prices of the limited partnership interests and separate the value of these interests in real estate from the contributory value of the non-real estate interests. Rarely would the retail price of individual partnership interests sold equal the market value of the interests in real estate. It is essential that the appraiser understands that the partnership interests sold include non-realty items such as management services, investor-specific tax benefits, the ability to invest in a major property that an investor might be incapable of investing in alone, and the potential for improved liquidity. Potential capital appreciation and possible tax benefits are considered to be elements that influence investors and may impact the price paid.

When valuing fractional interests in a real estate partnership, an appraiser must be certain that the market data is comparable, and be acutely aware of the details of transactions analyzed in the valuation process. In this connection, an appraiser can appraise the partnership interest involved either by breaking it down into separate components, or by considering it as a whole with all the components properly identified.

Summary of Standard Practices

1. Identify non-realty items that are included in the appraisal and analyze their effect on value (S.R. 1-2(e)(iii) and S.R. 1-4(f)).
2. Determine the extent of non-realty items included in the price of each comparable sale.
3. Specify in the report that the difference between market value and aggregate retail value of the real estate interests being appraised is not the retail price of the aggregate fractional interests in the partnership, or the aggregate market value of the partnership (S.R. 1-2 (e)(v)).
4. Describe and measure the effects of non-market or atypical financing on the value of the real estate interests being appraised (S.R. 1-2 (c) and S.R. 2-2(a)(v) and 2-2(b)(v)).
5. Identify and analyze the value of any non-real estate items included in the appraisal (S.R. 1-4(g)).

(Please Note: The purpose of the Guide Notes to the Standards of Professional Appraisal Practice is to provide Members with guidance as to how the requirements of the Standards may apply in specific situations.)

Cash Equivalency in Valuations

Introduction

Standards Rule 1-2(c) requires that for opinions of market value the appraiser ascertain whether the value is to be the most probable price in terms of cash, in terms of financial arrangements equivalent to cash, or in other precisely defined terms. Standards Rule 1-2(c) further requires that if the opinion of market value is to be based on non-market financing or financing with unusual conditions or incentives, the terms of such financing must be clearly identified and the appraiser's opinion of their contributions to or negative influence on value must be developed by analysis of relevant market data.

The definition of presumed mortgage conditions is an explicit or implicit instruction of the appraiser's client. The instruction may mirror a loan commitment or only sought conditions. The presumed financing may be prospective or existing. There may be more than one presumed mortgage. Components of financing include the amount of the mortgage loan(s), its interest rate(s), its interest payment interval(s), its schedule(s) of debt repayment, required fees for placing the loan(s), and required restrictions or fees for early termination of the loan(s). Any of the components can diminish or enhance market value.

An opinion of market value may presume "all cash," meaning no financing, i.e., that the real estate is debt free at the time ownership is transferred. More likely, the presumption will be "all cash to the seller," meaning the buyer mortgages the real estate as security to a third-party lender who pays part or all of the price in cash; if the financing is part of the price, the non-mortgaged amount is paid in cash by the buyer. In some cases the presumption will be that the seller will partially or entirely finance the purchase, i.e., will "hold paper," meaning take back the buyer's purchase-money mortgage. This could be instead of or in addition to a third-party loan.

Each comparable transaction, the financing of which differs from that presumed for the appraised property, should be adjusted to parity. For example, assume that the property is to be appraised presuming an 80%, self-amortizing, 300-month, 0.677% monthly interest rate loan available to a qualified borrower for the pre-payment of three percent of the loan amount (three placement points). If the loan conditions for one of the comparable sales were identical in each respect except that four placement points were paid, an 0.8% (one point times 80%) increase in the price of that comparable would accommodate its financing difference.

Appraisers, when calculating financing adjustments, often substitute the expected remaining loan term until a logical refinancing date for the longer total loan term.

Many appraisers find it an orderly process to first adjust and analyze each comparable price to its arithmetic equivalent of an all-cash-to-the-seller price. Then, if necessary, they adjust the cash-equivalent conclusion of the comparable prices to the presumed financing of the appraised property. Even when the presumed financing is other than cash-equivalent, this process is favored to reveal the quantified total effect of the financing. (The expression "cash equivalent" pertains to the seller's point of view; a loan is not the true equivalent of cash to a purchaser who does not have the alternative of paying cash.)

When appraisers refer to "favorable financing," they mean favorable to the buyer. Such financing may be unfavorable to the seller but often it is a matter of indifference to the seller.

When the value to be developed for the subject property is market value based on cash, or financing that is equivalent to cash, comparable sales used in the sales comparison approach must be analyzed and adjusted for financing that may have influenced their prices.

A client may request a market value opinion on the assumption that specific financing, other than cash-equivalent, is available. Or the client may request that the property be valued with existing financing. In such cases, the appraiser should be careful to use a market value definition that is consistent with such an assumption. Further, the appraiser must analyze the effect of such financing; it may have no effect on the resulting value, or it may have a favorable or an unfavorable effect.

In responding to the questions posed by the client that initiated the appraisal assignment, the appraiser must adhere to ethical standards and fundamental appraisal principles and practices that are applicable to the market. A clear understanding is necessary between the appraiser and the client as to the interest being valued and the need for the appraiser to analyze existing, available, and/or proposed financing. If the appraisal assignment is to develop an opinion of market value, the definition of market value must not only be consistent with the client's needs but must also meet the requirements of Standards Rule 1-2(c) as quoted below.

Standards Rule 1-2

- (c) identify the purpose of the assignment, including the type and definition of the value to be developed; and, if the value opinion to be developed is market value, ascertain whether the value is to be the most probable price:
 - (i) in terms of cash; or
 - (ii) in terms of financial arrangements equivalent to cash; or
 - (iii) in other precisely defined terms; and
 - (iv) if the opinion of value is to be based on non-market financing or financing with unusual conditions or incentives, the terms of such financing must be clearly identified, and the appraiser's opinion of their contributions to or negative influence on value must be developed by analysis of relevant market data.

Comment: When the purpose of an assignment is to develop an opinion of market value, the appraiser must also develop an opinion of reasonable exposure time linked to the value opinion.

Basis for Proper Evaluation

The market value of a clearly identified property interest may be reported in a number of ways: 1) cash, 2) terms equivalent to cash, or 3) with other precisely defined terms. An example of such other terms is the cash value of the equity interest subject to existing or proposed financing.

Standards Rule 1-2(c) requires an appraiser to clearly define the terms of such financing and develop an opinion of their contributions to or negative influence on value. Standards Rules 2-2(a)(v) and 2-2(b)(v) require that, if the value opinion is market value, the report state whether it is in terms of cash or of financing terms equivalent to cash, or based on non-market financing or financing with unusual conditions or incentives. Further, if the opinion of market value is not in terms of cash or based on financing terms equivalent to cash, the report must summarize the terms of such financing and explain their contributions to or negative influence on value. The appraiser can either:

Report two values (as financed and cash-equivalent); or

Report one value and indicate the positive or negative influence the financing terms have on the value reported.

Standards Rule 1-2(c) contains this reporting requirement so that interested parties will be aware of how much the favorable or unfavorable financing impacts the value reported. Standards Rule 1-2(c) does not imply that different financing terms will always lead to a different value. It simply requires that a proper analysis be made.

Subject Analysis When Financing May Affect Value

When developing an opinion of the value of a property, the appraiser must ascertain whether or not any existing financing is assumable, retireable, or replaceable. Also, the appraiser must estimate the potential value impact of the cost items such as finder's fees, points, and prepayment penalties and the effect of the present worth of participation by lenders, if any. The appraiser should also judge the duration of any favorable or unfavorable influence from mortgages or participations. It should not be assumed that the benefits or detriment due to financing will continue throughout the stated amortization or participation terms. The value impact of a mortgage fluctuates as interest rates rise and fall. The possibility of retiring unfavorable financing prior to its full payout period should also be considered.

Once a property owner finances the property, ownership may become subject to the terms of the mortgage. The sum of the value of owner equity and the face amount of the balance(s) of the mortgage note(s) may or may not be equal to the free and clear value of the property. Any difference represents the impact that the financing has on the value. The value of a property on the basis of cash or cash equivalency can be developed most directly by comparing it with similar properties that were being sold for cash or its equivalent on the open market. However, if the total consideration for a comparable sale includes something other than cash, e.g., the exchange of property, life tenancy, or other interest, such consideration should be converted to cash equivalency. Analyzing cash equivalency goes beyond the discounting of debt encumbrances.

If sufficient data to permit a direct market comparison is not available, the cash equivalency of existing or proposed financing can be estimated by discounting the contractual terms at current market rates or yield rates for the same type of property and loan term over the expected holding period of the property. However, such mathematical methods should be weighted against other market indications.

Comparable Analysis When Financing May Have Affected Value

The same analysis outlined above must also be applied to comparable sales data. The appraiser should ascertain the terms of the financing involved in the acquisition of a comparable property and estimate the influence of such financing, if any, on the sale price. For example, does an all-cash sale differ from a sale in which the buyer assumed existing financing or secured new financing from the seller, a third party, or both? If so, why and what is the impact on price?

A clear distinction must be made between sale prices that are not affected by financing or other considerations, including sale prices for terms considered by the seller to be equivalent to cash transactions, and sales involving premiums or discounts due to financing. If the financing is unfavorable to the purchaser, one way that the difference may be measured is by the cost to retire the debt. Furthermore, the effect of financing on each comparable sale must be considered in light of the market as of the date of the sale, not the date of valuation of the subject. The appraiser should attempt to determine whether or not, at the time of sale, the financing affected the sale price in the minds of the parties to the transaction. If it did, the effect must be analyzed and an adjustment must be made and reported.

Summary

In summary, demonstrated knowledge of the market financing available to the subject and comparable sale properties, analytical judgment, and common sense are required of the appraiser in determining whether or not specified financing impacts the value reported.

Standards Rule 1-2(c) requires that an opinion of the impact of favorable or unfavorable financing on market value be developed and Standards Rules 2-2(a)(v) and 2-2(b)(v) require that it be reported. The value reported must be clear and meaningful to the client and cannot be misleading to the intended users.

When non-market financing or financing with unusual conditions or incentives is involved and results in an effect on the value opinion, the appraiser can either:

Report two values (as financed and cash-equivalent); or

Report one value and indicate the positive or negative influence the financing terms have on the value reported.

Summary of Standard Practices

1. Accurately report the specific terms of any non-cash-equivalent existing or proposed financing of the subject property, when such financing has an impact on the appraisal problem (S.R. 1-2(c)).
2. Analyze and report the effect of favorable or unfavorable financing terms on value (S.R. 1-2(c)).
3. Analyze and make appropriate adjustments to a comparable sale that included favorable or unfavorable financing terms as of the date of sale, when comparing the sale to the property being appraised (S.R. 1-2(c)).
4. Either report two values, or report one value and quantify the positive or negative influence the financing terms have on the value reported (S.R. 1-2(c)).

(Please Note: The purpose of the Guide Notes to the Standards of Professional Appraisal Practice is to provide Members with guidance as to how the requirements of the Standards may apply in specific situations.)

The Use of Form Appraisal Reports for Residential Property

Introduction

Most residential appraisal assignments require a report on one of the approved forms used in the secondary mortgage market or by the employee-relocation industry.

Use of such forms does not lessen or change the appraiser's obligation to observe the requirements of the Standards of Professional Appraisal Practice. If a proposed appraisal assignment cannot be completed in accordance with the appraisal development and reporting requirements of USPAP and the Certification Standard and Code of Professional Ethics of the Appraisal Institute, the assignment must not be accepted.

Basis for Proper Evaluation

When using any form report, or signing a form report as a reviewer, it is the responsibility of the appraiser and the reviewer to ensure that the appropriate methods and techniques have been properly employed. Appropriate addenda must be added when additional information is required to complete the appraisal report in accordance with Standard 2 of USPAP.

Highest and best use appears on most forms merely as a box to be checked because the use of the form itself is a statement of highest and best use. Unless a detailed explanation is added to clarify, it is inappropriate to use a single-family dwelling report form if the appraiser concludes that the highest and best use of the property is a different use.

Summary of Standard Practices

1. Consider the intended use, purpose, definitions, assumptions, conditions, and limitations that are inherent in the form report used for a residential appraisal (S.R. 1-2 (a) through (h)).
2. Sign an appraisal report as a reviewer only when accepting full responsibility for the contents of the report (S.R. 2-3 and Standard 3).
3. Analyze and report any prior sales of the property being appraised within three years of the date of the appraisal (S.R. 1-5(b)(i), S.R. 2-2 9a) (ix), and 2-2(c)(ix)).

(Please Note: The purpose of the Guide Notes to the Standards of Professional Appraisal Practice is to provide Members with guidance as to how the requirements of the Standards may apply in specific situations.)

Reliance on Reports Prepared by Others

Introduction

In this Guide Note an analysis, opinion, or conclusion prepared by others, and upon which an appraiser relies, is referred to as a "report."

Appraisers often rely, at least in part, on reports prepared by others. Reliance on the reports of others generally increases with the complexity of the appraisal problem. The use of such reports may increase in the future. Appraisers are providing more specialized services and will need more information to make decisions and develop their appraisals.

Reports prepared by others vary in form, content, and applicability. Although they are frequently used in conjunction with proposed properties and transactions, they may also be applicable to existing properties and used in special situations such as litigation and arbitration.

In general, these reports fall into four major classifications:

General Informational Reports

General informational reports are usually descriptive in nature and provide information pertaining to an overall area. They include data on demographics, economic trends, and other such matters. They are not specific to the property being appraised.

Reports Prepared by Licensed or Certified Non-Real Estate Appraisal Professionals

Reports prepared by licensed or certified non-real estate appraisal professionals are specific to the subject property and may be either descriptive or factual in nature. They include engineering services, environmental studies, soil reports, impact studies, survey reports, zoning opinions, audited financial statements, and other reports relating to matters beyond the scope of appraisers' expertise, or services not typically offered by appraisers.

Reports Prepared by Other Non-Real Estate Appraisal Professionals

Reports in this category are prepared by experts who are not licensed or certified but have specific experience or expertise that an appraiser may rely upon. Examples include reports pertinent to the appraisal problem from academicians, operators of special use properties, and personal property valuers.

Other Reports

Other reports pertaining to the subject property may be prepared by the client, by another real estate professional, or by others. These reports include financial statements, rent rolls, prior appraisal reports on the subject property, highest and best use studies, rental surveys, computer programs (or other electronic media), cost studies, and others.

Basis for Proper Evaluation

Before relying upon reports prepared by others the appraiser must consider:

1. the criteria under which the reports were prepared;
2. the source and extent of the instructions given to the preparer of the reports;
3. how the appraiser might rely on this information in making decisions and preparing his or her report; and
4. the process and procedures used to evaluate the reports prepared by others.

The valuation process may require projections which are influenced by uncertain events. For this reason the basis for all assumptions and projections employed by the individual who prepared the report must be understood and properly utilized by the appraiser.

Standards Rules 1-1(b) and 4-1(b) state that the appraiser must not commit a substantial error of omission or commission that significantly affects the appraisal or the appraisal consulting assignment. Standards Rules 1-1(c) and 4-1(c) state that the appraiser must not make a series of errors that, although individually might not significantly affect the results, in the aggregate affect the credibility of those results.

Standards Rules 2-1(a) and 5-1(a) require that each written or oral appraisal or appraisal consulting report clearly and accurately set forth the assignment results in a manner that will not be misleading. Standards Rules 2-1(b) and 5-1(b) require that each written or oral appraisal or appraisal consulting report must contain sufficient information to enable the intended users to understand the report properly. Standards Rules 2-2(a)(viii), 2-2(b)(viii), 2-2(c)(viii), and 5-2(g) require that each written appraisal report or appraisal consulting report state all assumptions, hypothetical conditions, and limiting conditions that affect the analyses, opinions, and conclusions. Standards Rules 2-2(a)(ix) and 2-2(b)(ix) require the appraiser to describe or summarize in the appraisal report the information analyzed, the appraisal procedures followed, and the reasoning that supports the analyses, opinions, and conclusions. S.R. 5-2(h) requires the appraiser to summarize, in the appraisal consulting report, the information used in the appraisal consulting analyses, the appraisal consulting procedures applied, and the reasoning that supports the analyses, opinions, and conclusions. S.R. 2-2(a)(vii), 2-2(b)(vii), 2-2(c)(vii), and 5-2(f) require the appraiser to address the assignment's scope of work in the appraisal or appraisal consulting report.

Market value opinions should be supported by market-derived data and assumptions made should be specific to both the market and the property. An appraiser who accepts the projections or assumptions of others without some assurance of the accuracy or reasonableness of the calculations or information provided may violate the aforementioned Standards Rules.

The need for review and assurance of the accuracy or reasonableness of reports prepared by others will vary with their content and applicability. The scope of review or verification required depends on the scope of the assignment, the appraiser's level of expertise (if any), the type of information used, and the relevance of the information to the opinions and judgments rendered.

The four major classifications of reports require varying levels of review and care on the part of the appraiser, as offered below:

General Informational Reports

General informational reports usually require limited verification. Most discrepancies are easily clarified.

Reports Prepared by Licensed or Certified Non-Real Estate Appraisal Professionals

Reports prepared by licensed or certified non-real estate appraisal professionals typically offer conclusions as to the adequacy of a specific property component or issue pertaining to the property. These conclusions are generally based on accepted procedures or standards and represent informed opinions on matters beyond the appraiser's expertise. Absent reasonable doubt, these reports usually can be accepted conditioned upon the qualification that they were prepared by recognized professionals. Should observed or apparent material discrepancies exist between the appraiser's investigation and the submitted report prepared by a licensed or certified non-real estate appraisal professional, such material discrepancies must be disclosed.

Reports Prepared by Other Non-Real Estate Appraisal Professionals

An appraiser's reliance on reports prepared by these experts is distinct from that of the preceding paragraph in the greater care the appraiser should exercise in determining the pertinent expertise of the author.

Other Reports

Other reports prepared by, or at the direction of, the client, other real estate professionals, or others, require a careful review for reasonableness. To the degree possible and practical, computer programs or other electronic media should be reviewed for errors or inconsistencies. The level of investigation should be appropriate to the problem. The appraiser must understand the assumptions on which these reports are based as well as their applicability and validity to the assignment.

Summary of Standard Practices

1. Become familiar with any report prepared by another that is relied upon in the appraisal process and, to the degree possible, understand the basis for its conclusions. Address any questions with the preparer of the report prior to using it in the appraisal process.
2. In conjunction with the scope of work for the assignment, identify or reference in the appraisal report any report prepared by another that was relied upon in developing the appraisal or appraisal consulting opinion or conclusion (S.R. 2-2((a)(ix), S.R. 2-2(b)(ix), S.R. 2-2(c)(ix), and S.R. 5-2(h), as well as S.R. 2-2(a)(vii), 2-2(b)(vii), 2-2(c)(vii) and 5-2(f)).

(Please Note: The purpose of the Guide Notes to the Standards of Professional Appraisal Practice is to provide Members with guidance as to how the requirements of the Standards may apply in specific situations.)

Appraisals of Real Estate with Related Personal Property, Business Property, or Intangible Assets

Introduction

Real property sometimes has associated with it certain items of personal property, business property, or intangible assets. Real property appraisers may be requested to appraise these items in conjunction with the real property. The valuation of personal property, business property, or intangible assets requires specific expertise. Before accepting such an assignment, an appraiser must first ascertain that he or she has the expertise to competently complete it. The valuation of the personal or business personal property may require the expertise of a personal property appraiser who specializes in that discipline.

Basis for Proper Evaluation

In developing a real property appraisal, appraisers are required by S.R. 1-2(c)(iii) to identify "any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal." S.R. 6-2(f)(i) makes the same requirement regarding mass appraisals. Further, S.R. 1-4(g) requires that when the scope of work warrants such analysis, the appraiser must analyze the effect on value of any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal. The Comment to S.R. 1-4(g) states:

Competency in personal property appraisal (see Standard 7) or business valuation (see Standard 9) may be required when it is necessary to allocate the overall value to the property components. A separate valuation, developed in compliance with the Standard pertinent to the type of property involved, is required when the value of a non-realty item or combination of such items is significant to the overall value.

Whether or not the value of the non-realty item is "significant" to the overall value depends on the specific circumstances and must be judged on a case-by-case basis by the appraiser.

Fixtures that are not real estate are identified as trade fixtures, domestic fixtures, and leasehold improvements. They are personal property regardless of ownership, regardless of who purchased or installed the item, and regardless of how securely the item is attached to the real estate.

Usually, trade fixtures for business, and domestic fixtures for residences, are installed by or for occupants who at occupancy-conclusion may forfeit them, sell them, remove them, or abandon them, depending upon 1) the lease or sale contract, 2) the contribution made when installed, 3) their investment value to the departing occupant, 4) custom, and 5) other considerations. For example, in a plumbing contractor's establishment, there may be three categories of toilets: those used by the staff and customers are fixtures, i.e., real estate; those on display, built into model bathrooms, are trade fixtures, i.e., real estate related personal property; and those in the rear storage area available for delivery to, and installation in, customers' buildings (where, when affixed, they will then become part of the real estate) are inventory, i.e., personal property that is not yet related to any real estate.

Leasehold items differ physically from trade/domestic fixtures in that they are constructed on site rather than merely installed (or modified and installed). For example, a tavern's bar might be constructed on the premises whereas the barstools would merely be installed as delivered. Such distinctions are not useful in the appraisal analysis, although a client may have some other justification for differentiation.

Local custom regarding whether an item is considered to be realty or personal property is of great importance regarding carelessly drafted purchase contracts. For example, where the contract is silent, a dwelling's refrigerator would be conveyed with the real estate in some jurisdictions but would not in other jurisdictions. The nearby table lamp, which is affixed to the real estate in exactly the same manner as is the refrigerator (by electric plug), is not real estate in any jurisdiction. Other personal property items in dwellings may include fireplace inserts, window treatments, and satellite dishes.

A securely affixed item may revert to realty at occupancy-termination, if its relocation requires prohibitively expensive damage to itself (e.g., partitioning) or to the building in which it is located (e.g., a wall safe). The value contribution at that time may be negative or positive, depending upon the nature of the item and demand for it at its location.

Most single-family dwellings, factories, amusement facilities, farms, and ecclesiastical properties, and many office and retail buildings are appraised to include some affixed tangible personal property (e.g., bookshelves, carpet). But, often, some items of affixed personal property are to be removed (or separately sold) by the grantor and should be excluded from the appraisal opinion. In all such cases, specificity is necessary. It is of great importance to the appraiser whether, for example, the gas range, the leaded stained glass window, and the dining room light fixtures are to be included in, or excluded from, the appraisal opinion. On the other hand, the contributory value of these items in no way depends upon whether each or any of the items is legally real estate or personal property.

In those cases in which the intended use of the appraisal assignment is related to some types of government activity, such as ad valorem real estate taxation, or eminent domain, the appraiser may be instructed to exclude all personal property. In those cases, the appraiser should either know how to comply, or find out how to comply with this legal instruction.

If the appraisal opinion is to include personal property that is either superior or inferior to that typically found in competing properties, allowance for the difference, on a contributory basis, should be considered in whatever procedures are appropriate to appraise the real estate and its related personal property.

If the appraisal opinion is to omit personal property that is integral to operating the real estate for its highest and best use, then comparable sale adjustments, cost summations, and income stream analyses should reflect that fact.

Summary of Standard Practices

1. Develop an appraisal of real estate and related personal property only after ascertaining adequate knowledge and experience to complete the assignment competently (Competency Rule).
2. Identify any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal (S.R. 1-2(e)(iii)). Analyze the effect on value of any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal, when the scope of work for the assignment warrants such analysis (S.R. 1-4(g)).

(Please Note: The purpose of the Guide Notes to the Standards of Professional Appraisal Practice is to provide Members with guidance as to how the requirements of the Standards may apply in specific situations.)

Consideration of Hazardous Substances in the Appraisal Process

Introduction

The consideration of environmental conditions along with social, economic, and governmental conditions is fundamental to the appraisal of real property. Although appraisal literature has long recognized environmental conditions as major determinants of value, the focus has been on the consideration of climatic conditions, topography and soil, the surrounding neighborhood, accessibility, and proximity to points of attraction. These environmental conditions are readily apparent to a member of the general public who is not specifically trained as an expert in observing these forces. There is, however, a growing need to give special consideration to the impact of hazardous substances on the valuation of real property.

The growing need to consider hazardous substances is a recent trend stemming from the creation and identification of new hazards, relatively recent federal and state legislation enacted to control and place responsibility for these hazards, and an increasing public awareness of the problems resulting from these hazards.

The presence of hazardous substances can significantly impact the value of a property. In fact, in some cases the remediation cost may be greater than the property value after any necessary clean-up.

For the purpose of this Guide Note, the term "hazardous substances" covers any material within, around, or near a property that may have a negative impact on its value. Accordingly, the principles discussed in this Guide Note apply equally to hazardous substances that may be contained within the property and external hazardous substances.

The purpose of this Guide Note is to provide guidance in the application of the Uniform Standards of Professional Appraisal Practice (USPAP) to the appraisal of real property affected by or potentially affected by hazardous substances and, in particular, to the consideration of such hazards in the appraisal process. It is not the purpose of this Guide Note to provide technical instructions or explanations concerning the detection or measurement of the effect of hazardous substances.

Competency

The Competency Rule of the Uniform Standards of Professional Appraisal Practice requires the appraiser to either 1) properly identify the problem to be addressed and have the knowledge and experience necessary to complete the assignment competently or 2) disclose the appraiser's lack of knowledge or experience to the client before accepting the assignment; take all steps necessary or appropriate to complete the assignment competently; and describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report.

The Competency Rule is of particular importance in the appraisal of real property that may be affected by hazardous substances. Most appraisers do not have the knowledge or experience required to detect the presence of hazardous substances or to measure the quantities of such material. The appraiser, like the buyers and sellers in the open market, typically relies on the advice of others in matters that require special expertise.

There is nothing to prevent a professional appraiser from becoming an expert in other fields, but the real estate appraiser is neither required, nor expected, to be an expert in the special field of the detection and measurement of hazardous substances. This Guide Note therefore addresses the problem of hazardous substances from the viewpoint of the appraiser who is not qualified to detect or measure the quantities of hazardous substances. If an appraiser is qualified to detect or measure hazardous substances, a different standard would apply.

In appraisal assignments in which the appraised value is to take into account the effects on value of hazardous substances, most appraisers require the professional assistance of others. In appraisal assignments in which the appraised value *does not* take into account the possible effects on value of known hazardous substances, the appraiser would not require the professional assistance of others. These alternatives are further discussed below.

The appraiser may accept an assignment involving the consideration of hazardous substances without having the required knowledge and experience in this special field, provided the appraiser discloses such lack of knowledge and experience to the client prior to acceptance of the assignment, arranges to complete the assignment competently, and describes the lack of knowledge or experience and the steps taken to competently complete the assignment in the report. This may require association with others who possess the required knowledge and experience or reliance on professional reports prepared by others who are reasonably believed to have the necessary knowledge and experience. If the appraiser draws conclusions based upon the advice or findings of others, the appraiser must believe that the advice or findings are made by persons who are properly qualified. (See Guide Note 4, Reliance on Reports Prepared by Others.) It is suggested that the client, not the appraiser, choose and hire any qualified environmental professionals.

In some cases, an appraiser may be asked to complete a checklist which lists specific contaminants and questions the appraiser's knowledge of each. This is addressed in USPAP Advisory Opinion AO-9 entitled "Responsibility of Appraisers Concerning Toxic or Hazardous Substance Contamination," which states, "If an appraiser is requested to complete a checklist as part of the process for recognizing contamination, the appraiser should only respond to those questions that can be answered competently by the appraiser within the limits of his or her particular expertise in this area."

Scope of Work

S.R. 1-2(f) requires that, in any assignment, the appraiser establish the appropriate scope of work necessary to complete that assignment. Part of the scope-of-work decision includes how, and to what extent, the appraisal problem will address known or suspected hazardous materials that may impact the property. The Comment to S.R. 1-2(f) states:

Comment: The scope of work is acceptable when it is consistent with:

- the expectations of participants in the market for the same or similar appraisal services; and
- what the appraiser's peers' actions would be in performing the same or a similar assignment in compliance with USPAP.

An appraiser must have sound reasons in support of the scope-of-work decision, and must be prepared to support the decision to exclude any information or procedure that would appear to be relevant to the client, an intended user, or the appraiser's peers in the same or a similar assignment.

An appraiser must not allow assignment conditions or other factors to limit the extent of research or analysis to such a degree that the resulting opinions and conclusions developed in an assignment are not credible in the context of the intended use of the appraisal.

S.R. 2-2(a)(vii), 2-2(b)(vii), and 2-2(c)(vii) require that the scope of work be disclosed in the appraisal report.

Depending on the intended use, the appraisal may be prepared so that the value opinion reflects no known or suspected hazardous materials that may impact the property, or it may be prepared so that the value opinion does reflect known hazardous substances. In either case, the appraiser must take special precautions in the development and reporting process to ensure that the results of the assignment are credible and that the report is not misleading.

Because the appraiser's value opinion is based on assessment of what a knowledgeable buyer would pay a knowledgeable seller, the appraiser needs to be aware of the steps that knowledgeable buyers and sellers now take in the marketplace. Under federal and most state laws, the owner of a piece of property which is contaminated, and from which there is a release or threatened release, may be held liable for the cost of corrective action. Under federal and state laws, an "innocent purchaser" may avoid this liability. In order for a purchaser to qualify for the "innocent purchaser" defense, the purchaser must establish that it undertook all proper investigation of the property and the investigation indicated that the property was clean. This has come to mean, at a minimum, that the purchaser of commercial, industrial, or vacant property must conduct at least a "Phase I" investigation of the property prior to acquisition. Such an investigation entails a review of the property, its history, and available government records to determine if there is reason to believe that it may contain contamination. If a properly conducted Phase I investigation finds no likelihood of contamination, it should be sufficient to establish the "innocent purchaser" defense. If the potential for contamination is disclosed in the Phase I report, further investigation, often characterized as Phase II or Phase III investigation, should be able to determine with a reasonable degree of scientific certainty whether the property is affected by contamination, and if it is, what the possible remedies and costs may be. Given the accepted practice in the marketplace, the appraiser may wish to qualify his or her appraisal as follows:

If the appraiser has been provided with a Phase I, Phase II, or Phase III report finding no evidence of possible contamination:

The client has provided an environmental assessment for the property performed by XXX. According to the report describing that assessment, dated XXX, no adverse hazardous substances were found on the subject property. The reader of this appraisal report is urged to review the entire environmental assessment for specific detail.

If no Phase I report has been prepared or provided to the appraiser and the appraiser has no reason to suspect the existence of hazardous substances, the appraiser may wish to state specifically that:

The appraiser has not reviewed a Phase I report of examination and such an examination is customary in the transfer of commercial, industrial, or vacant real estate. The appraisal is based on an assumption of a Phase I report indicating no contamination.

Assignments Involving NO Known or Suspected Hazardous Substances

When there are no known or suspected hazardous substances associated with the property, it is recommended, as a matter of standard practice, that the appraiser issue a disclaimer or limiting condition to the effect that the appraisal is predicated on the assumption that hazardous substances do not exist. An example of such a disclaimer might be as follows:

Unless otherwise stated in this report, the existence of hazardous substances, including without limitation asbestos, polychlorinated biphenyl, petroleum leakage, or agricultural chemicals, which may or may not be present on the property, was not called to the attention of nor did the appraiser become aware of such during the appraiser's inspection. The appraiser has no knowledge of the existence of such materials on or in the property unless otherwise stated. The appraiser, however, is not qualified to test for such substances. The presence of such hazardous substances may affect the value of the property. The value opinion developed herein is predicated on the assumption that no such hazardous substances exist on or in the property or in such proximity thereto, which would cause a loss in value. No responsibility is assumed for any such hazardous substances, nor for any expertise or knowledge required to discover them.

Assignments Involving SUSPECTED Hazardous Substances

If in the course of completing an appraisal assignment, the appraiser discovers reason to believe there *may* be hazardous substances associated with the property, the appraiser should immediately notify the client to address the situation. The appraisal may be completed based on the *extraordinary assumption* that there are no hazardous substances affecting the property's value. However, the client may at this time wish to investigate further by requesting the services of an environmental professional before the appraisal is completed.

USPAP defines an “extraordinary assumption” as “an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser’s opinions or conclusions.” The Comment to this definition states: “Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.”

Standards Rule 1-2(g) requires that in developing an opinion of value the appraiser identify “any extraordinary assumptions necessary in the assignment.” The Comment states:

An extraordinary assumption may be used in an assignment only if:

- it is required to properly develop credible opinions and conclusions;
- the appraiser has a reasonable basis for the extraordinary assumption;
- use of the assumption results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.

Standards Rules 2-2(a)(viii), 2-2(b)(viii), and 2-2(c)(viii) require the appraiser to state in the appraisal report all extraordinary assumptions upon which the value opinion is premised. Any extraordinary assumption must be disclosed in conjunction with statements of each opinion or conclusion that was affected. Therefore, if the value conclusion is presented in several places within the appraisal report, the extraordinary assumption must be repeated, or a clear reference to it must be made, each time.

Standards Rule 2-1 requires the report to “clearly and accurately disclose any ... extraordinary assumption ... that directly affects the appraisal and indicate its impact on value.” This Standards Rule does not require that the appraiser quantify the impact on value, such as by both valuing the property subject to the extraordinary assumption and valuing it not subject to the extraordinary assumption. A brief discussion of the likely impact on value is all that is required.

An example of the disclosure of such an extraordinary assumption would be as follows:

During the course of completing this assignment, the appraiser became aware that [give reason for suspecting the presence of hazardous substances]. Unless otherwise stated in this report, the existence of hazardous substances, including without limitation asbestos, polychlorinated biphenyl, petroleum leakage, or agricultural chemicals, which may or may not be present on the property, was not called to the attention of nor did the appraiser become aware of such during the appraiser’s inspection. The appraiser is not qualified to test for such substances. The presence of such hazardous substances may affect the value of the property. The value opinion developed herein is predicated on the extraordinary assumption that no such hazardous substances exist on or in the property or in such proximity thereto which would cause a loss in value. No responsibility is assumed for any such hazardous substances, nor for any expertise or knowledge required to discover them.

The foregoing disclosure may be placed in the letter of transmittal, scope-of-work section, or general comment section, depending on the type and length of report prepared. In an oral report, the appraiser should present the same information, if possible.

Further, as discussed above, the extraordinary assumption must be mentioned every time the value opinion that is affected by it is presented in the report. For example:

The appraiser's final opinion of the market value of the subject property as of January 1, 2XXX, is therefore \$XXX,XXX. This opinion is made based on the extraordinary assumption that the subject property is unaffected by hazardous substances.

Assignments Involving KNOWN Hazardous Substances: Appraised Value DOES NOT Account for Their Effect

If a property is known to be affected by hazardous substances, it may serve a valid and useful purpose to develop a value opinion for the property that excludes the consideration of known hazardous substances. Such an appraisal would be based on a hypothetical condition; i.e., that the property is not impacted by known hazardous substances. Such an appraisal could be required as the logical starting point in a study of the impact of hazardous substances or in connection with legal proceedings.

USPAP defines a "hypothetical condition" as "that which is contrary to what exists, but is supposed for the purpose of analysis." The Comment states: "Hypothetical conditions assume conditions contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in the analysis."

Standards Rule 1-2(h) requires that in developing an opinion of value the appraiser identify "any hypothetical conditions necessary in the assignment." The Comment states:

A hypothetical condition may be used in an assignment only if:

- use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;
- use of the hypothetical condition results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.

Standards Rules 2-2(a)(viii), 2-2(b)(viii), and 2-2(c)(viii) require the appraiser to state in the appraisal report all hypothetical conditions upon which the value opinion is premised. Any hypothetical condition must be disclosed in conjunction with statements of each opinion or conclusion that was affected. Therefore, if the value conclusion is presented in several places within the appraisal report, the hypothetical condition must be repeated, or a clear reference to it must be made, each time.

Standards Rule 2-1 requires the report to “clearly and accurately disclose any ... hypothetical condition ... that directly affects the appraisal and indicate its impact on value.” This Standards Rule does not require that the appraiser quantify the impact on value, such as by both valuing the property subject to the hypothetical condition and valuing it not subject to the hypothetical condition. A brief discussion of the likely impact on value is all that is required.

An example of the disclosure of such a hypothetical condition would be as follows:

It is reported that asbestos is present within the subject property. In accordance with the client’s instructions and consistent with the intended use of this appraisal, the value opinion is based on the hypothetical condition that the subject property is not impacted by asbestos. The presence of asbestos may have a negative influence on the value of the subject property, but the consideration of the effects of asbestos on the value of the subject property is beyond the scope of this assignment. The appraiser cautions against the use of this appraisal for any use other than the intended use stated herein.

The foregoing disclosure may be placed in the letter of transmittal, scope-of-work section, or general comments section, depending on the type and length of report prepared. In an oral report, the appraiser should present the same information, if possible.

In addition to the foregoing, the hypothetical condition should be stated with any statement of the purpose of the appraisal. For example:

The purpose of this appraisal is to develop an opinion of the market value of the subject property, based on the hypothetical condition that it is unaffected by asbestos, as of January 1, 2XXX.

Further, as discussed above, the hypothetical condition must be mentioned every time the value opinion that is affected by it is presented in the report. For example:

The appraiser’s final opinion of the market value of the subject property as of January 1, 2XXX, is therefore \$XXX,XXX. This opinion is made based on the hypothetical condition that the subject property is unaffected by asbestos.

If the appraiser is provided with a Phase I, Phase II, or Phase III report that indicates the possibility of contamination, that must be noted together with the amount of further investigation that is required by customary business practice as well as necessary to establish the “innocent purchaser” defense (such further investigation must reveal the absence of contamination to establish the “innocent purchaser” defense). A statement similar to the following is suggested:

The client has provided a Phase XX environmental assessment for the property performed by XXXX. According to the report describing that assessment, dated XXX, the following hazardous substances are found on the subject property. The reader of this appraisal report is urged to review the entire environmental assessment for specific detail.

Assignments Involving KNOWN Hazardous Substances:

Appraised Value Accounts for Their Effect

In developing an appraisal based in part on the findings of others with respect to the existence and effects of known hazardous substances, the appraiser must correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal. The loss of value attributable to hazardous substances is sometimes measurable using the same methods and techniques that are used to measure depreciation from other causes. In other cases, more specialized techniques are indicated. However, in some cases even environmental professionals cannot agree on the level of clean-up required, the appropriate method of that clean-up, or the cost of clean-up.

The appraiser is cautioned that the value of a property impacted by hazardous substances may not be measurable simply by deducting the typical remediation cost, or discovery cost from the total value, as if "clean." The possibility of other changes affecting value, such as a change in highest and best use, marketability, and stigma, should be considered. In any analysis the appraiser should concentrate on developing an opinion of the hazardous substances' effect on value.

Summary of Standard Practices

1. Disclose to the client the appraiser's lack of knowledge and experience with respect to the detection and measurement of hazardous substances (Competency Rule).
2. Take the necessary steps to complete the assignment competently such as personal study by the appraiser, association with another appraiser who has the required knowledge and experience, or obtaining the professional assistance of others who possess the required knowledge and experience (Competency Rule).
3. Identify in the appraisal process and state in the report if the appraisal is based on an extraordinary assumption or hypothetical condition that the property is appraised as if unaffected by hazardous substances (S.R. 1-2(h), S.R. 2-1(c), and S.R. 2-2(a)(viii), 2-2(b)(viii), and 2-2(c)(viii)).
4. Identify in the appraisal process any known hazardous substances affecting the property (S.R. 1-2(e)(i)).
5. Identify the scope of work necessary to complete the assignment, including the manner and degree to which hazardous substances will be addressed (S.R. 1-2(e)).

(Please Note: The purpose of the Guide Notes to the Standards of Professional Appraisal Practice is to provide Members with guidance as to how the requirements of the Standards may apply in specific situations.)

Consideration of the Americans with Disabilities Act in the Appraisal Process

Introduction

The Americans with Disabilities Act of 1990 became effective as to the removal of barriers to entry and use by disabled persons in existing public accommodations as of January 26, 1992. It applies to alterations of existing public accommodations or commercial facilities as of the same effective date and new construction of commercial facilities or places of public accommodation designed for first occupancy after January 26, 1993.

In appraisals involving real estate that is covered by the Act, appraisers should address the question of whether or not the requirements of the Act could have an effect on the value opinion.

The need to comply with the Accessibility Guidelines set forth in the Regulations for existing facilities where compliance is readily achievable and on alterations or new facilities may be a substantial expense to be paid by the tenant or owner. This, in turn, can have an impact on the value of the property.

Competency

The Competency Rule of the Uniform Standards of Professional Appraisal Practice requires the appraiser to either 1) properly identify the problem to be addressed and have the knowledge and experience necessary to complete the assignment competently or 2) disclose the appraiser's lack of knowledge or experience to the client before accepting the assignment; take all steps necessary or appropriate to complete the assignment competently; and describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report.

The Competency Rule is of particular importance in the appraisal of real property that comes under the provisions of the ADA Regulations. The typical appraiser does not have the knowledge or experience required to determine whether physical changes have to be made to existing facilities to conform to the ADA Regulations or whether alterations or new construction meets the requirements. The appraiser in most cases will have to rely on those with special expertise.

An appraiser is not prevented from developing expertise in the area of ADA requirements, but a real estate appraiser is not required to become an expert in the field of ADA requirements. This Guide Note addresses the area of ADA requirements from the viewpoint of the real estate appraiser who is not an expert in this area.

An appraiser may accept an assignment involving the considerations of ADA requirements without the required knowledge and experience in this area provided the appraiser discloses such lack of knowledge and experience to the client prior to acceptance of the assignment and arranges to complete the assignment competently. This may require association with others who possess the required knowledge and experience or reliance on professional reports prepared by others who are reasonably believed to have the necessary knowledge and experience. If the appraiser relies on the advice or findings of others, the appraiser must believe that the advice or findings are made by persons who are properly qualified. (See Guide Note 4, Reliance on Reports Prepared by Others.) It is suggested that the client hire qualified ADA experts.

In addition to an appropriate limiting condition, there should be an appropriate statement of purpose, and the conclusion should be properly qualified, as illustrated below.

The purpose of this appraisal is to develop an opinion of the market value of the subject property, as if unaffected by the elevator requirements of the ADA Regulations, as of July 1, XXXX.

Scope of Work

S.R. 1-2(f) requires that, in any assignment, the appraiser establish the appropriate scope of work necessary to complete that assignment. Part of the scope-of-work decision includes how, and to what extent, the appraisal problem will address how compliance or lack of compliance with the ADA might impact the property. The Comment to S.R. 1-2(f) states:

The scope of work is acceptable when it is consistent with:

- the expectations of participants in the market for the same or similar appraisal services; and
- what the appraiser's peers' actions would be in performing the same or a similar assignment in compliance with USPAP.

An appraiser must have sound reasons in support of the scope-of-work decision, and must be prepared to support the decision to exclude any information or procedure that would appear to be relevant to the client, an intended user, or the appraiser's peers in the same or a similar assignment.

An appraiser must not allow assignment conditions or other factors to limit the extent of research or analysis to such a degree that the resulting opinions and conclusions developed in an assignment are not credible in the context of the intended use of the appraisal.

S.R. 2-2(a)(vii), 2-2(b)(vii), and 2-2(c)(vii) require that the scope of work be disclosed in the appraisal report.

Depending on the intended use, the appraisal may be prepared so that the value opinion reflects no known lack of compliance with ADA requirements, or it may be prepared so that the value opinion does reflect lack of compliance. In either case, the appraiser must take special precautions in the development and reporting process to ensure that the results of the assignment are credible and that the report is not misleading.

Assignments Involving NO Known or Suspected Lack of Compliance with ADA

When there is no known or suspected lack of compliance with the ADA, it is recommended, as a matter of standard practice, that the appraiser include a general assumption in the appraisal report to the effect that the appraisal is predicated on the assumption that readily achievable barrier removals do not exist. Since the law is written on the basis that the final determination of whether or not readily achievable changes have been made will be determined by the courts, it can never be assumed that any property has met all the requirements.

The following example is offered for illustration only.

The Americans with Disabilities Act (ADA) became effective January 26, 1992. The appraiser has not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property together with a detailed analysis of the requirements of the ADA could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative effect upon the value of the property. Since the appraiser has no direct evidence relating to this issue, possible noncompliance with the requirements of ADA was not considered in developing an opinion of the value of the property.

Assignments Involving SUSPECTED Lack of Compliance with ADA

If in the course of completing an appraisal assignment the appraiser becomes aware of information indicating the property *may* lack compliance with the ADA, the appraiser should immediately notify the client of the situation. The appraisal may be completed based on the *extraordinary assumption* that there is no lack of compliance with the ADA that might affect the property's value. However, the client may at this time wish to investigate further by requesting the services of an ADA expert before the appraisal is completed.

USPAP defines an "extraordinary assumption" as "an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions." The Comment states: "Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis."

Standards Rule 1-2(g) requires that in developing an opinion of value the appraiser identify "any extraordinary assumption necessary in the assignment." The Comment states:

An extraordinary assumption may be used in an assignment only if:

- it is required to properly develop credible opinions and conclusions;
- the appraiser has a reasonable basis for the extraordinary assumption;
- use of the assumption results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.

Standards Rules 2-2(a)(viii), 2-2(b)(viii), and 2-2(c)(viii) require the appraiser to state in the appraisal report all extraordinary assumptions upon which the value opinion is premised. Any extraordinary assumption must be disclosed in conjunction with statements of each opinion or conclusion that was affected. Therefore, if the value conclusion is presented in several places within the appraisal report, the extraordinary assumption must be repeated, or a clear reference to it must be made, each time.

Standards Rule 2-1 requires the report to "clearly and accurately disclose any extraordinary assumption ... that directly affects the appraisal and indicate its impact on value." This Standards Rule does not require that the appraiser quantify the impact on value, such as by both valuing the property subject to the extraordinary assumption and valuing it not subject to the extraordinary assumption. A brief discussion of the likely impact on value is all that is required.

An example of the disclosure of such an extraordinary assumption would be as follows:

During the course of completing this assignment, the appraiser became aware that [give reason for suspecting the lack of ADA compliance]. The Americans with Disabilities Act (ADA) became effective January 26, 1992. The appraiser has not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property together with a detailed analysis of the requirements of the ADA could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative effect upon the value of the property. Since the appraiser has no direct evidence relating to this issue, this appraisal was made based on the extraordinary assumption that the property is not impacted by lack of compliance with the ADA.

The foregoing disclosure may be placed in the letter of transmittal, scope-of-work section, or general comment section, depending on the type and length of report prepared. In an oral report, the appraiser should present the same information, if possible.

Further, as discussed above, the extraordinary assumption must be mentioned every time the value opinion that is affected by it is presented in the report. For example:

The appraiser's final opinion of the market value of the subject property as of January 1, 2XXX, is therefore \$XXX,XXX. This opinion is made based on the extraordinary assumption that the subject property is not impacted by lack of compliance with the Americans with Disabilities Act.

Assignments Involving KNOWN Lack of ADA Compliance: Appraised Value DOES NOT Account for Its Impact

If a property is known to be out of compliance with the ADA Regulations, it may serve a valid or useful purpose to appraise the property as though ADA compliance were not at issue. Such an appraisal could be required as the logical starting point in a study of the impact of the ADA Regulations.

Whatever the purpose, such an appraisal must be properly qualified to prevent its misuse. The valuation of property that has known readily achievable changes required to meet the ADA Regulations would be based on the *hypothetical condition* that the property is not impacted by lack of ADA compliance.

USPAP defines a "hypothetical condition" as "that which is contrary to what exists, but is supposed for the purpose of analysis." The Comment to this definition states: "Hypothetical conditions assume conditions contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis."

Standards Rule 1-2(h) requires that in developing an opinion of value the appraiser identify "any hypothetical conditions necessary in the assignment." The Comment states:

A hypothetical condition may be used in an assignment only if:

- use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;
- use of the hypothetical condition results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.

Standards Rules 2-2(a)(viii), 2-2(b)(viii), and 2-2(c)(viii) require the appraiser to state in the appraisal report all hypothetical conditions upon which the value opinion is premised. Any hypothetical condition must be disclosed in conjunction with statements of each opinion or conclusion that was affected. Therefore, if the value conclusion is presented in several places within the appraisal report, the hypothetical condition must be repeated, or a clear reference to it must be made, each time.

Standards Rule 2-1 requires the report to "clearly and accurately disclose any ... hypothetical condition ... that directly affects the appraisal and indicate its impact on value." This Standards Rule does not require that the appraiser quantify the impact on value, such as by valuing the property both subject to the hypothetical condition and valuing it not subject to the hypothetical condition. A brief discussion of the likely impact on value is all that is required.

An example of the disclosure of such a hypothetical condition would be as follows:

In accordance with the client's instructions, and consistent with the intended use of the appraisal, the opinion of value is based on the hypothetical condition that the subject property is unaffected by the elevator requirements of ADA. It is known that the elevators do not meet the requirements of ADA and if they are required to be brought in line with the Regulation it would have a negative effect on the value of the subject property. The consideration of the negative effect on value that would occur if the elevators are required to be brought into compliance is beyond the scope of this assignment. The appraiser cautions against the use of this appraisal for any use other than the intended use stated herein.

The foregoing disclosure may be placed in the letter of transmittal, scope-of-work section, or general comments section, depending on the type and length of report prepared. In an oral report, the appraiser should present the same information, if possible.

In addition, the hypothetical condition should be stated with any statement of the purpose of the appraisal. For example:

The purpose of this appraisal is to develop an opinion of the market value of the subject property, as if unaffected by the elevator requirements of the ADA Regulations, as of July 1, 2XXX.

Further, as discussed above, the hypothetical condition must be mentioned every time the value opinion that is affected by it is presented in the report. For example:

The appraiser's final opinion of the market value of the subject property as of July 1, 2XXX is therefore \$XXX, XXX. This opinion is made based on the hypothetical condition that the subject property is unaffected by the elevator requirements of the ADA Regulations.

Assignments Involving KNOWN Lack of ADA Compliance: Appraised Value Accounts for Its Impact

In developing an appraisal based in part on the findings of others with respect to changes that are required to meet the ADA Regulations, the appraiser must correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal. The loss of value attributable to required changes is generally measurable using the same methods and techniques that are used to measure curable depreciation from other causes. However, it must be recognized that experts will disagree on what are readily achievable barrier removals.

The appraiser is cautioned that the value of a property which has physical barriers to the disabled may not be measurable simply by deducting the cost to cure from the value opinion developed before the required changes. The possibility of using auxiliary aids, changing the use of the property so it is not a public accommodation, or making the changes over time should be considered.

Summary of Standard Practices

1. Disclose to the client the appraiser's lack of knowledge and experience with the ADA Regulations and their requirements (Competency Rule).
2. Take the necessary steps to complete the assignment competently, such as personal study by the appraiser, association with another appraiser who has the required knowledge and experience, or obtaining the professional assistance of others who possess the required knowledge and experience (Competency Rule).
3. Identify in the appraisal process and state in the report if the appraisal is based on an extraordinary assumption or hypothetical condition that the property is appraised as if unaffected by ADA requirements (S.R. 1-2(h), S.R. 2-1(c), and S.R. 2-2(a)(viii), 2-2(b)(viii), and 2-2(c)(viii)).
4. Identify in the appraisal process any known lack of ADA compliance (S.R. 1-2(e)(i)).

(Please Note: The purpose of the Guide Notes to the Standards of Professional Appraisal Practice is to provide Members with guidance as to how the requirements of the Standards may apply in specific situations.)

Use and Applicability of Letters of Transmittal

Introduction

A letter of transmittal means any type of written letter, memorandum, or statement that serves as a notice of delivery from the appraiser to a second party of a report containing an opinion or conclusion concerning real estate. The letter of transmittal may be a part of the appraisal report, or it may be a separate document.

The Uniform Standards of Professional Appraisal Practice do not require the use of a letter of transmittal. In many cases, such as with brief form reports, a letter of transmittal is not practical. With a few exceptions, USPAP is silent with regard to the use, or nonuse, of a letter of transmittal. The Management section of the Ethics Rule addresses "... fees, commissions, or things of value connected to the procurement of an appraisal, appraisal review, or appraisal consulting assignment" and requires that disclosure of such fees, if any, "...should appear in the certification of a written report and in any transmittal letter in which conclusions are stated." The Standards Rules that require a signed certification to be included in the report (S.R. 2-3, 3-2, 5-3, 8-3, and 10-3) mention that any appraiser who signs a letter of transmittal (if one is used) must also sign a certification.

When used appropriately, a letter of transmittal is a good business practice. Used inappropriately, the letter of transmittal may inadvertently cause the appraiser to be in violation of USPAP.

The letter of transmittal can serve the following purposes:

1. It is a communication between the appraiser and the client, identifying the client who authorized the appraisal and establishing the fact that the appraiser has completed his or her contractual obligation in compliance with a previous contract, agreement, or letter of engagement.
2. It confirms the business and/or fiduciary relationship agreement between the client and the appraiser as to the work product embodied in the assignment and may enable the appraiser to limit the widening of that relationship to unintended users.
3. It may call attention to unusual conditions of the engagement, hypothetical conditions, extraordinary assumptions, or unusual limiting conditions that affect the assignment.
4. It may be used to establish the client as the party ordering the report and responsible for payment of the associated fee, while putting the client on notice that certain limitations (such as the right of publication and the possibility of submitting the report to a peer review committee) apply.
5. It may disclose the scope of work applied in the assignment, and any permitted departures from Standard 1, so that the client and intended users of the report understand the inherent level of reliability.

6. It may state the report option used and, in a Restricted Use Appraisal Report, may contain the use restriction required by Standards Rule 2-2(c) that limits reliance on the report to the client.
7. It may, if the letter of transmittal is a part of the appraisal report, include the signed certification required by Standards Rule 2-3.

The letter of transmittal need not contain a statement of the value or other opinion(s) as set forth in the body of the report. If it does, however, the appraiser must try to ensure that the letter remains attached to the remainder of the report. If the letter of transmittal contains the appraiser's conclusion(s) and becomes detached from the body of the appraisal report, the letter could be used or construed as an appraisal report in itself. The reader of the letter could be misled or confused since the letter in itself will not typically meet the reporting requirements of USPAP.

If a Member signs the letter of transmittal, the Appraisal Institute will consider the report to have been "delivered" for purposes of enforcing E.R. 1-1(e), which provides:

It is unethical to knowingly contribute to or participate in the preparation or delivery of a report containing an appraisal, appraisal review, appraisal consulting, or real property consulting analysis, opinion, or conclusion that reasonable appraisers would not believe to be justified, whether or not such report is signed or delivered by the Member.

Basis for a Proper Letter of Transmittal

The following is an example of a letter of transmittal which is considered to be consistent with the guidelines outlined in this Guide Note.

March 15, 2XXX

First Client Bank, Inc.
1932 Atkinson Drive
Chicago, Illinois

RE: The Hempstead Office Building, 2391 "A" Avenue, Greenville, Illinois
Lot 23, Block 19, Glen Forest Office Park Subdivision, City of Greenville,
Green County, Illinois

Dear [Mr. or Ms. Client]:

In fulfillment of the agreement outlined in the letter of engagement dated January 30, 2XXX, we are pleased to present the attached report of our appraisal of the leased fee estate in the referenced parcel of real estate, as of December 31, 2XXX. The report sets forth our opinion of market value along with supporting data and reasoning which form the basis of our opinion.

GUIDE NOTE 8 (continued)

The value opinion reported is qualified by certain definitions, limiting conditions, and certifications which are set forth on pages 5 through 9 of this report. We particularly call to your attention to the extraordinary assumption set forth on page 8 dealing with the possible existence of hazardous or toxic materials on the premises appraised.

We also point out that the value developed is based on the hypothetical condition that the City of Greenville approved a Special Use Permit for the property as of the date of value. This hypothetical condition is addressed in detail on page 35 of the report.

This report was prepared for and our professional fee billed to First Client Bank, Inc. It is intended only for use by your internal management, your auditor, and appropriate regulatory authorities. It may not be distributed to or relied upon by other persons or entities without our written permission.

The property was inspected by John Evans, SRPA, and the appraisal was developed by Mr. Evans and Sally Briggs, MAI. If you have any questions concerning the report, please contact Ms. Briggs at (312) 555-7789.

Sincerely,

BROWN & BRIGGS

By: John J. Briggs, MAI, Managing Partner

To avoid potential for abuse, the letter of transmittal should be prepared in such a way that it cannot be mistaken for or misused itself as an appraisal report. It should be simply a statement of delivery and completion of an assignment. It would be a good practice for the appraiser to avoid summarizing the opinion(s) or conclusion(s) developed in the report, referring the reader, instead, to the body of the report itself. Thus, the reader or user of the report will see the opinion only in its proper context, with appropriate explanations, extraordinary assumptions, hypothetical conditions, limiting conditions, definitions, disclaimers, etc.

If the appraiser deems it appropriate to include the value opinion or other conclusion in the letter of transmittal, it should be qualified with a statement such as the following:

As a result of our analysis, we have formed an opinion that the market value (as defined in the Report), subject to the definitions, certifications, extraordinary assumptions, hypothetical conditions, and limiting conditions set forth in the attached Report, as of December 31, 2XXX, was:

ONE MILLION DOLLARS (\$1,000,000).

THIS LETTER MUST REMAIN ATTACHED TO THE REPORT, WHICH CONTAINS
94 PAGES PLUS RELATED EXHIBITS, IN ORDER FOR THE VALUE OPINION SET
FORTH TO BE CONSIDERED VALID.

Summary of Standard Practices

1. If the value opinion is set forth in the letter of transmittal, include sufficient information in the letter so that it meets the reporting requirements for the appraisal report.
2. State any unusual circumstances associated with the assignment, such as unusual conditions of the engagement, extraordinary assumptions or hypothetical conditions used, or unusual limiting conditions.
3. Reference the appraisal report being transmitted, including its number of pages.

(Please Note: The purpose of the Guide Notes to the Standards of Professional Appraisal Practice is to provide Members with guidance as to how the requirements of the Standards may apply in specific situations.)

Use and Applicability of Engagement Letters

Introduction

An engagement letter means a written or electronically transmitted agreement between the appraiser and the client setting forth the terms and conditions of an appraisal assignment. Neither the Uniform Standards of Professional Appraisal Practice nor the Code of Professional Ethics requires that engagement letters be used. However, use of an engagement letter is generally a sound business practice, as it serves to clarify the terms of the assignment and provides written evidence of the client's and appraiser's agreement to those terms.

Basis for Appropriate Use

The engagement letter can be written by either the appraiser or the client, as long as both parties understand and agree to its entire content. In most cases the engagement letter should be drafted after the client and the appraiser have discussed the assignment and have orally agreed to the scope of the assignment, timing of completion by the appraiser, fee, and other parameters. The engagement letter then serves as an affirmation of this conversation.

If the appraiser and the client have an on-going relationship, the client (or trading partner) might initiate a new assignment by sending the appraiser (often via fax or electronic transmission) an *appraisal request or order form*. This procedure serves the same purpose as an engagement letter as long as it adequately addresses the requisite issues and the appraiser can agree to the terms of the assignment established by the client. Upon receipt it would be advisable for the appraiser to sign and date the request or otherwise document its acceptance.

The format and content of the engagement letter may vary depending on the nature of the assignment. Items that should be addressed include the following:

- Date of the engagement.
- Scope of work to be used in the assignment, including any agreed upon departures from the Standards Rules; if the Jurisdictional Exception applies, the applicable law or public policy should be referenced or a copy should accompany the engagement letter.
- Any supplemental standards (e.g., FNMA guidelines or FIRREA appraisal requirements) or special requirements of the client (e.g., photos, maps, data sheets, etc.).
- Reference to compliance with the Code of Professional Ethics & Standards of Professional of the Appraisal Institute (which include USPAP).
- Identification of the subject property.
- Identification of the interest to be valued.

- Intended use (function) of the appraisal.
- Intended user(s) of the appraisal.
- Purpose of the appraisal, i.e., value opinion(s) to be developed.
- Definition(s) of value opinion(s) to be developed.
- Number of copies of the appraisal report.
- Due date.
- To whom delivered and where, and method of delivery, if appropriate.
- Amount of agreed upon fee (and method of payment, if appropriate).
- Contact(s) for access to and information about the subject property.
- Client's name, company name, and phone number.
- Appraiser's name, company name, and phone number.

It is advisable for the engagement letter to be signed and dated by both the appraiser and the client, and both parties should retain a signed and dated copy. If it is not possible for both parties to sign and date the engagement letter, the appraiser should document its mutual acceptance.

When the terms and conditions of the assignment are set forth in a written engagement letter, any subsequent modifications to the original agreement should also be in writing (or transmitted in the same manner as the original engagement letter). The documented modifications should be retained with the original engagement letter by both the appraiser and the client.

If the engagement letter or appraisal request is transmitted electronically via a standard or proprietary transaction set, all necessary items must be addressed. If fields for the necessary information are not specifically provided, the information should be input as text.

Summary of Standard Practices

1. Client requirements must be consistent with USPAP, unless the Jurisdictional Exception applies.
2. The agreed upon fee must not be contingent upon the outcome of a valuation.
3. The engagement letter must be consistent with any verbal agreement with the client regarding the assignment.
4. Subsequent modifications to a written engagement letter should be in writing or otherwise properly documented.

GUIDE NOTE 9 (continued)

5. An electronically transmitted request must adequately address all pertinent items.

(Please Note: The purpose of the Guide Notes to the Standards of Professional Appraisal Practice is to provide Members with guidance as to how the requirements of the Standards may apply in specific situations.)



Appraisal Institute Summary of Regulation No. 6

Effective January 1, 2005

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Appraisal Institute

Summary of Regulation No. 6*

- I. The **Director of Screening** of the Appraisal Institute ("Director of Screening" or "Director") receives referrals concerning possible violations of the Code of Professional Ethics or Standards of Professional Appraisal Practice. Referrals are received from anyone (clients, lenders, Appraisal Institute Members, regulators, and even anonymous individuals).
 - A. If the Director of Screening determines that a Member may have violated the Code of Professional Ethics, the Director will refer the file to the Ethics Administration Division.
 1. The Director may refer the file to the Ethics Administration Division for appointment of a Grievance Committee and further processing for possible violations of the Code of Professional Ethics other than Ethical Rules 1-2, 2-3(b), 2-3(c), and 2-3(d). (See section III of this summary.)

or
 2. The Director may refer the file to the Chair of the Ethics Administration Division if the file concerns a possible violation of an Ethical Rule under Canon 5, which concerns advertising, solicitation, use of designations or emblems, referral fees, resumes, and statements of qualifications. (See section II, B of this summary).

or
 3. The Director must refer the file to the Chair of the Ethics Administration Division if the file concerns a possible violation of:
 - a. Ethical Rule 1-2, which concerns engaging in misconduct that leads to conviction of a crime involving fraud, dishonesty, false statements or moral turpitude.
 - b. Ethical Rule 2-3(b), which concerns failure or refusal of a Member to promptly submit relevant documentation or information that has been requested by the Appraisal Institute, an Appraisal Institute committee or member thereof, or one of their duly authorized agents.
 - c. Ethical Rule 2-3(c), which concerns failure or refusal of a Member to promptly answer all relevant questions when requested to do so by the Appraisal Institute, an Appraisal Institute committee or member thereof, or one of their duly authorized agents.

* This summary is intended only to provide an overview of the primary procedures of Regulation No. 6 effective January 1, 2005 and does not cover every detail, nuance, alternative, right, or responsibility under the Regulation.

- d. Ethical Rule 2-3(d), which concerns failure or refusal of a Member to appear for a personal interview or participate in an interview conducted by telephone when requested to do so by the Appraisal Institute, an Appraisal Institute committee or member thereof, or one of their duly authorized agents.

(See section II, A and C of this summary.)

- B. If the Director of Screening determines that a Member may have violated the Standards of Professional Appraisal Practice, the Director may notify the Member of concerns relating to such possible violations for educational purposes.
- C. If the Director of Screening determines that a Member may have been convicted of a serious crime committed prior to becoming a Member, or knowingly made false statements, submitted false information, or failed to fully disclose information requested in an application for admission to membership, candidacy or affiliation, the Director of Screening shall refer the matter to the Ethics Administration Division for appointment of a Grievance Committee and for further processing in accordance with Regulation No. 6, as modified to reflect the nature of the alleged violation.
- D. If the Director of Screening finds no legitimate basis for referral to the Ethics Administration Division and no legitimate basis for notifying the Member of concerns relating to possible violations of the Standards, the file is closed.

II. The **Chair of the Ethics Administration Division** handles possible violations of Ethical Rules 1-2, 2-3(b), 2-3(c), and 2-3(d), and Ethical Rules under Canon 5.

A. Possible violations of Ethical Rule 1-2

- 1. If the Chair of the Ethics Administration Division receives either: (a) a certified copy of a court document indicating that a Member has entered a guilty plea to having committed a crime of the type referred to in Ethical Rule 1-2 together with information indicating that such Member has not as yet been convicted of such crime, or (b) a certified copy of a court document indicating that a Member has been found guilty by a judge or jury of a crime of the type referred to in Ethical Rule 1-2 together with information indicating that all rights to appeal from such conviction have not been exhausted, the Chair of the Ethics Administration Division will notify the Member in writing that his or her membership privileges have been suspended. The Member has a right to appeal the automatic suspension but failure to file an appeal brief constitutes an abandonment of the appeal.
- 2. If the Chair of the Ethics Administration Division receives a certified copy of a judgment indicating that a Member has been convicted of a crime of the type referred to in Ethical Rule 1-2 and evidence indicating that all rights to appeal the conviction are exhausted, the Chair of the Ethics Administration Division shall notify that Member in writing that he or she will be expelled from membership. The Member has a right to appeal the automatic expulsion but failure to file an appeal brief constitutes an abandonment of the appeal. Membership privileges are suspended during the appeal process.

If a Member resigns or is terminated for failure to pay dues while subject to a pending case in which the Chair of the Ethics Administration Division has notified the Member of disciplinary action for violation of Ethical Rule 1-2, the Appraisal Institute will publish, in both print and electronic media, that such resignation or termination occurred while the Member was the subject of a peer review proceeding.

B. Possible violations of Ethical Rules under Canon 5

1. If the Chair determines that a violation of an Ethical Rule under Canon 5 has occurred, the Chair may take one or more of the following actions:
 - a. The Chair may require that the subject Member provide written assurances that such violation will cease.
 - b. The Chair may require that the subject Member provide proof that such violation has been corrected.
 - c. The Chair may provide the subject Member with the right to accept an admonishment.

If the subject Member does not request review by a Grievance Committee, comply with the Chair's request(s) or affirmatively reject an admonishment (if offered), an admonishment will be entered into the subject Member's disciplinary record.

2. If the Chair determines that a violation of an Ethical Rule under Canon 5 did not occur, the file is closed.
- C. Possible violations of Ethical Rules 2-3(b), (c), and (d)

If the Chair of the Ethics Administration Division determines that a Member violated Ethical Rule 2-3(b), (c), or (d) or if the Chair receives a report from a Grievance Committee finding that a Member violated Ethical Rule 2-3(b), (c), or (d), the Chair shall notify the Member that he or she will be expelled from membership. The Member has a right to appeal the automatic expulsion but failure to file an appeal brief constitutes an abandonment of the appeal. Membership privileges are suspended during the appeal process.

If a Member resigns or is terminated for failure to pay dues while subject to a pending case in which the Chair of the Ethics Administration Division has notified the Member of disciplinary action for violation of Ethical Rule 2-3(b), (c), or (d), the Appraisal Institute will publish, in both print and electronic media, that such resignation or termination occurred while the Member was the subject of a peer review proceeding.

- III. After the **Ethics Administration Division** receives a file from the Director of Screening, the **Ethics and Counseling Department** appoints a Grievance Committee from the region in which the alleged violation occurred, unless the Department determines that the best interest of the Appraisal Institute requires appointment of committee members from another region. The subject appraiser may file an unlimited number of challenges for cause requesting the dismissal of Grievance Committee members on the grounds that they have a personal interest in the case or are otherwise prejudiced

against the subject appraiser. Such challenges must include supporting facts and reasoning. The Ethics and Counseling Department determines whether to grant such challenges.

The Grievance Committee has a dual capacity. In the early investigation stage, it functions similarly to a grand jury, determining if sufficient evidence exists to charge the subject Member with one or more violations of the Code of Professional Ethics. If a case goes to the Hearing level, the Grievance Committee functions as a prosecutor, and presents its evidence to the Hearing Committee.

- A. The **Grievance Committee** investigates the subject matter of the file to determine whether the subject Member violated the Code of Professional Ethics. The Grievance Committee then prepares a written report and recommendation.
 1. Except in cases where the Grievance Committee concludes that the subject Member violated Ethical Rule 2-3(b), (c), or (d), the Grievance Committee must recommend one of the following in its report to the Ethics and Counseling Department:
 - a. Close the file with no further action;
or
 - b. Refer the file to the Screening Staff for notification of the subject Member of concerns relating to possible violations of the Standards of Professional Appraisal Practice;
or
 - c. Give the subject Member the right to accept one of the following disciplinary actions:
 - 1) Admonishment is a warning calling the attention of the Member to the violation, and is entered into the Member's record for a period of five (5) years. The Grievance Committee may offer an educational alternative in lieu of admonishment. If an educational alternative is offered, accepted and successfully completed, the admonishment will not be effective and the fact that the educational alternative was successfully completed will be entered into the Member's record for a period of one (1) year.
or
 - 2) Reprimand is a serious warning calling the attention of a Member to the violation and is entered into the Member's record for a period of ten (10) years. The Grievance Committee may offer an educational alternative in lieu of reprimand. If an educational alternative is offered, accepted, and successfully completed, the reprimand will not be effective and the fact that the educational alternative was successfully completed will be entered into the Member's record for a period of one (1) year.
or

- 3) Censure is a formal expression of severe criticism and disapproval for the violation. This disciplinary action is published in both print and electronic media and the chapter of the Member is notified. It is entered into the Member's record for a period of thirty years. The Grievance Committee may offer an educational alternative in lieu of censure. If an educational alternative is accepted and completed, the censure will be reduced to admonishment and placed on the Member's record for a period of five (5) years.

or

- 4) Suspension of a Member is a temporary revocation of the privileges (but not the obligations) of membership for up to two (2) years (from the date of the Member's compliance with the suspension order). This disciplinary action is entered into the Member's record for a period of thirty (30) years; the disciplinary action is published in both print and electronic media and the chapter of the Member is notified.

or

- 5) Expulsion of a Member is a complete termination of membership in the Appraisal Institute. This disciplinary action is entered into the Member's record for a period of thirty (30) years; the disciplinary action is published in both print and electronic media and the chapter of the Member is notified.

2. Upon receipt of a Grievance Committee report, the Ethics and Counseling Department will review the file and report to determine whether the investigation was adequate and whether the report is in conformance with Regulation No. 6. The Ethics and Counseling Department will also send a copy of the report to the Regional Member for review. If the report is approved and the Grievance Committee recommended a disciplinary action, the Ethics and Counseling Department will notify the Grievance Committee of the subject Member's prior disciplinary record, if any. The Grievance Committee may then change its recommendation as to disciplinary action and any educational alternative.

If a Member resigns or is terminated for failure to pay dues while subject to a pending case in which a Grievance Committee has offered a disciplinary action, the Appraisal Institute will publish, in both print and electronic media, that such resignation or termination occurred while the Member was the subject of a peer review proceeding. Such publication will also occur if a Member resigns or is terminated for failure to pay dues while a case is pending in which the Chair of the Ethics Administration Division has notified the Member of disciplinary action for violation of Ethical Rule 1-2, 2-3(b), 2-3(c), or 2-3(d).

3. If the subject Member is offered a disciplinary action, the subject Member may request reconsideration of the Grievance Committee's findings and recommendation provided that the subject Member sets forth good cause. The Grievance Committee may then reconsider and revise its findings and recommendation.

If the Grievance Committee still recommends a disciplinary action, the subject Member has the right to request a formal Hearing. A formal Grievance Committee Complaint will then be drafted.

4. If the Grievance Committee concludes that the subject Member violated Ethical Rule 2-3(b), (c), or (d) which generally relate to a Member's obligation to cooperate with the Appraisal Institute, Appraisal Institute committees or members thereof, or one of their duly authorized agents, special procedures apply. Violation of E.R. 2-3(b), (c), or (d) will result in automatic expulsion from membership in the Appraisal Institute subject to the right of appeal.
- B. **The Hearing Committee** is appointed by the Ethics and Counseling Department after approval of the Grievance Committee's final Complaint. The members of the Hearing Committee are appointed from the subject Member's home region, unless the Ethics and Counseling Department determines that the best interest of the Appraisal Institute requires appointment of members from another region.
 1. The accused Member may file two types of challenges to the Hearing Committee members:
 - a. The accused Member may file one (1) peremptory challenge requesting the dismissal of one Hearing Committee member. The accused Member need not state any facts or reasoning in support of such a challenge, and the Ethics and Counseling Department must permit the challenge if the accused Member has followed the proper procedures;
 - b. The accused Member may file an unlimited number of challenges for cause requesting the dismissal of Hearing Committee members on the grounds that they have a personal interest in the case or are otherwise prejudiced against the accused Member. Such challenges must include supporting facts and reasoning. The Ethics and Counseling Department determines whether to grant these challenges.
 2. The accused Member may file with the Chair of the Hearing Committee an answer to the Complaint that addresses the allegations of the Complaint and raises affirmative defenses. If the accused Member believes that the Grievance Committee Complaint lacks specificity, the accused Member may also file a Request for a Bill of Particulars to compel the Grievance Committee to supply additional information that will enable the accused Member to understand fully the nature of the charges and prepare a defense. The Hearing Committee rules on the validity of such requests.
 3. At the Hearing, both parties have the right to be heard; to offer relevant testimony of witnesses; to cross-examine the other party and its witnesses; and to present relevant documentary evidence. The Grievance Committee has the burden of proof to establish, by the greater weight of the evidence, that the accused Member violated the Code of Professional Ethics.

The accused Member has the right to be represented by legal counsel provided that the accused Member notified the Hearing Committee of his or her intentions to do so within sixty (60) days from the date that the formal Grievance Committee Complaint was filed. If the accused Member will have legal counsel present at the Hearing or if the accused

Member has a juris doctor degree, the Grievance Committee may also have counsel present at the Hearing. The Hearing Committee may request legal counsel regardless of whether the accused Member has legal counsel.

4. If the Hearing Committee determines that the accused Member violated the Code of Professional Ethics, the Committee may consider all prior disciplinary actions against the accused Member and may recommend the disciplinary action of admonishment, reprimand, censure, suspension, or expulsion. The Hearing Committee may further recommend an educational alternative in lieu of any disciplinary action except suspension and expulsion.
 - a. If the accused Member accepts the educational alternative but fails to complete it, the specified disciplinary action takes effect and becomes part of the accused Member's record.
 - b. If the accused Member accepts the educational alternative in lieu of admonishment or reprimand and successfully completes it, the disciplinary action does not become effective.
 - c. If the accused Member accepts the educational alternative in lieu of censure and successfully completes it, the censure is reduced to admonishment and the admonishment becomes part of the accused Member's record.
 - d. If the accused Member does not accept the educational alternative, the specified disciplinary action takes effect and becomes part of the accused Member's record.
 5. If the Hearing Committee determines that the accused Member did not violate the Code of Professional Ethics, the Committee incorporates this determination into a written decision, which is sent to the parties and the Ethics and Counseling Department.
- IV. An Appeal Board will be appointed by the Chair of the Ethics Appeals Panel if the accused Member exercises the right to appeal a Hearing Committee decision recommending disciplinary action or automatic suspension or expulsion for violations of Ethical Rules 1-2, 2-3(b), 2-3(c), and 2-3(d); however, failure to file an appeal brief constitutes an abandonment of the appeal. An Appeal Board may consider the matters raised by the parties' briefs and oral arguments in choosing one of four possible courses of action.
- A. Affirm the determination of the Hearing Committee that the accused Member violated the Code of Professional Ethics *and* approve the disciplinary action recommended by the Hearing Committee.
- If the disciplinary action is not suspension or expulsion, an Appeal Board may offer the accused Member the opportunity to accept an educational alternative in lieu of the specified disciplinary action.
- or

- B. Affirm the determination of the Hearing Committee that the accused Member violated the Code of Professional Ethics *but* reduce the penalty recommended by the Hearing Committee.

If the disciplinary action is not suspension or expulsion, an Appeal Board may offer the accused Member an educational alternative in accordance with the procedures listed in "A" above.

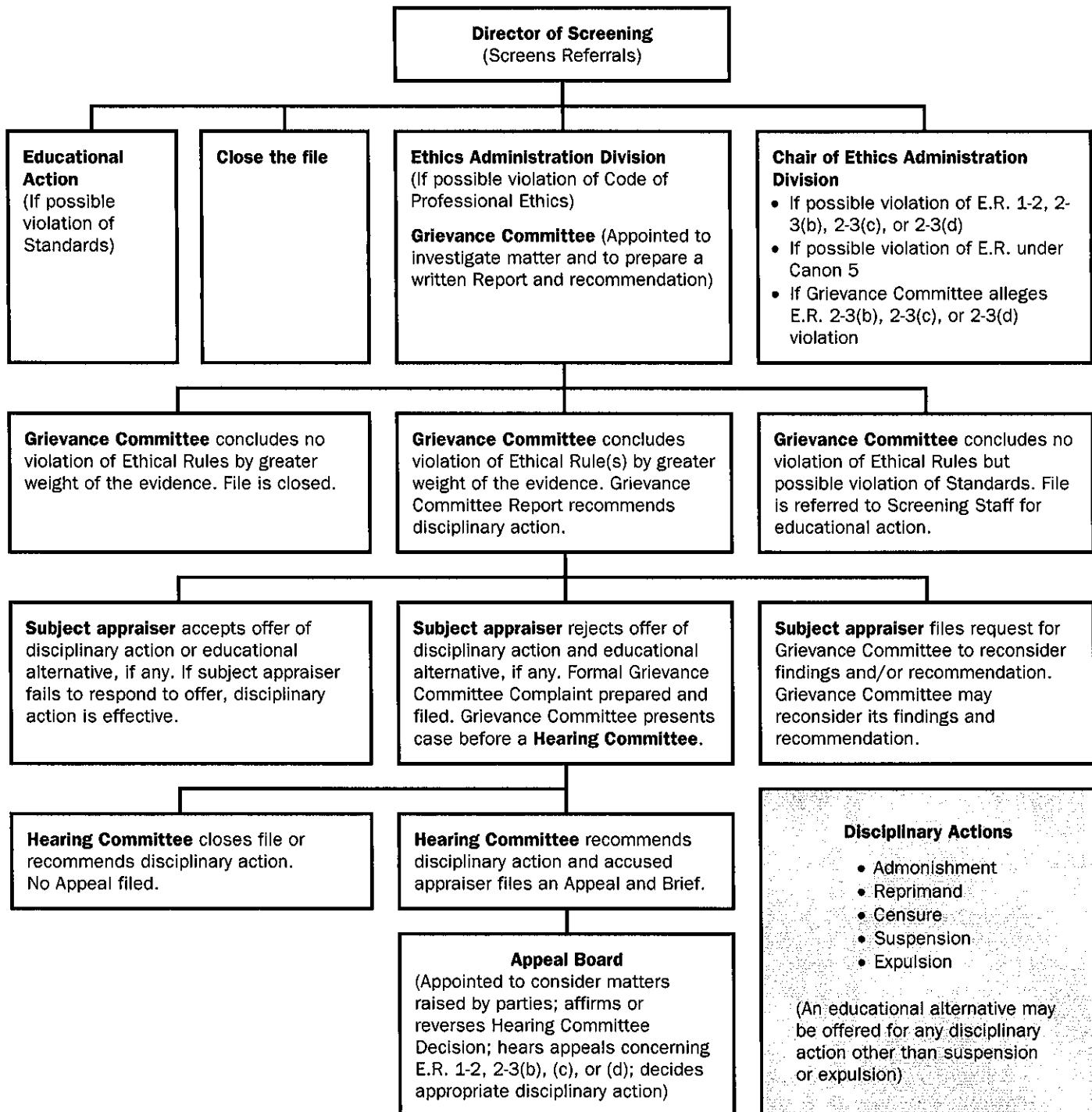
or

- C. Reverse the Hearing Committee decision and close the case.

or

- D. Remand the matter to the Hearing Committee for a new Hearing with any instructions that the Appeal Board considers appropriate.

**Procedural System for the Enforcement of the
Code of Professional Ethics & Standards of Professional Appraisal Practice***



* This chart is intended only to provide a general overview of the procedures and does not include all the alternatives available at each stage of the process.

