

The Oregon Appraiser

Fall/Winter 1998

Message from the ACLB chair



Here it is! I know that many of you have been patiently awaiting a newsletter from the ACLB. We hope you'll find this new publication informational and useful. The Board, ACLB Administrator Linda Riddell, and the staff are excited about getting this premier issue off the press and into your offices. Please give us feedback and tell us what articles that you'd like to see in future issues. You'll find information about contacting us on Page 2.

Board member changes went into effect as of July 1. Joan Crew left the board, having completed her second four-year term. That's eight years of dedication to serving on the ACLB. She was one of the original ACLB members in 1991. Ms. Crew served as vice chair, chair of the rules subcommittee, and a stellar board member. I thank her for the outstanding job she did, both as a leader and board member. Ms. Crew will be missed.

Welcome to Autumn Rudisel, our new board member representing banking. Ms. Rudisel has more than 14 years of experience in the banking industry. Ms. Rudisel has served on committees for Clackamas County, the Oregon Mortgage Bankers Association, and the Network for Oregon Affordable Housing.

During the past year, the ACLB has been reviewing and revising the administrative rules (OAR Chapter 161) that establish appraiser certification and licensing requirements, enforcement guidelines, and education and experience criteria.

Revisions and amendments to the rules were considered at a public hearing June 15 at the ACLB meeting in Salem. Some of the changes were administrative "housekeeping," but there were some significant, fundamental modifications made. The new rules became effective July 1, 1998. I urge all of you to read the rules that were mailed to you the first week of July.

Some of the most significant modifications to the administrative rules were those governing enforcement. These rules received much discussion from the Board. The Board felt that clarification was needed (in fact, long overdue) on our due process, enforcement, and sanctions rules. We scheduled three meetings in the fall and winter of 1997 to discuss these rules. All of the meetings were open to the public. The Board worked closely with Linda Riddell.

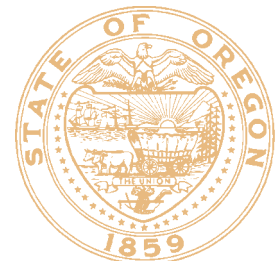
An element that spurred discussion was the criteria for "departure" in the enforcement guidelines. The Board understands that each case is different and a departure provision was created to accommodate those differences. The new guidelines clarify the process for appraisers licensed and certified in our state and for the public.

Please remember that we welcome feedback about this newsletter, which I hope you enjoy.

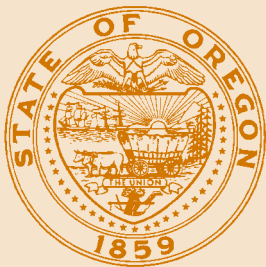
ACLB Chair,
Roxanne Gillespie, MAI

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and Licensure Board
of Oregon



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Licensed Appraiser

Autumn Rudisel ... Public Member
Mortgage Banker

Terry Morrison Public Member
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Paul Zacha Industry Member
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Roger Hansen Public Member
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Certified Appraiser

Gerald Curtis Industry Member
Certified Appraiser

Fast facts

by Linda Riddell, administrator

Letter opinion of value

The term “letter opinion of value” has been used to describe a letter sent to a client stating a value estimate and referencing file information and the experience of the appraiser as the basis for the estimate. **This type of service does not comply with USPAP and should be eliminated from appraisal practice.** USPAP recognizes that the results of any appraisal assignment may be presented in letter format, provided that the content items in one of the three report options under USPAP Standards Rule 2-2 are addressed. The *restricted report* is the minimum report format and replaces the concept of the letter opinion of value. *USPAP, statement 7*

Re-types for subsequent users of appraisal reports

There continue to be numerous complaints from appraisers regarding requests for “retypes” made by mortgage brokers and financial institutions who become subsequent users of an appraisal report originally issued to the client/lender who engaged the appraiser to complete the appraisal assignment.

USPAP defines the client as “the party (or parties) who engage an appraiser (by employment or contract) in a specific assignment.” Identity of the client and intended users is established *at the time of the appraisal assignment*. It is considered misleading and a violation of ethics to later alter an appraisal report by substituting or retyping a subsequent user’s name as the client.

An appraiser must protect the confidential nature of the appraiser-client relationship. An appraiser may issue a copy of the original appraisal to a subsequent user with specific authorization from his or her client. An appraiser may also accept a new appraisal assignment from the subsequent user with specific authorization from the client.

Record keeping

In Oregon, an appraiser must retain written records of appraisal assignments for six years. Pursuant to the *Ethics Provision* of USPAP, the *written records of an assignment are the work file*. Written records of assignments include true copies of written reports, written summaries of oral testimony (or transcripts of testimony), written records of oral reports, all data and statements required by USPAP, and other information required to support the findings and conclusions of the appraiser. A photocopy or an electronic copy of the entire actual written appraisal issued to a client satisfies the requirement of a true copy. A work file may also include information stored on electronic, magnetic, or other media as well as a reference indicating the location of other information utilized in the appraisal.

The work file preserves evidence of the appraiser’s consideration of all applicable data and statements required by USPAP and other information as may be required to support the findings and conclusions of the appraiser. *USPAP, ethics, record keeping*

A work file must be in existence prior to and contemporaneous with the issuance of a written or oral report.

License or certificate numbers must be listed in appraisal reports

Your *entire* license or certificate number is required to be listed in all appraisal reports. It contains seven characters and *must be listed in your appraisal reports as it appears on your license or certificate.*



Supplemental standards to USPAP

USPAP provides the common basis for all appraisal practice. Supplemental standards applicable to appraisal prepared for specific purposes or property types may be issued by public agencies and certain client groups, e.g. regulatory agencies,

eminent domain authorities, asset managers, and financial institutions. Appraisers and clients must ascertain whether any supplemental standards in addition to USPAP apply to the assignment being considered.

Supplemental standards cannot diminish the purpose, intent, or content of the requirements of USPAP.

Oral appraisal reports

With the passage of Senate Bill 85 by the 1997 Legislative Assembly, oral appraisal reports in accordance with USPAP Standards Rule 2-4 are allowed for real property in Oregon. In addition to complying with the requirements of Standards Rule 1, each oral real property-appraisal report must address the substantive matters set forth in Standards Rule 2-2(b), to the extent that it is both possible and appropriate. Oral reports are also subject to the record-keeping section of the *USPAP Ethics Provision*. An appraiser *must prepare written records of oral reports* and retain such records for six years after issuance. See the *Ethics Provision* for written record requirements.

Oral appraisal reports are not allowed in expert testimony. All expert testimony must be based on written reports prepared in accordance with USPAP.

Disclosure of inspection required

OAR 161-025-0060(4) requires that, "In addition to Standards Rule 2-5 of USPAP, an appraiser who signs the appraisal report must inspect the subject property both inside and out and must have made an exterior inspection of all comparables relied upon in the appraisal or disclose

that the appraiser did not inspect the subject property both inside and out and did not inspect the exterior of comparables relied upon in the appraisal."

This also applies to all appraisers co-signing reports.

Display of license or certificate

Appraisers and appraiser assistants are required to "prominently" display their licenses, certificates, or registrations in their principal place of business.

Renewal of appraiser licenses or certificates

Appraisers must renew their licenses or certificates by submitting a complete renewal application, verification of continuing education requirements, and a renewal fee to the ACLB **on or before the expiration date of their licenses or certificates** to avoid a \$50 late fee and lapse in licensing or certification (postmark date is not acceptable).

If the expiration date falls on a weekend or legal holiday, the application must be submitted no later than 5 p.m. on the next business day following the date of expiration. If an appraiser fails to renew his or her license before the expiration date, pursuant to OAR 161-010-0010(6), during the period beginning on the day following the expiration date of the license and ending on the date of the issuance of a renewed license or certificate, the appraiser's rights under the license or certificate are suspended and it is unlawful for the appraiser to engage in or carry on real-estate appraisal activity within Oregon. ■

Meeting dates for 1999

Sun	Mon
1	2
8	9

January 25
Quarterly board meeting

April 19
Quarterly board meeting

July 19
Quarterly board meeting

October 18
Quarterly board meeting

March 11
ARAC meeting

September 16
ARAC meeting

All meetings are open to the public. Auxiliary aids for those with disabilities are available with advance requests. Contact the ACLB office for specific times and locations of meetings, (503) 373-1505, or visit our Web site, www.cbs.state.or.us/aclb

ACLB board vacancy

The governor's office is currently accepting applications for a certified appraiser position on the board to become available July 1, 1999. The member in this position serves a four-year term and may be either a certified residential appraiser or a certified general appraiser. If you are interested in being considered for this appointment, contact Linda Riddell, ACLB administrator, (503) 373-1505, or Lisa Howard, (503) 378-4863, in the Office of the Governor. ■

Appraisers in Oregon
(as of October 1, 1998)

Certified general appraisers	503
Certified residential appraisers	84
Licensed appraisers	747
Appraiser assistants	222

Use caution in matters of “scope of practice”

by Linda Riddell, administrator

It's come to the attention of the Appraiser Certification and Licensure Board (ACLB) that there may be licensed appraisers and certified residential appraisers conducting real estate appraisal activity outside of the scope of their licenses or certificates.

The ACLB advises licensed appraisers and certified residential appraisers to use caution when accepting appraisal assignments to ensure that they are providing services within the scope of their license or certificate. Real estate appraisers who appraise properties that are not within the scope of their license or certificate are subject to disciplinary action by the ACLB.

Federal and state law have established three levels of licensing and certification for real estate appraisers. The three levels are licensed appraisers, certified residential appraisers, and certified general appraisers. In summary, the scope of practice for the three levels are as follows:

(1) A **state-certified general appraiser** may appraise all types of real property.

(2) A **state-certified residential appraiser** may appraise the following:

- all types of one- to four-family residential real property without regard to complexity or transaction value
- all other types of real property having a transaction value of less than \$250,000
- rural properties with one- to four-unit single-family residential properties and other rural properties primarily used for recreation or other non-income-producing purposes

A state-certified residential appraiser **may not** appraise the following:

- rural properties with one or more of the following:
 - (a) a primarily agricultural-income-producing use that is included in the value
 - (b) commercially valuable timber or mineral interests that are included in the value
 - (c) development potential for commercial or industrial improvements
 - (d) commercial or industrial improvements
 - (e) land or properties with environmental hazards
- subdivisions wherein a development analysis or appraisal is necessary and utilized
- properties involving condemnation or partial taking when the value of the larger parcel is within the scope of practice for the state-certified residential appraiser

Condemnation means (a) the process by which property is acquired for public purposes through legal proceedings under the power of eminent domain, (b) the act of a federal, state, county, or city government or district or public utility corporation vested with the right of eminent domain to take private property for public use when a public necessity exists, or (c) the act of a sovereign in substituting itself in the place of the owner and taking all or part of the rights of the owner upon payment of just compensation.

In condemnation, *larger parcel* means that portion of a property that has *unity of ownership*, *contiguity*, and *unity of use*.

If, during the course of a condemnation or partial-taking appraisal assignment, the appraiser could reasonably expect the before value of the larger parcel to exceed the allowable transaction value for the state-certified residential appraiser, the appraiser shall inform the client for whom the appraisal is being performed that the assignment exceeds the scope of his or her practice.

(3) A **licensed appraiser** may appraise:

- “non-complex” one- to four-family residential units having a transaction value of less than \$1,000,000
- “complex”* one- to four-family residential units having a transaction value of less than \$250,000
- all other types of real property having a transaction value of less than \$250,000
- rural properties with either or both of the following:
 - (a) one- to four-unit single family residential properties
 - (b) other rural properties primarily used for recreation or other non-income-producing purposes

A state-licensed appraiser may not appraise:

- rural properties with one or more of the following:
 - (a) a primarily agricultural-income-producing use that is included in the value
 - (b) commercially valuable timber or mineral interests that are included in the value

- (c) development potential for commercial or industrial improvements
- (d) commercial/industrial improvements
- (e) land or properties with environmental hazards
- subdivisions wherein a development analysis or appraisal is necessary and utilized
- properties involving condemnation or partial taking when the value of the larger parcel is within the scope of practice for the state-licensed appraiser

Condemnation means (a) the process by which property is acquired for public purposes through legal proceedings under the power of eminent domain; (b) the act of a federal, state, county, or city government or district or public utility corporation vested with the right of eminent domain to take private property for public use when a public necessity exists; or (c) the act of a sovereign in substituting itself in the place of the owner and taking all or part of the rights of the owner upon payment of just compensation.

In condemnation, *larger parcel* means that portion of a property that has *unity of ownership, contiguity, and unity of use*.

If, during the course of a condemnation or partial taking appraisal assignment, the appraiser could reasonably expect the before value of the larger parcel to exceed the allowable transaction value for the state licensed appraiser, the appraiser shall inform the client for whom the appraisal is being performed that the assignment exceeds the scope of his or her practice.

* **“Complex one- to four-family residential property appraisal”** means an appraisal in which the property to be appraised, market conditions, or form of ownership is atypical. For example, atypical factors may include, but are not limited to:

- (a) architectural style
- (b) age of improvements
- (c) size of improvements
- (d) size of lot
- (e) neighborhood land use
- (f) potential environmental hazard liability
- (g) property interests
- (h) limited readily available comparable sales data
- (i) other unusual factors

* **“Transaction value”** means (a) for loans or other extensions of credit, the amount of the loan or extension of credit; (b) for sales, leases, purchases, and investments in or exchange of real property, the market value of the real property interest involved; (c) for the pooling of loans or interest in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property; (d) for determinations of the transaction value of real property or interests in real property in circumstances other than described in (a) to (c) of this section, the market value of the real property interest involved; and (e) in condemnation or partial-taking actions, the transaction value is deemed to be the value of the larger parcel before the taking.

Please contact the ACLB office, (503) 373-1505, if you have questions. ■



Visit our Web site!

The Appraiser Certification and Licensure Board Web site contains valuable information concerning real estate appraiser licensing, including:

- fees required for various services
- a search engine for approved education courses and seminars
- a search engine for all Oregon appraisers
- links to The Appraisal Foundation
- links to other state appraiser boards
- appraiser application and renewal forms
- a list of ACLB members and staff
- a list of states with Oregon reciprocity, along with e-mail and Web addresses

Our Web site address:
www.cbs.state.or.us/aclb ■

USPAP on line

The 1998 Uniform Standards of Professional Appraisal Practice can now be viewed on The Appraisal Foundation’s Web Site under the ASB heading. There is a link to the table of contents on the Appraiser Certification and Licensure Board’s Web page: www.cbs.state.or.us/aclb ■

The danger of *ex parte* communications

by Linda Riddell, administrator

Ex parte communications, which include instances of individual appraisers contacting members of the ACLB to get information about a pending or denied application; to discuss a pending complaint, supervisory audit or disciplinary action; or to attempt to influence a board decision, are improper and may be detrimental to the individual appraiser.

Ex parte communications are any oral or written communications received by ACLB members or the presiding officer, whether a hearings officer or an administrative law judge, when *all* parties are not present.

Such communications could cause a board member who may have voted in the individual appraiser's favor to abstain from voting on the application or disciplinary action in question when it comes before the ACLB.

Please address questions regarding applications, audits, and disciplinary matters to the ACLB staff. The staff will provide information and advice on procedures. ■

Most common USPAP violations

by Linda Riddell, administrator

To help appraisers avoid potential violations of the Uniform Standards of Professional Appraisal Practice (USPAP), the ACLB has listed the following common violations:

- Failure to retain written work-file records of appraisal and appraisal review assignments, written summaries of oral testimony and reports, true copies of written reports, all data and statements as required by USPAP, and all other information required to support the findings and conclusions of the appraiser (USPAP *Ethics Provision*, record keeping)
- Failure to consider and analyze any current agreement of sale, option, or listing of the property being appraised (USPAP SR1-5)
- Failure to state prominently in an appraisal report which reporting option is used: *self-contained*, *summary*, or *restricted* (USPAP SR2-2)
- Failure to consider and analyze the effect on value, if any, of the terms and conditions of a lease when estimating the value of a leased-fee estate or a leasehold estate (USPAP SR1-4 d)
- Failure to describe, summarize, or state the information considered; the appraisal procedures followed; and the reasoning that supports the analyses, opinions, and conclusions (USPAP SR2-2 a viii, b viii, c viii)
- Failure to explain and support the exclusion of any of the usual valuation approaches (USPAP SR2-2 a x, b x)
- Failure to collect, verify, analyze, and reconcile available comparable data (USPAP SR1-4 b) ■

Minimum criteria for appraiser certification and licensing				
Category	Qualifying ed	State exam	Experience	Continuing ed
Appraiser assistant	75 hours, including 15 USPAP	No	None	14 hours in third and successive years
Licensed	105 hours, including 15 USPAP	Yes	2,000 hours	14 hours per year
Certified residential	120 hours, including 15 USPAP	Yes	2,500 hours during at least 24 months	14 hours per year
Certified general	180 hours, including 15 USPAP	Yes	3,000 hours during at least 30 months	14 hours per year

Appraisal Standards Board adopts changes to USPAP

by Angela Baker, *The Appraisal Foundation*

The Appraisal Standards Board (ASB) of the Appraisal Foundation has adopted changes to the Uniform Standards of Professional Appraisal Practice (USPAP).

At the September public meeting, the ASB adopted portions of the *Second Exposure Draft of Proposed Revisions to USPAP*, which was issued for public comment on June 23. Changes were made to the Introduction and Standards 1-3, with specific focus on the Ethics and Departure sections. Real estate appraisers are advised to note changes in Standard Rule 1, particularly changed to Standards Rule 1-2.

The information received during the comment period revealed a need to clarify fundamental concepts relating to ethics and development ASB provided. Clarifications to the Departure section, which is one of the most misunderstood sections of USPAP. In response to the public comment received, the ASB decided to retain the three reporting options currently contained in Standard 2. It also deferred action on Standards 4-10 until a "working group" research mechanism, which is outlined below, is fully implemented.

"This year the ASB received over 1,500 letters regarding the USPAP exposure drafts. This input has been invaluable to the Board in its deliberations," said ASB Chair Tim Leberman. "On behalf of the Board, I want to thank all those who took the time to share their views and hope they will continue to do so in the future. Because of their input, the 1999 USPAP is an improved document."

To allow educators and regulators time to incorporate the changes made by the ASB, the implementation date of the 1999 edition of USPAP will be March 31, 1999. The bound 1999 Edition of USPAP will be available from The Appraisal Foundation in mid-November.

The ASB will implement a new research mechanism to assist the Board in the pre-exposure draft process. Organizations with an interest in appraisal standards will be asked to form "working groups" representing their membership. "A dialog with the working groups will improve the Board's research capabilities and enhance the exposure process," said ASB Vice Chair Ken Kaiser. "The ASB needs to hear from organizations and individuals to ensure that the development of USPAP reflects the needs of appraisers, users of appraisal services, educators, and the regulatory and enforcement community."

A copy of the 1999 Edition of USPAP may be obtained by writing The Appraisal Foundation, 1029 Vermont Avenue, NW, Washington, D.C., 20005-3517. The USPAP may be ordered from the foundation's Web site, www.appraisalfoundation.org. ■

Enforcement actions



At the September 21, 1998, quarterly meeting, the Appraiser Certification & Licensure Board voted to publish all future enforcement actions regarding complaints filed on or after January 1, 1998, in *The Oregon Appraiser*. The first publication to include those actions will be the spring and summer 1999 edition. Please note that enforcement actions are imposed on a case-by-case basis, depending on the circumstances and merits of each matter, the severity of the offenses, and prior disciplinary action, if any.

Enforcement actions as of September 1, 1998:

Complaints opened	577
Complaints closed	460
Appeals pending	5
Currently open	112

Continuing education credit

Continuing education credits are awarded to appraisers who attend the Appraisal Review & Advisory Committee (ARAC) meetings. All meetings are open to the public. You need not be a member of the committee to attend. The 1999 meetings are scheduled for March 11th and September 16th. Each session is given three hours continuing education credit. Please contact the ACLB office for specific times and locations of ARAC meetings (503) 373-1505 or visit our web site, www.cbs.state.or.us/aclb. ■



Questions & answers

from the Appraisal Standards Board State Advisory Bulletin

Q Is it a violation of USPAP for appraisers to submit to a client or prospective client copies of appraisal reports that were completed for a different client?

A It is the opinion of the ASB that an appraiser must protect the confidential nature of the appraiser-client relationship as discussed in the Confidentiality Section of the *Ethics Provision*. An appraiser must not disclose confidential factual data obtained from a client or the results of an assignment prepared for a client to anyone other than 1) the client and persons specifically authorized by the client; 2) such third parties as may be authorized by due process of law; and 3) a duly authorized professional peer review committee. Statement on Appraisal Standards No. 5 (SMT 9) explains that the results of an assignment prepared for a client are the appraiser's analyses, opinions, and conclusions pertinent to the assignment. Upon authorization of the original client, an appraiser may forward a copy of the report to the prospective client. Without this authorization, appraisers would be in violation of USPAP by providing copies of appraisal reports to prospective clients.

Q If an appraiser "whites out" the client's name and the subject property address on an appraisal report, can that appraiser submit the report to a lender as an example of his or her work?

A Appraisers are bound by the Confidentiality Section of the *Ethics Provision* not to disclose the results of an assignment to anyone other than the client, those authorized by the client, those authorized by due process of law or a duly authorized peer review committee. The removal of a client's name or address does not alter the appraiser's obligation under this provision. Appraisers are required to obtain the client's approval prior to submitting such

appraisals as work samples. Appraisers are also advised to obtain written authorization from their clients for such use.

Q Can appraisals performed under the following conditions conform with USPAP?

Conditions: Clients sometimes request an appraisal of an improved residential property having more than five acres with the stipulation that the appraiser not include more than five acres with the value of the subject improvements. The client typically requests that the appraisal be communicated on the client's approved form, such as the Fannie Mae Form 1004. Appraisers are asked to report the total site area under the site description section of the form but to only include five acres in the analysis.

The value opinion reported in the value conclusion section of the report form does not include a site value for more than five acres. The contributory value of any remaining acreage is addressed separately in the report, but is not included in the final value estimate in the appraisal report (for example, at the bottom of Page 2 of the Fannie Mae Form 1004). These appraisals are considered to be hypothetical because the five-acre supposition is not always supported by the local zoning regulations.

In the case of the client being a lender, the purpose of the lender's five-acre residential use site rule may be to limit its collateral basis for a loan. The lender is not using the rule or the appraisal to physically segment the real estate or to fractionalize the real property interests. The lender places a lien on the entire property, not just the five acres included in the appraisal.

A It's important to note that the use of hypothetical conditions in an appraisal assignment is treated in the *Ethics Provision* of USPAP. Hypothetical conditions are given special consideration in USPAP because of the risk associated with their use. The

Conduct Section of the *Ethics Provision* states:

"The development of an appraisal, review, or consulting services based on a hypothetical condition is unethical unless: 1) the use of the hypothesis is clearly disclosed; 2) the assumption of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes comparison and would not be misleading; and 3) the report clearly describes the rationale for this assumption, the nature of the hypothetical condition, and its effect on the result of the appraisal, review, or consulting service."

There are three conditions specified in the above quotation: *proper disclosure, justifiable purpose, and a reasonable basis for the hypothetical condition.*

This State Advisory Bulletin is not intended to address a client's specific practice. The ASB is only concerned about the use of the hypothetical condition that results from this practice. The client's practice, which normally is used to limit the client's risk, is an important aspect of the appraisal assignment, for it defines the purpose and intended use of the appraiser's opinion and conclusions and provides a reasonable basis for performing the analysis using the hypothetical condition. Given the client's purpose, an appraiser could use the client's five-acre rule as the reason for the hypothetical condition (for "reasonable analysis" or "for the purposes of comparison"), so long as the resulting appraisal report is not misleading to the client or other known intended users of the report.

Although the appraiser is providing his or her opinions and conclusions under the client's specific requests, the appraiser is still required to make adequate and appropriate disclosures in any appraisal report.

The use of a standard form, such as the Fannie Mae 1004 Appraisal Form, for this type of assignment has

questionable merits because the Fannie Mae form is designed to provide a final market value estimate of the *real property that is the subject of this report*. If the “subject property” shown on Page 1 of that form is the entire property, but the value conclusion is only for a portion of that property, then the use of the form is against its stated purpose and places the appraiser at significant risk. A reader unfamiliar with the client’s supplemental requirements could easily be misled as to what the value represents.

Given the complexity of this type of assignment, the appraiser may wish to use a form designed for the situation. When use of a specific form is required by the client, the appraiser must ensure that the appropriate clarifications and disclosures are made in the report.

Particular care is needed when using a form that is not designed to address the appraisal problem at hand. To satisfy the disclosure obligations in the *Ethics Provision*, the appraiser must “clearly” disclose the use of a hypothetical condition. The appraiser must also describe the nature of the hypothetical condition and its effect on the results of the



assignment. Exceptions from these disclosure conditions are not permitted under USPAP.

ASB State Advisory Bulletin, Vol. V, No. 5 (September 1997)

Q Does an appraiser have an obligation under the USPAP to ensure that his or her services are directly engaged by a regulated institution?

A Before the appraiser accepts an assignment knowing the intended use of the appraisal is for a mortgage loan from a federally regulated institution, it is the appraiser’s responsibility to disclose to the prospective client that the lender or its agent is required to directly engage the appraiser. If the client still wishes to order the appraisal after this disclosure, it is incumbent upon the appraiser to inform the client of the implications. (See the *Competency Provision* and conduct sections of the *Ethics Provision*.)

Q Does USPAP permit appraisers to use terms that reflect a scale, such as “high,” “low,” “good,” or the like?

A USPAP does not prohibit the use of subjective phrases in an appraisal report. The *Ethics Provision*, as revised and adopted March 25, 1996, and effective January 1, 1997, states:

“An appraiser must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, family status, age, receipt of public assistance income, handicap, or unsupported conclusion that homogeneity of such characteristics is necessary to maximize value.”

Appraisers should exercise care that comments made in a report will not be perceived as illegally biased or discriminatory. Factual descriptions, rather than subjective phrases, allow the user of a report to draw his or her own conclusions. The use of terms that reflect a scale such as “high”, “low,” “good,” “fair,” “poor,” “strong,” “weak,” “rapid,” “slow,” “average,” should also provide contextual information that properly explains the frame of reference and relative position of the subject property on the scale. For example, if absorption is stated as “rapid,” the context of the rating should be cited as well — “rapid” relative to what? Additional guidance is provided in Advisory Opinion 16 (AO-16) on Fair Housing Laws and Appraisal Report Content.

Q Are appraisers required by USPAP to address zoning in a real-estate appraisal assignment?

A Standards Rule 1-1(b) states that an appraiser must “not commit an error of omission or commission that significantly affects an appraisal.” This is a binding requirement of USPAP. Standards Rule 1-2(a) states that an appraiser must “adequately identify the real property interest.” Standards 1-2(c) requires appraisers to “consider easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature.” Standards Rule 1-3(a) requires the appraiser to “consider the effect on use and value of the following factors: existing land use regulations, reasonably probable modifications of such land use regulations.”

Note that Standards Rule 1-2 and 1-3 are specific guidelines from which departure is permitted if all three requirements stated in the *Departure Provision* are met.

Standards Rule 2-1(b) requires that each written or oral real property appraisal report “contain sufficient information to enable the person(s) who are expected to receive or rely on the report to understand it properly”.

Standards Rule 2-2(a)(ii), 2-2(b)(ii) and 2-2(c)(ii) require the appraiser to “state the real property interest being appraised” in a self-contained, *summary*, or *restricted appraisal report*.

In summary, USPAP requires appraisers to ensure that data having a material or significant effect on the resulting opinions or conclusions be considered and that they report the appraisal in a manner that is not misleading and will contain sufficient information to be understood by those expected to receive or rely on the report.

Please note that if zoning is not known, and the appraiser makes an assumption regarding zoning, the appraisal may involve use of a hypothetical condition. As addressed in the *Ethics Provision*, development

Q & A continued on next page

of a value opinion based on a hypothetical condition requires disclosure of all related extraordinary assumptions and limiting conditions.

Q Is a range in value considered to be an appraisal?

A Yes. Statement on Appraisal Standards No. 7 (SMT-7) states that “It is not always appropriate to expect a single point estimate of value when a *limited appraisal* is authorized and performed. The resulting estimate of value may be expressed as a single point value estimate, a range in value, or a value relationship (e.g. not less than, not more than) from a previous value estimated or established benchmark (e.g. assessed value, collateral value).” (emphasis added)

Q When developing an appraisal, what is an appraiser’s responsibility under USPAP if a lender refuses to provide a copy of the current agreement of sale of the subject property?

A Standards Rule 1-5(a) of USPAP requires that an appraiser, in developing a real property appraisal, “consider and analyze any current Agreement of Sale, option, or listing of the property being appraised, if such information is available to the appraiser in the normal course of business.”

The normal course of business for an appraiser when the property is known to be the subject of a pending transaction is to ask the client for the terms of the agreement. If this request is denied, then the appraiser should make reasonable attempts to obtain this information from other sources through legal means commonly available to and practiced by appraisers in the jurisdiction of the location of the property.

As stated in the last paragraph of the Comment to Standards Rule 2-2(a), (b) and (c)(xi), “information considered and analyzed in compliance with Standards Rule 1-5 is significant information that deserves comment in any report.” If such information is unobtainable, comment on the efforts undertaken by the appraiser to obtain the information is required.

Please see Advisory Opinion AO-1, *sales history*, for more information.

Q When can an appraiser invoke the *Departure Provision* and perform a *limited appraisal*?

A Three conditions must be met before invoking the *Departure Provision* and performing a *limited appraisal*. Prior to entering into an agreement to perform a *limited appraisal*, an appraiser must:

- determine that the resulting assignment will not mislead or confuse the client or the intended users of the report
- advise the client that the assignment calls for a *limited appraisal* and that any departure(s) will be clearly identified in the appraisal report
- be certain that the client agrees that the performance of a *limited appraisal* would be appropriate for the assignment

Remember that the *Departure Provision* applies only to the development of an appraisal assignment (Standard 1), not reporting that assignment (Standard 2). See *Departure Provision*, Standard 1, Statement No. 7, and Advisory Opinion AO-13 for additional information.

Q Does USPAP permit real property appraisers to perform drive-by or desk-top appraisal assignments? If so, are they *limited appraisals*?

A Because of its importance to the reliability of a value estimate, appraisers generally inspect the interior and exterior of the subject property. But, if properly disclosed in the appraisal report, appraisers may accept an appraisal assignment that does not include an inspection of the subject property.

An appraisal performed without inspecting the subject property is not automatically a *limited appraisal*. Standard 1 contains specific guidelines and binding requirements that detail what an appraiser considers in developing a value estimate. Inspection of the subject property is not discussed in Standard 1, though an appraiser must “adequately identify the real estate.” Therefore, an ap-

praiser who elects not to inspect the subject property is not invoking the *Departure Provision* if adequate description of the property is available. Because Standard 1 does not require property inspection, there is no departure caused by an appraiser’s decision alone not to inspect the property.

Q What is the appropriate action of an appraiser when an error is discovered in his or her appraisal report?

A It is the ASB’s opinion that the appraiser is responsible for the contents, analyses, and conclusions of the appraisal and appraisal report. When an error is discovered, the appraiser should contact the client in writing and inform the client of the error and correct information and other resulting changes in the analyses and reported conclusions.

Q Is an appraiser required to comment on reasonable exposure time and estimated marketing time in all assignments?

A The comment to Standards Rule 1-2(b) states: “When estimating market value, the appraiser should be specific as to the estimate of exposure time linked to the value estimate.”

Statement on Appraisal Standards No. 6 provides further clarification on reasonable exposure time. A marketing time estimate is a supplemental standard applicable to a specific client and is not a binding requirement of USPAP. Please refer to the Supplemental Standards section and Advisory Opinion AO-7.

Q When can an appraiser use the *jurisdictional exception* of USPAP?

A The *jurisdictional exception* of USPAP provides a severability clause to preserve the balance of USPAP when a part or portion of USPAP is determined to be contrary to law or public policy. Appraisers using the *jurisdictional exception* must properly disclose the legal authority justifying its use and the part or parts of

USPAP which are contrary to law. The *jurisdictional exception* of USPAP includes language that helps appraisers recognize “law,” “public policy,” and “jurisdiction.” However, in every case, it is ultimately the responsibility of the appraiser, not the client or other intended users, to determine whether the use of the *jurisdictional exception* is appropriate.

ASB State Advisory Bulletin, Vol. IV, No. 5 (September 1996)

Q Can the *jurisdictional exception* take away from the requirements of USPAP?

A The *jurisdictional exception* provides for the situation in which parts of USPAP may be contrary to public policy or law in certain jurisdictions: “If any part of USPAP is contrary to the law or public policy of any jurisdiction, only that part is void and of no force or effect in that jurisdiction.”

As stated in the comment to the *jurisdictional exception*, “It is misleading for an appraiser to disregard a part or parts of USPAP as void and of no force and effect in a particular assignment without identifying the part or parts disregarded and the legal authority justifying this action in the appraiser’s report.”

The *jurisdictional exception* of USPAP includes language that helps appraisers recognize “law,” “public policy,” and “jurisdiction.” However, in every case, it is ultimately the responsibility of the appraiser, not the client or other intended users, to determine whether the use of the *jurisdictional exception* is appropriate.

Q Does an appraiser have to value the entire property when a relatively small partial taking is involved in order to comply with the USPAP?

A Standards Rule 1-2(d) requires an appraiser to consider whether an appraised fractional interest, physical segment, or partial holding contributes prorata to the value of the whole. The comment to Standards Rule 1-2(d) explains that an appraiser does not have to value the whole when the subject of the appraisal is a

fractional interest. Furthermore, the *Departure Provision* permits limited exceptions to the specific guidelines of USPAP. The burden of proof is on the appraiser to determine if the assignment to be performed and the resulting appraisal would tend to mislead or confuse. In all assignments, exceptions to the binding requirements of Standards Rules 1-1, 1-5, 2-1, 2-2, 2-3 and 2-5 are not permitted, except by *jurisdictional exception*.

Q What is the difference between an *update of an appraisal* and a *recertification of value*?

A Statement on Appraisal Standards No. 7 (SMT-7) on *Permitted Departure from Specific Guidelines in Real Property Appraisal Reports* clarifies that an *update of an appraisal* is defined as an extension of an original *complete* or *limited appraisal* and report relied on by a client for a prior business decision. The *update of an appraisal* changes the effective date of the value estimate. An *update of an appraisal* typically addresses significant change(s) in the market or significant change(s) in the property not addressed in the original appraisal. Advisory Opinion AO-3 provides a further discussion of and sample content outlines for the *update of an appraisal*.

The term *recertification of value* has been mistakenly used in lieu of the term *update of an appraisal* by some clients. A *recertification of value* is performed to confirm whether or not the conditions of an appraisal have been met. A *recertification of value* does not change the effective date of the value estimate. A *recertification of value* does not address significant change(s) in the market or in the subject property that were not addressed in the original appraisal. For example, the original appraisal may address proposed construction subject to completion of proposed improvements. The *recertification of value* can only address whether or not the “subject to” conditions were met. See SMT-7 for further clarification of nomenclature developed by client and client groups for certain appraisal assignments.

The content of a *recertification of value* or an *update of an appraisal* may be determined by supplemental standards imposed by some client groups.

The Appraisal Standards Board (ASB) *State Advisory Bulletin* is issued to state appraisal regulators in response to questions raised by regulators and individuals to illustrate the applicability of USPAP in specific situations and to offer advice from the ASB for the resolution of appraisal issued and problems. ■



Thank you!

The members of the Appraiser Certification & Licensure Board and the staff thanks the members of the Appraisal Review & Advisory Committee (ARAC) for volunteering their time to review appraisals submitted with complaints or audits for USPAP compliance.

If you are a licensed or certified appraiser in Oregon and not a member of ARAC, but have an interest in serving on the committee, you may contact the ACLB office at (503) 373-1505 for further information.

Change of address?

Don't forget that all appraisers, appraiser assistants, and applicants are required to notify the ACLB in writing of changes of address within 10 days of the change. You may send postal mail, faxes, or e-mail to:

Appraiser Certification and Licensure Board
350 Winter St. NE, Room 21
Salem, Oregon 97310
Phone: (503) 373-1505
Fax: (503) 378-6576
E-mail:
linda.c.riddell@state.or.us

This newsletter is published by the Oregon Appraiser Certification and Licensure Board for professionals licensed by the board.

440-3221 (11/98/COM)

Appraiser reciprocal agreements

Listed below are states with which the ACLB has reciprocity for real estate appraiser licensing and certification. You may contact the ACLB or any listed state for information and an application packet for reciprocal licensing or certification.

State	Phone	E-mail
Alabama	(334) 242-8747	N/A
Arizona	(602) 542-1539	N/A
Arkansas	(501) 296-1843	ALCB@mail.state.ar.us
Illinois	(217) 785-9634	N/A
Kentucky	(606) 246-2011	N/A
Louisiana	(504) 925-4783	N/A
Maine	(207) 624-8520	carol.j.leighton@state.me.us
Massachusetts	(617) 727-3055	N/A
Missouri	(573) 751-0038	jkolb01@mail.state.mo.us
Montana	(406) 444-3561	pbragg@state.mt.gov
Nebraska	(402) 471-9015	mjhass@nrcdec.dec.state.ne.us
New Hampshire	(603) 271-6186	NHREAB@juno.com
New York	(212) 220-1682	N/A
North Carolina	(919) 420-7920	NCAB@NTWRKS.COM
North Dakota	(701) 222-8083	ndapprbd@btigate.com
Ohio	(216) 787-3100	N/A
Oklahoma	(405) 521-6636	N/A
South Dakota	(605) 773-4608	sherryb@cpr1.state.sd.us
Tennessee	(615) 741-1831	N/A
Texas	(512) 465-3950	rcliner@mail.capnet.state.tx.us
Washington	(360) 753-1062	RealEstate@dol.wa.gov
West Virginia	(304) 558-3919	wvappbd@wvnm.wvnet.edu
Wyoming	(307) 777-7141	cander2@missc.state.wy.us



DEPARTMENT OF
CONSUMER
& BUSINESS
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