

STATE BAR OF ARIZONA
2007 ANNUAL LAND USE UPDATE
June 8, 2007
“Proposition 207: Comprehending and Coping”
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VALUATION ISSUES

I. Just Compensation; Slum Clearance and Redevelopment (12-1133)

Principal Residence. Provide a comparable replacement dwelling that is decent, safe and sanitary, or, provide Just Compensation based upon comparable replacement decent, safe, and sanitary housing (mimics Federal relocation laws?)

I see no difference under this section than before 207. It simply imposes the preexisting State and Federal relocation laws.

Presumably, all other Eminent Domain actions i.e., non-slum clearance and redevelopment involving a principle residence remain and the existing laws and valuation procedures survive. What is unclear is if Section 12-1135 re: attorney fees and costs would apply?

II. Diminution in Value; Just Compensation (12-1134)

Basically, owner is entitled to Just Compensation if existing (property) rights are reduced by a Land Use Law which reduces Fair Market Value. (Three years from date of land use law, or, first date of reduction applies.)

Excludes seven (7) situations (must be demonstrated by State agency)

- a. Public's Health and Safety (interestingly not welfare)
- b. Public Nuisances
- c. Required by Federal Law
- d. Housing Sex Offenders, Selling Illegal Drugs, Liquor Control, Pornography/Obscenity, Nude Topless Dancing, and other adult Oriented Business.
- e. Utility Facilities
- f. Do Not Directly Regulate an Owner's Land
- g. Where Enacted Before the Effective Date of this Section.

90 Day Rule to rectify. Parties reach an agreement as to Diminution or agree to a waiver (which runs with the land).

III. Prop 207 Definition of “Fair Market Value”.

“Means the most likely price estimated in terms of money which the land would bring if exposed for sale in the open market, with reasonable time allowed in which to find a purchaser, buying with knowledge of all the uses and purposes to which it is adapted and for which it is capable.”

Squares with all other Federal and generally recognized definitions of Market Value i.e., most probable price, etc.

In Arizona (and most other states) the burden of proof for damages is measured by Market Value. Appraisals and appraisers are regulated by The Uniform Standards of Professional Appraisal Practice (USPAP) (www.appraisalfoundation.org) which has been adopted by the State Legislature. USPAP Standards 1 and 2 (attached hereto) apply to real property valuation and has specific requirements which apply to estimating Market Value, Fair or otherwise. According to USPAP the appraiser must “analyze such comparable sales data as are available to indicate a value or conclusion”. Appraisers call this “Market Evidence”. In order to successfully prove diminution in Market Value, it is necessary for the appraiser to offer objective Market Evidence.

Because Market Value contemplates complete alienation, suggests it requests the “worst case” scenario i.e., an investor will not risk uncertainty. If 207 introduces a new level of uncertainty, the Market will eventually reflect that by paying less.

In some quarters, proponents may advance non-real estate appraisal techniques such as “contingent valuation”, “hedonic regression”, etc. These should only be used in support of recognized methods and techniques and the source data must be valid. USPAP also recognizes that methods and techniques must meet peer review.

If anticipating a jury, keep it simple.

In my experience, land uses and Highest and Best Use evolve over time. Appraisers recognize additional concepts such Interim Use. When appraising land, it is often appropriate to conclude that the Highest and Best Use is to hold the land vacant (i.e., not “use” it) until market factors mature enough to reasonably conclude as to a specific Highest and Best Use and how that use might be affected by Land Use regulations.

For example, Highest and Best Use in a developed urban setting might include very specific development i.e., a neighborhood shopping center

comprising 250,000 square feet, or, a mixed-use retail anchored by a grocery and a drug store with the implication that there is near-term economically justifiable demand for that land use.

Conversely, land, especially fringe or rural, often cannot be specifically analyzed. Perhaps the most that could be said if it were a future major arterial intersection corner is that it “might” be commercial. But the size and use category of the commercial might be impossible to estimate.

In lieu of damages, there may be other offsets which could mitigate zoning and/or specific land use restrictions such as additional ingress/egress and/or traffic improvements provided by the municipality.

Depending upon circumstances, the parties could waive any 207 issues and negotiate a mutually satisfactory land Use Plan. (Sample waiver attached).

- IV. Attorney Fees and Costs (12-1135)
Applies to Eminent Domain action for slum clearance and redevelopment or any action for Diminution in Value?
Provides for reasonable attorney’s fees, costs, and expenses including appraisal fees!

GRAY AREAS

1. General Plans and General Plan Amendments presumably are not Land Use Laws. However, if a General Plan is found to diminish the value of property **if** enacted, does this cause “Prop 207 Blight”?
2. Water Laws. This session, the Arizona Legislature will pass strict water laws requiring all developers to provide assured water supplies prior to commencing construction development. While I have no data at this time, it seems reasonable that Arizona lands which have little or no assured water would diminish in value. Is this excluded under 12-1134B, Protection of Public’s Health and Safety? Impact on State Land?
3. Special Districts including Historic. May need 100% if the purpose of the Special District is likely to adversely affect some of the properties, especially those bordering higher and better uses which might be expected to expand.
4. Hillside Zoning.
5. “Down” Zoning. Only if adversely impacts Fair Market Value i.e., the new Land Use regulation. Some “Down” zoning may increase Fair Market Value.
6. Overlays (incentives vs. regulations) probably do not trigger Prop 207?
7. County Islands
8. Waivers including waivers for text amendments?
 - A. Regulatory waiver (i.e., text amendments which don’t run with the land because they pertain to buildings). Can diminution apply to buildings as well as land? Are text amendments land use regulations?

- B. Claims waivers run with the land because they affect Land Use/Fair Market Value
- C. Third Party Claims
Prop 207 says no actions are triggered by 207 though third parties presumably could litigate against the property owner. Inverse Condemnation?
- D. Lenders. Do they/will they accept waivers?

- 9. Historic impact of zoning on land values/land use.
- 10. Impact of text amendments on land values/land use i.e., parking.
- 11. Impact on one property-pretty straight forward.
- 12. Impact on multiple properties-not straight forward.
- 13. Difference between typical condemnation is: Was there Diminution vs. was there a taking? and, if so, how much?
- 14. May need two experts. One for USPAP 4 and 5 Impact Studies to address the fact of diminution, and, one for USPAP 1 and 2 Appraisals to estimate the amount of value diminution.

CONCLUSIONS

- I. Diminution in Value can be difficult to measure (remote and speculative) because it seldom occurs.
- II. Diminution cannot be an unsupported opinion. It has to be backed up with expert market support.
- III. Municipalities should not let the prospect of a Diminution claim deter them from sound zoning and land use decisions.
- IV. Changes in zoning and land use regulations take time. Often, what is initially considered to be negative turns out to be positive i.e., the area around Luke AFB going industrial and employment instead of residential?
- V. At this point, I believe it is highly unlikely that the Diminution in Value issue will or should have any adverse impact on sound planning. If in any instance it does, so be it, write a check!

Attachments:

USPAP Standards 1, 2, 4, and 5
County Island Hypothetical
Down Zoning Hypothetical
Down Zoning in Same Use Category Hypothetical
Chapter 36, Article 1, Section 32-3602 (Mandatory Licensing)
Chapter 36, Article 1, Section 32-3603 (Exceptions)



STANDARD 1: REAL PROPERTY APPRAISAL, DEVELOPMENT

In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal.

Comment: STANDARD 1 is directed toward the substantive aspects of developing a credible appraisal of real property. The requirements set forth in STANDARD 1 follow the appraisal development process in the order of topics addressed and can be used by appraisers and the users of appraisal services as a convenient checklist.

Standards Rule 1-1

In developing a real property appraisal, an appraiser must:

- (a) **be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;**

Comment: This Standards Rule recognizes that the principle of change continues to affect the manner in which appraisers perform appraisal services. Changes and developments in the real estate field have a substantial impact on the appraisal profession. Important changes in the cost and manner of constructing and marketing commercial, industrial, and residential real estate as well as changes in the legal framework in which real property rights and interests are created, conveyed, and mortgaged have resulted in corresponding changes in appraisal theory and practice. Social change has also had an effect on appraisal theory and practice. To keep abreast of these changes and developments, the appraisal profession is constantly reviewing and revising appraisal methods and techniques and devising new methods and techniques to meet new circumstances. For this reason, it is not sufficient for appraisers to simply maintain the skills and the knowledge they possess when they become appraisers. Each appraiser must continuously improve his or her skills to remain proficient in real property appraisal.

- (b) **not commit a substantial error of omission or commission that significantly affects an appraisal; and**

Comment: An appraiser must use sufficient care to avoid errors that would significantly affect his or her opinions and conclusions. Diligence is required to identify and analyze the factors, conditions, data, and other information that would have a significant effect on the credibility of the assignment results.

- (c) **not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.**

Comment: Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner.

This Standards Rule requires an appraiser to use due diligence and due care.

Standards Rule 1-2

In developing a real property appraisal, an appraiser must:

- (a) identify the client and other intended users; 5**
- (b) identify the intended use of the appraisers opinions and conclusions; 6**

Comment: An appraiser must not allow the intended use of an assignment or a clients objectives to cause the assignment results to be biased. 7

- (c) identify the type and definition of value 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 appraisers opinion of their contributions to or negative influence on value must be developed by analysis of relevant market data;**

Comment: When developing an opinion of market value, the appraiser must also develop an opinion of reasonable exposure time linked to the value opinion. 8

- (d) identify the effective date of the appraisers opinions and conclusions 9**
- (e) identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, 10 including:**
 - (i) its location and physical, legal, and economic attributes;**
 - (ii) the real property interest to be valued;**
 - (iii) any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal;**
 - (iv) any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature; and**
 - (v) whether the subject property is a fractional interest, physical segment, or partial holding;**

Comment on (i)(v): The information used by an appraiser to identify the property characteristics must be from sources the appraiser reasonably believes are reliable.

An appraiser may use any combination of a property inspection and documents, such as a physical legal description, address, map reference, copy of a survey or map, property sketch, or photographs, to identify the relevant characteristics of the subject property.

When appraising proposed improvements, an appraiser must examine and have available for future examination, plans, specifications, or other documentation sufficient to identify the extent and character of the proposed improvements. ¹¹

Identification of the real property interest appraised can be based on a review of copies or summaries of title descriptions or other documents that set forth any known encumbrances.

An appraiser is not required to value the whole when the subject of the appraisal is a fractional interest, a physical segment, or a partial holding.

(f) Identify any extraordinary assumptions necessary in the assignment;

Comment: 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 extraordinary assumption results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.

(g) identify any hypothetical conditions necessary in the assignment.

Comment: 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.

(h) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE. ¹²

Standards Rule 1-3

When necessary for credible assignment results in developing a market value opinion, an appraiser must:

(a) identify and analyze the effect on use and value of existing land use regulations, reasonably probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends; and

Comment: An appraiser must avoid making an unsupported assumption or premise about market area trends, effective age, and remaining life.

(b) develop an opinion of the highest and best use of the real estate.

Comment: An appraiser must analyze the relevant legal, physical, and economic factors to the extent necessary to support the appraisers highest and best use conclusion(s).

Standards Rule 1-4

In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

- (a) **When a sales comparison approach is necessary for credible assignment results, an appraiser must analyze such comparable sales data as are available to indicate a value conclusion.**
- (b) **When a cost approach is necessary for credible assignment results, an appraiser must:**
 - (i) **develop an opinion of site value by an appropriate appraisal method or technique;**
 - (ii) **analyze such comparable cost data as are available to estimate the cost new of the improvements (if any); and**
 - (iii) **analyze such comparable data as are available to estimate the difference between the cost new and the present worth of the improvements (accrued depreciation).**
- (c) **When an income approach is necessary for credible assignment results, an appraiser must:**
 - (i) **analyze such comparable rental data as are available and/or the potential earnings capacity of the property to estimate the gross income potential of the property;**
 - (ii) **analyze such comparable operating expense data as are available to estimate the operating expenses of the property;**
 - (iii) **analyze such comparable data as are available to estimate rates of capitalization and/or rates of discount; and**
 - (iv) **base projections of future rent and/or income potential and expenses on reasonably clear and appropriate evidence.** ¹³

Comment: In developing income and expense statements and cash flow projections, an appraiser must weigh historical information and trends, current supply and demand factors affecting such trends, and anticipated events such as competition from developments under construction.

- (d) **When developing an opinion of the value of a leased fee estate or a leasehold estate, an appraiser must analyze the effect on value, if any, of the terms and conditions of the lease(s).**
- (e) **When analyzing the assemblage of the various estates or component parts of a property, an appraiser must analyze the effect on value, if any, of the assemblage. An appraiser must refrain from valuing the whole solely by adding together the individual values of the various estates or component parts.**

Comment: Although the value of the whole may be equal to the sum of the separate estates or parts, it also may be greater than or less than the sum of such estates or parts. Therefore, the value of the whole must be tested by reference to appropriate data and supported by an appropriate analysis of such data.

A similar procedure must be followed when the value of the whole has been established and the appraiser seeks to value a part. The value of any such part must be tested by reference to appropriate data and supported by an appropriate analysis of such data.

- (f) **When analyzing anticipated public or private improvements, located on or off the site, an appraiser must analyze the effect on value, if any, of such anticipated improvements to the extent they are reflected in market actions.**
- (g) **When personal property, trade fixtures, or intangible items are included in the appraisal, the appraiser must analyze the effect on value of such non-real property items.**

Comment: When the scope of work includes an appraisal of personal property, trade fixtures or intangible items, competency in personal property appraisal (see STANDARD 7) or business appraisal (see STANDARD 9) is required.

Standards Rule 1-5

When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business: 14

- (a) analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal; and**
- (b) analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal. 15**

Comment: See the Comments to Standards Rules 2-2(a)(viii), 2-2(b)(viii), and 2-2(c)(viii) for corresponding reporting requirements relating to the availability and relevance of information.

Standards Rule 1-6

In developing a real property appraisal, an appraiser must:

- (a) reconcile the quality and quantity of data available and analyzed within the approaches used; and**
- (b) reconcile the applicability or suitability of the approaches used to arrive at the value conclusion (s).**

Comment: See the Comments to Standards Rules 2-2(a)(viii), 2-2(b)(viii), and 2-2(c)(viii) for corresponding reporting requirements.

5. See Statement on Appraisal Standards No. 9 (SMT-9), *Identification of Intended Use and Intended Users*.
6. See Statement on Appraisal Standards No. 9 (SMT-9), *Identification of Intended Use and Intended Users*.
7. See Advisory Opinion 19, *Unacceptable Assignment Conditions in Real Property Appraisal Assignments*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
8. See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions*. See also Advisory Opinion 7, *Marketing Time Opinions*, and Advisory Opinion 22, *Scope of Work in Market Value Appraisal Assignments, Real Property*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
9. See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*.
10. See Advisory Opinion 2, *Inspection of Subject Property*, and Advisory Opinion 23, *Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment*. References to the Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
11. See Advisory Opinion 17, *Appraisals of Real Property with Proposed Improvements*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
12. See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure*, and Advisory Opinion 29, *An Acceptable Scope of Work*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
13. See Statement on Appraisal Standards No. 2, *Discounted Cash Flow Analysis*.
14. See Advisory Opinion 24, *Normal Course of Business*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
15. See Advisory Opinion 1, *Sales History*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.





STANDARD 2: REAL PROPERTY APPRAISAL, REPORTING

In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Comment: STANDARD 2 addresses the content and level of information required in a report that communicates the results of a real property appraisal.

STANDARD 2 does not dictate the form, format, or style of real property appraisal reports. The form, format, and style of a report are functions of the needs of intended users and appraisers. The substantive content of a report determines its compliance.

Standards Rule 2-1

Each written or oral real property appraisal report must:

- (a) clearly and accurately set forth the appraisal in a manner that will not be misleading;**
- (b) contain sufficient information to enable the intended users of the appraisal to understand the report properly; and**
- (c) clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.**

Standards Rule 2-2

Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report. ¹⁶

Comment: When the intended users include parties other than the client, either a Self-Contained Appraisal Report or a Summary Appraisal Report must be provided. When the intended users do not include parties other than the client, a Restricted Use Appraisal Report may be provided.

The essential difference among these three options is in the content and level of information provided. The appropriate reporting option and the level of information necessary in the report are dependent on the intended use and the intended users.

An appraiser must use care when characterizing the type of report and level of information communicated upon completion of an assignment. An appraiser may use any other label in addition to, but not in place of, the label set forth in this Standard for the type of report provided.

The report content and level of information requirements set forth in this Standard are minimums for each type of report. An appraiser must supplement a report form, when necessary, to ensure that any intended user of the appraisal is not misled and that the report complies with the applicable content requirements set forth in this Standards Rule.

A party receiving a copy of a Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report in order to satisfy disclosure requirements does not become an intended user of the appraisal unless the appraiser identifies such party as an intended user as part of the assignment.

(a) The content of a Self-Contained Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

(i) state the identity of the client and any intended users, by name or type; [17](#)

Comment: An appraiser must use care when identifying the client to ensure a clear understanding and to avoid violations of the [Confidentiality](#) section of the ETHICS RULE. In those rare instances when the client wishes to remain anonymous, an appraiser must still document the identity of the client in the workfile but may omit the clients identity in the report.

Intended users of the report might include parties such as lenders, employees of government agencies, partners of a client, and a clients attorney and accountant.

(ii) state the intended use of the appraisal; [18](#)

(iii) describe information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment; [19](#)

Comment: The real estate involved in the appraisal can be specified, for example, by a legal description, address, map reference, copy of a survey or map, property sketch and/or photographs or the like. The information can include a property sketch and photographs in addition to written comments about the legal, physical, and economic attributes of the real estate relevant to the type and definition of value and intended use of the appraisal.

(iv) state the real property interest appraised;

Comment: The statement of the real property rights being appraised must be substantiated, as needed, by copies or summaries of title descriptions or other documents that set forth any known encumbrances.

(v) state the type and definition of value and cite the source of the definition;

Comment: Stating the definition of value also requires any comments needed to clearly indicate to intended users how the definition is being applied.[20](#)

When reporting an opinion of market value, state whether the opinion of value 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.

When an opinion of market value is not in terms of cash or based on financing terms equivalent to cash, summarize the terms of such financing and explain their contributions to or negative influence on value.

(vi) state the effective date of the appraisal and the date of the report; [21](#)

Comment: The effective date of the appraisal establishes the context for the value

opinion, while the date of the report indicates whether the perspective of the appraiser on the market or property use conditions as of the effective date of the appraisal was prospective, current, or retrospective.

Reiteration of the date of the report and the effective date of the appraisal at various stages of the report in tandem is important for the clear understanding of the reader whenever market or property use conditions on the date of the report are different from such conditions on the effective date of the appraisal.

(vii) describe the scope of work used to develop the appraisal; 22

Comment: Because intended users reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant real property appraisal assistance, the appraiser must describe the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant real property appraisal assistance in the certification, in accordance with SR 2-3.

(viii) describe the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;

Comment: A Self-Contained Appraisal Report must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 1. The amount of detail required will vary with the significance of the information to the appraisal.

The appraiser must provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions, including reconciliation of the data and approaches, in accordance with Standards Rule 1-6.

When reporting an opinion of market value, a summary of the results of analyzing the subject sales, options, and listings in accordance with Standards Rule 1-5 is required. If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

(ix) state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal; and, when an opinion of highest and best use was developed by the appraiser, describe the support and rationale for that opinion;

(x) clearly and conspicuously:

- state all extraordinary assumptions and hypothetical conditions; and
- state that their use might have affected the assignment results; and

Comment: The report must contain the appraisers opinion as to the highest and best use of the real estate, unless an opinion as to highest and best use is unnecessary, such as in insurance valuation or value in use appraisals. When reporting an opinion of market value, the appraisers support and rationale for the opinion of highest and best use is required. The appraisers reasoning in support of the opinion must be provided in the depth and detail required by its significance to the appraisal.

(xi) include a signed certification in accordance with Standards Rule 2-3.

(b) The content of a Summary Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

Comment: The essential difference between the Self-Contained Appraisal Report and the Summary Appraisal Report is the level of detail of presentation.

(i) state the identity of the client and any intended users, by name or type; 23

Comment: An appraiser must use care when identifying the client to ensure a clear understanding and to avoid violations of the Confidentiality section of the ETHICS RULE. In those rare instances when the client wishes to remain anonymous, an appraiser must still document the identity of the client in the workfile but may omit the clients identity in the report.

Intended users of the report might include parties such as lenders, employees of government agencies, partners of a client, and a clients attorney and accountant.

(ii) state the intended use of the appraisal; 24

(iii) summarize information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment; 25

Comment: The real estate involved in the appraisal can be specified, for example, by a legal description, address, map reference, copy of a survey or map, property sketch, and/or photographs or the like. The summarized information can include a property sketch and photographs in addition to written comments about the legal, physical, and economic attributes of the real estate relevant to the type and definition of value and intended use of the appraisal.

(iv) state the real property interest appraised;

Comment: The statement of the real property rights being appraised must be substantiated, as needed, by copies or summaries of title descriptions or other documents that set forth any known encumbrances.

(v) state the type and definition of value and cite the source of the definition;

Comment: Stating the definition of value also requires any comments needed to clearly indicate to the intended users how the definition is being applied. 26

When reporting an opinion of market value, state whether the opinion of value 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.

When an opinion of market value is not in terms of cash or based on financing terms equivalent to cash, summarize the terms of such financing and explain their contributions to or negative influence on value.

(vi) state the effective date of the appraisal and the date of the report; 27

Comment: The effective date of the appraisal establishes the context for the value opinion, while the date of the report indicates whether the perspective of the appraiser on the market or property use conditions as of the effective date of the appraisal was prospective, current, or retrospective.

Reiteration of the date of the report and the effective date of the appraisal at various

stages of the report in tandem is important for the clear understanding of the reader whenever market or property use conditions on the date of the report are different from such conditions on the effective date of the appraisal.

- (vii) summarize sufficient information to disclose to the client and any intended users of the appraisal the scope of work used to develop the appraisal; 28**

Comment: Because intended users reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant real property appraisal assistance, the appraiser must summarize the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant real property appraisal assistance in the certification, in accordance with SR 2-3.

- (viii) summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;**

Comment: A Summary Appraisal Report must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 1. The amount of detail required will vary with the significance of the information to the appraisal.

The appraiser must provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions, including reconciliation of the data and approaches, in accordance with Standards Rule 1-6.

When reporting an opinion of market value, a summary of the results of analyzing the subject sales, options, and listings in accordance with Standards Rule 1-5 is required. If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

- (ix) state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal; and, when an opinion of highest and best use was developed by the appraiser, summarize the support and rationale for that opinion;**

- (x) clearly and conspicuously:**

- state all extraordinary assumptions and hypothetical conditions; and
- state that their use might have affected the assignment results; and

- (xi) include a signed certification in accordance with Standards Rule 2-3.**

- (c) The content of a Restricted Use Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:**

- (i) state the identity of the client, by name or type; and state a prominent use restriction that limits use of the report to the client and warns that the appraisers opinions and conclusions set forth in the report may not be understood properly without additional information in the appraisers workfile; 29**

Comment: An appraiser must use care when identifying the client to ensure a clear understanding and to avoid violations of the Confidentiality section of the ETHICS RULE. In those rare instances when the client wishes to remain anonymous, an appraiser must still document the identity of the client in the workfile but may omit the clients identity in the report.

The Restricted Use Appraisal Report is for client use only. Before entering into an agreement, the appraiser should establish with the client the situations where this type

of report is to be used and should ensure that the client understands the restricted utility of the Restricted Use Appraisal Report.

(ii) state the intended use of the appraisal; [30](#)

Comment: The intended use of the appraisal must be consistent with the limitation on use of the Restricted Use Appraisal Report option in this Standards Rule (i.e., client use only).

(iii) state information sufficient to identify the real estate involved in the appraisal: [31](#)

Comment: The real estate involved in the appraisal can be specified, for example, by a legal description, address, map reference, copy of a survey or map, property sketch, and/or photographs or the like.

(iv) state the real property interest appraised;

(v) state the type of value, and cite the source of its definition; [32](#)

(vi) state the effective date of the appraisal and the date of the report; [33](#)

Comment: The effective date of the appraisal establishes the context for the value opinion, while the date of the report indicates whether the perspective of the appraiser on the market or property use conditions as of the effective date of the appraisal was prospective, current, or retrospective.

(vii) state the scope of work used to develop the appraisal; [34](#)

Comment: Because the clients reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant real property appraisal assistance, the appraiser must state the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant real property appraisal assistance in the certification, in accordance with SR [2-3](#).

(viii) state the appraisal methods and techniques employed, state the value opinion(s) and conclusion(s) reached, and reference the workfile; exclusion of the sales comparison approach, cost approach, or income approach must be explained;

Comment: An appraiser must maintain a specific, coherent workfile in support of a Restricted Use Appraisal Report. The contents of the workfile must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 1 and for the appraiser to produce a Summary Appraisal Report. The file must be available for inspection by the client (or the clients representatives, such as those engaged to complete an appraisal review), state enforcement agencies, such third parties as may be authorized by due process of law, and a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.

When reporting an opinion of market value, information analyzed in compliance with Standards Rule [1-5](#) is significant information that must be disclosed in a Restricted Use Appraisal Report. If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

(ix) state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal; and, when an opinion of highest and best use was developed by the appraiser, state that opinion;

- (x) clearly and conspicuously:
 - state all extraordinary assumptions and hypothetical conditions; and
 - state that their use might have affected the assignment results; and
- (xi) include a signed certification in accordance with Standards Rule 2-3.

Standards Rule 2-3

Each written real property appraisal report must contain a signed certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or the specified) personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.) ³⁵
- no one provided significant real property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal assistance must be stated.)

Comment: A signed certification is an integral part of the appraisal report. An appraiser who signs any part of the appraisal report, including a letter of transmittal, must also sign this certification.

In an assignment that includes only assignment results developed by the real property appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. In an assignment that includes personal property, business or intangible asset assignment results not developed by the real property appraiser(s), any real property appraiser(s) who signs a

certification accepts full responsibility for the real property elements of the certification, for the real property assignment results, and for the real property contents of the appraisal report.

When a signing appraiser(s) has relied on work done by others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser (s) is required to have a reasonable basis for believing that those individuals performing the work are competent and that their work is credible.³⁶

The names of individuals providing significant real property appraisal assistance who do not sign a certification must be stated in the certification. It is not required that the description of their assistance be contained in the certification, but disclosure of their assistance is required in accordance with SR 2-2(a), (b), or (c)(vii), as applicable.

Standards Rule 2-4

To the extent that it is both possible and appropriate, an oral real property appraisal report must address the substantive matters set forth in Standards Rule 2-2(b).

Comment: See the Record Keeping section of the ETHICS RULE for corresponding requirements.

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16. See Advisory Opinion 11, *Content of the Appraisal Report Options of Standards Rules 2-2 and 8-2*, and Advisory Opinion 12, *Use of the Appraisal Report Options of Standards Rules 2-2 and 8-2*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
 17. See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.
 18. See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.
 19. See Advisory Opinion 2, *Inspection of Subject Property*, and Advisory Opinion 23, *Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
 20. See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions*. See also Advisory Opinion 7, *Marketing Time Opinions*, and Advisory Opinion 22, *Scope of Work in Market Value Appraisal Assignments, Real Property*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
 21. See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*.
 22. See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure* and Advisory Opinion 29, *An Acceptable Scope of Work*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
 23. See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.
 24. See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.
 25. See Advisory Opinion 2, *Inspection of Subject Property*, and Advisory Opinion 23, *Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
 26. See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions*. See also Advisory Opinion 7, *Marketing Time Opinions*, and Advisory Opinion 22, *Scope of Work in Market Value Appraisal Assignments, Real Property*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
 27. See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*.
 28. See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure*, and Advisory Opinion 29, *An Acceptable Scope of Work*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
 29. See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.
 30. See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.
 31. See Statement on Appraisal Standards No. 6 (SMT-6). See also Advisory Opinions AO-7 and AO-8. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into the Standards Rules.
 32. See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions*. See also Advisory Opinion 7, *Marketing Time Opinions*, and Advisory Opinion 22, *Scope of Work in Market Value*

Appraisal Assignments, Real Property. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.

33. See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*.
34. See Advisory Opinions 28, *Scope of Work Decision, Performance, and Disclosure*, and Advisory Opinion 29, *An Acceptable Scope of Work*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
35. See Advisory Opinion 2, *Inspection of Subject Property*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
36. See Advisory Opinion 5, *Assistance in the Preparation of an Appraisal*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.



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1175 **STANDARD 4: REAL PROPERTY APPRAISAL CONSULTING, DEVELOPMENT**

1176 **In developing a real property appraisal consulting assignment, an appraiser must identify the**
 1177 **problem to be solved, determine the scope of work necessary to solve the problem, and correctly**
 1178 **complete the research and analyses necessary to produce credible results.**

1179 Comment: Real property appraisal consulting assignments encompass a wide variety of
 1180 problems to be solved. However, the purpose of an assignment under this Standard is
 1181 always to develop, without advocacy, an analysis, recommendation, or opinion where at
 1182 least one opinion of value is a component of the analysis leading to the assignment
 1183 results.

1184 In some assignments, the opinion of value may originate from a source other than the
 1185 consulting appraiser. In other assignments, the consulting appraiser may have to develop
 1186 the opinion of value as a step in the analyses leading to the assignment results.

1187 An opinion of value or an opinion as to the quality of another appraiser's work cannot be
 1188 the purpose of an appraisal consulting assignment. Developing an assignment for those
 1189 purposes is an appraisal or an appraisal review assignment, respectively. Misrepresenting
 1190 the purpose of an assignment performed under this Standard is a violation of the ETHICS
 1191 RULE.

1192 The ETHICS and COMPETENCY RULES apply to the appraiser performing an
 1193 appraisal consulting assignment. Appraisers practicing under this Standard must perform
 1194 the assignment with impartiality, objectivity, independence, and without accommodation
 1195 of personal interests.

1196 Except when required by law, regulation, agreement, or choice, this appraisal consulting
 1197 STANDARD does not apply to services provided by an appraiser acting under the
 1198 standards of other professions or business activities. For example, when an appraiser who
 1199 is also an investment consultant provides a service that does not require an opinion of
 1200 value, that appraiser, acting as an investment consultant, is not performing an assignment
 1201 addressed by this Standard.

1202 **Standards Rule 4-1**

1203 **In performing a real property appraisal consulting assignment, an appraiser must:**

- 1204 (a) **be aware of, understand, and correctly employ those recognized methods and techniques**
 1205 **that are necessary to produce credible results;**
- 1206 (b) **not commit a substantial error of omission or commission that significantly affects the**
 1207 **results of an appraisal consulting assignment; and**
- 1208 (c) **not render appraisal consulting services in a careless or negligent manner, such as by**
 1209 **making a series of errors that, although individually might not significantly affect the**
 1210 **results, in the aggregate affect the credibility of those results.**

1211 **Standards Rule 4-2**1212 **In developing real property appraisal consulting assignment results, an appraiser must:**

- 1213 (a) **identify the client and other intended users;**⁴¹
- 1214 (b) **identify the intended use of the appraisal consulting assignment results;**⁴²
- 1215 (c) **identify:**
- 1216 (i) **the analysis, recommendation or opinion to be developed; and**
- 1217 (ii) **the type and definition of value developed in the appraisal(s) that is a necessary**
- 1218 **component of an analysis supporting the appraisal consulting assignment results;**

1219 Comment: If the applicable type and definition of value is market value,

1220 ascertain whether that value is to be the most probable price:

- 1221 • in terms of cash; or
- 1222 • in terms of financial arrangements equivalent to cash; or
- 1223 • in other precisely defined terms; and
- 1224 • if the opinion of value is to be based on non-market financing or financing
- 1225 with unusual conditions or incentives, the terms of such financing must be
- 1226 clearly identified and the appraiser's opinion of their contributions to or
- 1227 negative influence on value must be developed by analysis of relevant
- 1228 market data.

- 1229 (d) **identify the effective date of the appraisal consulting assignment results;**⁴³
- 1230 (e) **identify the physical, legal, and economic characteristics of the property, properties,**
- 1231 **property type(s), or market area that are relevant**⁴⁴ **to:**
- 1232 (i) **the analysis, recommendation or opinion to be developed in the appraisal consulting**
- 1233 **assignment; and**
- 1234 (ii) **an opinion of value that is a necessary component of an analysis supporting the**
- 1235 **appraisal consulting assignment results;**
- 1236 (f) **identify any extraordinary assumptions necessary in the appraisal consulting assignment**
- 1237 **and in developing the opinion(s) of value necessary to support the appraisal consulting**
- 1238 **assignment results;**

1239 Comment: An extraordinary assumption may be used in an assignment only if:

- 1240 • it is required to properly develop credible opinions and conclusions;
- 1241 • the appraiser has a reasonable basis for the extraordinary assumption;
- 1242 • use of the extraordinary assumption results in a credible analysis; and

⁴¹ See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

⁴² See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

⁴³ See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions* and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*.

⁴⁴ See Advisory Opinion 2, *Inspection of Subject Property*, and Advisory Opinion 23, *Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.

- 1243 • the appraiser complies with the disclosure requirements set forth in USPAP for
1244 extraordinary assumptions.

- 1245 (g) **identify any hypothetical conditions necessary in the appraisal consulting assignment and in**
1246 **developing the opinion(s) of value necessary to support the appraisal consulting assignment**
1247 **results; and**

1248 Comment: A hypothetical condition may be used in an assignment only if:

- 1249 • use of the hypothetical condition is clearly required for legal purposes, for purposes
1250 of reasonable analysis, or for purposes of comparison;
1251 • use of the hypothetical condition results in a credible analysis; and
1252 • the appraiser complies with the disclosure requirements set forth in USPAP for
1253 hypothetical conditions.

- 1254 (h) **determine the scope of work necessary to produce credible assignment results in accordance**
1255 **with the SCOPE OF WORK RULE⁴⁵, including:**

- 1256 (i) **the appraisal consulting methods and techniques to be employed, and**

- 1257 (ii) **the research and analysis required to:**

- 1258 • **ascertain the relevance and credibility of an opinion of value obtained from a**
1259 **source other than the appraiser performing the appraisal consulting**
1260 **assignment, or**
1261 • **develop an opinion of value that is a necessary component of an analysis**
1262 **supporting the appraisal consulting assignment results;**

1263 Comment: An appraiser must ensure that any opinion of value used in an appraisal
1264 consulting assignment was developed in compliance with STANDARD 1.

1265 If an opinion of value used in a real property appraisal consulting assignment is from a
1266 source other than the consulting appraiser, the assignment may include a review, prepared
1267 in compliance with STANDARD 3, of that appraisal. Alternatively, the appraiser may
1268 accept an appraisal from another source using an extraordinary assumption in the
1269 appraisal consulting assignment, provided that all conditions necessary to use such an
1270 extraordinary assumption are fulfilled.

1271 If the opinion of value is from an appraisal developed by the appraiser performing the
1272 ⁶ real property appraisal consulting assignment, the appraiser must complete the steps set
1273 forth in STANDARD 1.

⁴⁵ See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure*, and Advisory Opinion 29, *An Acceptable Scope of Work*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.



STANDARD 5: REAL PROPERTY APPRAISAL CONSULTING, REPORTING

In reporting the results of a real property appraisal consulting assignment, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Comment: STANDARD 5 addresses the content and level of information required in a report that communicates the results of a real property appraisal consulting assignment.

An appraiser must explain logically and convincingly the reasoning that leads to his or her conclusions. The flow of information must be orderly and progressive. The level of information necessary in the report is dependent on the intended use and intended users. The level of information detail in the report must be sufficient to enable the client and intended users of the report to understand the appraisal consulting assignment results and not be misled.

STANDARD 5 does not dictate the form, format, or style of real property appraisal consulting reports. The form, format, and style of a report are functions of the needs of intended users and appraisers. The substantive content of a report determines its compliance.

Standards Rule 5-1

Each written or oral real property appraisal consulting report must:

- (a) clearly and accurately set forth the appraisal consulting assignment results in a manner that will not be misleading;**
- (b) contain sufficient information to enable the intended users of the appraisal consulting assignment results to understand the report properly; and**
- (c) clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.**

Comment: The content of a real property appraisal consulting report must be sufficiently comprehensive so that an intended user can understand the problem addressed and the analyses, and follow the reasoning through each step of the analytical process. It is essential that throughout the report the data, analyses, assumptions and conclusions are logical and adequately supported.

Standards Rule 5-2

The content of each written real property appraisal consulting report must be consistent with the intended use of the appraisal consulting assignment results and, at a minimum:

- (a) state the identity of the client and any intended users, by name or type; [46](#)**

Comment: An appraiser must use care when identifying the client to ensure a clear understanding and to avoid violations of the Confidentiality section of the ETHICS RULE. In

those rare instances where the client wishes to remain anonymous, an appraiser must still document the identity of the client in the workfile, but may omit the client's identity in the report.

Intended users of the report might include parties such as lenders, employees of government agencies, partners of a client, and a client's attorney and accountant.

- (b) state the analysis, recommendation or opinion developed;**
- (c) state the intended use of the appraisal consulting assignment; [47](#)**
- (d) state information sufficient to identify the real property pertinent to the appraisal consulting assignment, and state the physical, legal, and economic characteristics of the property, properties, property types, or market area pertinent to the assignment; [48](#)**
- (e) state the effective date of the appraisal consulting assignment results, the date of appraisal pertinent to each opinion of value used in an analysis in support of the appraisal consulting results, and the date of the appraisal consulting report; [49](#)**
- (f) state the scope of work used to develop the assignment results; [50](#)**

Comment: Because intended users' reliance on assignment results may be affected by the scope of work, the report must enable them to be properly informed and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant real property appraisal or appraisal consulting assistance, the appraisal consultant must describe the extent of that assistance. The signing consulting appraiser must also state the name(s) of those providing significant real property appraisal or appraisal consulting assistance in the certification, in accordance with [5-3](#).

- (g) summarize the information used in the appraisal consulting analyses, the appraisal consulting methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions;**

Comment: If the value opinion used in the appraisal consulting assignment was not performed by the consulting appraiser, the appraisal consulting report must include:

- the information required in Standards Rule [3-2](#), or
- a statement of the appraisal review results, and a reference to the appraisal review documentation retained in the appraisal consultant's appraisal consulting assignment workfile, or
- a statement supporting the use of that appraisal as an extraordinary assumption in the appraisal consulting assignment.

If an opinion of value was developed by the consulting appraiser, the appraisal consulting report must include the information required to comply with Standards Rule [2-2\(a\)](#) or [\(b\)\(ii\)](#) through [\(x\)](#). Standards Rule [2-2\(c\)\(ii\)](#) through [\(x\)](#) is also permitted if the client is the only intended user of the assignment results.

- (h) state the appraiser's appraisal consulting recommendations (if any), and conclusions or opinions;**
- (i) clearly and conspicuously:**
 - state all extraordinary assumptions and hypothetical conditions; and
 - state that their use might have affected the assignment results; and
- (j) include a signed certification in accordance with Standards Rule [5-3](#).**

Standards Rule 5-3

Each written real property appraisal consulting report must contain a signed certification that is similar in content to the following form:

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, conclusions, and recommendations.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report, and I have no (or the specified) personal interest with respect to the parties involved.
- I have no bias with respect to any property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal consulting assignment.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the property). ⁵¹
- no one provided significant real property appraisal or appraisal consulting assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal or appraisal consulting assistance must be stated.)

Comment: A signed certification is an integral part of the appraisal consulting report. An appraiser who signs any part of the appraisal consulting report, including a letter of transmittal, must also sign the certification.

In an assignment that includes only assignment results developed by the real property appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal consulting report. In an assignment that includes personal property, business or intangible asset assignment results not developed by the real property appraiser(s), any real property appraiser(s) who signs a certification accepts full responsibility for the real property elements of the certification, for the real property assignment results, and for the real property contents of the appraisal consulting report.

If the signing consulting appraiser(s) has relied on work from others, who do not sign the certification, then the signing consulting appraiser(s) is responsible for the decision to rely on such work. The signing consulting appraiser is required to have a reasonable basis for believing that those individuals performing the work are competent and that their work is credible.

The names of individuals providing significant real property appraisal or appraisal consulting assistance who do not sign the certification must be stated in the certification. It is not required that the description of their assistance be contained in the certification, but disclosure of their assistance

is required in accordance with SR [5-2\(f\)](#).

Standards Rule 5-4

To the extent that it is both possible and appropriate, an oral real property appraisal consulting report must address the substantive matters set forth in Standards Rule [5-2](#).

Comment: See the [Record Keeping](#) section of the ETHICS RULE for corresponding requirements.

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46. See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.
 47. See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.
 48. See Advisory Opinion 2, *Inspection of Subject Property*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
 49. See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*.
 50. See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure*, and 29, *An Acceptable Scope of Work*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.
 51. See Advisory Opinion 2, *Inspection of Subject Property*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.



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COUNTY ISLAND EXAMPLES (HYPOTHETICAL)

Assume a five acre parcel zoned County R-5 allowing high density apartments located within the boundaries of an incorporated City. The City has designated the as low-density single-family on its General Land Use Plan, but because the City has no jurisdiction, the county zoning is the entitled legal use. The property cannot be developed without access to sewer and water which in this case is provided by the City.

What happens if:

- A. The city wants to incorporate the five acres and bring it in as low-density single-family (assume the General Plan is a regulated land use law under Prop 207)?
- B. The owner wants to develop the five acres but needs to accept the City's General Plan Land Use in order to get sewer and water?
- C. The General Plan is not considered a land use regulation under Prop 207.

POTENTIAL DIMINUTION

1. If the City would provide sewer and water and rezone the property to its equivalent County R-5 category, the land would be worth \$5 per square foot or about \$1,000,000.
2. If the City would not provide sewer and water unless rezoned to low-density single-family, the land would be worth \$1 per square foot or about \$200,000.
3. However, because the city does not have to, and may never incorporate the County island, Market Value and the appraiser must assume that the land may never be incorporated and that the only way to develop it is to allow the city to rezone it to low-density, single-family. Thus, the Market Value would be \$200,000. Would there be any diminution?
4. If the city triggered the incorporation, would there be any diminution?
5. Suppose the property could be serviced without City approvals, what would the Market Value be?

DOWN ZONING EXAMPLE (HYPOTHETICAL)

Assume a ten (10) acre fully serviced parcel with arterial frontage is zoned industrial but is bordered on all sides by mobile home subdivisions. The city imposes a land use regulation which changes the zoning to Mobile Home.

The Market Value as industrial is \$10,000 per acre; the Market Value for Mobile Home is \$20,000.

A. Has there been a “down-zoning”?

B. Has there been a diminution in value?

DOWN ZONING WITHIN THE SAME USE CATEGORY

Assume that a property is zoned for 25 dwelling units per acre and the City imposes a PAD “Planned Area Development” which down-zones the same property to five dwelling units per acre. At 25 dwelling units per acre and prior to the PAD zoning, the land was worth \$10,000 per unit, or \$250,000 per acre. At five dwelling units per acre as part of the new PAD, the land is worth \$100,000 per unit or \$500,000 per acre.

Has there been any diminution in Market Value?

32-3602. Applicability of chapter

This chapter does not apply to:

1. A real estate broker or salesperson who is licensed in this state and who, when acting as such, gives an opinion as to the price of real estate for the purpose of prospective listing or sale if this opinion is not referred to as an appraisal.
2. A natural person, a corporation through its officers or a partnership through its partners that deals in that person's or its own property and does not receive special compensation for the transaction.
3. An attorney in the performance of that person's duties as an attorney.
4. A mortgage banker, mortgage broker or commercial mortgage banker who is licensed in this state and who, when acting as such, prepares a report analyzing real property if the report is not made for the primary purpose of establishing the sale or market value of the property.
5. An individual who is otherwise subject to licensing or certification by law and whose duties require appraisal of real property for purposes of tax assessment.
6. A professional engineer or architect registered in this state or a contractor or insurance producer licensed in this state who, when acting as such, prepares a report analyzing real property if the report utilizes the specialized knowledge of the registered professional engineer or architect or the licensed contractor or insurance producer.
7. A property tax agent who is registered in this state and who, when acting as such, prepares a report analyzing real estate if the report is made for purposes of tax assessment or tax valuation of the real estate.
8. An individual appraising real property only for the purpose of providing an opinion in a judicial proceeding or an individual providing an opinion in a judicial proceeding. An individual providing an opinion under the exemption of this paragraph shall not represent or imply in any report or testimony that the individual testifying is licensed or certified under this chapter.

32-3603. License or certificate use; exception

A. All real estate appraisals and appraisal reviews performed in this state shall be performed only by individuals licensed or certified in accordance with the requirements of this chapter. No person, other than a state licensed or state certified appraiser, may assume or use that title or any title, designation or abbreviation likely to create the impression of licensure or certification as an appraiser by this state.

B. No person other than a state licensed or state certified appraiser may receive a fee for a real estate appraisal or an appraisal review.