



## ADVISORY OPINION 19 (AO-19)

*This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.*

### SUBJECT: Unacceptable Assignment Conditions in Real Property Appraisal Assignments

### APPLICATION: Real Property

### ISSUE:

All real property appraisal assignments involve conditions that affect the appraiser's scope of work and the type of report. What types of conditions are unacceptable?

### BACKGROUND:

Many residential property appraisers report requests for service where the caller includes statements or information in the request similar to the following:

1. We need comps for (property description) that will support a loan of \$ \_\_\_\_\_; can you provide them?
2. Sales Price: \_\_\_\_\_.
3. Approximate (or Minimum) value needed: \_\_\_\_\_.
4. Amount needed: \_\_\_\_\_.
5. Owner's estimate of value: \_\_\_\_\_.
6. If this property will not appraise for at least \_\_\_\_\_, stop and call us immediately.
7. Please call and notify if it is NOT possible to support a value at or above \_\_\_\_\_, BEFORE YOU PROCEED!!!!

Appraisers report that the caller usually makes it clear that they do not want the appraiser to do any fieldwork. Some callers refer to the service requested as a "comp check" while others refer to it as a "preliminary appraisal" or use some terms other than appraisal (such as preliminary evaluation, study, analysis, etc.). Some callers indicate that if the numbers will not work, the appraiser can send a bill for research services or a "preliminary" inspection. Other callers promise future assignments if the appraiser can make the present deal work.

Appraisers ask, "Can I respond to such requests without violating USPAP and, if so, how?"

### ADVICE FROM THE ASB ON THE ISSUE:

#### Relevant USPAP References

Appraisers receiving requests for services that include the kind of information and situations described in the Background section of this Advisory Opinion should carefully review:

- the Conduct and Management sections of the ETHICS RULE, particularly in regard to assignments offered under condition of "predetermined opinions or conclusions" or compensation conditioned on the reporting of a predetermined value, on a direction in value that favors the cause of the client, on the amount of the value opinion, on the attainment of a stipulated result, or on the occurrence of a subsequent event directly related to the value opinion.
- The definitions of "Appraisal," "Appraisal Practice," "Assignment" and "Scope of Work" in the DEFINITIONS section of USPAP.
- Standards Rule 1-1(b), particularly as it relates to diligence in the level of research and analysis necessary to develop credible opinions and conclusions.
- Standards Rules 1-2(f), (g), and (h), regarding identification of the scope of work necessary to complete an assignment and any extraordinary assumptions or hypothetical conditions necessary in an assignment.
- Standards Rules 1-5(a) and (b), regarding the analysis of current or historical market activity regarding the property appraised.
- the DEPARTURE RULE, with particular attention to the appraiser's burden of proof in connection with the appraiser's scope of work decision and burden of disclosure in connection with any departures from specific requirements.
- Statement on Appraisal Standards No. 7 (SMT-7), particularly the Scope of Work and Levels of Reliability sections.
- as guidance, Advisory Opinions AO-11, 12, 13, and 15.

#### Unacceptable Conditions

Certain types of conditions are unacceptable in any assignment because performing an assignment under such conditions violates USPAP. Specifically, an assignment condition is unacceptable when it:

- precludes an appraiser's impartiality. Because such a condition destroys the objectivity and independence required for the development and communication of credible results;
- limits the scope of work to such a degree that the assignment results are not credible, given the purpose of the assignment and the intended use of those results;
- limits the content of a report in a way that results in the report being misleading.

### **Accepting Assignment Conditions**

The purpose of an assignment and the intended use of the assignment results affect whether assignment conditions are acceptable. Some assignment conditions may be acceptable in one type of assignment but not in another. An appraiser should carefully consider the information provided by the client in a prospective assignment before accepting or declining the assignment. (See Statement on Appraisal Standards No. 9 (SMT-9))

In the highly competitive financial services market, cost versus benefit is always an issue. Residential appraisers, particularly, have seen an increase in the use of sophisticated loan application screening tools by their lender-clients. Many lenders believe an appraiser can enhance their screening efforts by doing "preliminary work" that they do not view as an "appraisal."

Other client groups also ask appraisers to provide services under conditions that limit the appraiser's scope of work. Investors, trust administrators, and portfolio account managers often require opinions and data from appraisers in order to make decisions. Attorneys often rely on appraisers in counseling their clients and in preparing for litigation.

When considering a request for service, appraisers should ascertain:

- whether the service involves an appraisal,
- what levels of risk are associated with the service, and
- whether there are any unacceptable conditions attached to the assignment.

Appraisers should take care to communicate with prospective clients to reach a common understanding about assignment conditions. Further, the appraiser and client need to recognize that:

#### **1) the type of assignment in each request described in the Background section of this Advisory Opinion is an appraisal.**

If an appraiser is asked whether a specific property has a value (a point, a range, or a relationship to some benchmark), that request is for an opinion of value (an appraisal). Appraisers, obligated to comply with USPAP, must develop a real property appraisal in accordance with STANDARD 1. Communicating that value opinion must be accomplished in accordance with STANDARD 2.

Appraisers, like other professionals, must ensure that those who use their services recognize the amount of work required—and the expertise needed—to develop a credible value conclusion about a property.

However, this does not mean that the appraiser cannot provide an economic and competitive service. Indeed, the *Uniform Standards of Professional Appraisal Practice* recognize the need for different kinds of appraisals. A competent appraiser can vary the scope of work in an assignment, in accordance with the purpose and intended use of the appraiser's opinions and conclusions in the assignment, and remain in compliance with USPAP. (See Statement 7 (SMT-7), particularly the Scope of Work and Levels of Reliability sections, and Advisory Opinion AO-15, particularly the The Appraisal Assignment and Using the Departure Rule sections.)

#### **2) assignment limitations affect the level of risk accepted by each party in an assignment;**

Appraisers and users of appraisals should recognize that assignment limitations affect the reliability of an appraiser's opinions and conclusions. In some assignments, an appraiser can reasonably apply extraordinary assumptions or the DEPARTURE RULE to compensate for assignment limitations. In other situations, the use of the same assumptions or departure may not be acceptable.

When the client's intended use is to screen a potential business for feasibility, a higher reliance on assumptions or extraordinary assumptions is more appropriate than when the client's intended use is for loan documentation or loan settlement. While the client can accept a higher level of risk in different situations, an appraiser should take reasonable care to inform the client of the risks involved with the assignment limitations.

#### **3) assignment conditions that compromise an appraiser's impartiality and objectivity in an assignment are unacceptable.**

While a client may feel that offering preference in current or future assignments on the basis of "making the numbers work" in a specific assignment is appropriate, attaching such a condition to an assignment compromises an appraiser's impartiality and destroys the appraiser's credibility.

The *Uniform Standards of Professional Appraisal Practice* is explicit about such matters. Accepting an appraisal assignment under such a condition violates the Conduct section of the ETHICS RULE in USPAP, which states:

*An appraiser must perform assignments ethically and competently, in accordance with USPAP and any supplemental standards applicable to the assignment. An appraiser must not engage in criminal conduct. An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.*

*An appraiser must not accept an assignment that includes the reporting of predetermined opinions and conclusions.*

Furthermore, accepting compensation for completing an appraisal assignment under such a condition violates the Management section of the ETHICS RULE in USPAP, which states:

*It is unethical for an appraiser to accept compensation for performing an assignment when it is contingent upon:*

1. *the reporting of a predetermined result (e.g., opinion of value), or*
  2. *a direction in assignment results that favors the cause of the client, or*
  3. *the amount of a value opinion, or*
  4. *the attainment of a stipulated result, or*
  5. *the occurrence of a subsequent event directly related to the appraiser's opinions **and** specific to the assignment's purpose.*
- (Bold added for emphasis)

#### **Illustrations:**

Some of the requests shown in the Background section of this Advisory Opinion share common characteristics. Possible responses to each common group of requests could be:

1. *We need comps for (a specific property) that will support a loan of \_\_\_\_\_; can you provide them?*

“Maybe, but I’ll need to research the market to know whether the ‘comps’ will support a value range relative to the loan amount. In doing this, I will be deciding which sales are ‘comps’ and what those ‘comps’ mean. Those decisions will result in a range of value for your prospective borrower’s property, which is an appraisal.

You also need to recognize that there are risks in this kind of assignment. If I do what you ask, it will probably be a limited appraisal. You should realize that my value conclusion could change if I subsequently perform an appraisal. Under the research and analysis limitations you suggest, I would not have verified some of the data and would have to use extraordinary assumptions about the market data and your borrower’s property information. I would not have performed some of the analyses steps I might complete in an appraisal assignment without those limitations. If all of that is agreeable to you, we can proceed.”

2. *SalesPrice: \_\_\_\_\_.*

“As long as the amount is only to inform me of the pending contract [or of the sale price] and is not a condition for your placement of this assignment with me, we can proceed. However, if that amount is a condition of this assignment, accepting an assignment under that condition violates professional ethics.”

Note: A sale price (in a pending or a settled transaction) is part of the information an appraiser is required to ascertain in accordance with Standards Rules 1-5(a) and (b). Receiving this information with a request for service is appropriate, but accepting an assignment with the price in an agreement of sale, option, or listing or a sale price in a settled transaction as a predetermined value in the assignment violates USPAP.

3. *Approximate (or Minimum) value needed: \_\_\_\_\_.*

4. *Amount needed: \_\_\_\_\_.*

5. *Owner’s estimate of value: \_\_\_\_\_.*

“As long as the amount is only to inform me of your objectives or someone else’s opinion and is not a condition for your placement of this assignment with me, we can proceed. However, if that amount is a condition of this assignment, accepting an assignment under that condition violates professional ethics.”

6. *If this property will not appraise for at least \_\_\_\_\_, stop and call us immediately.*

7. *Please call and notify if it is NOT possible to support a value at or above \_\_\_\_\_, BEFORE YOU PROCEED!!!!*

“Your request is acknowledged, but it is important for you to be aware that I must develop an appraisal before I can tell you whether the property will support the value indicated. It is also important for you to be aware that your statement of that amount with this request for service does not, in my view, establish a ‘condition’ for my performing the appraisal. If you intend it to be a condition for performing the assignment, I cannot accept the assignment because it violates professional ethics.”

#### **Research Illustration:**

The foregoing illustrations all include an appraisal assignment. In some situations, a client will request a service that is not an appraisal, appraisal review or appraisal consulting assignment as defined in USPAP. The service to be performed by the appraiser in the following illustration is:

- not an appraisal assignment (the appraiser does not develop a value opinion);
- not a real property appraisal consulting assignment (a value opinion is not a component of the analysis); and
- not a real property appraisal review (there is no appraisal to review).

The caller in this illustration is usually in the process of making a business decision and needs impartial and objective information but

has not yet decided whether to pursue the matter at hand. The caller knows there is the potential for needing an appraisal, depending, in part, on what the sales data shows. The caller also believes that, if the data indicates that an appraisal is worthwhile, having that work completed by the appraiser in that subsequent assignment will lessen the time required to perform an appraisal. The prospective client may ask:

We want you to check your data resources to see if there are sales within the past six months that are within one mile of [address]. If you find some, we may order an appraisal from you.

One possible response would be:

“If what you want is only the sales of properties shown in the databases available to me with the criteria you specified, I can do that research and send you the result. Then you can decide what you think your client’s property is worth. If I do only that, it is just research and is not an appraisal.

However, you need to recognize that there are risks if you decide to have the research done that way. If you decide to limit my work to just gathering the sales data using the research criteria you set, you are taking the risk that those criteria are both adequate and appropriate to find all of the market data relevant to your client’s property. You also take the risk that any appraiser’s analysis of that data would result in a value conclusion within the price range suggested by the sales data assembled using your criteria. There is no assurance that such would be the case.”

### **Staff or Multi-Appraiser Firm Context**

The foregoing illustrations reflect communications between a client and an appraiser in the context of the appraiser as an independent contractor (fee appraiser).

In a staff context, such as where the appraisal function is established as a business or agency unit, the part of the entity that uses the appraiser’s opinions and conclusions is like the “client” (intended user) and the part that completes the assignment is like the “appraiser.”

In that context, the “assignment” originates from the “intended user” part of the entity. The appraisal unit’s response to an “intended user” in situations like those in the foregoing illustrations reasonably could be similar because imposing assignment conditions that compromise an appraiser’s impartiality and objectivity is unacceptable, whatever the setting.

However, the example responses in the illustrations do not apply to the customary interaction and dialogue that occurs between appraisers within organizations or peers in multi-appraiser firms. Such interaction and dialogue within the unit or group that develops the opinions and conclusions in an assignment is not the same as communicating opinions and conclusions to an intended user.

*This Advisory Opinion is based on presumed conditions without investigation or verification of actual circumstances. There is no assurance that this Advisory Opinion represents the only possible solution to the problems discussed or that it applies equally to seemingly similar situations.*

Approved September 15, 1999

© Copyright 2003 The Appraisal Foundation