

Exposure Draft of Proposed Valuers Code of Professional Ethics

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1 **Background and Rationale for Proposed Valuers Code of Ethics**

2 The Appraisal Institute is the historic leader in establishing standards and ethics for the valuation
3 profession. The Appraisal Institute's predecessor organizations, the American Institute of Real Estate
4 Appraisers (AIREA) and the Society of Real Estate Appraisers (Society), were formed in the 1930's
5 and were among the first to establish standards and ethics for the valuation profession. AIREA and
6 the Society regularly revised and strengthened their standards and ethics over the decades that
7 followed. AIREA and the Society unified in 1991 to become the Appraisal Institute.

8
9 In keeping with the Appraisal Institute's historic role as the leader of the valuation profession, and in
10 recognition of the limitations of many valuation standards in the marketplace today, the Appraisal
11 Institute adopted, effective January 1, 2015, the Standards of Valuation Practice (SVP). The SVP
12 was adopted after a thorough development process, involving study of the issues and multiple
13 exposure drafts.

14
15 The SVP is a set of high quality, straightforward and principles-based valuation standards that valuers
16 can use when a national or international standard does not apply or is not required. The Appraisal
17 Institute believes that the SVP establishes a high level of professional practice, engenders public
18 trust, enables valuers and the public to better understand the valuation practice and facilitates the
19 growth and advancement of the valuation profession. The Appraisal Institute also believes that the
20 SVP helps valuers better meet the evolving needs of clients and facilitates the variety of work that
21 clients desire and that valuers now perform. The SVP achieves these objectives without confusing
22 complexity, micro-regulation and stifling burdens inconsistent with the practice of a profession. The
23 SVP is driven solely by what is best for valuers and the public, not by any financial interests. In fact,
24 the Appraisal Institute envisions SVP as an open access standard and is pleased to share them for
25 the benefit of the valuation community and users of valuation services worldwide.

26
27 Consistent with the rationale for the adoption of SVP, encouraged by the enthusiastic interest in and
28 reception for SVP, recognizing the limitations of many valuation ethics codes in the marketplace
29 today and in keeping with the Appraisal Institute's historic role as the leader of the valuation
30 profession, the Appraisal Institute Board of Directors now has directed distribution of an Exposure
31 Draft of a proposed Valuers Code of Professional Ethics (VCPE). The proposed VCPE contains high
32 quality, straightforward, principles-based and strict canons and rules of ethical conduct that valuers
33 can follow when national or international ethical codes do not apply or are not required.

34
35 To develop the proposed VCPE, the Professional Standards and Guidance Committee (PSGC)
36 started with the Appraisal Institute Code of Professional Ethics (CPE), removed obligations and
37 terminology unique to Appraisal Institute professionals (e.g., cooperating with an Appraisal Institute
38 peer review committee) and adjusted remaining language to ensure universality. The Appraisal
39 Institute would like to share the benefits of its experience and expertise in ethical codes, developed
40 and enforced over 80 years, with the valuation community and users of valuation services worldwide.
41 Like the SVP, the proposed VCPE is envisioned as an open access document that all can use when
42 appropriate and is driven solely by professional and public interests, rather than by any financial
43 interests.

44
45 The PSGC envisions that the SVP and VCPE would serve as companion documents that together
46 cover both ethical and competence issues. The PSGC believes that such documents could greatly
47 benefit the profession and the public.

48 If you have any comments on the Exposure Draft, please send them to
49 valuerscode@appraisalinstitute.org. Comments will be compiled for distribution to the Board of
50 Directors and the PSGC. The deadline for submission of comments is July 16, 2015.

51

52 The PSGC will consider the comments received and decide whether to recommend to the Board of
53 Directors any revisions to the Exposure Draft. The Board then will consider whether to direct another
54 Exposure Draft, whether to direct formal 45-Day Notice of the document as distributed or revised, or
55 whether to take some other action.

56

57 Please look for the Appraiser News Online at <http://www.appraisalinstitute.org/ano> on or about
58 August 5, 2015 and other subsequent publications for information on any Board decisions regarding
59 the proposed VCPE.

60

Text

Exceptions to the Ethical Rules

61 If any part of an Ethical Rule is contrary to a law or regulation of any jurisdiction, such part shall be
62 void and of no force or effect in such jurisdiction.

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Definitions

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66 The following definitions apply to the Valuers Code of Professional Ethics. All instances of the
67 following terms in the Valuers Code of Professional Ethics shall have the definitions below.

68

Appraisal

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70 The act or process of developing an opinion of value; an opinion of value. An appraisal must be
71 numerically expressed as a specific amount, as a range of numbers, or as a relationship (e.g., not
72 more than, more than, not less than, less than) to a stated amount.

73

Assignment Results

74
75 Opinions and conclusions developed in an appraisal or review.

76

Biased

77
78 Not reasonably supported, and favoring or promoting the cause or interest of the client, one's self, or
79 another.

80

Client

81
82 The individual, group or entity who engage a valuer to perform a Service.

83

Confidential Information

84
85 Information that is either:

86

- 87 • identified by the client as confidential when providing it to a valuer and that is not available
- 88 from any other source; or
- 89
- 90 • classified as confidential or private by applicable law or regulation.

91

Credible

92
93 Worthy of belief; supported by analysis of relevant information. Credibility is always measured in the
94 context of intended use.

95

Date of Report

96
97 The date on which the Report is transmitted to the client.

98

Effective Date

99
100 The date on which the appraisal or review opinion applies.

101

Engagement

102
103 An agreement between a valuer and a client to provide a Service.

104 **Hypothetical Condition**

105 A condition that is presumed to be true when it is known to be false.

106

107 **Intended Use**

108 The valuer's intent as to how the Report will be used.

109

110

111 **Intended User**

112 The party or parties the valuer intends will use the Report.

113

114 **Justified**

115 Reasonably supported.

116

117 **Know or Knowingly**

118 The individual realizes what he or she is doing, is aware of the nature of his or her conduct, and is not
119 acting through mistake or accident.

120

121 Comment: Knowledge can be inferred from the valuer's conduct and from all
122 the facts and circumstances surrounding the conduct. A determination of
123 "knowingly" should be made in the context of the valuer's training,
124 background, and experience. A valuer may have acted (or failed to act)
125 "knowingly" if he or she acted in disregard of the requirements of the
126 applicable Ethics and/or Standards or the profession's recognized methods
127 and techniques. The term "knowingly" includes not only what the valuer
128 knew, but also what the valuer reasonably should have known given all the
129 facts and circumstances of the conduct and the valuer's training,
130 background, and experience.

131

132 **Moral Turpitude**

133 An act of baseness, vileness, or depravity in private and social duties which a person owes to other
134 people or to society in general; an act contrary to accepted and customary rules of right and duty
135 between people; in essence contrary to justice, honesty, or good morals.

136

137 **Report**

138 The final communication, written or oral, of an appraisal or review transmitted to the
139 client. Finality is evidenced by the presence of the valuer's signature in written
140 communication or a statement of finality in the oral communication of assignment
141 results. All communications to the client prior to the final communication must be
142 conspicuously designated as such.

143

144 **Review**

145 The act or process of developing and communicating an opinion to a client about the quality of
146 another's appraisal or review Report.

147

148 **Reviewer**

149 A valuer performing a review.

150

151 **Scope of Work**

152 The type of data and the extent of research and analyses.

153

154 **Service**

155 Work that a valuer performs for a client that is subject to this Code of Professional Ethics, including
156 but not limited to appraisal and review.

157

158 **Special Assumption**

159 An assumption, directly applicable to a specific Service, which, if found to be false, could alter the
160 opinions or conclusions in an appraisal or review.

161

162 **Value**

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

164 Value expresses an economic concept. As such, it is never a fact but always an opinion of the worth
165 of a property at a given time in accordance with a specific definition of value. In appraisal practice,
166 value must always be qualified - for example, market value, liquidation value, or investment value.

167

168 **Valuer**

169 One who is expected to provide Services in an unbiased and competent manner.

170

171 **CANON 1: A Valuer Must Refrain from Conduct that is**
172 **Detrimental to the Profession, and the Public**
173

174 **Ethical Rules**

175 **ER 1-1**

176 It is unethical to knowingly:

- 177 (a) act in a manner that is misleading;
178 (b) act in a manner that is fraudulent;
179 (c) use, or fail to take steps to prevent another from using, a misleading Report;
180 (d) transmit, or fail to take steps to prevent another from transmitting, a misleading Report; or
181 (e) transmit a Report containing an analysis, opinion, or conclusion that reasonable valuers
182 would not believe to be justified.

183

184 **ER 1-2**

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

187

188 **ER 1-3**

189 It is unethical to knowingly fail to properly identify the issue to be addressed and have the knowledge
190 and experience to complete the Service competently prior to agreeing to perform a Service, or
191 alternatively, to:

- 192 (a) disclose the lack of knowledge and/or experience to the client before agreeing to perform the
193 Service;
194 (b) take all steps necessary or appropriate to complete the Service competently; and
195 (c) describe the lack of knowledge and/or experience and the steps taken to complete the
196 Service competently in the Report.

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198 **ER 1-4**

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

- 200 (a) identify appropriate Standards to apply; and
201 (b) disclose in any Report the Standards applied.

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CANON 2: A Valuer must maintain appropriate records

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Ethical Rules

ER 2-1

It is unethical to fail to maintain records, documented on any type of media, for each Report.

(a) Records for a written Report must include:

- a copy of the written Report(s); and
- any other data, information, and documentation necessary to support the valuer's analyses, opinions and conclusions and to show compliance with the Valuers Code of Professional Ethics and applicable Standards of Practice, or references to the location(s) of such other documentation accessible to the valuer.

(b) Records for an oral Report must include:

- the name of the client and the identity, by name or type, of any other intended users;
- the valuer's signed and dated certification;
- a written summary of the oral Report, or, if the presentation is in the form of testimony, a transcript of that testimony may be retained in the file in place of the summary; and
- all other data, information, and documentation necessary to support the valuer's analyses, opinions and conclusions and to show compliance with the Valuers Code of Professional Ethics and applicable Standards of Practice, or references to the location(s) of such other documentation accessible to the valuer.

A Valuer must possess the required records prior to the transmission of a Report.

ER 2-2

It is unethical to fail to retain required records for:

- a period of five years from the date of the completion of the Service;
- a period of two years following final disposition of a proceeding in which the valuer gave testimony as part of the Service; or
- a period of two years following the final disposition of a review of a Service by a governmental licensing or credentialing body;

whichever period shall be the last to expire.

241 **CANON 3: In Providing Services, a Valuer Must Develop and**
242 **Report Unbiased Analyses, Opinions, and Conclusions**
243

244 **Ethical Rules**

245 **ER 3-1**

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

248

249 **ER 3-2**

250 It is unethical to knowingly permit an entity that is wholly or partially owned or controlled by a valuer to
251 contribute to or participate in the development, preparation, use, or reporting of an analysis, opinion,
252 or conclusion that is biased.

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254 **ER 3-3**

255 It is unethical to provide a Service that is contingent upon reporting a predetermined analysis, opinion
256 or conclusion.

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258 **ER 3-4**

259 It is unethical to provide a Service that includes a Hypothetical Condition, unless:

260 (a) use of the Hypothetical Condition is required for legal purposes, for purposes of reasonable
261 analysis, or for purposes of comparison;

262 (b) use of the Hypothetical Condition results in a credible analysis; and

263 (c) the valuer complies with the applicable disclosure requirements set forth in the applicable
264 Standards for Hypothetical Conditions.

265

266 **ER 3-5**

267 It is unethical to provide a Service that includes a Special Assumption unless:

268 (a) the Special Assumption is required to properly develop credible opinions and conclusions;

269 (b) the valuer has a reasonable basis for the Special Assumption;

270 (c) use of the Special Assumption results in a credible analysis; and

271 (d) the valuer complies with the applicable disclosure requirements set forth in the applicable
272 Standards for Special Assumptions.

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276 **ER 3-6**

277 It is unethical to provide a Service if a valuer has any direct or indirect, current, or prospective
278 personal interest in the subject or outcome of the Service or with respect to the parties involved in the
279 Service, unless:

280 (a) prior to agreeing to provide the Service, the valuer carefully considers the facts and
281 reasonably concludes that he or she would remain unbiased and reasonable persons, under
282 the same circumstances, would reach the same conclusion;

283 (b) such personal interest is disclosed to the client prior to the valuer agreeing to provide the
284 Service; and

285 (c) such personal interest is disclosed in each Report resulting from such Service.

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287 **ER 3-7**

288 It is unethical, during the period that commences at the time that a valuer is contacted concerning a
289 Service and expires at the completion of such Service, to knowingly acquire, or plan to acquire any
290 direct or indirect, current, or prospective personal interest in the subject or outcome of the Service or
291 with respect to the parties involved in the Service, unless:

292 (a) the valuer carefully considers the facts and reasonably concludes that he or she would
293 remain unbiased and reasonable persons, under the same circumstances, would reach the
294 same conclusion;

295 (b) such personal interest is disclosed to the client and the valuer obtains from the client a written
296 statement consenting to or approving such acquisition or change of position; and

297 (c) such personal interest is disclosed in each Report resulting from such Service.

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300 **CANON 4: A Valuer Must Not Violate Confidentiality**

301

302 **Ethical Rules**

303 **ER 4-1**

304 It is unethical to disclose confidential information or an analysis, opinion, or conclusion specific to a
305 Service to anyone other than:

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

307 (b) third parties, when and to the extent that there is a legal obligation to do so by statute,
308 ordinance, or court or regulatory order;

309 (c) legal counsel, as reasonably necessary in the event of actual or threatened legal or
310 regulatory action; and

311 (d) authorized insurance representatives, for the purpose of seeking or maintaining professional
312 liability insurance coverage.

313

314 **CANON 5: A Valuer Must Not Advertise or Solicit in a Manner**
315 **that is Misleading or Otherwise Contrary to the Public Interest**
316

317 **Ethical Rules**

318 **ER 5-1**

319 It is unethical to utilize misleading advertising. Further, it is unethical to knowingly permit a business
320 entity that one wholly or partially owns or controls to utilize misleading advertising.

321

322 **ER 5-2**

323 It is unethical to solicit Services in a misleading manner. Further, it is unethical to knowingly permit an
324 entity one wholly or partially owns or controls to solicit Services in a misleading manner.

325

326 **ER 5-3**

327 It is unethical to fail to disclose in the Report the payment by the valuer, or by an entity wholly or
328 partially owned or controlled by the valuer, of a referral fee, in cash or kind, paid in connection with
329 the procurement of a Service.

330

331 **ER 5-4**

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

334