



Memo

To: Chapter Presidents and Members
From: The Appraisal Institute
Date: February 18, 2008
Subject: FACT SHEET for "Are You Aware?" Letter

The Appraisal Institute Board of Directors (BOD) is disheartened and troubled over the recent distribution to chapter presidents of a document titled "Are You Aware?" ("the letter"). Not only does this document contain extensive inaccuracies regarding several issues critical to the organization and our members, but it also serves to undermine the unity of the Appraisal Institute at a time when serious issues confront the profession. It is important to note that every item in the letter already was under the watchful eye of the leadership. In fact, a large portion of the February 3-5, 2008, Board meeting included making policy decisions and giving direction on these very topics well ahead of this letter being delivered.

This Fact Sheet seeks to provide a full and accurate account of the issues raised in the letter. Because the Board treats very seriously your views and feedback, we would like to invite our regional and local leaders to communicate with us whenever an issue has not been addressed or explained sufficiently. Candid, courteous and professional dialog with the membership is the best way to understand and resolve differences of opinion.

It is very important to point out that the Appraisal Institute is undertaking several initiatives that will put the membership in the best possible position to be successful. A new era exists at the Appraisal Institute where the decision-making process is assisted by the use of our research staff. Knowledge-based decision-making, not unlike that of the appraisal process, is the method of the day. Each and every decision that is made by the BOD is made based upon survey results and thorough research. We do not fly by the seats of our pants; instead, we use a value-based decision model and scan the environment for what is taking place. Using the information from the scanning process we make plans on how to meet our goals. Once the plan is in place we continue to scan and modify, as needed, to achieve the desired outcomes. This adjustment process is critical to success. Plans are not static; they live and breathe and are adjusted, as needed. We certainly learn from the past, but plan for the future.

There also has been a major shift in the governance of the organization. The Board meets at least four times a year, which allows it to make knowledge-based decisions in a timely manner. The officers of the organization act only at the direction of the BOD and represent the Board, in the

interim, between meetings. As you all are aware, the composition of the voting BOD changes every year, with roughly one-half of the members rolling off. As a result of this activity and the scan, plan, monitor and adjust process described previously, changes in strategy and direction are not uncommon. This is a healthy process, which is designed to ensure that the ultimate goals of the strategic plan are accomplished.

Here are the facts (bullet points in bold italics are taken directly from the letter):

UNIFICATION

- ***That a Unification Team, comprised of members from the AI, American Society of Appraisers (ASA—business valuers, machinery & equipment, etc) and ASFMRA (rural appraisers) have been working for years on a plan for the true unification of the appraisal profession in the U.S? And***

A Unification Project Team was established to work with teams from the ASA and ASFMRA to develop a unification plan to present to a joint meeting of the Boards of Directors of the Appraisal Institute (AI), American Society of Appraisers (ASA) and American Society of Farm Managers and Rural Appraisers (ASFMRA). The joint Unification Team presented its proposal to the combined Boards last November in New Orleans.

- ***That the AI leadership opened discussions with NAR in 2007—without notifying our own members on the Unification Team or the other organizations' members, knowing that re-affiliation was a “deal killer” for unification of the valuation profession and probably for Valuation for Financial Reporting (VFR)?***

The AI Unification Project Team was apprised of the discussions between AI and NAR last summer, shortly after discussions were initiated. Similarly, the ASA and ASFMRA leadership was informed and, subsequently, updated on these discussions during monthly conference calls between the three organizations' leaders beginning last August. The question of affiliation with NAR specifically was addressed with the leadership of ASA and ASFMRA. The leadership of both organizations indicated that it was NOT a “deal killer” for them.

- ***That the AI Board of Directors made a decision in 1999 not to re-affiliate with the National Association of Realtors (NAR), because they deemed it in the best interest of their members to be a major player in the Valuation Profession instead of a minor player in the real estate trade?***

The Appraisal Institute regularly explores opportunities with organizations that may benefit the Appraisal Institute and its members. While discussions with NAR in the late 1990s did not result in affiliation, nearly 10 years have passed since then. Issues, circumstances and needs may have changed since the late 1990s and, therefore, it makes sense to at least explore whether there may be benefit to the Appraisal Institute and its members in affiliating at this time or in the future. Current discussion with NAR is about the potential requirements of affiliation, not a commitment to affiliate. Under the AI Bylaws, affiliation with NAR would require a 60% favorable vote of designated members in good standing who vote.

- ***That member input regarding the re-affiliation with NAR, a real estate trade organization that we left years ago, has not been sought?***

This accusation is unfounded and contradicts an action undertaken by the Board. During the fall regional meetings the issue of our conversations with NAR were discussed by then-Vice President Amarin in Regions I, VI, VII and X; by then-President-Elect Pugh in Regions III and VIII; and by then-

Immediate Past President Powers in Regions II, IV, V and IX. Further, at its February 4-5, 2008, meeting, the AI Board of Directors formally sought input from the membership on the possibility of affiliation by adoption of the following language, as part of a motion regarding NAR:

“WHEREAS, given the Project Team report and the potential benefits of affiliating with NAR, the Board believes that it is now appropriate to update the members on the status of affiliation discussions and obtain feedback from the members;”

- ***That the Unification Project Team presented their plan to the boards of the three organizations in the Fall of 2007 for dissemination to their members for consideration, but that only the AI leadership decided not to do so?***

The final proposed plan was provided to the joint Boards for their consideration at the November 5-6, 2007, meeting in New Orleans. While the ASA and ASFMRA may have provided this plan to their members, the Appraisal Institute’s BOD did not even see the plan until just before its meeting. The proposed plan was delivered to the AI by the Unification Team on October 30, 2007, less than one week before the Board meeting was to occur and was sent to the Board of Directors for the first time on October 31, 2007, just five days before the joint Board meeting. The Unification Team did not provide the Appraisal Institute with financials until November 2, 2007, just three days before the Board meeting.

- ***That after the above decision, the AI put forth a press release asserting that they continued to support unification, while the other two organizations put forth press releases stating that the AI had turned the unification efforts down?***

Because of the tight timeline described above, the AI Board of Directors did not have adequate time to fully consider the proposed final plan and voted not to accept it, as presented. However, on November 6, 2007, in New Orleans, the Board reaffirmed its commitment to unification by approving the following motion:

“To direct the President and the Executive Committee to continue working with the Unification Project Team on a potential unification effort for the profession.”

Per the Board’s direction, the Executive Committee (President, President Elect, Vice President, Immediate Past President and CEO) met with the Project Team by conference call on November 21 and in subsequent follow-up conversations. Project Team members provided the Executive Committee with their input.

- ***That the 2007 President fired the AI members of the Unification Project Team on December 31, replacing them with the 2008 AI officers without consultation with the 2007 Executive Committee?***

Following last November’s Board meeting, then-President Terry Dunkin spoke individually with members of the Project Team regarding how best to move forward with unification. In addition to sharing their views, several members of the team informed President Dunkin that it would be difficult for them to continue as Project Team members because of the Board’s decision. Therefore, President Dunkin sought guidance from Executive Committee members, the Bylaws and outside legal counsel.

Article XI of the Appraisal Institute Bylaws, National Governance: Officers, states the following:

“The President may appoint project teams as he or she deems necessary or appropriate from time to time.”

Outside legal counsel advised that the president also has the authority to dissolve a project team as he or she sees fit. Because several Project Team members expressed reluctance to continue their role in shaping a new plan and to provide the new BOD with more latitude on how to move forward on unification, then-President Terry Dunkin dissolved the Unification Project Team effective December 31, 2007. This action was intended to provide the new BOD with complete flexibility in deciding how best to proceed with the Appraisal Institute's goal of unifying the appraisal profession.

- ***That in January 2008, the AI officers told the ASA and ASFMRA that the profession could not afford to create a new consolidated organization, but that the AI would proceed only if ASA and ASFMRA were assimilated into the AI?***

In a January 7, 2008, memorandum to the ASA and ASFMRA leaders, Past President Terry Dunkin conveyed the following:

“As stated during our November conference call, late last month we surveyed the AI Board to determine key “deal-makers” and “deal-breakers” for proceeding with unification talks between our three organizations. After tabulating and reviewing the results, the Board met by conference call on January 3 to summarize the findings and to provide the officers with guidance for our January 13 meeting with you in Puerto Vallarta.

“Based on the January 3 BOD conference call, the following is clear to the Executive Committee:

- 1. The Board is not comfortable moving forward without a complete financial analysis regarding the cost of unification and the ongoing operational cost of a combined organization.**
- 2. All Appraisal Institute (AI) designations and designation requirements must remain intact.***
- 3. The real estate discipline must maintain a majority on the new BOD.*
- 4. Appraisal Institute chapters and chapter reserves shall remain in place.*
- 5. Numerous other requirements are incorporated in and implied by the fact that the BOD is not interested in creating a new organization, but instead is interested in creating a home for the ASA and ASFMRA within the AI structure, which will include representation on the AI Board of Directors.*

“The AI Board was unanimous in its desire to move forward with discussions to unify ASA, ASFMRA and AI. They were nearly unanimous in their support of the deal points outlined above. In particular, the Board's support for item number five primarily was financially motivated, as the Board could not justify the cost of creating a new organization. However, the AI Board does envision numerous semi-independent Councils that would have primary control over the various disciplines and their designations. We look forward to discussing these issues with you in more detail on the 13th.”

Further, at its February 4-5, 2008, meeting, the Board reaffirmed this position.

** NOTE: Based on the financial estimates for the plan provided to the Board at the November 5-6, 2007, joint meeting of the AI, ASA and ASFMRA Boards, the cost of unification to the Appraisal Institute would range from roughly \$2-\$4 million. Under the submitted plan, the cost to ASA and ASFMRA would have been considerably less.*

**** NOTE:** Under the plan provided to the Board at the November 5-6, 2007, joint meeting of the AI, ASA and ASFMRA Boards, ownership of designations would be ceded to a new Board over which the Appraisal Institute would have no control.

- ***That the ASA and ASFMRA declined and believe they were misled by the AI leadership, thus severely damaging AI's long-standing relationship with these well-respected professional associations?***

In a January 13, 2008, meeting with the Appraisal Institute's Officers, leaders from ASA and ASFMRA clearly indicated that they were disappointed that the AI Board did not accept the proposed plan. However, they did not convey that they were misled, nor did they indicate that their relationship with the Appraisal Institute was "... severely damage[ed] ..." In fact, they committed to continue working with the AI on existing and future joint efforts. If the ASA and ASFMRA leadership felt they were misled, it has not been conveyed formally to the Appraisal Institute or its leaders.

VALUATION for FINANCIAL REPORTING

- ***That the AI has had a Valuation for Financial Reporting (VFR) project team for seven years and that VFR was considered the #1 priority of prior Boards, but was not listed in the Strategic Plan in 2006-7? And***

A VFR Project Team was appointed several years ago and was carried over through several presidencies. With the departure of the VFR staff liaison and AI CEO early in 2007, the VFR Project Team did not meet until September 2007 with the Officers to discuss future actions. Since that time, VFR has been a primary focus of the Board and leadership.

VFR was "listed" in the 2007 Strategic Plan, specifically as Goal 3, as follows: *"The Appraisal Institute will become a benchmark for new valuation methods and areas of specialization."* Strategy 3.1 states: *"Investigate and offer information, training and certificate programs in areas such as VFR, Risk Management and Conservation Easements."*

VFR also is noted in Goal 7, as follows: *"The Appraisal Institute will increase demand for the services of members."* Strategy 7.4 states: *"Provide education programs and other opportunities for members to take part in specialized areas such as CMBS, VFR, joint conferences with other professional organizations, etc."*

VFR is included in the Appraisal Institute's 2008 Strategic Plan and, in fact, continues to be one of the organization's top goals. The Board re-affirmed the Appraisal Institute's commitment to VFR at its February 4-5, 2008, meeting in passing Motion 13.3, which reads as follows:

"To proceed with an awareness campaign concerning valuation for financial reporting purposes by developing an introductory level course and an advanced level course while reviewing and revising existing material to determine relevance and applicability."

- ***That a VFR Team representing AI, ASA, and AI Canada wrote the outlines for 10 VFR seminars in 2004, but that because of budget and staff cutbacks and undisclosed changes in the leadership's priorities, only one is essentially complete?***

While the outlines for 10 VFR seminars were written in 2004, the statement that only one was completed due to "... budget and staff cutbacks and undisclosed changes in the leadership's priorities..." is false. There were no budget or staff cutbacks that would have affected VFR. Rather, the staff member who had shepherded VFR chose to leave the Appraisal Institute early in 2007,

which does not constitute a “cutback.” Later in 2007, following the hiring of a new CEO, a new staff member was assigned to lead VFR. Further, the Appraisal Institute invested significant budget in course development by outside vendors, but such development has not proceeded as smoothly as had been hoped. Nonetheless, VFR has been and remains an organizational priority.

- ***That these courses were designed to include real estate appraisers, personal property appraisers, business valuers, accountants and corporate CFOs to meet the requirements of the Financial Accounting Standards Board (FASB)?***

True.

- ***That members of the VFR Project Team have told the Board that for AI to be successful in VFR the valuation profession must be united, and the education material envisioned in the 10 VFR seminars must be finished on a multidisciplinary basis?***

The current Board and leadership are aware of this concern and have stated their commitment both to unification of the appraisal profession and the development of VFR education.

- ***That FASB’s members believe that a unified profession is necessary if appraisers’ inputs are to be fully considered and respected?***

The current Board and leadership are aware of this concern and have stated their commitment to unification of the appraisal profession.

- ***That the AI leadership unilaterally scrapped the previously approved VFR plan, originally developed with AI, ASFMRA, ASA, IVSC and FASB input, and substituted their own plan with limited input from the VFR team members who have worked on this project for the past seven years or more?***

The previous plan was written years ago and, while it still has relevance, the Appraisal Institute periodically must review all of its plans and adjust them based on changes in the marketplace and new information. As a measure of its commitment to VFR and the desire to meet member needs, the Appraisal Institute recently surveyed approximately 7,000 Appraisal Institute members that drew roughly 700 responses, or a scientifically valid response rate of approximately 10%. The 2005 plan did not draw upon broad membership input in a similar manner.

The recent survey resulted in sound and hard data upon which the Appraisal Institute could best address member needs. Also recently, former VFR Project Team members and other VFR experts participated in a two-hour conference call to provide their input.

Based on the survey data and input from the individuals involved in VFR, the Board concluded that it is important to educate the broad membership immediately on VFR and the opportunities it presents, while also assisting the small group of members who already are actively engaged in this issue. Therefore, at its February 4-5, 2008, meeting, the Board reaffirmed its commitment to assisting the membership with VFR through the following motion:

“To proceed with an awareness campaign concerning valuation for financial reporting purposes by developing an introductory level course and an advanced level course while reviewing and revising existing material to determine relevance and applicability.”

The Board’s direction is not a “substitute” for the earlier plan, as indicated in the letter, but rather is a practical direction that allocates fixed resources for the Appraisal Institute’s entire membership. The

Board fully intends to continue to draw upon VFR experts for future development of materials and courses.

- *That the current AI leadership has now decided that only two seminars are necessary to prepare our members and that working with the other valuation disciplines is not necessary?*

As indicated above, the Board approved creating introductory and advanced courses in recognition of the membership's knowledge and application of VFR. In its discussion, the Board acknowledged that VFR will become more prominent and create greater opportunity for appraisers in the future. Therefore, the motion approved serves as a first step toward the creation and delivery of additional VFR courses, seminars and publications.

With regard to "... working with the other valuation disciplines ..." on VFR, the Board is on record that the Appraisal Institute is committed to unification of the appraisal profession and cooperation with other appraisal organizations.

CONSERVATION EASEMENTS and PUBLIC INTEREST VALUE

- *That the current and immediate past Chief Appraisers of the Department of Justice, each acting in his capacity as a member of the Appraisal Institute, reviewed the new seminar on Conservation Easements, criticized the inclusion of Public Interest Value in said seminar? And*
- *That both members were then excluded from further review or activities?*

Both individuals provided solid critique and edits for the seminar, with many of their suggestions being incorporated. A number of other members also reviewed and critiqued the seminar and materials as part of the normal developmental process. All critiques are considered and debated before edits and changes are made. Such critical review and analysis is why Appraisal Institute courses, seminars and materials are the finest in the world.

Neither individual referenced above was "...excluded from further review or activities." Rather, due to an oversight, neither member received final seminar materials until requesting them. This was unintentional and largely due to the expedited development schedule to meet ASA, ASFMRA and AI member demand for the seminar.

- *That the cosponsor of the Conservation Easement seminar, the ASFMRA, continues to complain about the concept of Public Interest Value included in the materials or added by instructors?*
- *That the AI President failed to have incorrect materials removed that he had promised ASFMRA would be removed?*

This seminar was developed jointly by ASA, ASFMRA and AI. The final negotiation and decisions regarding what was to be included in the seminar was accomplished by the Education Committees of AI and ASFMRA (in consultation with representatives of ASA). The language in the seminar relating to Public Interest Value is very clear and states the following:

B. Public interest value refers to non-market value that attempts to measure the value of property based on its value for the general public benefit.

C. This seminar does not promote or condone any non-market value concept in the valuation of conservation easements

Immediate Past President Terry Dunkin further addressed this matter in a response he sent to chapter presidents earlier this week, as follows:

“Regarding the assertion that I ‘failed to have incorrect materials removed,’ from the Conservation Easement Seminar that I had promised ASFMRA would be removed from the course this is also false. All agreed-upon modifications to the course have been accomplished to the best of my knowledge. And to be certain that I have not misspoken I verified this fact with the Immediate Past President of ASFMRA today.”

- ***That, nevertheless, another proposed seminar on Green Buildings also contains the same types of Public Interest Value concepts?***

All courses and seminars developed by the Appraisal Institute undergo a rigorous review process. The introductory seminar on Green Building Valuation has undergone the first review. Comments from Past President Dorchester, one of the review team members and a signer of the letter, are on record and are being considered in the preparation of the second draft of the materials. It is a customary practice for the developers of the seminar to review the comments by all of the reviewers and make modifications to the seminar materials ahead of the second review.

The developers clearly have indicated their desire to produce a seminar based on Market Value concepts. It is misleading to indicate that the Green Building seminar will be based upon Public Interest Value concepts. It has been clearly stated by the authors that it is not their intent to do so. It seems prudent to allow the developers to complete the revisions to the materials to clarify any points that were perceived to relate to Public Interest Value. The next step will be a second review followed by additional revisions before the seminar rolls out at the joint regional conference to be held in Austin, TX, in the summer of 2008.

JUSTICE DEPARTMENT LETTER

- ***That the Chief Appraiser of the Department of Justice recently sent a letter to the AI President raising issues of appraiser competency and expressing the Department’s concern about extreme divergences in appraisals prepared for litigation, and the AI’s administration of standards?***

The Appraisal Institute member who presently serves as Chief Appraiser in the Land Acquisition Section of the Justice Department’s Environment and Natural Resources Division, wrote President Pugh a letter on January 9, 2008, to raise his concerns regarding “...widely divergent opinions of market value expressed by two or more designated members of the Appraisal Institute involved in litigation related (sic) assignments.” The letter was discussed at length by the Executive Committee and was shared with the Board of Directors in advance of its February 4-5, 2008, meeting.

The Board, the Executive Committee, and President Pugh share the Chief Appraiser’s concerns regarding widely divergent values and, as such, the Board directed President Pugh to appoint a Project Team to study the issue and make recommendations to the Board on reinstating a process whereby members report widely divergent appraisals for peer review.

President Pugh extended an invitation to the Justice Department's Chief Appraiser to serve on this Project Team and he accepted.

STATE of CALIFORNIA MATTER

- *That the State of California, after a lengthy study by state agencies, publicly concluded that two MAIs had seriously violated USPAP and related requirements? And*

The public record shows that the State of California and one of the appraisers reached a settlement agreement, which provided for a fine and discipline that did not affect the appraiser's license because both parties wanted "to avoid further costs and uncertainties of litigation." In regard to the other appraiser, the State conducted an eight-day administrative hearing and spent in excess of \$35,000 in an attempt to prove that the appraiser had violated the Uniform Standards of Professional Appraisal Practice. This matter is in litigation and no final determination has been reached as to whether a violation of USPAP occurred.

As is the case with any litigation, many have a vested interest in the outcome of the case and, therefore, may not be impartial. It is important that we consider this fact as we listen to contrasting opinions on this matter.

- *That this was despite a letter from the Appraisal Institute's Director of Ethics and Standards Counseling that found no problem with their appraisal?*

The Director of Screening ("Director of Ethics and Standards") does not determine whether an appraiser complied with the Code of Professional Ethics and Standards of Professional Appraisal Practice. Rather, the Director determines, based on information available at the time of examination, whether there is a legitimate basis for further investigation.

- *That the AI took no apparent steps to respond to the State of California's concerns about this matter?*

As the signatories of the letter are well aware, the Appraisal Institute's peer review process is confidential. Therefore, this statement is pure conjecture and speculation. Moreover, the Appraisal Institute traditionally suspends peer review matters where related litigation is pending.

- *That the case has subsequently been cited in a California Legislative Analyst's report calling for reforms in appraisal legislation and in the above-cited letter from the Chief Appraiser of the United States Department of Justice to 2008 President Pugh?*

The California Analyst Report cited above notes that one of the problems was that the state and federal agencies involved relied on a 28-month-old appraisal, which did not reflect subsequent information that may have been relevant.

The California Analyst Report made the following recommendations:

1. Establish Standards to facilitate oversight – enact legislation requiring the development of a specified set of appraisal standards for resource conservation;
2. Improve independence of the appraisal process;
3. Increase public availability of appraisal information; and
4. Take steps to avoid unwarranted tax benefits.

The Appraisal Institute itself has advocated some of these recommendations.

BUSINESS ENTERPRISE VALUE SEMINAR

- *That the Business Enterprise Value seminar is being continued and is now being revised for future offerings? And*

The Business Enterprise Value seminar was offered under the title “Course 800” for approximately three years and then was withdrawn in 2005 for review and evaluation, as the Appraisal Institute frequently does with many courses and seminars, especially one that is a cutting edge and advanced educational offering. A Project Team of Joe Magdziarz, MAI, SRA, Chair; Jonathan Avery, MAI, SRA; and Eric Belfrage, MAI, SRA; was formed to evaluate the offering and make recommendations to the Board of Directors. The Board, at its February 4-5, 2005, meeting, adopted the Project Team’s recommendations in the following motion:

To adopt the recommendations of the Course 800 Project Team as follows:

1. *That the Appraisal Institute teach appraisers about Business Enterprise Value (BEV).*
2. *That the BEV subject matter be presented as an advanced seminar in two modules that will help students understand the complexity of this issue and the options available to them:*
 - a) *First module: review terminology and present various methodologies;*
 - b) *Second module: application of the methodologies to different property types. Case studies may include hospitality, bowling, retail, healthcare and golf properties, and would demonstrate application of different methodologies to each property type and present the pros and cons of each. Students could choose which two or three case studies they would like to cover.*
3. *That the advanced seminar be coordinated with the Appraisal Institute's proposed curriculum regarding Valuation for Financial Reporting Purposes.*
4. *That the advanced seminar materials and instructors be clear that the Appraisal Institute does not endorse any particular methodology; that there is not one "correct" methodology; and that it is up to the individual appraiser as to which methodology he or she should choose to use for a particular property.*
5. *That the educational offering be revised and updated as soon as practical.*

The motion passed unanimously in 2005 during the presidency of one of the letter’s signers.

This new Business Enterprise Value seminar is being developed as instructed by the Board of Directors.

- *That this seminar was discontinued years ago when governments in the U.S. and Canada threatened to sue the AI, because of materials contained in the seminar and when complaints were received from the American Institute of Certified Public Accountants and business valuers that the concepts in the course were counter to USPAP, as well as accounting and business value standards?*

The assertion that “governments in the U.S. and Canada threatened to sue the AI because of materials contained in the seminar” is false. The AI did not receive any communications, threats or otherwise, from such governments related to this advanced educational offering.

The letter’s assertion that “complaints were received from the American Institute of Certified Public Accountants and business valuers that the concepts in the (BEV) course were counter to USPAP, as well as accounting and business value standards,” also is false. The Appraisal Institute did not receive any such complaints about the seminar from such entities or persons. There were some complaints and some praise about the course from appraisers, as would be expected for any cutting edge educational offering. These approvals and complaints were taken into consideration by the Project Team in making its recommendations to the Board of Directors.

- *That after raising the above issues, two members who raised them were dropped from the Business Enterprise Value seminar team?*

The assertion that two members who raised the BEV issues “were dropped from the Business Enterprise Value seminar team” is false. While there never was a Business Enterprise Value seminar team, there are a specification team and a review team involved in the development of this seminar. As is typical in course and seminar development, the actual review team does not include the full specification team. Past President Glanville, one of the signers of the letter, is a member of the specification team and specifically has been told that he will receive a copy of the seminar for review and input.

VICE PRESIDENT ELECTION

- *That the nominee selected by the national nominating committee (LDNC) to be the next Vice President of the Appraisal Institute in July was not elected by the Board of Directors? And*

The LDNC nominates a candidate to be considered by the Board for Vice President. The Board elects the Vice President. The individual nominated by the LDNC to be the 2008 Vice President was not elected by the Board.

- *That six members of the Board of Directors challenged the nominee’s selection and re-nominated the other candidates, although a reading of the Bylaws provides that only one additional nomination can come from the Board?*

The statement that the Bylaws permit "...only one additional nomination..." to come from the Board via the petition process is incorrect. The Appraisal Institute's original Bylaws, approved in 1990 to be effective January 1, 1991, included the petition process for nominations for Vice President coming from Board members, in addition to the nomination from the LDNC. Last fall's election is the first time this petition procedure has been used, although it previously was used by one of the predecessor organizations from whose Bylaws this provision was taken.

In the original Appraisal Institute Bylaws, the operative words were "additional nominations." The only method to amend or change the Bylaws legally is by a 60% vote of the Board of Directors after 45-day Notice (or 30- or 60-day Notice in earlier periods). There never has been a Notice at any time since the beginning of the Appraisal Institute to change the original words "additional nominations." Further, there has been no specific Board authorization to amend the word "nominations" to "nomination," thereby effecting a change in the Bylaws from the original plural to the singular.

In checking the Bylaws since the original adoption in 1990, it was determined that in the 1992 edition of the Bylaws the word "nominations" in this section was misspelled ("nominataion"), obviously a typographical error. Most of the misspelling of "nominations" was corrected the next year, but the "s" still was left off the word. As a result, the typographical error continued and, because the petition process was not used, the error was not caught. The correct Bylaws, reflecting the decision of the Board that was never changed, permit multiple nominations via the petition process.

- *That the vast majority of the petitioners may have written letters of endorsement to the LDNC for the candidate who was finally selected by the Board, but not chosen by the LDNC?*

The letter speculates "that the vast majority of the petitioners may have written letters of endorsement to the LDNC..." on behalf of the candidate elected by the Board of Directors, not the nominee chosen by the LDNC. While this may or may not have been the case, in fact, many members wrote letters endorsing different candidates and these endorsements were made available to the Board for its consideration in electing the 2008 Vice President.

- *That the LDNC was forbidden by the AI officers to discuss the situation with the Board, Past Presidents, the Regions and AI members?*
- *That the Board of Directors was instructed not to allow discussion of the proceedings of the LDNC at the Regional meetings, but only the credentials of the four candidates? And*
- *That the 2007 Immediate Past President (2006 President), a member of the Executive Committee and Chair of LDNC, was not allowed to discuss the election process at the Regional meetings when asked, in spite of many inquiries on this subject?*

The deliberations of the LDNC [Leadership Development and Nominating Committee] are confidential, as they must be to protect the privacy of the individual candidates and in order for the committee members to be able to engage in full, candid discussions and evaluations. In addition, once the LDNC submitted its nominee to the Board, the LDNC role in this matter was completed and the final decision rested with the Board. Because of the confidential nature of the LDNC proceedings, outside legal counsel advised the Appraisal Institute that the LDNC members could not discuss its deliberations or rationale for its decision. Individual LDNC members had the right to express their

personal opinions and views as to the candidates (and some did so) but were advised not to reveal the committee's discussions, evaluations and decision-making.

- ***That the 2007 President, who traditionally only votes in case of a tie, and two of the candidates who were also members of the Board, were allowed to vote in the selection of the new vice president, whereas the other two candidates, not current members of the Board, could not vote?***

In discussing the election of the 2008 Vice President, the letter asserts that the President of the Appraisal Institute "traditionally only votes in case of a tie." This statement is false and is contrary to *Roberts Rules of Order*.

The Board of Directors follows *Roberts Rules of Order* in conducting its meetings. *Roberts* distinguishes between how votes are conducted by ballot and how other types of votes are conducted. The President may vote when the vote is conducted by ballot, but the President may vote to make or break a tie only on other types of votes. Section 44 of *Roberts Rules of Order* states:

"If the presiding officer is a member of the assembly, he can vote as any other member when the vote is by ballot. In all other cases the presiding officer, if a member of the assembly, can (but is not obliged to) vote whenever his vote will affect the result – that is, he can vote either to break or to cause a tie; or, in the case where a two-thirds vote is required, he can vote either to cause or to block the attainment of the necessary two thirds.

"The presiding officer, if a member of the assembly, can always vote in the case of a ballot at the time other members do."

The election of the 2008 Vice President was by ballot. In accordance with *Roberts*, Appraisal Institute Presidents traditionally have voted in elections by ballot. Therefore, the President was entitled to vote in the election of the 2008 Vice President election and did so.

Pursuant to the Bylaws, the Board of Directors elects the Appraisal Institute Vice President. Two candidates for Vice President were not on the Board of Directors and, therefore, could not vote under the Bylaws. Directors who are running for positions elected by the Board always have had the right to vote in elections.

- ***That the Board is now recommending changes to the bylaws that would strip the LDNC of their nominating responsibility and replace them with members rolling off the Board of Directors?***

From 1991 through 2004, the Appraisal Institute had a Nominating Committee whose sole function was to nominate officers, primarily the Vice President of the organization. Beginning in 2005, the Appraisal Institute has had a Leadership Development and Nominating Committee (LDNC) whose responsibilities include not only nominating officers, but also: 1) Recommending qualifications for all national officer, director and committee positions; 2) Evaluating all candidates for national officer, director and committee positions; and 3) Identifying and recommending leadership development and mentoring programs.

When the LDNC was established a few years ago, some expressed concern that the workload for this committee was too heavy. After three years of operation, the Board believes that this concern has proved to have some validity. Therefore, the Board of Directors has directed a 45-day notice to the membership proposing that the Appraisal Institute have a Nominating Committee whose sole responsibility is to nominate officers just as it did for the first 13 years of the organization. The Nominating Committee would be composed of the Immediate Past Regional Chairs, all of whom have been elected by the membership through their regional representatives. As in the past, the Chair of the Nominating Committee would be the Immediate Past President. The proposal would establish a separate committee to focus on leadership qualifications, evaluation and development. If adopted, the changes would not become effective until 2009. The 45-day notice is expected to be distributed to the membership in May 2008.

- *That more than 10 Past Presidents of the Appraisal Institute had written to the officers and the Board that they were in support of the original nominee and were not in favor of the nomination being overturned? And*
- *That many of these Past Presidents personally asked the Board not to overturn the election process?*

The letter asserts “[T]hat more than 10 Past Presidents ... asked the Board not to overturn the election process.” The premise of this statement is incorrect. The petition process and Board election does not “overturn the election process” but is an integral part of the election process. The right of 20% of the Board to nominate candidates other than the one nominated by the LDNC has been set in the Bylaws since the inception of the organization. The LDNC does not elect the Vice President but only nominates and recommends to the Board its chosen individual. The ultimate decision rests with the Board of Directors, and the Board does not merely act as a rubber stamp. It has the legal obligation to elect the next Vice President. No election process was overturned by the Board’s action or by individual members’ actions in nominating other candidates for Board consideration.

Past Presidents were invited to submit written comments regarding nominees that they supported to the Board of Directors. Past Presidents also were invited to address the Board of Directors during the election. Only three took advantage of the opportunity.

It should be further stated that there is no mechanism to stop a properly filed petition. While many had asked the Board to stop the petition process, there was no authority for the Board to do so. The Bylaws were followed as the Board is obligated to do.

All members were invited to submit written recommendations and comments on the nominees and many did so.

- *That outside legal counsel was of the opinion that the AI legal counsel was in error on the legality of the proceedings, requiring the Board in its fiduciary capacity to discuss the issue in order to ensure compliance with the bylaws, yet the Board and our members were not provided this information?*
- *That this opens the AI to threat of legal action relating to the election processes?*

The officers and BOD relied upon and carefully followed the advice of outside legal counsel throughout this election process. Outside legal counsel has been advising the Appraisal Institute and one of its predecessor organizations since 1979. It was and remains his opinion that the Board followed the Bylaws in electing the 2008 Vice President and did not act in violation of them or of applicable law. The Appraisal Institute has not been made aware of any threatened legal action relating to the election.

GEOGRAPHICAL DISTRIBUTION

- *That all four 2008 officers are from one geographical section of the U.S? How does this speak to the need for diversity, a major consideration by LDNC, to ensure representation of all qualified men and women who are members?*

This assertion simply is not true. The four current officers are from three different Regions of the Appraisal Institute (Region VI, Region VIII, and Region IX) and are from four different states (Maryland, Texas, Louisiana and Tennessee).

Two signatories to the letter, Bernard Fountain and Richard Pietrowitz, served on an officer team where three of the four officers were from an extremely small geographic area in New York and New Jersey, with the fourth from South Carolina. Bruce Kellogg, who was born and raised in Region IV and whose employer was headquartered in Region IV, served with two other officers from Region IV. Brian Glanville and Woody Hanson work for Integra Realty Resources and served on an officer team with at least one other officer that worked for Integra Realty Resources.

With regard to diversity, this year's Board of Directors features five women directors and two women 3rd Directors. The Appraisal Institute continues to be committed to improving diversity among the leadership and general membership.

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