

November 12, 2010

Sandra Guilfoil, Chair
Appraisal Standards Board
The Appraisal Foundation
1155 15th Street, NW, Suite 1111
Washington, DC 20005

RE: Comments on the Third Exposure Draft of Proposed Changes for the 2012-13 edition of the
Uniform Standards of Professional Appraisal Practice

Dear Ms. Guilfoil,

On behalf of the Appraisal Institute, the Appraisal Institute's Appraisal Standards Committee ("ASC") submits these comments on the Third Exposure Draft of proposed changes for the 2012-13 edition of the *Uniform Standards of Professional Appraisal Practice*. We appreciate the Appraisal Standards Board's efforts to promote a high level of public trust in appraisal practice.

Section 1: Proposed Revisions to Definitions of "Client", "Extraordinary Assumption" and "Hypothetical Condition"

We are satisfied with the proposed revisions to the definition of "client".

We have a concern about the proposed insertion of the phrase "as of the effective date of the appraisal or appraisal review" to the definition of "extraordinary assumption". An extraordinary assumption is established at the time the value or review opinion is formed. It could be proven to be false any time after, including *after* the effective date.

Further, we find that the addition of the phrase in both the case of "extraordinary assumption" and "hypothetical condition" adds too many words to the definitions and causes them to lose clarity. We suggest that any such clarification be included in the Comment instead.

Section 2: Proposed Required Labeling of "Extraordinary Assumptions" and "Hypothetical Conditions"

Nothing is to be gained by the proposed requirement to label extraordinary assumptions or hypothetical conditions. Such requirement would cause a simple labeling error to rise in the enforcement process to the level of a USPAP violation, leading to unnecessary disciplinary actions based on non-substantive matters.

The proposed labeling requirement violates a fundamental concept that USPAP gives us regarding reporting – namely that report content should be driven by intended users. Many clients for appraisal services do not use these terms and are confused by them. Appraisers should not be forced to use labels that many intended users would not understand.

Further, we have found there are circumstances in which the technical difference between the two – whether the assignment condition is a hypothetical condition or an extraordinary assumption – is so minor that the argument could go on endlessly as to which it is. In the end, as long as the assignment condition is clearly and conspicuously disclosed and the statement is made that its use might have affected the assignment results, what do the proposed labeling requirements contribute to strengthening the public trust?

Section 3: Proposed Revisions Requiring Disclosure of Exposure Time

We oppose the proposed requirement to disclose exposure time. In fact, we believe that the existing requirement in Standard 1 to develop an opinion of exposure time linked to the market value opinion should be removed. The existing requirement addresses appraisal methodology, not standards. Further, exposure time is but one element of a market value definition, and there is no reason to emphasize it above others (e.g., knowledgeable parties acting in their best interests, no undue stimulus, typical buyer/seller motivations.)

We find that users of appraisal reports regularly misunderstand what is meant by "exposure time," often confusing it with "marketing time." The inclusion of exposure time in appraisal reports has as an unfortunate consequence the misapplication of appraisal information by clients in their decision-making processes. This does not enhance public trust.

Section 4: Proposed Revisions to Standards Rules 2-3, 3-6, 6-9, 8-3 and 10-3

The proposed new certification statement adds to a requirement to disclose prior services that was added to USPAP with the 2010 edition. This requirement has proven to be unworkable in practice and should be removed entirely from USPAP. Residential appraisers, litigation appraisers, and others are encountering questions and genuine problems with their clients relative to this requirement. This requirement does not enhance public trust; conversely it causes confusion in the market. Clients do not understand why this disclosure must be made especially when the prior service was recently provided for the same client. Furthermore, there is a tendency for clients to believe that since disclosure has been made, the fact that the appraiser provided prior services is inherently a problem. This flies in the face of the most fundamental tenet in USPAP: That the appraiser must remain independent, impartial and unbiased. If that is the case, why should prior services have anything to do with the current service? We urge the Board to delete this requirement altogether.

Section 5: Proposed Retirement of STANDARDS 4 and 5

We support the proposal to retire these standards while not renumbering later standards, since the concept is adequately addressed in the balance of USPAP.

We recommend issuance of an Advisory Opinion addressing what is now referred to as real property appraisal consulting assignments. Such an Advisory Opinion would address requirements for an appraisal within an assignment that has an overall objective other than a value opinion. The material provided in the Rationale for this section of the exposure draft could be used as a starting point for such an advisory piece.

However, we note that this Rationale is missing another potential scenario: One in which the consulting appraiser incorporates via an extraordinary assumption a value opinion of another appraiser, whereby the consulting appraiser lacks the competency (general this would be competency with regard to the market area, geographic area or property type) to form either an appraisal opinion about that property or a review opinion about the appraisal of that property. This scenario is addressed in the 2010 USPAP at lines 1288-1291. It is an important concept; it occurs not infrequently in practice, and we would not like to see the concept get lost.

Section 6: Proposed RECORD KEEPING RULE and related edits to the Conduct Section of the ETHICS RULE

We do not support this proposed change. Contrary to what is stated in the Rationale ("Record keeping does not correspond to any of the other rules in USPAP") but we believe that keeping records is an ethical obligation of appraisers, is rightfully part of the ETHICS RULE and that the existing structure of USPAP ought to be preserved. The obligation on a professional to retain "evidence of compliance" with standards is a fundamental ethical obligation. USPAP instructors have been carefully educated in the structure of USPAP, and appraisers have been taught this structure in the USPAP classes for the last several years.

We understand and appreciate that this change is motivated by enforcement issues. We also understand that misuse of the phrase "ethics violation" is rampant. The ETHICS RULE is part of USPAP. Any violation of the ETHICS RULE should be referred to as a violation of USPAP, not an "ethics violation," which is an emotive phrase that carries a great deal of stigma. It is unfortunate that this circumstance is prompting a proposed change in USPAP.

We offer some comments on specific language in the Exposure Draft, by line number reference:

Line 126: For enhanced clarity and specificity, change to read: A workfile must be in existence prior to the issuance of any written or oral report. (Retain written or oral as these words provide need emphasis.)

Lines 141-144: This is a comment, not a rule. The rule itself (i.e., what must be in the workfile) is covered in the fourth bullet at lines 138-140. Lines 141-144 should be moved back to the Comment.

Lines 149-151: This sentence is presumably replacing lines 158-160, which are proposed for deletion. However, the proposed new language at lines 149-151 fails to include the concepts of "form, style, and type." We believe it is important to retain these terms.

Section 7: Proposed Revisions to Advisory Opinion 21, *USPAP Compliance*

We support the Board's proposal to replace the Liz Ross illustration with the Robert Agent and Avery Baker illustrations. However, we have found there has been a considerable amount of confusion over the Marie Vaughn example and ask the Board to replace or delete this one also. It is difficult to reconcile how Marie could have a "diverse appraisal practice" (line 272 in the 2010 edition) and yet provide "litigation services as an advocate" (lines 289-293.)

Section 8: Proposed Revisions to STANDARD 7 & 8, Personal Property Appraisal, Development

We have no comments on the proposed changes to these Standards.

Other Comments

The Appraisal Institute is deeply disappointed that the reporting project is not going forward at this time. Even after the many years that have passed since the current reporting options were first developed and adopted in USPAP, this remains one of the most confusing aspects of the appraisal profession to users of our services. In this respect, not continuing to work toward more clarity in report options under STANDARD 2 and STANDARD 8 is neither serving the public trust nor the users of appraisal services nor appraisers themselves.

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We see no persuasive rationale not to proceed with the "Appraisal Report" and "Restricted Appraisal Report" concept as detailed in the Second Exposure Draft. We agree with reducing the number of report options, following the model of STANDARD 10 which offers two reporting options.

We trust that you will find our comments helpful. Please do not hesitate to contact me if you have any questions concerning these comments.

Sincerely,

Bonnie Roerig (submitted electronically)

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