Code of Professional Ethics and Explanatory Comments

Effective May 7, 2020
Contents

Code of Professional Ethics of the Appraisal Institute ................................................................. 1

Preamble to the Appraisal Institute Code of Professional Ethics ........................................... 3

Definitions ................................................................................................................................ 4

Exceptions to the Ethical Rules .................................................................................................. 7

Canon 1: One Must Refrain from Conduct that is Detrimental to the Appraisal Institute, the Profession, and the Public .................................................................................................. 8

Canon 2: One Must Assist the Appraisal Institute in Fulfilling Its Role Relating to Qualifications and Compliance with Ethics and Standards ........................................................................ 9

Canon 3: In Valuation Practice, a Valuer Must Develop and Report Unbiased Analyses, Opinions, and Conclusions ........................................................................................................ 12

Canon 4: One Must Not Violate Confidentiality ........................................................................ 14

Canon 5: One Must Not Advertise or Solicit in a Manner that is Misleading or Otherwise Contrary to the Public Interest .................................................................................................. 15

Explanatory Comments to Code of Professional Ethics ............................................................. 15

  Explanatory Comments to Canon 1 ...................................................................................... 16
  Explanatory Comments to Canon 2 ...................................................................................... 19
  Explanatory Comments to Canon 3 ...................................................................................... 22
  Explanatory Comments to Canon 4 ...................................................................................... 25
  Explanatory Comments to Canon 5 ...................................................................................... 26
Preamble to the Appraisal Institute Code of Professional Ethics

Real estate is one of the basic sources of wealth in the global economy. Therefore, those who own, manage, sell, purchase, invest in, or lend money on the security of real estate must have ready access to the services of individuals who provide unbiased opinions of value, as well as sound information, analyses, and advice on a wide range of issues related to property economics. For these reasons, the services of valuation professionals are vital to the well-being of our society and the global economy, and foster economic growth, stability, and public confidence.

Because of this vital role and a commitment to professionalism, the Appraisal Institute has adopted a Code of Professional Ethics and Standards of Professional Practice to establish requirements for ethical and competent practice. These requirements also serve to promote and maintain a high level of public trust and confidence in Appraisal Institute Designated Members, Candidates, Practicing Affiliates, and Affiliates.

The Code of Professional Ethics contains:

- Definitions;
- Canons, which are statements of fundamental ethical principles; and
- Ethical Rules, which are enforceable statements of required and prohibited conduct.

The Appraisal Institute has also issued Explanatory Comments to the Code of Professional Ethics. The Explanatory Comments help provide non-exclusive context and guidance as to the meaning, interpretation and application of the Canons and Ethical Rules, as well as illustrative but not exhaustive examples of certain types of required or prohibited conduct. The Explanatory Comments play an important role in the application of the Code of Professional Ethics and may be taken into consideration during enforcement proceedings. However, individuals are charged with violations only of the Ethical Rules.

If a Designated Member, Candidate, Practicing Affiliate or Affiliate acts unethically in violation of any of the Ethical Rules, he or she will be subject to disciplinary or remedial action under Regulation No. 6 of the Appraisal Institute.

The commitment of Appraisal Institute Designated Members, Candidates, Practicing Affiliates, and Affiliates to professionalism extends to helping ensure that others act ethically and competently. Therefore, each Designated Member, Candidate, Practicing Affiliate, and Affiliate has a responsibility to refer any significant factual information that reasonably suggests that another Designated Member, Candidate, Practicing Affiliate, or Affiliate may have acted unethically in violation of the Ethical Rules or failed to comply with the Standards of Professional Practice to the Professional Practice Department. Each Designated Member, Candidate, Practicing Affiliate, and Affiliate also has a responsibility to serve on peer review committees for the Appraisal Institute upon request, if eligible.
Definitions

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

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

Assignment Results
Opinions and conclusions developed in an appraisal or review.

Biased
Not reasonably supported, and favoring or promoting the cause or interest of the client, one’s self, or another.

Client
The individual, group or entity who engage a Valuer to perform a service.

Confidential Information
Information that is either:

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

Credible
Worthy of belief; supported by analysis of relevant information. Credibility is always measured in the context of Intended Use.

Duly Authorized Representative
An individual granted authority by the Appraisal Institute or one of its Committees to perform a specific action.

Engagement
An agreement between a Valuer and a client to provide a service.

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

Intended Use
The Valuer’s intent as to how the Report will be used.
Intended User
The party or parties the Valuer intends will use the Report.

Justified
Reasonably supported.

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

Comment: Knowledge can be inferred from the individual’s conduct and from
all the facts and circumstances surrounding the conduct. A determination of
“knowingly” should be made in the context of the individual’s training,
background, and experience. An individual may have acted (or failed to act)
“knowingly” if he or she acted in disregard of the requirements of this Code of
Professional Ethics or applicable Standards of Professional Practice or the
profession’s recognized methods and techniques such as those set forth in
Appraisal Institute courses, seminars, textbooks, and other publications. The
term “knowingly” includes not only what the individual knew, but also what
the individual reasonably should have known given all the facts and
circumstances of the conduct and the individual’s training, background, and
experience.

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

Relevant Documentation or Information
Documentation or information the Appraisal Institute or one of its duly authorized representatives
believes may be relevant in fulfilling its responsibilities.

Relevant Question
A question that the Appraisal Institute or one of its duly authorized representatives believes may be
relevant in fulfilling its responsibilities.

Report
The final communication, written or oral, of an appraisal or review transmitted to the
client. Finality is evidenced by the presence of the Valuer’s signature in written
communication or a statement of finality in the oral communication of assignment
results. All communications to the client prior to the final communication must be
conspicuously designated as such.
Review
The act or process of developing and communicating an opinion to a client about the quality of another’s appraisal or review Report.

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

Valuation Practice
Services performed by an individual acting as a Valuer, including but not limited to providing appraisal and review opinions.

Value
The monetary relationship between properties and those who buy, sell, or use those properties. Value expresses an economic concept. As such, it is never a fact but always an opinion of the worth of a property at a given time in accordance with a specific definition of value. In Valuation Practice, value must always be qualified - for example, market value, liquidation value, or investment value.

Valuer
One who is expected to engage in Valuation Practice in an unbiased and competent manner. This term is synonymous with appraiser.
Exceptions to the Ethical Rules

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

When an individual violates an Ethical Rule due to an event beyond the individual's control, such as an act of God or illness, the Investigator or peer review committee(s) (or any member or duly authorized representative thereof) reviewing the conduct should consider such event and all the relevant facts about the case to avoid an inequitable result.
Canon 1: One Must Refrain from Conduct that is Detrimental to the Appraisal Institute, the Profession, and the Public

Ethical Rules

ER 1-1
It is unethical to knowingly:

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

ER 1-2
It is unethical to engage in conduct of any kind that leads to a conviction of a crime involving fraud, dishonesty, false statements, or moral turpitude.

ER 1-3
In Valuation Practice it is unethical to knowingly fail to properly identify the issue to be addressed and have the knowledge and experience to complete the service competently prior to agreeing to perform a service, or alternatively, to:

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

ER 1-4
In Valuation Practice it is unethical in the performance of a service to knowingly fail to:

(a) identify appropriate Standards to apply; and
(b) disclose in any Report the Standards applied.
Canon 2: One Must Assist the Appraisal Institute in Fulfilling Its Role Relating to Qualifications and Compliance with Ethics and Standards

Ethical Rules

ER 2-1

It is unethical:

(a) to knowingly violate the confidentiality obligations set forth in the Bylaws, Regulations, policies and procedures of the Appraisal Institute.

(b) to fail to keep knowledge of a referral initiating a peer review proceeding or knowledge of any subsequent screening or review of the matter confidential.

ER 2-2

It is unethical to accept an appointment to, or to fail to immediately resign from, an Appraisal Institute committee or Appraisal Institute Investigator appointment dealing with an admissions matter or peer review proceeding if one is unable or unwilling to fulfill the responsibilities of a member of said position.

ER 2-3

It is unethical to knowingly:

(a) make false statements or submit misleading information to the Appraisal Institute or one of its duly authorized representatives;

(b) fail or refuse to promptly submit any relevant documentation or information that is or should be in one’s possession or control when requested to do so by the Appraisal Institute or one of its duly authorized representatives;

(c) fail or refuse to promptly answer all relevant questions when requested to do so by the Appraisal Institute or one of its duly authorized representatives;

(d) fail or refuse to appear for a personal interview or participate in an interview conducted by telephone when requested to do so by the Appraisal Institute or one of its duly authorized representatives;

(e) fail to comply with the terms of a summons issued by a duly authorized Hearing Committee;

(f) fail or refuse to cooperate with the Appraisal Institute or one of its duly authorized representatives; or

(g) fail or refuse to fulfill each obligation under the Bylaws, Regulations, policies and procedures of the Appraisal Institute.
ER 2-4
It is unethical for a Valuer 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 Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute, 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 User(s);
- 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 Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute, 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 2-5
In Valuation Practice it is unethical to fail to retain required records for:

(a) a period of five years from the date of the completion of the service;

(b) a period of two years following final disposition of a proceeding in which the Valuer gave testimony as part of the service;

(c) a period commencing upon notification that a service is the subject of a peer review proceeding under Regulation No. 6 until notification by the Appraisal Institute of final disposition of such peer review proceeding;

(d) a period commencing upon a request from Admissions relating to a service until notification by the Appraisal Institute of the completion of review by Admissions; or
(e) 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.

ER 2-6

It is unethical to enter into a contract with one or more obligations that are inconsistent with the requirements of the Code of Professional Ethics, Standards of Professional Practice, Bylaws, or Regulations of the Appraisal Institute.

ER 2-7

It is unethical to fail to sincerely and demonstrably seek other employment if one knows:

(a) that the employer prevents one from complying with the requirements of the Code of Professional Ethics or Standards of Professional Practice of the Appraisal Institute; or

(b) that one’s employer fails to comply with the Code of Professional Ethics or Standards of Professional Practice of the Appraisal Institute.
Canon 3: In Valuation Practice, a Valuer Must Develop and Report Unbiased Analyses, Opinions, and Conclusions

Ethical Rules

ER 3-1
In Valuation Practice it is unethical to knowingly contribute to or participate in the development, preparation, use or reporting of an analysis, opinion, or conclusion that is biased.

ER 3-2
In Valuation Practice it is unethical to knowingly permit an entity that is wholly or partially owned or controlled by a Valuer to contribute to or participate in the development, preparation, use, or reporting of an analysis, opinion, or conclusion that is biased.

ER 3-3
In Valuation Practice it is unethical to provide a service that is contingent upon reporting a predetermined analysis, opinion or conclusion.

ER 3-4
In Valuation Practice it is unethical to provide a service that includes a Hypothetical Condition, unless:

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

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

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

ER 3-5
In Valuation Practice it is unethical to provide a service that includes a Special Assumption unless:

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

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

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

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

ER 3-6
In Valuation Practice it is unethical to provide a service if a Valuer has any direct or indirect, current, or prospective personal interest in the subject or outcome of the service or with respect to the parties involved in the service, unless:
(a) prior to agreeing to provide the service, the Valuer carefully considers the facts and reasonably concludes that he or she would remain unbiased and reasonable persons, under the same circumstances, would reach the same conclusion;

(b) such personal interest is disclosed to the client prior to the Valuer agreeing to provide the service; and

(c) such personal interest is disclosed in each Report or other communication provided to the client resulting from such service.

In Valuation Practice it is unethical, during the period that commences at the time that a Valuer is contacted concerning a service and expires at the completion of such service, to knowingly acquire, or plan to acquire any direct or indirect, current, or prospective personal interest in the subject or outcome of the service or with respect to the parties involved in the service, unless:

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

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

(c) such personal interest is disclosed in each Report or other communication provided to the client resulting from such service.
Canon 4: One Must Not Violate Confidentiality

Ethical Rules

ER 4-1
In Valuation Practice it is unethical to disclose confidential information or an analysis, opinion, or conclusion specific to a service to anyone other than:

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

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

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

(d) authorized insurance representatives, for the purpose of seeking or maintaining professional liability insurance coverage; and

(e) the duly authorized Investigators and peer review or admissions committees of the Appraisal Institute.

ER 4-2
It is unethical for a current or former Appraisal Institute Investigator or peer review or admissions committee member to discuss or disclose confidential information, analyses, opinions, conclusions, or factual data derived through investigative or committee activities with anyone other than:

(a) the individual whose Report or file contains the confidential information, analyses, opinions, conclusions, or factual data;

(b) the client and those persons specifically authorized by that client to receive the confidential information, analyses, opinions, conclusions, or factual data;

(c) third parties, when and to the extent that the Investigator or committee member is legally required to do so by statute, ordinance, or court order; and

(d) Investigators and committee members and their duly authorized representatives within the scope of the Bylaws and Regulations of the Appraisal Institute.
Canon 5: One Must Not Advertise or Solicit in a Manner that is Misleading or Otherwise Contrary to the Public Interest

Ethical Rules

ER 5-1
It is unethical to utilize misleading advertising. Further, it is unethical to knowingly permit a business entity that one wholly or partially owns or controls to utilize misleading advertising.

ER 5-2
It is unethical to use or refer to the Appraisal Institute or its membership designations in a manner that is misleading, or to use or display the registered designations, logos, or emblems of the Appraisal Institute in a manner contrary to Regulation No. 5.

ER 5-3
It is unethical to solicit services in a misleading manner. Further, it is unethical to knowingly permit an entity one wholly or partially owns or controls to solicit services in a misleading manner.

ER 5-4
It is unethical to fail to disclose in the Report the payment by the Valuer, or by an entity wholly or partially owned or controlled by the Valuer, of a referral fee, in cash or kind, paid in connection with the procurement of a service.

ER 5-5
It is unethical to prepare or use in any manner a resume or statement of qualifications that is misleading.

Effective 05/07/2020
Explanatory Comments to Code of Professional Ethics

The Explanatory Comments help provide non-exclusive context and guidance as to the meaning, interpretation and application of the Canons and Ethical Rules, as well as illustrative but not exhaustive examples of certain types of required or prohibited conduct. The Explanatory Comments play an important role in the application of the Code of Professional Ethics and may be taken into consideration during enforcement proceedings. However, individuals are charged with violations only of the Ethical Rules.

Explanatory Comments to Canon 1

Canon 1 Comment

Public confidence and trust in Appraisal Institute Members, Candidates, Practicing Affiliates, Affiliates, and the profession is essential to the well-being of our society and the global economy. The Appraisal Institute serves a vital public need by:

- educating and training valuation professionals,
- conferring professional membership designations on individuals who meet stringent requirements, and
- conducting peer review that enhances the quality of work product and deters unethical conduct.

In turn, the work of Appraisal Institute Members, Candidates, Practicing Affiliates and Affiliates fosters economic growth and stability. If a Member, Candidate, Practicing Affiliate or Affiliate engages in conduct that is detrimental to the Appraisal Institute, the profession or the public, such individual undermines the public confidence and trust that is necessary for the Appraisal Institute, Members, Candidates, Practicing Affiliates, Affiliates and the profession to perform their vital roles in our society and the global economy.

ER 1-1(a) and (b) Comment

If an Appraisal Institute Member, Candidate, Practicing Affiliate or Affiliate knowingly acts in a misleading or fraudulent manner when engaged in Valuation Practice or when engaged in an activity unrelated to Valuation Practice, such individual harms the reputation of the Appraisal Institute, its Members, Candidates, Practicing Affiliates, Affiliates and the profession, thereby undermining the confidence and trust that the public and clients must have in the integrity of the Appraisal Institute, Members, Candidates, Practicing Affiliates, Affiliates and the profession.

If an individual acts in a misleading or fraudulent manner in activity unrelated to Valuation Practice, the public and clients can legitimately question whether such a lack of personal integrity will impact any services such individual performs. Therefore, ER 1-1(a) and ER 1-1(b) apply to all conduct, including conduct unrelated to Valuation Practice.
An example of a violation of ER 1-1(a) is if a Valuer prepares a Report that includes information that he or she knows or should know will lead the Intended User(s) of the Report to an improper conclusion.

A second example of a violation of ER 1-1(a) is if an individual misleads the Appraisal Institute by an act of omission or commission as to his or her eligibility for a particular status or category of membership, candidacy or affiliation.

An example of a violation of ER 1-1(b) is if one acts in a fraudulent manner while engaged in real estate brokerage. Any such fraudulent conduct would be contrary to the public interest and would reflect adversely upon the individual; Members, Candidates, Practicing Affiliates and Affiliates generally; the Appraisal Institute; and the profession.

ER 1-1(c) and (d) Comment
ER 1-1(c) prohibits a valuer from knowingly using a misleading Report. ER 1-1(c) further requires that a valuer must take steps to prevent another from using a misleading Report, whether the Report was prepared by the Valuer or by another individual.

Examples of violations of ER 1-1(c) include, but are not limited to, the following:

• a Valuer allows a client to use a Report that contains a misleading analysis of comparable sales.
• a Valuer develops a misleading opinion concerning the appropriate depreciation for an industrial building and provides the opinion to another Valuer to use in a Report.

ER 1-1(d) prohibits a Valuer from transmitting a misleading Report. ER 1-1(d) further requires that a Valuer must take steps to prevent another from transmitting a misleading Report whether the Report was prepared by the Valuer or by another individual.

Examples of violations of ER 1-1(d) include, but are not limited to, the following:

• a Valuer transmits a Report to a client that contains a misleading analysis of comparable sales.
• a Valuer allows an independent contractor to transmit a Report containing a misleading highest and best use conclusion to a client.

ER 1-1(e) Comment
A Valuer must not transmit a Report that contains an analysis, opinion, or conclusion that is not justified. To do so harms the public interest and undermines public and client confidence in the Valuer; Valuers generally; the Appraisal Institute; and the profession.

The test under ER 1-1(e) is whether reasonable Valuers would believe the analysis, opinion, or conclusion to be justified. Valuers can and do differ as to the appropriate solutions to a valuation issue. If, however, reasonable Valuers conclude that an analysis, opinion or conclusion is not reasonably supported, then such analysis, opinion or conclusion would not be justified under this
Ethical Rule. Evidence that a Report contains an analysis, opinion or conclusion that reasonable Valuers would not believe to be justified may include, but is not limited to, analyses, opinions and conclusions developed through unsupported and unreasonable appraisal or review practices. The Appraisal Institute Guide Notes to the Standards of Professional Practice and Appraisal Institute courses, seminars, and textbooks such as The Appraisal of Real Estate identify many reasonable appraisal and review practices.

This Ethical Rule applies regardless of whether the Valuer signed the Report.

Examples of violations of ER 1-1(e) include, but are not limited to, the following:

- a Valuer transmits a Report in which the value of a property is not reasonably supported.
- a Valuer transmits a Report to a client that was signed by another individual that contains a sales comparison approach that is not reasonably supported.

**ER 1-2 Comment**

The public and clients must have confidence in the personal honesty and integrity of Appraisal Institute professionals, whom they entrust with matters of critical personal, corporate, and public importance. If a Member, Candidate, Practicing Affiliate or Affiliate fails to comply with his or her legal obligations to society in all activities, not just when engaged in Valuation Practice, the public and clients will lose confidence and trust in the honesty and integrity of the individual; Members, Candidates, Practicing Affiliates, and Affiliates generally; and those who practice the profession. The public and clients will also lose confidence and trust in the Appraisal Institute. As a consequence, the ability of Members, Candidates, Practicing Affiliates, Affiliates, the profession, and the Appraisal Institute to perform their vital roles in our society and the global economy will be adversely affected.

Failure to comply with obligations to society, particularly relating to fraud, dishonesty, false statements or moral turpitude, can legitimately lead the public and clients to question whether an individual will fail to comply with his or her obligations under the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute. The crimes referred to in ER 1-2 are not limited to felonies.

One example of a violation of ER 1-2 is to be convicted of a crime for preparing a fraudulent appraisal as part of a “flipping scheme.” A second example is being convicted of a crime for underreporting taxable income.

Under Appraisal Institute Regulation No. 6, a violation of ER 1-2 will result in automatic expulsion from membership, candidacy or affiliation in the Appraisal Institute subject to the right of appeal.
Explanatory Comments to Canon 2

Canon 2 Comment

The Appraisal Institute serves a vital public need by:

• conferring professional membership designations on individuals who meet stringent requirements,
• conducting peer review that enhances the quality of work product and deters unethical conduct,
• conducting a continuing education program, and
• establishing and conducting other programs that advance the profession and valuation professionals.

As a result of these programs, the public associates Appraisal Institute Members, Candidates, Practicing Affiliates and Affiliates with a high degree of personal integrity and a commitment to professionalism. To maintain the reputation of the Appraisal Institute and its professionals and facilitate these critical objectives, Members, Candidates, Practicing Affiliates and Affiliates must comply with all confidentiality obligations set forth in the Bylaws, Regulations, policies and procedures of the Appraisal Institute. They must also fulfill committee responsibilities; cooperate with appropriate committees; prepare and preserve records; and ensure that they do not place themselves in a position where they cannot comply with the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute.

ER 2-1 Comment

Confidentiality:

• encourages Candidates to advance their qualifications through the designation process;
• encourages peer review to occur;
• fosters candid and valuable interchange on the issues of qualifications and the quality of services;
• helps ensure that the consequences of an admissions matter or peer review proceeding are proper and proportionate; and
• helps ensure that the Appraisal Institute can govern itself effectively.

If a Member, Candidate, Practicing Affiliate or Affiliate fails to observe confidentiality rules, the judicial protection given to the Appraisal Institute, especially with respect to admissions matters and peer review proceedings, may erode, thereby impairing the ability of the Appraisal Institute to fulfill critical functions. Such a result would harm the public, the Appraisal Institute, its Members, Candidates, Practicing Affiliates, Affiliates and the profession. All Bylaws, Regulations, policies and procedures regarding confidentiality of admissions, peer review, governance and other matters must be scrupulously observed.
ER 2-2 Comment

While the Appraisal Institute recognizes that individuals who serve on committees dealing with admissions matters and peer review proceedings are volunteers, such individuals must fulfill their responsibilities diligently, objectively, and completely for the Appraisal Institute to effectively fulfill its vital functions.

ER 2-3 Comment

The Articles of Incorporation, Bylaws, and Regulations of the Appraisal Institute provide the authority for the Appraisal Institute and the establishment, powers, and duties of various committees. As a corporate entity, the Appraisal Institute will fulfill its functions and exercise its authority through various duly authorized representatives. Committees of the Appraisal Institute will sometimes fulfill their powers and duties as committees of the whole, but such committees may also carry out some powers and duties through individual members of the committees and duly authorized representatives. For the Appraisal Institute to effectively carry out critical functions, including, but not limited to, peer review, admissions, and continuing education, the obligations under ER 2-3 extend not only to the Appraisal Institute but also to its duly authorized representatives.

Under Regulation No. 6 of the Appraisal Institute, a violation of ER 2-3(b), (c), or (d) will result in automatic expulsion from membership, candidacy or affiliation in the Appraisal Institute subject to the right of appeal.

Strict adherence to the Bylaws, Regulations, policies and procedures of the Appraisal Institute is required when participating in the governance of the organization. Failure to do so can make governance ineffective and harm the interests of the Appraisal Institute. For example, everyone involved in governance must adhere strictly to any confidentiality obligations set forth in the Bylaws, Regulations, policies and procedures of the Appraisal Institute. Additionally, they must adhere strictly to the Appraisal Institute Antitrust Policy.

Examples of violations of ER 2-3 include, but are not limited to, the following:

- ER 2-3(a): A Designated Member submits a continuing education log to the Appraisal Institute that represents that the individual took a course that the individual did not in fact take or that represents that the course provided a greater number of hours of continuing education than it actually did.
- ER 2-3(b): A Practicing Affiliate fails to promptly comply with a request for information or documentation from an Appraisal Institute Investigator that the individual was required to preserve under ER 2-5.

ER 2-4 Comment

The Appraisal Institute has promulgated the Code of Professional Ethics and Standards of Professional Practice in part to establish requirements that will help ensure that Valuers will transmit credible analyses, opinions, and conclusions. Such requirements also give the public and client’s confidence that a Valuer’s analyses, opinions, and conclusions are based on sound data and
reasoning, and that such analyses, opinions, and conclusions are not predetermined or mere speculation.

This Ethical Rule ensures that Valuers will be able to provide support for their analyses, opinions, and conclusions to clients, courts, the Appraisal Institute, regulatory agencies, and others. The required records provide evidence of whether a Valuer has complied with the Code of Professional Ethics and Standards of Professional Practice.

ER 2-5 Comment
For the Appraisal Institute to effectively fulfill the vital functions of admissions and peer review, the Appraisal Institute and its duly authorized representatives must have access to relevant records. Valuers have a responsibility to consider and correctly apply the factors that can affect the retention period for records before disposing of such records. For example, if a Valuer prepares an appraisal on April 30, 2017, the Valuer must initially maintain records relating to that appraisal until at least April 30, 2022. If, however, the Valuer then gives testimony on April 15, 2020, in a judicial proceeding concerning the appraisal and the judicial proceedings are not completed until May 30, 2021, the retention period changes and the records must be maintained until at least May 30, 2023.

ER 2-6 Comment
A condition of membership, candidacy or affiliation is the agreement to comply with the Bylaws, Regulations, Code of Professional Ethics, and Standards of Professional Practice of the Appraisal Institute. This obligation cannot be avoided by entering into a contract that is inconsistent with this agreement.

ER 2-7 Comment
A condition of membership, candidacy or affiliation is the agreement to comply with the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute. Responsibility for the failure to comply with such requirements cannot be avoided by a Member, Candidate, Practicing Affiliate or Affiliate because an employer prevents him or her from complying. Because the Code of Professional Ethics and Standards of Professional Practice elevate the quality of services provided in the marketplace and enhance confidence of the public and clients in the profession, Ethical Rule 2-7 also requires that a Member, Candidate, Practicing Affiliate or Affiliate demonstrably seek other employment if he or she knows that his or her employer fails to comply with the requirements of the Code of Professional Ethics or Standards of Professional Practice.

For example, if a Designated Member’s employer implements a record retention policy that results in the disposal of records that must be retained under Ethical Rule 2-5 and the employer is unwilling to revise such policy, the Designated Member must demonstrably seek other employment.

Evidence that other employment has been sincerely and demonstrably sought may include, but is not limited to, sending out letters seeking employment with other companies, correspondence received from potential employers, a log of calls made to potential employers, or documents indicating efforts to form a new business.
Explanatory Comments to Canon 3

Canon 3 Comment

Given the role that Valuers serve in our society and the global economy, the public interest demands that a Valuer develop and report unbiased analyses, opinions, and conclusions. Actual and perceived bias can undermine the confidence that the public and clients must have in the integrity of Valuers. The public interest also demands that a Valuer not use an unwarranted Hypothetical Condition or Special Assumption. Therefore, Canon 3 and its associated Ethical Rules prohibit a Valuer from using an unwarranted Hypothetical Condition or Special Assumption and from rendering an analysis, opinion, or conclusion that is not reasonably supported and that favors or promotes the cause or interest of the client, the Valuer, or another.

ER 3-1 Comment

Evidence that a Valuer developed, prepared, used or reported a biased analysis, opinion or conclusion may include, but is not limited to, deviation from or failure to use reasonable or supportable appraisal or review practices resulting in an analysis, opinion, or conclusion that is not reasonably supported and that favors or promotes the client’s, the Valuer’s, or another’s interest or cause. The Appraisal Institute Guide Notes to the Standards of Professional Practice and Appraisal Institute courses, seminars, and textbooks such as *The Appraisal of Real Estate* identify many reasonable appraisal and review practices.

The Intended Use of the analysis, opinion or conclusion is relevant in determining the direction of a client’s interest. For example, a Valuer develops and reports a value opinion for a property owner for purposes of appealing his property taxes. The Valuer’s appraisal is based solely on a sales comparison approach. All of the comparable sales analyzed are clearly inferior to the subject property in many respects, but in the adjustment grid, each comparable is shown to be similar to the subject and no upward adjustments are made for differences. Reasonable appraisers would not believe this opinion of value to be justified. Also, in this case, the lower the value opinion, the more the property owner stands to gain if his appeal is successful. Therefore, the Valuer may have developed and reported a biased opinion of value in violation of ER 3-1.

One can violate ER 3-1 by signing a Report that the Valuer has not read or has partially read, and that contains a biased analysis, opinion, or conclusion. Not only is the Valuer responsible for the Report by signing it, but he or she has knowingly contributed to or participated in the use and reporting of an analysis, opinion, or conclusion that is biased. The Valuer acted knowingly because he or she acted in disregard of the requirements of the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute.

Evidence that a Valuer performed a service under a contingent fee arrangement does not constitute evidence of bias, in and of itself. Valuers are participants in the global economy. In the global economy the norms for ethical practice concerning specific conduct may differ depending on applicable national customs and standards. The matter of contingent fee arrangements is an example of an area where the norms for ethical practice differ depending on the Standards used by the Valuer. For example, the Uniform Standards of Professional Appraisal Practice (USPAP) prohibits contingent
fee arrangements for valuation services. On the other hand, the International Valuation Standards (IVS) permits contingent fee arrangements for valuation services as long as the Valuer’s fee does not depend on a predetermined outcome of any valuation or other independent, objective advice contained in the Report, and the Valuer discloses whether the fee is contingent upon any aspect of the Report.

**ER 3-2 Comment**

A Valuer cannot avoid ethical responsibility by doing indirectly that which he or she cannot do directly. The discussion in the ER 3-1 Comment concerning an analysis, opinion, or conclusion that is biased also applies to ER 3-2.

**ER 3-3 Comment**

ER 3-3 does not prohibit accepting services in phases, with the ability to provide a subsequent service contingent upon the results of a prior service, as long as the Valuer does not render an analysis, opinion, or conclusion that is biased in any of the phases.

To illustrate the point involved, assume the following facts: A government agency makes an offer to a property owner to purchase the owner’s property to expand a roadway. The agency has not begun condemnation proceedings at this point, but may in the future. The attorney working with the property owner contacts a Valuer to obtain the Valuer’s opinion as to whether the market value of the property is more than the amount of the agency’s offer. The Valuer prepares a Report (for the attorney’s use only) in which the Valuer’s value opinion is “not less than” the amount of the offer. Subsequently, the attorney asks the Valuer to prepare a Report (for which the Intended Users will be both the government agency and the attorney for the property owner) for purposes of the condemnation litigation. Note that these are two separate assignments, with different, though related, Intended Uses and different Intended Users. If the Valuer accepts these assignments, the Valuer will not violate ER 3-3. The Valuer was required to develop and report both the first and second service in an unbiased manner. Although the second service was in essence contingent on the results of the first service, it was not contingent on a “predetermined” analysis, opinion, or conclusion.

**ER 3-4 Comment**

An example of the use of a Hypothetical Condition in an appraisal would be when the subject property is known to be contaminated but it is valued as though it is free of contamination. Another example would be when a property is appraised as though improvements exist on the site when in fact the site is vacant on the date of value.

An example of a violation of ER 3-4 would be when a Valuer appraises a subject property as though it is zoned for commercial use when in fact zoning would prohibit such use, and the Valuer does not disclose that the appraisal is premised on such Hypothetical Condition.

**ER 3-5 Comment**

An example of the use of a Special Assumption in an appraisal would be when there is reason to believe – though it is uncertain – that the subject property may be contaminated, but it is valued as though it is free of contamination on the date of value. Another example would be the Valuer does not
inspect the subject property and bases the appraisal on the presumption that information provided
about the property (size, condition, etc.) is accurate.

An example of a violation of ER 3-5 would be when there is evidence that the subject property’s
improvements may not be structurally sound, raising uncertainty as to their condition. The Valuer
appraises the property as though the improvements are structurally sound and does not disclose that
the appraisal is premised on a Special Assumption to that effect.

ER 3-6 Comment
If a Valuer has a personal interest in the subject or outcome of a service or with respect to the parties
involved in the service, such interest may provide an incentive for the Valuer to render an analysis,
opinion, or conclusion that is biased, misleading, or otherwise unreliable. At a minimum, such a
personal interest may create an appearance that any resulting analysis, opinion, or conclusion may
be biased, misleading, or otherwise unreliable. An analysis, opinion, or conclusion that is biased,
mandatory, or otherwise unreliable, or that may be perceived to be so, undermines the confidence
and trust that the public and clients must have in Valuers.

In review assignments, “parties involved in the service” include the individual who prepared the
Report being reviewed.

ER 3-7 Comment
If a Valuer knowingly acquires an interest in property or assumes a position that could possibly affect
the Valuer’s judgment or violate the Valuer’s responsibilities to the client between the time the Valuer
is contacted concerning a service and when the Valuer completes the service, such interest or
change in position may provide an incentive for the Valuer to render an analysis, opinion, or
conclusion that is biased, misleading, or otherwise unreliable and harms the client. At a minimum,
such interest or change in position may create an appearance that any resulting analysis, opinion, or
conclusion may be biased, misleading, or otherwise unreliable and that the Valuer’s interest or
position is in conflict with the Valuer’s responsibilities to the client.
Explanatory Comments to Canon 4

Canon 4 Comment
Confidentiality is a critical component of any relationship between a Valuer and a client. Confidentiality fosters full and candid disclosure of relevant information by the client. Such disclosure enables the Valuer to provide credible analyses, opinions, and conclusions to the client.

ER 4-1 Comment
ER 4-1 sets forth the general confidentiality requirements of the Valuer-client relationship. The client has a legitimate interest in controlling the disclosure of confidential information, analyses, opinions, and conclusions in part because the client pays for services rendered and because the disclosure of such information, analyses, opinions, and conclusions may harm the client. At the same time, Valuers must be able to comply with their legal, ethical and professional obligations, must be able to seek and maintain professional liability insurance coverage, and must be allowed a reasonable opportunity to defend themselves in a legal or regulatory action.

ER 4-2 Comment
For the Appraisal Institute to effectively fulfill the vital functions of admissions and peer review, appropriate Appraisal Institute committees and other Appraisal Institute duly authorized representatives must and will have access to confidential information provided to Valuers by their clients. Clients understand and are on notice that appropriate Appraisal Institute committees and other Appraisal Institute duly authorized representatives will have access to their confidential information, as well as analyses, opinions, and conclusions, because Valuers must inform their clients that their Reports are subject to review by the duly authorized representatives of the Appraisal Institute. Further, clients retain Appraisal Institute Valuers in part because of the admissions and peer review functions of the Appraisal Institute and such clients benefit from the resulting increased quality of the services that Members, Candidates, Practicing Affiliates and Affiliates provide. At the same time, Members, Candidates, Practicing Affiliates and Affiliates who serve on committees or other bodies relating to admissions and peer review functions must not act in a manner that would harm a client or take advantage of serving in these important roles to obtain professional advantage by discussing or disclosing confidential information, analyses, opinions, conclusions, and factual data derived from such activities. Since Members, Candidates, Practicing Affiliates and Affiliates must keep strictly confidential the information, analyses, opinions, conclusions, and factual data derived through admissions and peer review activities, the client is protected.
Explanatory Comments to Canon 5

Canon 5 Comment
To serve the public and clients effectively, members of a profession must properly and accurately inform the public and prospective clients about their qualifications and the functions of the profession. In this way, prospective clients can make informed decisions as to the type and extent of services they need and can identify competent and ethical professionals to provide such services. Such information can also help clients evaluate a service and help hiring parties evaluate potential employees or contractors. Advertising, solicitations, promotions, resumes, and statements of qualifications that are misleading or are otherwise contrary to the public interest undermine these important goals.

ER 5-1 Comment
Members, Candidates, Practicing Affiliates and Affiliates may utilize advertising to inform the public and prospective clients of the services they offer, the cost of such services, and their qualifications. However, advertising must not be misleading or calculated to create unrealistic expectations in the minds of the parties to whom the advertising is directed. In promoting their services, Members, Candidates, Practicing Affiliates and Affiliates must take particular care not to state or imply that they will develop, prepare, use or report an appraisal or review, analysis, opinion or conclusion that is biased or that they will deviate from the strict Standards and Ethical requirements with which they have agreed to comply.

Also, a Member, Candidate, Practicing Affiliate or Affiliate cannot avoid ethical responsibility by using a corporation, partnership or other entity (or multiple entities) to advertise services in a misleading manner.

ER 5-2 Comment
The Appraisal Institute has established the categories of Designated Member, Candidate for Designation, Practicing Affiliate and Affiliate in part to help the public and clients understand the qualifications these individuals hold and the requirements to which they are subject. The different Appraisal Institute designations serve a similar purpose.

The Appraisal Institute is the sole owner of its name, corporate logo, membership designations, and emblems (“marks”), which are registered with the United States Patent and Trademark Office. The authorized or permitted uses of these marks are set forth in the Bylaws, Code of Professional Ethics, Regulation No. 5, and Trademark Usage Manual, and are subject to federal law.

The general rule governing any reference to or use of the Appraisal Institute name, corporate logo, membership designations and designation emblems is that such reference or use must be authorized or permitted and must not be misleading or deceptive.

ER 5-3 Comment
Misleading solicitations for services are contrary to the public interest and undermine the reputation of the profession and its practitioners. Therefore, a Member, Candidate, Practicing Affiliate or Affiliate may not solicit for services in a manner that is misleading.
For example, a Designated Member may not inform a prospective client that the Designated Member has qualifications that the Member does not possess. As another example, a Candidate for designation may not state or imply in a solicitation for services that the Candidate for designation can develop, prepare, use, or report an appraisal or review analysis, opinion, or conclusion that is biased.

Ethical responsibility cannot be avoided by using a corporation, partnership, or other entity (or multiple entities) to solicit services in a misleading manner. Therefore, one may not knowingly permit an entity that is wholly or partially owned or controlled by such individual to solicit services in a manner that is misleading, even if name of the individual is not specifically mentioned in the solicitation.

**ER 5-4 Comment**

The primary basis for someone to refer a service to a Valuer should be his or her qualifications, rather than financial incentive. At the same time, federal law prohibits a professional organization from prohibiting all referral fees. Therefore, one may pay a fee, commission, or thing of value to procure a service, but such payment must be disclosed in any resulting Report. The Intended User(s) should know that a fee, commission, or thing of value was paid to procure the service and to consider such information in evaluating the service.

Disclosure is required only if the payment made is a condition of the referral. For example, if the party to whom a referral is made subsequently invites the referring party to dinner as a token of appreciation, this act would not be payment of a “thing of value” and disclosure would not be required.

ER 5-4 does not apply when performing work that is subject to the requirements of another licensed occupation or profession. For example, if one is licensed as a real estate broker and is acting in a capacity as a real estate broker, the payment and disclosure of a fee, commission, or thing of value for procurement of the assignment are governed by the laws and regulations governing real estate brokers, rather than ER 5-4.

**ER 5-5 Comment**

Potential clients, parties hiring employees and contractors, as well as others, need clear and accurate information on which to evaluate qualifications and work product.