

Code of Professional Ethics *and* Explanatory Comments

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Preamble to the Appraisal Institute Code of Professional Ethics

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

7
8 Because of this vital role and a commitment to professionalism, the Appraisal Institute has
9 adopted a Code of Professional Ethics and Standards of Professional Practice to establish
10 requirements for ethical and competent practice. These requirements also serve to promote
11 and maintain a high level of public trust and confidence in Appraisal Institute Designated
12 Members, Candidates, Practicing Affiliates, and Affiliates.

13
14 The Code of Professional Ethics contains:

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

18
19
20 The Appraisal Institute has also issued Explanatory Comments to the Code of Professional
21 Ethics. The Explanatory Comments help provide non-exclusive context and guidance as to
22 the meaning, interpretation and application of the Canons and Ethical Rules, as well as
23 illustrative but not exhaustive examples of certain types of required or prohibited conduct.
24 The Explanatory Comments play an important role in the application of the Code of
25 Professional Ethics and may be taken into consideration during enforcement proceedings.
26 However, individuals are charged with violations only of the Ethical Rules.

27
28 If a Designated Member, Candidate, Practicing Affiliate or Affiliate acts unethically in violation
29 of any of the Ethical Rules, he or she will be subject to disciplinary or remedial action under
30 Regulation No. 6 of the Appraisal Institute.

31
32 The commitment of Appraisal Institute Designated Members, Candidates, Practicing
33 Affiliates, and Affiliates to professionalism extends to helping ensure that others act ethically
34 and competently. Therefore, each Designated Member, Candidate, Practicing Affiliate, and
35 Affiliate has a responsibility to refer any significant factual information that reasonably
36 suggests that another Designated Member, Candidate, Practicing Affiliate, or Affiliate may
37 have acted unethically in violation of the Ethical Rules or failed to comply with the Standards
38 of Professional Practice to the Professional Practice Department. Each Designated Member,
39 Candidate, Practicing Affiliate, and Affiliate also has a responsibility to serve on peer review
40 committees for the Appraisal Institute upon request, if eligible.

Definitions

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

43

44 **Appraisal**

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

48

49 **Assignment Results**

50 Opinions and conclusions developed in an appraisal or review.

51

52 **Biased**

53 Not reasonably supported, and favoring or promoting the cause or interest of the client, one's self, or
54 another.

55

56 **Client**

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

58

59 **Confidential Information**

60 Information that is either:

61

62 • identified by the client as confidential when providing it to a valuer and that is not available
63 from any other source; or

64

65 • classified as confidential or private by applicable law or regulation.

66

67 **Credible**

68 Worthy of belief; supported by analysis of relevant information. Credibility is always measured in the
69 context of intended use.

70

71 **Duly Authorized Representative**

72 An individual granted authority by the Appraisal Institute or one of its Committees to perform a
73 specific action.

74

75 **Engagement**

76 An agreement between a valuer and a client to provide a Service.

77

78 **Hypothetical Condition**

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

80

81 **Intended Use**

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

83 **Intended User**

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

85

86 **Justified**

87 Reasonably supported.

88

89 **Know or Knowingly**

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

92

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

104

105 **Moral Turpitude**

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

109

110 **Relevant Documentation or Information**

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

113

114 **Relevant Question**

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

117

118 **Report**

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

124

125 **Review**

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

128

129 **Reviewer**

130 A valuer performing a review.

131

132 **Service**

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

135

136 **Special Assumption**

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

139

140 **Value**

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

145

146 **Valuer**

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

Exceptions to the Ethical Rules

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

150

151 When a valuer violates an Ethical Rule due to an event beyond the valuer's control, such as an act of
152 God or illness, the Investigator or peer review committee(s) (or any member or duly authorized
153 representative thereof) reviewing the conduct should consider such event and all the relevant facts
154 about the case to avoid an inequitable result.

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

157
158 Ethical Rules

159
160 ER 1-1

161 It is unethical to knowingly:

- 162
163 (a) act in a manner that is misleading;
164
165 (b) act in a manner that is fraudulent;
166
167 (c) use, or fail to take steps to prevent another from using, a misleading Report;
168
169 (d) transmit, or fail to take steps to prevent another from transmitting, a misleading Report; or
170
171 (e) transmit a Report containing an analysis, opinion, or conclusion that reasonable valuers
172 would not believe to be justified.
173

174 ER 1-2

175 It is unethical to engage in conduct of any kind that leads to a conviction of a crime involving fraud,
176 dishonesty, false statements, or moral turpitude.
177

178 ER 1-3

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

- 182
183 (a) disclose the lack of knowledge and/or experience to the client before agreeing to perform the
184 Service;
185
186 (b) take all steps necessary or appropriate to complete the Service competently; and
187
188 (c) describe the lack of knowledge and/or experience and the steps taken to complete the
189 Service competently in the Report.
190

191 ER 1-4

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

- 193
194 (a) identify appropriate Standards to apply; and
195
196 (b) disclose in any Report the Standards applied.

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

200 Ethical Rules

201 ER 2-1

202 It is unethical:

203

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

206

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

209

210 ER 2-2

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

215

216 ER 2-3

217 It is unethical to knowingly:

218

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

221

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

225

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

228

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

232

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

234

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

237

238 (g) fail or refuse to fulfill each obligation under the Bylaws, Regulations, policies and procedures
239 of the Appraisal Institute.

240

ER 2-4

241

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

242

243

(a) Records for a written Report must include:

244

245

- a copy of the written Report(s); and

246

247

- 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.

248

249

250

251

252

(b) Records for an oral Report must include:

253

254

- the name of the client and the identity, by name or type, of any other intended users;

255

256

- the valuer's signed and dated certification;

257

258

- 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

259

260

261

262

- 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.

263

264

265

266

267

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

268

269

ER 2-5

270

It is unethical to fail to retain required records for:

271

272

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

273

274

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

275

276

277

(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;

278

279

280

281

(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

282

283 (e) a period of two years following the final disposition of a review of a Service by a
284 governmental licensing or credentialing body;

285

286 whichever period shall be the last to expire.

287

288 ER 2-6

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

292

293 ER 2-7

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

295

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

298

299 (b) that one's employer fails to comply with the Code of Professional Ethics or Standards of
300 Professional Practice of the Appraisal Institute.

301 **Canon 3: In Providing Services, a Valuer Must Develop and**
302 **Report Unbiased Analyses, Opinions, and Conclusions**

303 **Ethical Rules**

304 ER 3-1

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

307

308 ER 3-2

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

312

313 ER 3-3

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

316

317 ER 3-4

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

319

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

322

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

324

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

327

328 ER 3-5

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

330

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

332

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

334

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

336

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

339

340 ER 3-6

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

344

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

348

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

351

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

353

354 ER 3-7

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

359

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

363

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

366

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

368 Canon 4: One Must Not Violate Confidentiality

369 Ethical Rules

370 ER 4-1

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

373

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

375

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

378

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

381

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

384

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

387

388 ER 4-2

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

392

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

395

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

398

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

401

402 (d) Investigators and committee members and their duly authorized representatives within the
403 scope of the Bylaws and Regulations of the Appraisal Institute.

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

406 **Ethical Rules**

407 ER 5-1

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

410

411 ER 5-2

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

415

416 ER 5-3

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

419

420 ER 5-4

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

424

425 ER 5-5

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

Explanatory Comments to Code of Professional Ethics

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

7 Explanatory Comments to Canon 1

8

9 Canon 1 Comment

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

13

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

19

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

26

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

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

34

35 If an individual acts in a misleading or fraudulent manner in activity unrelated to a Service, the public
36 and clients can legitimately question whether such a lack of personal integrity will impact any
37 Services such individual performs. Therefore, ER 1-1(a) and ER 1-1(b) apply to all Services, as well
38 as activities unrelated to Services. An example of a violation of ER 1-1(a) is if a valuer prepares a

39 Report that includes information that he or she knows or should know will lead the Intended User(s) of
40 the Report to an improper conclusion.

41

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

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

49 **ER 1-1(c) and (d) Comment**

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

53

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

55

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

60

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

64

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

66

- 67 • a valuer transmits a Report to a client that contains a misleading analysis of comparable
68 sales.
- 69 • a valuer allows an independent contractor to transmit a Report containing a misleading
70 highest and best use conclusion to a client.

71

72 **ER 1-1(e) Comment**

73 A valuer must not transmit a Report that contains an analysis, opinion, or conclusion that is not
74 justified. To do so harms the public interest and undermines public and client confidence in the
75 valuer; valuers generally; the Appraisal Institute; and the profession.

76

77 The test under ER 1-1(e) is whether reasonable valuers would believe the analysis, opinion, or
78 conclusion to be justified. Valuers can and do differ as to the appropriate solutions to a valuation
79 issue. If, however, reasonable valuers conclude that an analysis, opinion or conclusion is not
80 reasonably supported, then such analysis, opinion or conclusion would not be justified under this
81 Ethical Rule. Evidence that a Report contains an analysis, opinion or conclusion that reasonable

82 valuers would not believe to be justified may include, but is not limited to, analyses, opinions and
83 conclusions developed through unsupported and unreasonable valuation or review practices. The
84 Appraisal Institute Guide Notes to the Standards of Professional Practice and Appraisal Institute
85 courses, seminars, and textbooks such as *The Appraisal of Real Estate* identify many reasonable
86 appraisal and review practices.

87

88 This Ethical Rule applies regardless of whether the valuer signed the Report.

89

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

91

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

95

96 **ER 1-2 Comment**

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

106

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

112

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

116

117 Under Appraisal Institute Regulation No. 6, a violation of ER 1-2 will result in automatic expulsion
118 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.

160 **ER 2-2 Comment**

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

165 **ER 2-3 Comment**

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

175

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

179

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

186

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

188

- 189 • ER 2-3(a): A valuer submits a continuing education log to the Appraisal Institute that
190 represents that the individual took a course that the individual did not in fact take or that
191 represents that the course provided a greater number of hours of continuing education than it
192 actually did.
- 193 • ER 2-3(b): A valuer fails to promptly comply with a request for information or documentation
194 from an Appraisal Institute Investigator that the individual was required to preserve under ER
195 2-5.

196 **ER 2-4 Comment**

197 The Appraisal Institute has promulgated the Code of Professional Ethics and Standards of
198 Professional Practice in part to establish requirements that will help ensure that valuers will transmit
199 credible analyses, opinions, and conclusions. Such requirements also give the public and client's
200 confidence that a valuer's analyses, opinions, and conclusions are based on sound data and

201 reasoning, and that such analyses, opinions, and conclusions are not predetermined or mere
202 speculation.

203

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

208

209 **ER 2-5 Comment**

210 For the Appraisal Institute to effectively fulfill the vital functions of admissions and peer review, the
211 Appraisal Institute and its duly authorized representatives must have access to relevant records.
212 Valuers have a responsibility to consider and correctly apply the factors that can affect the retention
213 period for records before disposing of such records. For example, if a valuer prepares an appraisal on
214 April 30, 2012, the valuer must initially maintain records relating to that appraisal until at least April
215 30, 2017. If, however, the valuer then gives testimony on April 15, 2015, in a judicial proceeding
216 concerning the appraisal and the judicial proceedings are not completed until May 30, 2016, the
217 retention period changes and the records must be maintained until at least May 30, 2018.

218

219 **ER 2-6 Comment**

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

224

225 **ER 2-7 Comment**

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

235

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

239

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

244 Explanatory Comments to Canon 3

245

246 Canon 3 Comment

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

255

256 ER 3-1 Comment

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

264

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

274

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

281

282 Evidence that a valuer performed a Service under a contingent fee arrangement does not constitute
283 evidence of bias, in and of itself. Valuers are participants in the global economy. In the global
284 economy the norms for ethical practice concerning specific conduct may differ depending on
285 applicable national customs and standards. The matter of contingent fee arrangements is an example
286 of an area where the norms for ethical practice differ depending on the Standards used by the valuer.
287 For example, the Uniform Standards of Professional Appraisal Practice (USPAP) prohibits contingent

288 fee arrangements for valuation services. On the other hand, the International Valuation Standards
289 (IVS) permits contingent fee arrangements for valuation services as long as the valuer's fee does not
290 depend on a predetermined outcome of any valuation or other independent, objective advice
291 contained in the Report, and the valuer discloses whether the fee is contingent upon any aspect of
292 the Report.

293

294 **ER 3-2 Comment**

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

298

299 **ER 3-3 Comment**

300 ER 3-3 does not prohibit accepting Services in phases, with the ability to provide a subsequent
301 Service contingent upon the results of a prior Service, as long as the valuer does not render an
302 analysis, opinion, or conclusion that is biased in any of the phases.

303

304 To illustrate the point involved, assume the following facts: A government agency makes an offer to a
305 property owner to purchase the owner's property to expand a roadway. The agency has not begun
306 condemnation proceedings at this point, but may in the future. The attorney working with the property
307 owner contacts a valuer to obtain the valuer's opinion as to whether the market value of the property
308 is more than the amount of the agency's offer. The valuer prepares a Report (for the attorney's use
309 only) in which the valuer's value opinion is "not less than" the amount of the offer. Subsequently, the
310 attorney asks the valuer to prepare a Report (for which the Intended Users will be both the
311 government agency and the attorney for the property owner) for purposes of the condemnation
312 litigation. Note that these are two separate assignments, with different, though related, Intended Uses
313 and different Intended Users. If the valuer accepts these assignments, the valuer will not violate ER
314 3-3. The valuer was required to develop and report both the first and second Service in an unbiased
315 manner. Although the second Service was in essence contingent on the results of the first Service, it
316 was not contingent on a "predetermined" analysis, opinion, or conclusion.

317

318 **ER 3-4 Comment**

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

323

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

327

328 **ER 3-5 Comment**

329 An example of the use of a Special Assumption in an appraisal would be when there is reason to
330 believe – though it is uncertain – that the subject property may be contaminated, but it is valued as
331 though it is free of contamination on the date of value. Another example would be the valuer does not

332 inspect the subject property and bases the appraisal on the presumption that information provided
333 about the property (size, condition, etc.) is accurate.

334

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

339

340 **ER 3-6 Comment**

341 If a valuer has a personal interest in the subject or outcome of a Service or with respect to the parties
342 involved in the Service, such interest may provide an incentive for the valuer to render an analysis,
343 opinion, or conclusion that is biased, misleading, or otherwise unreliable. At a minimum, such a
344 personal interest may create an appearance that any resulting analysis, opinion, or conclusion may
345 be biased, misleading, or otherwise unreliable. An analysis, opinion, or conclusion that is biased,
346 misleading, or otherwise unreliable, or that may be perceived to be so, undermines the confidence and
347 trust that the public and clients must have in valuers.

348

349 In review assignments, "parties involved in the Service" include the individual who prepared the
350 Report being reviewed.

351

352 **ER 3-7 Comment**

353 If a valuer knowingly acquires an interest in property or assumes a position that could possibly affect
354 the valuer's judgment or violate the valuer's responsibilities to the client between the time the valuer
355 is contacted concerning a Service and when the valuer completes the Service, such interest or
356 change in position may provide an incentive for the valuer to render an analysis, opinion, or
357 conclusion that is biased, misleading, or otherwise unreliable and harms the client. At a minimum,
358 such interest or change in position may create an appearance that any resulting analysis, opinion, or
359 conclusion may be biased, misleading, or otherwise unreliable and that the valuer's interest or
360 position is in conflict with the valuer's responsibilities to the client.

361 Explanatory Comments to Canon 4

362

363 Canon 4 Comment

364 Confidentiality is a critical component of any relationship between a valuer and a client. Confidentiality
365 fosters full and candid disclosure of relevant information by the client. Such disclosure enables the
366 valuer to provide credible analyses, opinions, and conclusions to the client.

367

368 ER 4-1 Comment

369 ER 4-1 sets forth the general confidentiality requirements of the valuer-client relationship.

370

371 The client has a legitimate interest in controlling the disclosure of confidential Information, analyses,
372 opinions, and conclusions in part because the client pays for Services rendered and because the
373 disclosure of such information, analyses, opinions, and conclusions may harm the client. At the same
374 time, valuers must be able to comply with their legal, ethical and professional obligations, must be
375 able to seek and maintain professional liability insurance coverage, and must be allowed a
376 reasonable opportunity to defend themselves in a legal or regulatory action.

377

378 ER 4-2 Comment

379 For the Appraisal Institute to effectively fulfill the vital functions of admissions and peer review,
380 appropriate Appraisal Institute committees and other Appraisal Institute duly authorized
381 representatives must and will have access to confidential information provided to valuers by their
382 clients. Clients understand and are on notice that appropriate Appraisal Institute committees and
383 other Appraisal Institute duly authorized representatives will have access to their confidential
384 Information, as well as confidential analyses, opinions, and conclusions, because valuers must inform
385 their clients that their Reports are subject to review by the duly authorized representatives of the
386 Appraisal Institute. Further, clients retain Appraisal Institute valuers in part because of the admissions
387 and peer review functions of the Appraisal Institute and such clients benefit from the resulting
388 increased quality of the Services that Members, Candidates, Practicing Affiliates and Affiliates
389 provide. At the same time, Members, Candidates, Practicing Affiliates and Affiliates who serve on
390 committees or other bodies relating to admissions and peer review functions must not act in a manner
391 that would harm a client or take advantage of serving in these important roles to obtain professional
392 advantage by discussing or disclosing confidential information, analyses, opinions, conclusions, and
393 factual data derived from such activities. Since Members, Candidates, Practicing Affiliates and
394 Affiliates must keep strictly confidential the information, analyses, opinions, conclusions, and factual
395 data derived through admissions and peer review activities, the client is protected.

396 Explanatory Comments to Canon 5

397

398 Canon 5 Comment

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

406

407 **ER 5-1 Comment**

408 Valuers may utilize advertising to inform the public and prospective clients of the Services they offer, the
409 cost of such Services, and their qualifications. However, advertising must not be misleading or calculated
410 to create unrealistic expectations in the minds of the parties to whom the advertising is directed. In
411 promoting their Services, valuers must take particular care not to state or imply that they will develop,
412 prepare, use or report an analysis, opinion or conclusion that is biased or that they will deviate from the
413 strict Standards and Ethical requirements with which they have agreed to comply.

414 Also, a valuer cannot avoid ethical responsibility by using a corporation, partnership or other entity (or
415 multiple entities) to advertise Services in a misleading manner.

416

417 **ER 5-2 Comment**

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

422

423 The Appraisal Institute is the sole owner of its name, corporate logo, membership designations, and
424 emblems ("marks"), which are registered with the United States Patent and Trademark Office.

425 The authorized or permitted uses of these marks are set forth in the Bylaws, Code of Professional Ethics,
426 Regulation No. 5, and Trademark Usage Manual, and are subject to federal law.

427

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

431

432 **ER 5-3 Comment**

433 Misleading solicitations for Services are contrary to the public interest and undermine the reputation of the
434 profession and its practitioners. Therefore, a valuer may not solicit for Services in a manner that is
435 misleading.

436

437 For example, a valuer may not inform a prospective client that the valuer has qualifications that the valuer
438 does not possess. As another example, a valuer may not state or imply in a solicitation for Services that
439 the valuer can develop, prepare, use, or report an analysis, opinion, or conclusion that is biased.

440 Ethical responsibility cannot be avoided by using a corporation, partnership, or other entity (or multiple
441 entities) to solicit Services in a misleading manner. Therefore, one may not knowingly permit an entity that
442 is wholly or partially owned or controlled by such individual to solicit Services in a manner that is
443 misleading, even if name of the individual is not specifically mentioned in the solicitation.
444

445 **ER 5-4 Comment**

446 The primary basis for someone to refer a Service to a valuer should be his or her qualifications, rather
447 than financial incentive. At the same time, federal law prohibits a professional organization from
448 prohibiting all referral fees. Therefore, one may pay a fee, commission, or thing of value to procure a
449 Service, but such payment must be disclosed in any resulting Report. The intended user(s) should know
450 that a fee, commission, or thing of value was paid to procure the Service and to consider such information
451 in evaluating the Service.
452

453 Disclosure is required only if the payment made is a condition of the referral. For example, if the party to
454 whom a referral is made subsequently invites the referring party to dinner as a token of appreciation, this
455 act would not be payment of a “thing of value” and disclosure would not be required.
456

457 ER 5-4 does not apply when performing work that is subject to the requirements of another licensed
458 occupation or profession. For example, if one is licensed as a real estate broker and is acting in a
459 capacity as a real estate broker, the payment and disclosure of a fee, commission, or thing of value for
460 procurement of the assignment are governed by the laws and regulations governing real estate brokers,
461 rather than ER 5-4.
462

463 **ER 5-5 Comment**

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

Effective 5/10/2018