

Appraisal Institute Hot Topic Archive

Liability Issues for Appraisers

Valuation of Contaminated Properties

Appraising in Declining Markets

Appraising in Litigation

Commercial Real Estate Workouts

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Liability Issues for Appraisers

Liability Reports - For Appraisal Institute Members, Candidates, Practicing Affiliates and Affiliates Only

Published by Peter Christensen, General Counsel, LIA Administrators & Insurances Services, Liability Reports are designed to keep Appraisal Institute Members, Candidates, Practicing Affiliates and Affiliates informed of today's liability issues for appraisers. [Read Peter's bio here](#)

[Liability Report - Dec. 2010: "Making Appraisal Statements and Limiting Conditions More Effective"](#)

Most appraisers give careful thought to the statements, limiting conditions and other terms contained in their reports. Unfortunately, appraisers defending themselves against lawsuits are often shocked by the ease with which courts ignore their carefully crafted language.

[Liability Report - Sept. 2010: "The FDIC Threat"](#)

The FDIC is currently the single biggest source of liability claims against appraisers based on the number of demand letters and lawsuits in 2009-2010.

[Claim Alert Newsletters](#), LIA Administrators & Insurance Services

Articles from the Lum Library

- Christensen, "Know Your Rights," *Valuation*, First Quarter 2010: 12.
- Christensen, "Lawsuits, Complaints Soar in Recession," *Valuation*, Third Quarter 2009: 28.
- Coleman, "A Picture can be Worth a Thousand Words," *Valuation Insights & Perspectives*, First Quarter 1998: 35.
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- Gaglione and Coleman, "Employment Agreements: Read the 'Fine Print'," *Valuation Insights & Perspectives*, Second Quarter 1999: 33.
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- Liability Insurance Administrators, "Investigate Client Backgrounds - It could Save you Trouble," *Valuation Insights & Perspectives*, First Quarter 1997: 29.
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- Liability Insurance Administrators, "Managing Exposure in the Face of HUD Reforms," *Valuation Insights & Perspectives*, Fourth Quarter 2002: 28.

- Wiley, "Do I Really Need E&O Insurance?," *Valuation Insights & Perspectives*, First Quarter 2001: 36.
- Wiley, "Marketing 101: Remember Your Abilities and Liabilities," *Valuation Insights & Perspectives*, Fourth Quarter 2001: 42.
- Wiley, "Scope of Work: Successful Case Closed," *Valuation Insights & Perspectives*, Third Quarter 2004: 44.
- Wiley, "Vacant Land: A Nightmare for an Appraiser," *Valuation Insights & Perspectives*, Second Quarter 2005: 36.
- Wiley & Gaglione, "10 Tips for Reducing Your E&O Exposure," *Valuation*, Second Quarter 2007: 33.
- Wiley & Gaglione, "2003 Errors & Omissions Claims Analysis," *Valuation Insights & Perspectives*, Second Quarter 2004: 36.
- Wiley & Gaglione, "Appraising after a Natural Disaster," *Valuation Insights & Perspectives*, Fourth Quarter 2005: 44.
- Wiley & Gaglione, "Avoid Fraud, Appraise Your Client," *Valuation*, Fourth Quarter 2008: 45.
- Wiley & Gaglione, "Claims and Complaints: Avoiding Legal Landmines," *Valuation*, Fourth Quarter 2007: 30.
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- Wiley & Gaglione, "Defend your Reputation with Appraisal Workfiles," *Valuation*, Fourth Quarter 2009: 24.
- Wiley & Gaglione, "Identity Theft, Forgery and other 'Altered' States," *Valuation*, First Quarter 2007: 32.
- Wiley & Gaglione, "Mold: The Hidden Menace," *Valuation Insights & Perspectives*, Second Quarter 2002: 34.
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- Wiley & Gaglione, "Photos: The Good, the Bad, and the Ugly," *Valuation Insights & Perspectives*, Fourth Quarter 2004: 37.
- Wiley & Gaglione, "Sorting out Ambiguities of New Fannie Mae/Freddie Mac Forms," *Valuation Insights & Perspectives*, Third Quarter 2005: 34.
- Wiley & Gaglione, "Spot Predators before they Risk your Career," *Valuation Insights & Perspectives*, First Quarter 2003: 30.
- Wiley & Gaglione, "Subprime Crisis and E&O Insurance," *Valuation*, Third Quarter 2008: 40.
- Wiley & Gaglione, "Telltale Claims," *Valuation Insights & Perspectives*, Fourth Quarter 2003: 41.
- Wiley & Gaglione, "Using Trainees - The Safe Way," *Valuation Insights & Perspectives*, Fourth Quarter 2003: 41.

If you have questions about any of these resources, please contact the Lum Library at (312) 335-4467 or ailibrary@appraisalinstitute.org.

Valuation of Contaminated Properties

Articles from the Lum Library

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- Bell, "Contaminated Waterways and Property Valuation," *The Appraisal Journal*, Fall 2008: 344.
- Jackson, "Case Studies Analysis: Environmental Stigma and Monitored Natural Attenuation," *The Appraisal Journal*, Spring 2004: 111.
- Jackson, "The Effects of Previous Environmental Contamination on Industrial Real Estate," *The Appraisal Journal*, April 2001: 200.
- Jackson, "The EPA's Proposed All inquiries Rule and the Appraisal of Contaminated Properties," *The Appraisal Journal*, Spring 2005: 146.
- Jackson, "Evaluating Environmental Stigma with Multiple Regression Analysis," *The Appraisal Journal*, Fall 2005: 363.
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- Mathews, "Under the Microscope: Dissection of a Contingent Valuation Survey," *The Appraisal Journal*, Summer 2008: 259.
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- Mitchell, "Estimating Economic Damages to Real Property Due to Loss of Marketability, Rentability, and Stigma," *The Appraisal Journal*, April 2000: 162.
- Mundy, "Stigma and Value," *The Appraisal Journal*, January 1992: 7.
- Roddewig, "Adjusting Environmental Case Study Comparables by Using an Environmental Risk Scoring System," *The Appraisal Journal*, October 2000: 371.
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- Roddewig, "Junk Science, Environmental Stigma, Market Surveys, and Proper Appraisal Methodology: Recent Lessons from the Litigation Trenches," *The Appraisal Journal*, October 1999: 447.
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- Simons, Mikelbank, & Winson-Geideman, "The Effects of Oil Pipeline Ruptures on Single-Family House Prices," *The Appraisal Journal*, October 2001: 410.

- White, "Valuing Unique Natural Resources: Endangered Species," *The Appraisal Journal*, July 1996: 295.
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AI Books

- Environmental and Legal Issues Specialty Book Package
- Bell, Anderson and Sanders, "*Real Estate Damages: Applied Economics and Detrimental Conditions*," Second Edition, Appraisal Institute, 2008
- Roddewig, "*Valuing Contaminated Properties: An Appraisal Institute Anthology*," Appraisal Institute, 2002

AI Courses/Seminars

- Analyzing the Effects of Environmental Contamination on Real Property

Internet Resources

- [Contaminated Land](#) - US EPA Report on the Environment
- Carson, Mitchell, Hanemann, Kopp, Presser, & Ruud, "Contingent Valuation and Lost Passive Use: Damages from the Exxon Valdez Oil Spill," *25 Environmental and Resource Economics*, 2003: 257

Additional Reading

NOTE: Links are accessible to Designated members only

- "Environmental Hazards and Residential Property Values: Evidence from a Major Pipeline Event," *Land Economics*, November 2006: 529.
- Green, "Solving Environmental Risk in Commercial Real Estate Transactions," *Commercial Lending Review*, January 2006: 25.
- Haney, "Adverse Environmental Conditions: Their Impacts on Real Estate Values," *Journal of Real Estate Research*, Summer 1992: 235.
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Appraising in Declining Markets

Articles from the Lum Library

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- McAlister, Carter, and Chen, "The Art of Appraising in a Recession," *Valuation*, Third Quarter 2009: 10.
- Parli & Fisher, "Risk and Reasonableness for Nonmarket Occupancy - A Second Look During a Recession," *The Appraisal Journal*, Winter 2010: 94.
- Rattermann, "Appraising Residential Property in a Changing Market," *The Appraisal Journal*, Winter 2007: 14.
- Rattermann, "Financing and Sales Concessions: Do We Adjust or Not?," *The Appraisal Journal*, Winter 2009: 18.
- Rattermann, "Foreclosure Markets - Wholesale or Retail?," *The Appraisal Journal*, Summer 2008: 211.
- Rattermann and Smeltzer, "Appraising in Difficult Market Conditions," *AppraiserCAST*, Episode 6, Appraisal Institute 2008.
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- Steinke, "The REO Supplemental Addendum - Square Pegs and Round Holes," *The Appraisal Journal*, Fall 2009: 365.

AI Education Material

- [Retail Case Study and Land Residual Technique](#), "Excerpt from *Appraising Distressed Commercial Real Estate: Here We Go Again*, Seminar Handbook, Appraisal Institute, 2009.

AI Courses/Seminars

Commercial

- [Analyzing Distressed Real Estate](#) (online only)
- [Appraising Distressed Commercial Real Estate: Here We Go Again](#) (classroom only)

Residential

- [Appraisal Challenges: Declining Markets and Sales Concessions](#) (classroom and online available)
- [REO Appraisal – Appraisal of Residential Property for Foreclosure and Preforeclosure](#) (classroom only)
- [Residential Appraisal Update 2010: Staying Competent in a New Decade](#) (classroom only) - Half-day morning session
- [Residential Appraisal Update 2010: Staying Competent in a New Decade](#) (classroom only) - Half-day afternoon session

AI Webinar Recordings

- [Appraising Distressed Commercial Real Estate: Here We Go Again](#) (recorded November 12, 2008)
- [Residential Development: Valuation Trends, Issues and Challenges](#) (recorded October 28, 2009)

AI Communities of Practice

- [Appraising in Declining Markets Community](#) - An online forum in which members of the Appraisal Institute can discuss the tools, resources and procedures used in valuing real estate during a significant market downturn.

AI Guide Notes

- [Guide Note 11: Comparable Selection in a Declining Market](#). *Guide Notes to the Standards of Professional Appraisal Practice of the Appraisal Institute* (Chicago, IL: The Appraisal Institute, 2011).

Internet Resources

- ["Making Sense of the Nonsense: Providing Credible Appraisals in a Declining Market"](#) Appraisal Institute

Additional Reading

NOTE: Links are accessible to Designated members only

- Berry, "Why Servicers May Bite the Bullet this Year," *American Banker*, January 19, 2010: 1.
- Cogan, "In the Wake of a Crisis" *Economist*, November 21, 2009, *World in 2010 Supplement*, 135.
- Dervishi and Seward, "Using Receiverships to Maximize the Value of Distressed Assets," *Florida Bar Journal*, December 2009: 8.
- Gaffney, "The Role of Land Markets in Economic Crises," *American Journal of Economics & Sociology*, October 2009: 855.
- Vogel, "Forces that Are Changing REITs Forever," *Real Estate Finance*, October 2009: 3.

Appraising in Litigation

Articles from the Lum Library

- Alberts and Hoyt, "Implications of the 'Kumho Tire' Case for Appraisal Expert Witnesses," *The Appraisal Journal*, January: 2001: 11.
- Black, "Recovery of Litigation Fees and Expenses in Federal Condemnation Proceedings Under the Equal Access to Justice Act," *The Appraisal Journal*, Spring 2004: 92.
- Black and Duvall, "Once Upon an Offer: Use of Unaccepted Offers to Purchase Real Estate as Evidence of Valuation in Condemnation Proceedings," *The Appraisal Journal*, January 2002: 70.
- Eblin, "The Local Arm of the Law: Getting Involved in Expert Testimony," *Valuation Insights & Perspectives*, First Quarter 2002: 5.
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- Harrington, "The Legal Perspective: Federal Rule of Evidence and the Frye and Daubert Standards or When is an Expert Not an Expert?," *Environmental & Property Damages Symposium : Standards, Due Diligence, Valuation & Strategy*, Toronto, 2002.
- Heller, Colwell and Trefzger, "Expert Testimony: Regression Analysis and Other Systematic Methodologies," *The Appraisal Journal*, Summer 2009: 253.
- Hoffman, "Preparing for Expert Testimony," *The Appraisal Journal*, October 2002: 380.
- Hoyt and Aalberts, "Daubert and the Appraisal Expert Witness Revisited," *The Appraisal Journal*, Spring 2008: 168.
- Hoyt, Aalberts, and Poon, "Daubert and Qualification of the Appraisal Expert Witness," *The Appraisal Journal*, Summer 2010: 283
- McElhaney, "Put Simply, Make Your Experts Teach," *The Appraisal Journal*, Fall 2008: 313.
- Smith, "To Whom are Appraisers Liable?," *The Appraisal Journal*, April 2001: 190.
- Talmage, "Cross-Examination at a Jury Trial," *The Appraisal Journal*, April 2003: 150.
- Weber, "Compliance with Daubert," *The Appraisal Journal*, October 2002: 438.

AI Books

- Eaton, "*Real Estate Valuation in Litigation*," Second Edition, Appraisal Institute, 1995

AI Education Material

- "Reviewing Appraisals for Litigation," Excerpt from *Litigation Appraising: Specialized Topics and Applications, Course Handbook*, Appraisal Institute, 1999, 2009.

AI Courses/Seminars

Litigation Certificate of Completion Program

- The Appraiser as an Expert Witness: Preparation and Testimony (classroom only)*
- Condemnation Appraising: Principles & Applications (classroom only)*
- Litigation Appraising: Specialized Topics and Applications (classroom only)*

* Earn a Certificate of Completion for successfully passing the exams for these three courses! [Learn more.](#)

Other Related Classes

- [Eminent Domain and Condemnation \(online only\)](#)
- [Litigation Skills for the Appraiser: An Overview \(classroom only\)](#)

Internet Resources

- [JurisPro Expert Witness Directory](#) Discount for AI Members, Candidates, Practicing Affiliates and Affiliates

Additional Reading

NOTE: Links are accessible to Designated members only

- Crosby, Kincaid, Murdoch, and Lavers, "[Expert Valuation Witnesses in Australia and the UK](#)," [Journal of Property Research](#), September 2003: 281.
- Finkelstein, "[Appraisal Lawsuits Filed Against Countrywide and Wells Fargo](#)," [National Mortgage News](#), February 23, 2009: 3.
- Lendez and Dewey, "[Litigation Related to Subprime Mortgages: A Review of Accounting Principles](#)," [Bank Accounting & Finance](#), April/May 2009: 28.
- Perry, "[May it Please the Court...](#)," [Accounting Technology](#), October 2005: 8.
- Zipp, "[Powerful Testimony Techniques](#)," [Journal of Accountancy](#), December 1992: 79.

Commercial Real Estate Workouts

Articles from the Lum Library

- Anglyn, "Distressed Property Valuation Issues," *The Appraisal Journal*, Spring 2005: 210.
- DeLisle, "Refleciting on the Future." *The Appraisal Journal*, Winter 2010: 6.
- DeLisle, "Too Much Pain, Too Little Gain," *The Appraisal Journal*, Spring 2009: 97.
- McAlister, Carter, and Chen, "The Art of Appraising in a Recession," *Valuation*, Third Quarter 2009: 10.
- Quentin, "The Subprime Crisis - Implications for Property Valuation? : The Revival of Mortgage Lending Value," *The Appraisal Journal*, Fall 2009: 312.
- Trotz, "Valuation of Properties in Real Estate Finance," *Pan Pacific Congress of Real Estate Appraisers, Valuers and Counselors*, San Francisco, September 16-19, 2006.

Internet Resources

- [Policy Statement on Prudent Commercial Real Estate Loan Workouts - FDIC](#)

Additional Reading

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- Appicelli, "An Introduction to Securitized Loan Workouts," *Real Estate Finance*, June 2009: 6.
- Briskin, "No-Sweat Workouts," *California CPA*, June 2009: 20.
- Butler and Steiner, "New Rules of Engagement for Workouts: REMICs & Distressed Real Estate Loans," *Real Estate Issues*, Winter 2001/2002: 1.
- Cocheo, "CRE Pain," *ABA Banking Journal*, December 2009; 16.
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- Handorf, "Discount Rates, Market Sources of Information and Loan Workouts," *Commercial Lending Review*, March 2009: 11.
- Hopkins, "Workout Guidance for CRE Lenders," *American Banker*, November 2, 2009: 2.
- Hudgins, "Survival Mode," *National Real Estate Investor*, January/February 2010: 20.
- Lepro, "GSEs Going Around Loan Servicers," *American Banker*, January 29, 2010: 1.
- Pliska, "Going from Mark-to-Market to Mark-to-Make-Believe," *Real Estate Issues*, Winter 2009/2010: 44.
- "Regulators Adopt CRE Guidelines," *Credit Union Times*, November 11, 2009: 6.
- Ricca, "Special Servicers, Lenders Work it Out," *Hotel & Motel Management*, November 23, 2009: 1.
- Saft, "Workouts of Condominium Construction Loans," *Commercial Lending Review*, May 2009: 11.
- Simmons, "Loan Workout--The New Mortgage Channel?," *Mortgage Banking*, August 2009: 66.