“In-credible Appraisal” and Review
-A Study in the Unique

McCall Session
In-Credible Appraisal
Right of Way Review Challenges

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There are components of this work that provide unique challenges to both the appraiser and reviewer.

- Undivided fee, project influence, damages, enhancements, partial acquisitions, easements, tenant owned improvements, police power, etc.
- Appraisers generally approach this with one of two distinct outlooks.
Interesting or Terrifying
• Despite challenges, there is one aspect of this review work that is far less common in typical review assignments
• Appraiser/Reviewer communication!
• The two are encouraged to review the assignment(s) prior to beginning and maintain communication throughout the process
Scope of Work

- Step 2 in the Appraisal Review Process involves the Reviewer reaching a conclusion as to an acceptable scope of work for the review.
- In RW acquisition appraisal (subject to FHWA), the reviewer’s scope includes engaging the appraiser at the outset to clarify problem areas and discuss an acceptable scope of work for the appraisal.
The goal of this collaboration is not to direct the appraiser but rather to accurately identify the problems and issues from the outset.

The reviewer may not personally agree with the appraiser but they have an obligation to examine the work under review for Completeness, Accuracy, Adequacy, Relevance and Reasonableness as required by Step 3 of the Review Process.
The southern outskirts of the Washington DC commuter bedroom community extends 50 miles south to the Town of Fredericksburg, Virginia.

Both retail and residential development had flourished in this area around I-95 (major N/S Interstate) but was flat at the time of the appraisal.

The subject property is an industrial park located three miles east of I-95 and four miles SE of the heart of Fredericksburg.
The subject property was chosen years before as a likely location for a new commuter rail station.

The Master Plan indicated as much and the owners had it re-zoned for mixed use retail, multifamily, etc.

The industrial park, developed over a decade earlier, was about 30% occupied and abutted the railroad tracks.
Proposed Commuter Rail Station

- The appraiser appraised the property, as of the effective date of the taking, based on industrial land value
- The owner protested bitterly citing the Master Plan and re-zoning
- What was the appraiser’s rationale.....?
(b) Influence of the project on just compensation. The appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project,...

49 CFR Part 24.103 (b)
Project Influence: Rationale

- Project influence asks the appraiser to approach the property in the “before scenario” as if the project did not exist
- This is meant to prevent the owner from receiving a windfall that did not exist prior to the project
- And to prevent the owner from suffering in the case of project blight
Project Influence: Challenges

- It is often difficult to segregate project influence
- Careful interviews when verifying sales can provide useful insight
- It is also difficult to accurately identify the timeline when the market starts to react to a long-range planned project - at preliminary planning, at funding?
Appraiser’s Case

- Despite the rezoning, the appraiser made the case that, without the station, there was no demand here.
- As stated earlier, the retail market centered around the Interstate, closely accompanied by residential development
- This was because the Interstate was the primary linkage for work, services, etc.
The appraiser pointed out there was also plenty of zoned and approved residential land between the subject and the Interstate which, prior to the project, would be absorbed first.

There was no retail to speak of nor any demand in the vicinity of the subject which lay on the outskirts of even the industrial market.

There were some, though limited, recent industrial sales within the property at prices slightly less than the industrial sector to the northeast.
Appraiser’s Case (cont)

- The appraiser pointed out that the train station establishes a new major linkage for the larger area
- Both retail and residential values skyrocket in the vicinity of these hubs
- The Master Plan and re-zoning are both directly related in a clearly demonstrable way to the project
- Without it, despite the zoning, there was only limited industrial demand for this property
Reviewer’s Step 3 Analysis

- **Completeness** - The appraiser addressed his rationale including a clear and complete explanation of zoning and Master Plan lack of impact
- **Accuracy** - Identified the key elements of real supply and demand factors
- **Adequacy** - Supplied sufficient market support to make the case
Reviewer’s Step 3 Analysis

- Relevance - The project influence issue was absolutely the most relevant factor in the difference of opinion as to how to treat the zoning question
- Reasonableness - building a clearly demonstrable case using both macro and micro market data provided a clear and reasonable explanation for his conclusions
“Develop an opinion whether analyses are appropriate within the context of the requirements applicable to that work”

The appraiser recognized his obligation to address Project Influence and set out to methodically explain that both the zoning and the Master Plan were totally reliant on the project.

And that the market showed no interest in this area prior to actual authorization to proceed.
The report was compliant with the characteristics in Step 3 and the analyses were found to be appropriate.

The reviewer reached the conclusion that the results were indeed credible within the context of the requirements applicable to the work.
Additional Food for Thought

- It often takes a lot of work to adequately address the seldom understood project influence issues and despite the best efforts
  - owners do not understand
  - judges do not understand
  - and juries do not understand
- In this case, the court split the award as is often the case
It can not be stressed enough that both the reviewer and the appraiser be competent
- both in the subject matter, e.g. project influence
- and in the regulatory and legal environment
A reviewer I know experienced an appraisal almost identical to this but he was in another state.

There, the law dictated that if the project was specifically mentioned (as it was in our case) the zoning was deemed “anticipatory”.

The property must then be appraised (as ours was) in alignment with the prior zoning.
That’s All for Today - Questions?
Thank You