

Montana Chapter Newsletter

A Letter From the President

Dear Fellow Appraisers,



Thank you for allowing me to serve as the President of the Montana Chapter of Appraisal Institute for 2013. As the appraisal profession continues to evolve and change it is crucial that we maintain a strong chapter and a solid relationship with AI National.

Our chapter volunteers and the staff at Seattle Operating Support (Executive Director for our chapter) all did fantastic jobs in insuring that we fulfilled the policy and procedure requirements of the Appraisal Institute for 2013. Now that we have the support of such a wonderful cadre of volunteers and a professional and dedicated staff, we can continue to work on strengthening our chapter.

My sincere thanks go to all of you who donated hours attending meetings and assisting with the running of our chapter. Personal involvement really makes a difference!

Please join me in welcoming our 2014 officers;

- President – Keith O'Reilly, MAI
- Vice President – Jennifer McGinnis, MAI
- Secretary – Darwin Ernst, SRA
- Treasurer – Gary Ryan

It has been a pleasure to serve the Montana Chapter of the Appraisal Institute. It has been rewarding professionally and personally. **Please join me in volunteering in 2014!**

Ellie Clark, MAI

President, Montana Chapter of the Appraisal Institute

New 2014-15 USPAP Update in Bozeman, January 31!

Registration is now open for the January 31, 2014 offering of the 7-hour USPAP Update – new 2014-15 version! Join us at the GranTree Inn in Bozeman, MT. \$140 Appraisal Institute price, \$185 for all others.

[Click here to register and for full information](#)

Don't forget! Each attendee is responsible for bringing their own copy of the 2014-15 USPAP – it's REQUIRED for course credit. [Click here](#) to purchase from The Appraisal Foundation. Hardcopies and electronic versions are available.

Last MT Chapter Meetings of 2013 to be Held December 5 Via Conference Call

The next Board and General Membership Meetings of the Montana Chapter will be held via conference call December 5. The Board meeting will begin at 2:00 PM; all others will join the call at 2:30 PM for the general membership meeting. A separate e-mail with agendas and dial-in information will be sent to all on the Montana e-mail list closer to the date of the meeting.

Candidates! This is the last meeting of 2013 and can fulfill your requirement to attend one meeting per year. Don't miss this opportunity!

45-Day Notice and the Next Region 1 Meeting

The next Region 1 meeting is scheduled to take place November 5 via conference call. During this meeting there will be a discussion of the most recent 45-day notice, released October 7. This notice covers proposed changes to Regulation Nos. 4 and 10. The proposed amendments concern moving from an hours-based continuing education system to a points-based system. The AI Board of Directors will consider the proposed amendments at its November 21-22 meeting in Chicago.

Read a summary and the full text of the proposed amendments on the ["My Appraisal Institute" page](#) of the AI website (log-in required). Comments on the proposed changes can be sent to Chapter President Ellie Clark, MAI at eclark@clarkappraisal.us who will participate in the November 5 call, or directly to the national office at 45daynotice@appraisalinstitute.org.

Submit Your Own Volunteer Hours Online for 2013

Did you volunteer with the Montana Chapter, Region 1 or the Appraisal Institute in 2013? Did you know Designated members, Candidates and Practicing Affiliates may earn up to 25 credit hours per 5-year cycle for AI volunteer time? If you volunteered with Committees, Board of Directors, etc. in 2013, here's how to enter your hours:

1. Log into your [My AI Account](#) and click on My Designated Member CE Log
2. Scroll down and click the ADD to CE Log button.
3. Choose Hours of Service to Appraisal Institute from the Program Type drop down menu.

Get Involved with the Montana Chapter

There are plenty of opportunities to participate in the Montana Chapter of the Appraisal Institute. Help us as we continue to strive to make our chapter a great education and networking resource for Montana appraisers! To get involved, contact Chapter President Ellie Clark, MAI at eclark@clarkappraisal.us

Montana Member Receives Service Award



During the September 13, 2013 Montana Chapter membership meeting, Billie Veerkamp presented Jennifer McGinnis, MAI with a plaque for her years of service to the State of Montana Board of Real Estate Appraisers. Congratulations and thank you for all of your work, Jennifer!

AI Announces Major Strategic Initiatives for Valuation Profession

CHICAGO (Oct. 8, 2013) – The Appraisal Institute, the nation’s largest professional association of real estate appraisers, today announced three major strategic initiatives that have the potential to fundamentally reshape the global valuation profession.

The Appraisal Institute will:

- Issue proposed standards of valuation practice that could serve as an alternative for valuation professionals where national or other standards are not required;
- Expand delivery of Appraisal Institute education, becoming more proactive in identifying and pursuing appraisal educational opportunities; and
- Create a new certification organization to establish a future generation of cross-disciplinary valuation professionals and to enhance their marketability in a competitive job environment.

“These strategic initiatives are creative and comprehensive. They will have a huge impact on the future of the global valuation profession,” said Appraisal Institute President Richard L. Borges II, MAI, SRA.

The Appraisal Institute will issue proposed standards of valuation practice that could serve as an alternative for valuation professionals when current national or other standards are not required. These standards could be used when Uniform Standards of Professional Appraisal Practice, International Valuation Standards or other standards are not required and the use of the proposed standards would be appropriate.

They would serve as an alternative set of standards that could be used independently, and not as an additional set of required standards. AI's new standards would not supplant USPAP or other national standards. The Appraisal Institute also will issue a proposed comprehensive revision of its Code of Professional Ethics.

The Appraisal Institute will expand its delivery of Appraisal Institute education through a wider number and scope of providers, becoming more proactive in identifying and pursuing educational opportunities. By expanding its education delivery, the Appraisal Institute will be able to strengthen its position as the leader in appraiser education; increase the exposure of AI and its consistent, high-quality education; expand the recognition of AI and its professionals; increase awareness and interest in the valuation profession; and strengthen AI's relationships with other organizations.

By the Appraisal Institute creating a new certification organization, the new entity will establish a future generation of cross-disciplinary valuation professionals and will enhance their marketability in a competitive job environment. Creating a certification organization will allow the new entity to demonstrate leadership in cross-disciplinary valuation principles, standards, methods and ethics.

The new certification organization will establish a cross-disciplinary valuation body of knowledge that would become the focal point for a newly composed valuation profession. It will provide professional certifications to individuals who meet select criteria, taking advantage of current market opportunities.

And it will seek to be recognized as the foremost organization for cross-disciplinary valuation professionals in the U.S. and eventually in the world.

"The Appraisal Institute's well-conceived, well-planned approach is being announced and implemented collectively as part of a coordinated, strategic effort to address market need and demand, to strengthen the valuation profession and to reinforce the Appraisal Institute's leadership of the profession," Borges said.

The Appraisal Institute will announce details of each of the three strategic initiatives in the near future.

Subscribe to the Appraisal Institute's [RSS feed](#) to stay connected with the latest news from the Appraisal Institute, and follow us on [Facebook](#), [Twitter](#), [LinkedIn](#) and our blog, [Opinions of Value](#).

Appraisal Practices Board Valuation Advisories

Ann E. O'Rourke, Editor, Appraisal Today

The APB is relatively new. A group of subject matter experts is assembled to write the Advisories to help Appraisers with appraisal issues. They are intended as guidance. Each of the Advisories lists the appraisers on the committee. I was surprised to see so few Advisories, particularly since there are many residential issues and the vast majority of appraisers are residential.

What is the APB?

Here's the official statement: "The APB was officially formed by The Appraisal Foundation Board of Trustees on July 1, 2010. The APB has been charged with the responsibility of identifying and issuing opinions on recognized Valuation Methods and Techniques, which may apply to all disciplines within the appraisal profession. The APB will offer voluntary guidance in topic areas which appraisers and users of appraisal services feel are the most pressing. The Board will utilize panels of Subject Matter Experts (SMEs), who will be widely recognized individuals with expertise in the specific topic being considered, to research and detail all pertinent sources of existing information on the given

topic. The APB will vet the issue through a public exposure process and ultimately adopt guidance that may include more than one recognized method or technique that addresses the specific topic. From the APB perspective, compliance with all guidance issued by the APB will be entirely voluntary. The APB represents the combined judgment of leading valuation professionals and is composed of five to seven members who can serve up to eight years on the Board."

Advisories Issued

If you are interested in any of the Advisories below, go to www.appraisalfoundation.org, then click on Appraisal Practices Board (left side of the screen) and download the PDFs.

For most appraisers, in today's market, Number 4 (comparable properties) is most relevant. Number 2 (seller concessions) is useful in some markets and may be more useful as the market slows down. Number 3 about declining markets is not useful now in most markets.

Here are their Advisories so far:

- APB Valuation Advisory #1: Identification of Contributory Assets and Calculation of Economic Rents - copyright dated 2010
- APB Valuation Advisory #2: Adjusting Comparable Sales for Seller Concessions - March 12, 2012
- APB Valuation Advisory #3: Residential Appraising in a Declining Market - May 7, 2012
- APB Valuation Advisory #4: Identifying Comparable Properties - August 14, 2013
- APB Valuation Advisory #5: Identifying Comparable Properties in Automated Valuation Models for Mass Appraisal - August 14, 2013

Current topics with exposure drafts

- Valuation Issues in Separating Tangible and Intangible Assets
- Valuation of Green Buildings: Background and Core Competency

The APB is looking for subject matter experts on:

- Appraising Newly-Constructed Residential Properties
- Collection and Verification of Sales Data

APB Valuation Advisory #2: Adjusting Comparable Sales for Seller Concessions – March 12, 2012

This 17-page document is the most comprehensive analysis of seller concessions I have read. It discusses both homes and investment properties, focusing more on residential, and has practical examples. It includes Fannie Mae references.

List of topics:

- Definitions
- Verifying Concessions
- When Does an Appraiser Adjust For Concessions?
- Methodology
- Concessions and Non-residential Property (other than 1-4 unit properties)
- Impact and Application of Concessions in the Cost Approach and Income Approach
- Suggested Further Reading

APB Valuation Advisory #4: Identifying Comparable Properties - August 14, 2013

This 21-page document has some useful tips. Most of it is basic appraisal material, but there is some new material such as a discussion of bracketing. It covers both residential and commercial properties, but has more about residential than commercial and includes Fannie Mae references.

List of topics:

- Property Characteristics
- Comparable Suitability
- Market Area and Neighborhood Characteristics
- Glossary of Terms and Definitions
- APPENDIX I: Examples of Physical Comparability Factors

- APPENDIX II: Suggested Further Reading

Where to get more information

Go to www.appraisalfoundation.org and click on Appraisal Practices Board, on the left side of the home page.

USPAP 2014-2015 - What's new?

Ann E. O'Rourke-Appraisal Today

Note on this article: I have not included information on non-real estate appraisal issues, such as consulting. Most of this article is direct quotes from USPAP. I indicate my comments by placing "My comment" in front of my opinions.

When will the new edition of USPAP be available?

Per the Appraisal Foundation, it will be available the first week in October. In the past, especially when it was available only in print, often the new edition of USPAP was not available until after the effective date. Since USPAP update classes are required every two years, appraisers now get copies when they take this class. My comment: It will be interesting to see what the Appraisal Foundation has in their required update class, since not much has changed since the 2012-2013 edition.

What is the most significant change?

Types of appraisal reports - summary and self-contained are gone, replaced by Appraisal Report - CHANGE YOUR TEMPLATES. Restricted Use Report has been changed to Restricted Report (The use has not changed - client only.)

What was not adopted - definition of Report

Changes to the definition of Report and related changes to the Record Keeping Rule were not adopted. "As a result of the concerns expressed with both the current and the proposed definitions of report, and the fact that these concerns are largely a function of the appraiser's type of practice, the ASB has decided to investigate the possibility of having different report and workfile requirements based on the intended use and intended users of the assignment."

List of what has changed

The following changes were adopted by the Board on February 1, 2013, and will be incorporated in the 2014-15 edition of USPAP and associated guidance material with an effective date of January 1, 2014:

- Revisions to the DEFINITIONS of "Assignment Results" and "Scope of Work" – Assignment results discussed below. Scope of work applies only to appraisal and appraisal review – minor change
- Revisions to the PREAMBLE - New section on "When Do USPAP Rules and Standards Apply".
My comment: Mostly relates to appraisers who also do consulting, brokerage, or investment advising. Clarifies who decides what rules apply - discussed below.
- Revisions to the Conduct section of the ETHICS RULE - minor change, relating to disclosure of 3 years of prior services if not an appraisal or review.
My comment: There is considerable negative opinions about the 3 year requirement but it was not removed from USPAP.
- Revisions to the COMPETENCY RULE - minor clarification change
- Revisions to Reporting Requirements, including the type and number of Report Options - Significant changes. See below. Change your templates.
- Revisions to Standards Rule 3-5 - new requirement for reviews - include date of the appraisal review report. Discussion below.
- Retirement of STANDARDS 4 and 5 - Consulting removed from USPAP
- Revisions to Advisory Opinion 11, Content of the Appraisal Report Options of Standards Rules 2-2 and 8-2 and Advisory Opinion 12, Use of the Appraisal Report Options of Standards Rules 2-2 and 8-2

Advisory Opinion 13 changed

Advisory Opinion 13 (AO-13), Performing Evaluations of Real Property Collateral to Conform with USPAP has been changed. This relates to lender requests for evaluations and appraisers' responsibilities.

Advisory Opinion 21 (AO-21) Changed

USPAP Compliance. This relates to people who do work in addition to appraisal work, such as assisting attorneys with cross examination strategies, feasibility studies (including values of prospective lots, and rent surveys).

What has not changed?

The Board elected not to adopt the proposed revisions to the following topics at this time:

- Proposed Revisions to the DEFINITION of "Report"
- Proposed Revisions to the RECORD KEEPING RULE

My comment: apparently these changes were controversial.

Assignment results definition change - clarifies that results are not only the value Conclusion

Definition: 'An appraiser's opinions and or conclusions developed specific to an assignment.'

Comment: Assignment results include an appraiser's: opinions or conclusions developed in an appraisal assignment, such as not limited to value; opinions or conclusions of adequacy, relevancy, or reasonableness developed in an appraisal review assignment, not limited to an opinion about the quality of another appraiser's work; or... "

"The ETHICS RULE requires the appraiser to act in good faith when communicating assignment results and prohibits the appraiser from disclosing assignment results to anyone other than the client, persons specifically authorized by the client, state appraiser regulatory agencies, third parties as authorized by due process of law, or a duly authorized professional peer review committee."

"The edits adopted clarify that assignment results include opinions or conclusions and the assignment results are not specifically limited to the value conclusion in an appraisal assignment, or to the final opinion of the quality of another appraiser's work in an appraisal review assignment."

Preamble - who decides when USPAP applies?

My comment: There was not much new in the preamble. This section is not new, but is a good reminder, so I am including the paragraph below.

"USPAP does not establish who or which assignments must comply. Neither The Appraisal Foundation nor its Appraisal Standards Board is a government entity with the power to make judge, or enforce law. An appraiser must comply with USPAP when either the service or the appraiser is required by law, regulation, or agreement with the client or intended user. Individuals may also choose to comply with USPAP any time that individual is performing the service as an appraiser. "

Revision to reporting requirements - types of reports changed and identifying persons providing assistance - *change your templates*

My comment: no one knew what Self Contained, Summary, and Restricted Use Reports meant. They were set up after FIRREA passed in 1989 so appraisers (mostly commercial) could provide report options to lenders. There was definitely no agreement on Self-Contained. Commercial appraisers just had different sizes of reports. The report names varied depending on what report name the client requested. Residential appraisers named their reports as Summary. Restricted reports are still confusing because of the requirement that "the client is the only intended user". I had hoped this report type would be eliminated. Then the appraiser decides the length of the Appraisal Report. Eliminate the Self-Contained Report and Summary Appraisal Report options in STANDARDS 2 and 8 and replace them with an Appraisal Report option with requirements very similar to the current 2-2(b) and 8-2(b) Summary Appraisal Report. Rename the Restricted Use Appraisal Report to Restricted Appraisal Report in STANDARDS 2, 8, AND 10 and clarify that the restriction is that this report option can only be used when the client is the only intended user of the report. The adopted Appraisal Report option prescribes the minimum level of reporting necessary for an assignment that has any intended user(s) in addition to the client, and for an assignment in which the client may need

to understand the appraiser's rationale, or the client may not have specialized knowledge about the subject property. As this report option establishes a minimum level of information, the appraiser must decide if additional detail or explanation is required, given the intended use and intended users of the report. Additional edits were adopted for the minimum report requirements. In Standards Rule 2 - 2(a)(i), clarifying changes were made regarding intended users. In Standards Rule 2-2(b)(i), language was added to clarify that although the appraiser's opinions and conclusions must be understood in a Restricted Appraisal Report, the rationale for how the appraiser arrived at those opinions and conclusions may not be understood.

In Standards Rule 2-2(a)(vii) and 2-2(b)(vii) the statement, "The signing appraiser must also state the name(s) of those providing the significant real estate assistance" was edited. The new statement eliminates "the signing appraiser, and states "The name(s) of those providing the significant real property appraisal assistance must be stated in the certification."

ADVISORY OPINION 13 (AO-13) - Performing Evaluations of Real Property Collateral to Conform with USPAP

My comment: if this is important for you, read the Advisory Opinion. How can an appraiser operating under the Uniform Standards of Professional Appraisal Practice (USPAP) develop and communicate a valuation of real property collateral that complies with the Interagency Appraisal and Evaluation Guidelines. An evaluation, when performed by an individual acting as an appraiser, is an appraisal.

In addition to complying with USPAP, the appraiser must be aware of and comply with any additional assignment conditions and reporting requirements imposed on the assignment. If an individual is engaged to provide information or analysis that does not include an opinion of value, the assignment is neither an appraisal (per USPAP), nor an evaluation (per Agencies' Guidelines). However, if the individual providing that service is acting as an appraiser (as defined in USPAP), the assignment would be appraisal practice and the appraiser would be obligated to comply with the ETHICS RULE, the COMPETENCY RULE, and the JURISDICTIONAL EXCEPTION RULE. Examples of requests for services that do not require a value conclusion include, but are not limited to: providing sales and rent data, listings, assessments and other similar information, without adjustments or determination of comparability to indicate or suggest the value of a specific property; and providing data describing a neighborhood, community, or any other real estate market segment and analyses on real estate market trends.

ADVISORY OPINION 21 (AO-21), USPAP Compliance

Individuals perform numerous roles within the broad realm of valuation services. Examples 8 include appraisal, brokerage, auctioning, property management, advocate consulting (whether 9 performed as an advocate or not), appraisal review, consulting and collecting market data. Some 10 valuation services are part of appraisal practice and require compliance with USPAP. What are 11 the USPAP compliance requirements for these various services? More specifically:

1. When should an individual comply with USPAP?
2. What is the relationship between Valuation Services and Appraisal Practice?
3. What does acting "as an appraiser" or performing a service "as an appraiser" mean?
4. Why does an expectation for an individual to act as an appraiser indicate an obligation to comply with USPAP?
5. What are the responsibilities of an appraiser regarding intended user expectations?
6. What are the USPAP obligations for appraisal practice outside of appraisal, and appraisal review, and appraisal consulting?
7. What are the USPAP obligations for valuation services outside of appraisal practice?

If this relates to your practice, read the full AO 21. Not much has changed from the previous version, but if this topic relates to your appraisal practice, be sure to read it.

Where to get more information

Purchase USPAP at www.appraisalfoundation.org - print or pdf. You can wait until you Take your required USPAP update but it is better to get a copy when (or before) it is effective 1/1/2014. You can also read it online, but can't print it.

The ASC's New Hotline Simply Refers Complainants to the Proper Regulatory Authority.

Darwin Ernst, SRA

The Appraisal Subcommittee (ASC) was mandated through Federal law to provide a national hotline to refer complaints from "...appraisers, individuals, or other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process..." to the proper regulatory authority.

What Does the Law Say?

For review, here is a copy of that section of the newly amended Federal mandate;

Title XI of FIRREA Real Estate Appraisal Reform Act of 1989, as amended by the Dodd-Frank Reform Act of 2010, Section 1122, Miscellaneous provisions, Subsection (i).

"Appraisal Complaint National Hotline.—If, 6 months after the date of the enactment of this subsection, the Appraisal Subcommittee determines that no national hotline exists to receive complaints of non-compliance with appraisal independence standards and Uniform Standards of Professional Appraisal Practice, including complaints from appraisers, individuals, or other entities concerning the improper influencing or attempted improper influencing of appraisers or the appraisal process, the Appraisal Subcommittee shall establish and operate such a national hotline, which shall include a toll-free telephone number and an email address. If the Appraisal Subcommittee operates such a national hotline, the Appraisal Subcommittee shall refer complaints for further action to appropriate governmental bodies, including a State appraiser certifying and licensing agency, a financial institution regulator, or other appropriate legal authorities. For complaints referred to State appraiser certifying and licensing agencies or to Federal regulators, the Appraisal Subcommittee shall have the authority to follow up such complaint referrals in order to determine the status of the resolution of the complaint."

The Best of Intentions?

There has been significant recent debate on whether the members of Congress intended this ASC hotline to include referrals of complainants from those who may believe that an appraiser was "unprofessional" while completing a valuation assignment. My personal opinion is that the laws were passed in an attempt to protect consumers who use financial services, so professionally licensed appraisers who complete valuation assignments should be held accountable to meet the expectations of the consumer. Whether the consumer's expectations are realistic and whether the hotline referrals will result in a formal complaint is still being questioned.

The full title of the Dodd-Frank Act ends with this verbiage; "... to protect consumers from abusive financial services practices." It seems quite evident that the law was intended to include consumer protection from licensed appraisers, who may fail to meet the minimal requirements of the Uniform Standards of Professional Appraisal Practice (USPAP) when they are required to do so. The USPAP requirements and licensing of appraisers were mandated by the passage of FIRREA in 1989, as stated in Section 1101.

"The purpose of this title is to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision."

These consumer protections are further clarified in the Dodd-Frank amendments of the Truth in Lending Act (TILA), Section 129E, Subsection (e), where the appraisal independence requirements are spelled out, including the mandatory reporting requirements.

“Mandatory Reporting.--Any mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, or any other person involved in a real estate transaction involving an appraisal in connection with a consumer credit transaction secured by the principal dwelling of a consumer who has a reasonable basis to believe an appraiser is failing to comply with the Uniform Standards of Professional Appraisal Practice, is violating applicable laws, or is otherwise engaging in unethical or unprofessional conduct, shall refer the matter to the applicable State appraiser certifying and licensing agency.”

Industry Comments

The complaint process is nothing new to the licensing agencies and the licensed appraisers, but these new provisions within the Federal law have made it clear that consumers have a right to be protected from abusive financial services “practices”. Financial services “practices” include the practice of using appraisals to define the current market value of the property when making a loan decision. To allow the consumer the ability to complain about perceived abuses, the Federal mandates include the creation of the “Appraisal Complaint National Hotline”.

The Appraisal Institute (AI), American Society of Farm Managers and Rural Appraisers (ASFA), American Society of Appraisers (ASA), and the National Association of Independent Fee Appraisers (NAIFA), recently sent letters to the ASC asking for a delay in the implementation of the complaint hotline scheduled to go live on March 29th. These various appraisal organizations wanted a chance for public comment on the proposed protocol for implementing the hotline. The ASC met on February 13th and, although the minutes have not been officially posted for review, it is assumed that the ASC received the letters from these organizations and their comments were heard. Ultimately, the ASC is still scheduled to go live with the complaint hotline on March 29th. (As an added note, the Appraisal Institute has provided referrals to appropriate regulatory agencies for some time, as part of their website.)

How Appraisers are Affected

When fully implemented, the ASC's complaint hotline will be an open conduit of referrals to the appraiser and AMC licensing agencies within fifty States, four Territories and the District of Columbia. The licensing agencies have already been mandated through FIRREA, and already have in place, a system to field complaints against appraisers, who are suspect of not meeting the minimal requirements of the USPAP, so there is currently no expectation by the regulators that the volume of these types of complaints will increase. However, now that the appraisal independence provisions have been added to the Federal mandates, the ASC will also be required to refer complainants using the hotline to the applicable AMC regulatory agencies for perceived violations of the appraiser's independence rights, which are expected to increase dramatically, as consumers (especially licensed appraisers), become aware of the hotline.

My View

Personally, I believe the national media will influence the volume of complainants who will use the hotline and that all regulators should expect an increase in the volume of referrals. These referrals will likely result in an increase in the volume of complaints filed against state-licensed appraisers and AMCs. For instance, there have been increasing numbers of reports on the national news that blame appraisers for the slow recovery of the housing market. With appraisers at the base of the financial lending industry, I feel they will receive a disproportionate and undeserved attention from a national media announcement that there is an “Appraisal Complaint National Hotline” open to the public. (What an unfortunate use of words in the law to describe this hotline!)

The various appraiser and AMC licensing agencies should be fully aware that the complaint hotline is coming. They should be prepared for a potential increase in referrals from the public, who will want to file complaints against an appraiser, but also be prepared for an increase in complaints by appraisers against the AMCs for perceived violations of the appraiser independence rights. These agencies may be somewhat ill-prepared for processing complaints regarding these appraiser independence rights. Proving that an AMC violated an appraiser's rights for independence will undoubtedly be viewed by some as a daunting task and until the Courts provide an opinion that sets the standard, the AMC licensing agencies may shy away from being the first to attempt prosecuting an AMC for perceived violations of these rights.

The increased licensing fees for real estate appraisers and the new licensing fees for the licensed AMCs collected by the ASC will provide the funds for implementation of the ASC's hotline and the licensing fees collected by the state agencies will ultimately fund the cost for the licensing agencies to adjudicate the complaints that are initiated through the referral process.

Ultimately, the consumers of financial services expect professionally licensed appraisers to abide by the minimal standards of professional appraisal practice while performing valuation services for the lending industry. We, as professionally licensed appraisers, are providing the funding for the regulatory reform, including the ASC hotline, that has been implemented to meet those consumers' deserved expectations.

Negotiation Strategies for Appraisers

Douglas G. Smith, SRA

"In business, you don't get what you deserve, you get what you negotiate."

Dr. Chester L. Karrass

As borrowers continue to refinance under record low interest rates, appraisers benefit from the evident scarcity of available appraisers. In the run-up of refinancing brought on by record low interest rates, appraisal management companies essentially lost their grip on both setting appraisal fees and turn times. The Veterans Administration carefully tracks both fees and turnaround times and in June raised the fee in Montana for a Fannie Mae 1004 to \$600.00 and in select counties upped the turn time to 28 days. The VA is often the bellwether in most markets and this is certainly the case in Montana. Appraisers are reporting companies, desperate for reports, are offering much more favorable fees and relaxing turn-time standards. Of course this will not last since it is becoming increasingly certain that interest rates will climb notching up the Housing Affordability Index. As the economy slowly recovers in fits and starts, appraisers faced with the prospect of downward demand must constantly review their business model. Appraisers consider not only renewed marketing efforts but now must consider the role of negotiation in their daily interaction with clients.

Due to the fall off in the economy beginning in 2007, most residential appraisers added an appraisal management company (AMC) component to their client list or expanded their AMC list of clients. The competitive thrust of appraisal management companies was to offer "value added" services which for the most part emphasized traditional appraisal fees and timely completion of appraisals. Appraisal management companies, confident they could maintain a willing appraisal panel at discounted rates that would produce appraisals quickly soon dominated the appraisal business scene. "Push back" was inevitable and played out in the Dodd-Frank Wall Street Reform and Consumer Protection Act in the form of legislations aimed at securing Reasonable and Customary fees for appraisals. This section of the bill was part of the drive to maintain appraiser independence and ensure appraisal quality. The Bill stated that "lenders and their agents shall compensate fee appraisers at a rate that is customary and

reasonable...established by objective third-party information. Fee studies were supposed to exclude assignments ordered by known appraisal management companies.” As it turned out, most agree that lenders did seek to meet the intent of the Act. However, as the economy recovered, business reality intruded and appraisers came to expect flexibility when it came to fees they charged their clients. In the face of an imminent fall-off as the refinance panic subsides, logically, the competitive nature of the appraisal business will mean that some appraisers will accept lower fees to maintain volume. Anticipating the next phase in the competitive world of appraising, appraisers must consider the role of negotiating strategies. The simple fact is that most appraisal management companies’ fees are not set in stone. Negotiation has a proper place in the appraisal business; even more so in the face of the future downward pressure on appraisal fees. This new attention to negotiating strategy focuses on one single business principle. “Always ask for more.”

Win-Win Negotiations for Appraisers

The purpose of negotiating appraisal fees and conditions is to resolve situations where what the appraiser wants conflicts with what the client or the client’s agent wants. The aim of win-win negotiations is to find a solution that is acceptable to both parties. The framework for these negotiations implies a continuous relationship built on professionalism and good will. Appraisers are very familiar with the negotiations that come into play when a person buys a home. These are negotiations where neither party expects to deal with the other in the future. These negotiations are largely confrontational and unpleasant. Similarly, using manipulation such as over-promising on a shorter delivery date can undermine trust and damage business relationships. This is particularly true since many appraisal management companies scrupulously track turn-around time. Allowing no flexibility and holding to a “take-or-leave-it” stance misses the point that negotiation is a business fact-of-life. The “hardball” approach is not much use when it comes to resolving issues where there is an ongoing relationship. Manners count with honesty and openness the hallmark of legitimate business interests. For a negotiation to be “win-win” both parties should feel positive about the negotiation when it’s over.

The Fairness Triangle

For appraisers, there are three major elements in the negotiation process: scope of work, turnaround time and the appraisal fee. If these were represented as the three sides of an equilateral triangle, these three elements should represent balance or symmetry. In a professional relationship, the client gives the appraiser adequate time to complete the scope of work and the fee compensates the appraiser for fulfilling the scope of work within the agreed upon time schedule. Negotiation comes into play when the fee is not sufficient to compensate the appraiser for an expanded scope of work or the appraiser is not given enough time to competently carry the work necessary to complete the scope of work. The fee itself is not the only factor in fee negotiations. Fees include when they are paid. Recently more companies are moving to paying their accounts in 45 days with the 45 days starting on the first of the month following the date of the appraisal. When fees are paid is a legitimate subject for a negotiated settlement. One welcome trend is that many lenders are moving to direct deposit relationships with their appraisers, thus shortening the payment cycle.

Clients are also expanding the scope of work for assignments that involve much more detail and conditions. Consider this scope of work for a retrospective field review:

APPRAISER: Required Form is FNMA Form 2000 dated March 2005 (FNMA Form 2000A for multi-family) Assignment is for an ENHANCED RETRO FIELD REVIEW. Original report to be reviewed is attached to this order. Please review the client guidelines (13 items) below before proceeding:

1. Enhanced Field Review must be completed by an appraiser who was fully licensed on the effective date of the original appraisal and have a license that is clear of ANY disciplinary action. If you were not fully licensed (trainee license/permits are not acceptable) on the effective date you must decline the order. If you accept an order and this requirement is not met you WILL NOT BE PAID by client for any work completed – as we will need to reassign the order

to a qualified appraiser. You will be required to validate in your report's commentary that you were fully licensed on the effective date of the original appraisal.

2. Appraiser to provide three additional/alternate comps whether you agree or disagree with the opinion of value presented. (This is the "Enhanced" portion of the assignment.)
3. Provide photos of the subject and street scene as well as photos for all the original and new comps.
4. Appraiser to provide MLS print-outs on all comps... from original appraisal and retro review. If MLS is not available please provide copies of public records or other alternate data source which verifies the sale date and sales price.
5. Appraiser to provide a list of sales. For clarification this is simply a list of comparable sales in the subject's market area that occurred the year prior to the effective date of the original appraisal. The information required includes the address sale date sale price GLA (if known) and room count (if known).
6. Provide support and documentation for time adjustments ie. A 12 month CMA broken down into quarters.
7. Provide a location map showing the subject original comps and new comps.
8. Please provide a list of similar sales for the 12 months prior to the effective date. An MLS generated 1-line list of sales with sales price date of sale address room count and GLA is sufficient.
9. Provide current owner AS OF THE EFFECTIVE DATE on original appraisal.
10. Include the name and license number of the original appraiser in your report. 11. Clearly define your extraordinary assumptions in your review report. 12. Be advised that you may be asked for additional commentary and support by either AMC or the client.

Clearly, this scope of work far exceeds the typical scope of work of a field review. In effect, it is equivalent of both a review and a drive-by appraisal and requires the inclusion of numerous exhibits making this less of a summary report. This example demonstrates the importance of having the engagement letter in hand before concluding final agreement on the fee and the amount of time to complete the assignment. It may be that in some cases a scope of work is simply unreasonable with little expectation of modification. More clients are demanding copies of MLS sheets and the inclusion of these sheets and the pictures these contain may violate copyright restrictions. Jim Hennig, a noted lecturer on negotiation suggests that in some cases "Do not make a counter-offer to an unrealistic offer."

Self-Assessment

Taking a more active approach to negotiating the three components of an appraisal assignment begins with a realistic self-assessment of both the appraisal firm and the appraiser. This involves a thorough review of the appraiser's skills, knowledge and attitude with the focus on the appraiser's attitude toward the negotiation process the more important. Appraisers maximize business results by adopting the concept of a "firm" whether they are the sole business entity or whether they employ other appraisers or assistants. Thinking of the appraisal business side as the "firm" places a new emphasis on the professional aspects of the ongoing nature of business relationships. Thus, an appraiser must consider not only how they respond to customers but how their business entity or "firm" responds to these customers whether they are clients or the client's agents.

There is a simple test to determine whether the appraiser through their skills and knowledge is meeting the needs of clients. One aspect of the new AMC environment is that appraisal management companies give reports intense scrutiny either personally by a reviewer or by a computerized review process. If found wanting, the appraisal is

summarily returned to the appraiser for correction or revisions. The appraiser must review these requests carefully and sort out those requests are unreasonable because the information was found within the report and was missed and those requests that could have been prevented by a more careful reading of the engagement letter or corporate procedure manual. Some requests fault the appraisal process. Appraisers must accept the harsh reality that appraising like any other human endeavor attracts persons with a range of intelligence levels and with differing skill and knowledge sets. Requests for revisions and corrections provide an index of sorts of the general competency of the appraiser and the ability of the appraiser to follow precise directions. To achieve standing in the appraisal negotiation process, appraisers argue from strength who have a record of fewer requests for revisions and corrections.

An appraiser's attitude toward the negotiation process is the main driving force in any interaction with a client or a client's representative. Dr. Phil makes the case as follows: "Step number one is making the decision that you have the right to negotiate and that you are worth standing up for yourself, getting the best price, and not being taken advantage of. Claim that right, and know that you're not doing something wrong if you do." Appraisers successful in their business are successful because they expect to be successful. Appraisers, who expect success in their negotiations, treat negotiation not as a confrontation but more of a professional collaboration. Armed with the self-confidence, ample competency brings, deciding to negotiate is the serious first step towards achieving measurable results from the negotiation process.

Monitoring the Work Schedule -- Gantt Charts

TAT or turnaround time is the main preoccupation of most appraisal management companies. There is no indication that appraisal management companies are placing any less emphasis on speedy return of assignments. There is even some evidence that appraisal management companies use turnaround time as their answer to the "value-added" component of their services. Turnaround time then is one of the three important items in the negotiation process. Appraisers mostly have a haphazard way to tract their appraisal production schedule. Consider that completing appraisal reports is a measurable production process. Those involved in production adopt a Gantt chart approach to tracking production. A Gantt chart is a type of bar chart that illustrates a project schedule. Gantt charts illustrate the start and finish dates of the terminal elements and summary elements of a project. Terminal elements and summary elements comprise the work breakdown structure of the project. The simplest Gantt chart can be created with a typical monthly calendar with lines representing the start and finish dates on appraisals in progress. Appraiser can visually see the number of lines on each date and quickly judge whether an appraisal can be fitted into the production schedule within the client's requested due date. There is a free Gantt chart program that integrates in Microsoft Excel called "Gantt Chart Builder (Excel) 6.1.1" available on the CNET download site. It allows for the scheduling of multiple appraisal assignments and provides an easy way to track production in process. With this information immediately at hand the appraiser can quickly determine whether the expected due date requires further negotiation.

Scope of Work

Clients are piling on more and more demands and requirements. Appraisers have to weigh these requirements against not only USPAP but against recognized guidelines set out by Fannie Mae and HUD. Appraisers need to keep their appraisal library current and know the actual requirements of an assignment. In this way, appraiser may be prepared to counter requirements that amount to unacceptable assignment conditions. One bright spot on the horizon is that some lenders are eliminating the requirement to include listings when the market is stable or is shown to be advancing.

The typical appraisal management company's business model relies on clients paying a set fee for appraisals. These companies locate and employ appraisers who take on producing appraisals at a discounted rate with the appraisal company maximizing its revenues depending on how successful they can be finding appraisers willing to accept fees within a certain range. What is clearly evident is that there are two step fee schedules that allow the appraisal

scheduler to accept fees within certain ranges. Anything above this level requires the scheduler to go up one level of supervision. For example, the scheduler sets out to place a typical 1004 with instructions to pay \$400.00. However, to place the assignment, the scheduler is able to accept a fee of \$450.00. For anything above this, the scheduler must seek authorization. The scheduler is anxious to place the order and therefore the appraiser is put in a good bargaining position if the upper tier of the fee level the scheduler is empowered to act on is reasonable. In almost every case, then there is greater fee available at the onset of the appraisal fee negotiation process.

Fee Negotiation Strategy

Appraisers contacted by phone with the usual question as to fee and turnaround process must be prepared for this initial offer. Clients sort themselves down to clients who are well known to the appraiser and whose fee schedule they already know and those clients that are unknown to the appraiser and whose fees they must learn. For those clients where the appraiser does not know the spread, a qualification question is in order. After being asked for fee and turnaround time, the appraiser qualifies the client with a simple question: "What are your usual fees and turnaround time for this assignment?" The fee quoted will often be the floor fee amount. For the unknown client, it is then necessary to determine the scope of work. This is where appraisers find it handy to have two or three monitors. If the scheduler will state the address of the property, the appraiser can quickly check public records on one of their monitors and determine a great deal about the necessary scope of work in terms of the complexity of the inspection and with the neighborhood identified perhaps the availability and proximity of comparables. It is appropriate to ask if there are any additional requirements of the assignment. Recently one major AMC increased the number of mandatory comparables to five along with at least two listings. These types of requests add real time to the appraisal process and require fee consideration in setting the fee for the assignment.

The appraiser at this point may proceed to quote a fee. As a rule of thumb, the scheduler has at the most about \$150.00 above the threshold amount with which to negotiate. If this is a reasonable fee, then the negotiations can be quickly concluded. However, even at the upper level the scheduler is empowered to negotiate, the fee may not represent fair remuneration for the assignment. The negotiation must then move on the next step, trades and alternatives.

Trades and Alternatives

Going back to the example of the fairness triangle, the appraiser can perhaps suggest a change in the scope of work or a change in due date. Given more time, the appraiser may be able to fit an appraisal in as "filler" type business at the announced fee. A change in scope of work may not be possible but a drive-by appraisal may be appropriate to the assignment rather than a full 1004. A desk review may serve the purposes of the assignment rather than a field review.

The appraiser may learn something in the initial conversation that is unknown to the scheduler that may affect the fee schedule. The home may be a manufactured home rather than a frame built home requiring the appraisal to be completed on a different form. The structure may be different from the norm such as log home or waterfront property requiring additional research and report development.

Most companies adopt a differing fee schedule for Jumbo Loans. Therefore the value of the property determined by the tax assessment may be relevant at this stage of the negotiation process.

At this stage in the negotiation the front line scheduler has two basic questions: "Can this appraiser do this appraisal and if offered will the appraiser accept the assignment?" Throughout the process, it is critical that the appraiser show a willingness to accept the assignment and demonstrate that the appraiser has the license level and competency to complete the assignment. An appraiser should maintain a friendly demeanor throughout always holding out the prospect of an ongoing relationship despite any unreasonable fee offer or extraordinary scope of work requirement. Never close the door. It is entirely likely that the appraisal management company may be completely unfamiliar with

the local fee structure. Failing to reach a settlement, the negotiations move the second level where the scheduler must consult with their supervisor.

Expected Outcomes and Consequences

If the scheduler cannot settle on a fee, the scheduler can move the request to a higher authority or simply close the negotiations and move on to the next appraiser on their list. To avoid outright rejection, the appraiser can increase their chances for further consideration by again indicating a willingness to take the assignment if only for a greater fee and pointing out some aspect of the assignment that requires a higher fee. If the offered fee is simply not within the typical range of fees for the market, that is certainly worthy of mention. That is very clearly the case for rural properties in Montana. If in fact, the scheduler does consult with a higher authority, they likely will come back with a counter offer. The appraiser must be prepared to meet this offer as perhaps the last and final offer and determine the extent of any compromise.

Know the Competition

HUD recently made a substantial change in the entire procedure of selling off the REO properties. HUD changed most of the marketing and management companies and changed the appraisal requirement from a standard REO appraisal with addendums to straight forward “as is” appraisals. HUD then prescribed a fee of \$350.00. The HUD procedure required appraisers secure liability insurance as well as E & O insurance. The application process requires additional documentation and there is mandatory Internet base training. The application provided for higher fees if the appraiser could document why higher fees were necessary. Those appraisers secure in the knowledge competitors were not likely to respond to an offer of work for \$350.00 gained when the competitors did not respond to the offer and the M & M contractor had to choose but to pay higher fees. Every appraiser should know what their top five competitors are charging. As in the recent HUD case it is also helpful to know how competitors respond to taking on clients.

When Withdrawing is the Only Option

Finally, the negotiation process may reach a point where no amount negotiation given the required scope of work and turnaround time results in remuneration which is fair to all concerned. The objective of most appraisal assignments is to provide support for a decision involving financing of the subject property. The appraiser then must rely on the framework set out in the scope of work and if the process has been competently followed, the appraiser has no choice but to conclude the process. It may be a better alternative to simply not accept the assignment emphasizing the long term consequences. Given the strident “take or leave it” tone of some engagement letters; appraisers must simply be prepared not to take the tone personally and meet these demands in a business-like manner.

Appraisers soon learn in their appraisal career, the real estate profession is largely driven by the state of the economy. Appraisers are now operating in a climate of uncertainty that is testing the ability of appraisers to not only understand local markets but to communicate their findings to clients. All this takes time that affects an appraiser’s productivity and therefore demands an appraiser’s careful attention. To accomplish these goals appraisers must be fairly compensated and this demands increased attention to the negotiation process. The underlying fee structure of most appraisal management companies allows for higher fees. Therefore, applying the general strategy of “Always ask for more.” fits into a “win-win” strategy fair to all concerned.

Welcome To Those Who Have Joined the Chapter Recently

Courtenay Graham – Joined as an Affiliate in September
Aaron Langford – Joined as an Affiliate in October
Matthew James Payne – Joined as an Affiliate in June
Daniel Simonton – Joined as a Practicing Affiliate in August
Suzanne Tarpey – Joined as an Affiliate in June
Tyler Warne – Joined as an Affiliate in October

Have Something to Contribute?

Do you have an idea for an article you'd like to contribute to the next newsletter? A news item to cover, topic to suggest, pictures from a Montana event? Send them our way! E-mail content and ideas to Douglas G. Smith, SRA at hotelman@montana.com.



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