

Market Value – What Does It Really Mean?

K. Erik Friess, Esq.

Allen Matkins

Philip D. Kopp, Esq.

Newmeyer & Dillion, LLP

Moderator

Michael V. Sanders, MAI, SRA

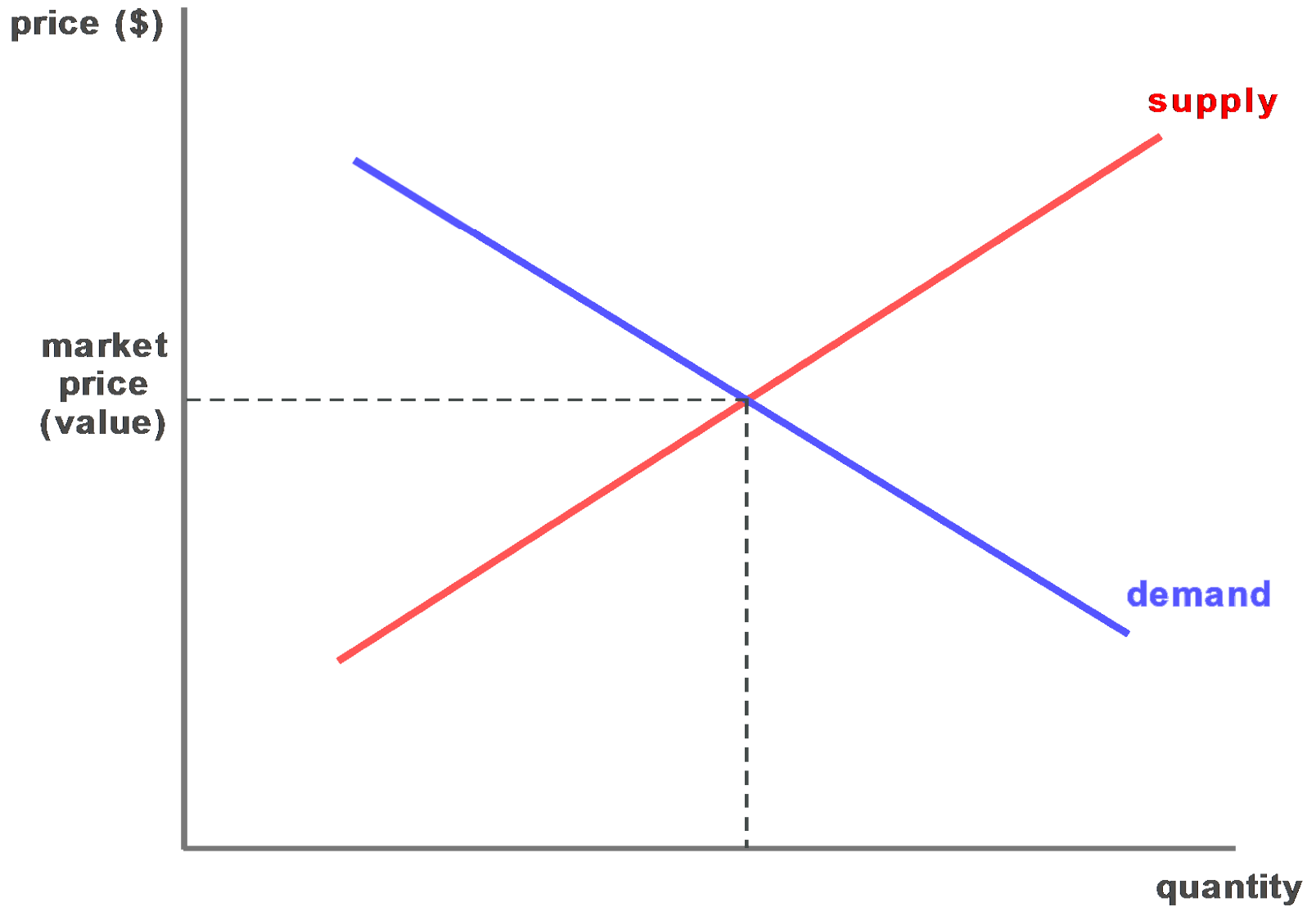
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Perfectly Competitive Market

- Many buyers and sellers
- Homogenous product
- Perfect information
- Prices tend towards equilibrium

Early Definition of Market Value

Sacramento Southern Railroad v. Heilbron (1909) 156 Cal. 408

Market value . . is . . the highest price estimated in terms of money which the land would bring if exposed for sale in the open market, with reasonable time allowed in which to find a purchaser, buying with knowledge of all of the uses and purposes to which it was adapted and for which it is capable

Multiple Definitions of Value

- Mortgage Lending
 - Eminent Domain (California)
 - Damage to Real Property
 - Marital Dissolution
 - Property Taxation
 - Estate Tax
 - Casualty Loss
 - Federal Land Acquisitions
- *Different Value Standards*
 - *Different Assumptions About The Market*

Federally-Related Transactions (lending)

*12 CFR, Subpart C—Appraisals, §34.42(g) [Comptroller of Currency]
Similar definitions for NCUA, FDIC and in FNMA Selling Guide*

- Market value means **most probable price**
- Competitive and open market
- Buyers and sellers acting prudently and knowledgeably
- Price not affected by undue stimulus
- Conditions:
 - buyer and seller typically motivated
 - parties well-informed or well-advised
 - reasonable exposure time
 - cash or comparable terms
 - no special or creative financing or sales concessions

Eminent Domain (California)

Code of Civil Procedure, §1263.320

- a) Fair market value of the property taken is the **highest price** that would be agreed to by a seller being willing to sell but under no obligation or urgent necessity for so doing, and a buyer, being ready, willing and able to buy but under no particular necessity for so doing, each with full knowledge of all uses and purposes for which the property is reasonably adaptable and available
- b) Fair market value of property taken for which there is no relevant, comparable market is its value as determined by any method of valuation that is just and equitable

Damage to Real Property (California)

CACI Jury Instructions (Judicial Council of California), §3903(f)

Fair market value is the **highest price** that a willing buyer would have paid to a willing seller, assuming:

1. that there is no pressure on either to buy or sell
 2. buyer and seller know all the uses and purposes for which the property is reasonably capable of being used
-

Measure of Damages:

Lesser of reduction in value or cost of repair

Marital Dissolution (California)

In re Marriage of Cream (1993) 13 Cal.App.4th 81, 16 Cal.Rptr.2d 575

Fair market value of a marketable asset in marital dissolution cases is the **highest price** that would be agreed to by a seller, being willing to sell but under no obligation or urgent necessity to do so, and a buyer, being willing and able to buy but under no particular necessity for so doing

Property Taxation (California)

Revenue and Taxation Code, §110(a)

- *Full cash value or fair market value* is an amount in cash or its equivalent that property would bring **[not highest or most probable price]**
- Exposure for sale in the open market
- Conditions in which neither buyer or seller could take advantage of the exigencies of the other
- Both buyer and seller have knowledge of all uses and purposes for which the property is adapted and capable of being used

Estate Tax (Federal)

26 CFR 20.2031-1(b)

Fair market value is the **price [not highest or most probable]** at which the property would change hands between a willing buyer and willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts . . . not to be determined by a forced sale

Casualty Loss (Federal)

IRS Instructions for Form 4684 (see also 26 CFR 1.165-7 and 1.897-1)

- Fair market value (FMV) is the **price [not highest or most probable]** at which property would be sold between a willing buyer and willing seller, each having knowledge of the relevant facts
- The difference between the FMV immediately before the casualty or theft and the FMV immediately after represents the decrease in FMV because of the casualty or theft

Eminent Domain (Federal)

*Uniform Appraisal Standards for Federal Land Acquisitions 2016
Yellow Book, §1.2.4*

- Market value is the amount in cash or reasonably equivalent terms
- For which **in all probability** the property would have sold
- Reasonable exposure time
- Open competitive market
- Willing and reasonably knowledgeable seller and buyer
- Neither acting under any compulsion to buy or sell
- Due consideration to all available economic uses of the property

USPAP – Definitions

Market Value: a type of value . . . that presumes the transfer of a property . . . as of a certain date, under specific conditions set forth in the definition of the term

The conditions included in market value definitions establish market perspectives for development of the opinion:

- relationship, knowledge and motivation of parties
- terms of sale (e.g., cash terms)
- conditions of sale (e.g., reasonable market exposure)

Dictionary of Real Estate Appraisal, 6th edition

- Market Value
 - USPAP description
 - Definition for federally-related transactions
 - IVS definition
 - Yellow Book definition
- Fair Market Value:
 - *In nontechnical usage, a term that is equivalent to the contemporary usage of 'market value'*
 - *As used in condemnation, litigation, income and property tax situations, a term that is similar in concept to market value but may be defined explicitly by the relevant agency*

Clark County v. Buckwalter (115 Nev. 58)

- **1993** – Legislature changes FMV definition from “highest price” to “most probable price”
- **1994** – Eminent domain by Clark County for convention center
- **1996** – Trial:
 - Landowner appraisal for \$9,000,000
 - HBU for casino use, argued for “highest price”
 - County appraisal for \$4,560,000
 - HBU for retail/restaurant, argued for “most probable price”
 - Award - \$9,000,000 based on “highest price”
- **1999** – reversed by Supreme Court in favor of “most probable price”
- **2007** – Legislature changes FMV back to “highest price” (post-Kelo)

Clark County v. Buckwalter (issues)

- Was 1993 legislative change constitutional?
- Are “highest price” and “most probable price” synonymous?
- Legislative rationale for 1993 change:

Highest price conceivable, however improbable, is speculative . . . resultant findings of value [were] out of touch with the existing market and reality

Q&A

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Allen Matkins

1900 Main Street, 5th Floor

Irvine, CA 92614

(949) 553-1313

www.allenmatkins.com

Philip D. Kopp, Esq.

Newmeyer & Dillion, LLP

895 Dove Street, 5th Floor

Newport Beach, CA 92660

(949) 854-7000

www.newmeyeranddillion.com

Moderator

Michael V. Sanders, MAI, SRA

Coastline Realty Advisors

3020 Old Ranch Parkway, Suite 300

Seal Beach, CA 90740

(562) 598-2402

www.coastlinerealtyadvisors.com