


USPAP 2020-2021 Overview



and Other Interesting Appraisal Topics*

*Assumes USPAP is an interesting topic



2020-2021 USPAP Overview and interesting appraisal topics

Southern California Chapter of the Appraisal Institute

Eastern Branch

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What's New for 2020-2021?

Information from 7-Hour USPAP Update Course Student Manual*

13 Definitions with minor edits

2 Definitions with major edits

6 Definitions added

Page 10.

3. Impact on practice

“One would not expect edits or additions to the Definitions to impact practice.”

*All page references are from the student manual

What's New for 2020-2021?

Changes to the Scope of Work Rule

Page 13

“This change will have little to no impact on most appraiser’s practices.”

Changes to the Competency Rule

Page 17

“The changes to the Competency Rule were made for the sake of clarity and do not add any new requirements.”



What's New for 2020-2021?

Development STANDARDS - Standard 1

Page 28

1. The ASB's Intent was not to change requirements placed on appraisers.
2. The primary impact will provide greater clarity to the requirements.

What's New for 2020-2021?

Reporting STANDARDS – Standard 2

Biggest change in the 2020-2021 Standards

**** Restricted Appraisal Reports now allow more than one intended user ****

What's New for 2020-2021?

STANDARDS RULE 2-2, CONTENT OF A REAL PROPERTY APPRAISAL REPORT

Each written real property appraisal report must be prepared under one of the following options and prominently state which option is used: Appraisal Report or Restricted Appraisal Report.

(b) The content of a Restricted Appraisal Report must be appropriate for the intended use of the appraisal and, at a minimum:

- (i) state the identity of the client, or if the client requested anonymity, state that the identity is withheld at the client's request but is retained in the appraiser's workfile;**
- (ii) state the identity of any other intended user(s) by name;**
- (iii) clearly and conspicuously state a restriction that limits use of the report to the client and the named intended user(s);**

What's New for 2020-2021?

334. IDENTIFYING INTENDED USERS BY NAME IN A RESTRICTED APPRAISAL REPORT (NEW)

Question: I understand that Standards Rules 2-2(b), 8-2(b), and 10-2(b) permit additional intended users other than the client for appraisals communicated in a Restricted Appraisal Report. Does the reporting requirement to state the identity of these other intended users “by name” not just “by type” mean that each intended user must be a specific individual, or may they be an entity or firm?

Response: Just as a client may be an individual, group, or entity, other intended users may also be an individual, group or entity. In a Restricted Appraisal Report the identity of other intended users must be stated by name, for example: “Bank of Main Street,” or “Smith & Johnson Accounting, LLC,” or “Jane Doe, the client’s daughter.” In a Restricted Appraisal Report it is not permitted to state the identity of the other intended users without a name, for example: “other banks involved in the syndication,” or “accounting professionals,” or “family members.”

What's New for 2020-2021?

That's All* That's New for 2020-2021 !!!!!

* There are other changes but these are the ones highlighted in the 7-Hour USPAP Update Course.

Other Topics of Interest

- Extraordinary Assumption vs. Hypothetical Condition

EXTRAORDINARY ASSUMPTION: an assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions or conclusions.

Comment: Uncertain information might include physical, legal, or economic characteristics of the subject property; or conditions external to the property, such as market conditions or trends; or the integrity of data used in an analysis.

HYPOTHETICAL CONDITION: a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.

Comment: Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.



Other Topics of Interest

Question posed to Mike Mason: I am appraising a self-storage facility (units and RV storage) that is located on 3 parcels. One that has all the self-storage units and leasing office/manager residence, a second parcel that has a portion of the RV storage, plus a house, barn and shed and a third that has the remaining RV storage and 9.6-acres of agricultural / surplus land. When we previously appraised this property only the self-storage operations (the units and RV storage) were included as part of the collateral. The following extraordinary assumption was used for the analysis:

Other Topics of Interest

The subject property is currently located on three parcels. The majority of the RV spaces are located on two parcels containing a house, barn and farm improvements as well as 9.6-acres of wheat field. The client reported the self-storage buildings and RV storage spaces are the only collateral for the loan. Parcel lines must be redrawn so all of the self-storage improvements (buildings and RV storage spaces) are located on one parcel. This appraisal is based on the extraordinary assumption that the parcel lines are reconfigured to place the entire self-storage improvements on one site.

According to the county Assessor, fees for this reconfiguration would likely be less than \$5,000 and take up to six months for approval. Because the costs to re-draw the parcel lines would be less than \$5,000 and take less than 1 year, a deduction for this reconfiguration is not made in this analysis. If this reconfiguration of the parcel lines were not to occur, the value conclusion in this report could be subject to change.

QUESTION: IS ANYTHING WRONG WITH THIS EXTRAORDINARY ASSUMPTION?

Other Topics of Interest

- Intended Use and Intended User

Definitions

INTENDED USE: the use(s) of an appraiser's reported appraisal or appraisal review assignment results, as identified by the appraiser based on communication with the client at the time of the assignment.

INTENDED USER: the client and any other party as identified, by name or type, as users of the appraisal or appraisal review report by the appraiser, based on communication with the client at the time of the assignment.

Other Topics of Interest

Examples of Intended Use and Intended User Statements

EXAMPLE 1

INTENDED USE AND USER

This appraisal is intended for use only by the client identified as the addressee of the report. The use of this report by others is not intended by the appraisers. This report is intended to assist in internal decision-making purposes regarding potential financing.

FUNCTION OF THE APPRAISAL

The function of this appraisal report is for use by the client, or parties designated by the client, for internal evaluation of the property, in connection with potential financing.

Other Topics of Interest

EXAMPLE 2 – Reliance Language

For all Commercial Real Estate financing transactions with the exception of SBA (Small Business Administration) loans.

The following Reliance Language shall be included in the Report:

In connection with a proposed extension of (or a proposed investment in) a loan, debt issuance or other financing to be secured, in whole or in part, directly or indirectly, by the real property ("**Property**") which is the subject of this report ("**Report**"), or by pledges of direct or indirect ownership interests in the Property owner, or in the form of preferred equity ownership interests in the Property owner (in any such case, the "**Financing**"), or the proposed issuance of any securities secured or otherwise backed, in whole or in part, directly or indirectly by the Property or the Financing (the "**Securities**"), this Report, and the information contained therein, may be used and relied upon by the addressee(s) of this Report, their affiliates, successors and assigns, and:

- a) The bank, as Administrative Agent for the benefit of any lenders, from time to time, party to the Financing;
- b) any actual or prospective purchaser of, or investor in, the Financing (or any portion thereof or interest therein by way of participation, syndication or otherwise);
- c) any actual or prospective financing source for any such purchaser or investor;
- d) any servicer of the Financing or the Securities;
- e) any trustee of the Financing or the Securities;
- f) any rating agency actually or prospectively rating the Financing or the Securities;
- g) any underwriter of, or placement agent for, the Financing or the Securities;
- h) any institutional provider of any liquidity facility or credit support for the Financing or the Securities;
- i) the respective affiliates of each entity referenced in clauses (a)-(g) above;
- j) the respective officers, directors, employees, agents, advisors and counsel of each person or entity referenced in clauses (a)-(i) above; and
- k) the respective successors and assigns of each person or entity referenced in clauses (a) through (i) above

This Report has no other purpose and should not be relied upon by any other person or entity

Other Topics of Interest

EXAMPLE 3 – Uniform Residential Appraisal Report

APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

23. The borrower, another lender at the request of the borrower, the mortgagee or its successors and assigns, mortgage insurers, government sponsored enterprises, and other secondary market participants may rely on this appraisal report as part of any mortgage finance transaction that involves any one or more of these parties.

Other Topics of Interest

EXAMPLE 4

IDENTIFICATION OF THE CLIENT AND OTHER INTENDED USERS

The client is Takem, Usem and Screwum, LLP, the attorney-in-fact for Mae West, the defendant in the court case cited. The trier of fact, Monarch Parish Superior Court, is also an intended user. This restricted appraisal report cannot be used by anyone other than the client and the named intended user. Anyone else using or relying on this appraisal is considered an unintended user.

INTENDED USE OF THE APPRAISAL

The analysis and report will be used solely in the matter of Monarch Parish Transportation Authority v. Mae West, et al. It cannot be used for any other purpose such as obtaining a loan, settling an estate, appealing tax assessments, in another legal matter, marketing of the property, investigational tool for a purchase decision, etc.

Other Topics of Interest

Court of Appeal, Third District, California.

RANDY TINDELL et al., Plaintiffs and Appellants, v. LINDA MURPHY et al., Defendants and Respondents.

C081424

Decided: April 06, 2018

Bradley [the appraiser] filed a motion for summary judgment. Following oral argument, the trial court granted the motion.

The court found no triable issue of material fact. The court summarized the evidence before it: “Plaintiffs [borrowers] admit that the appraisal was performed at the request of Eagle Home Mortgage, Inc. and that it stated it was ‘not intended for any other use or by any other party.’

Other Topics of Interest

“In Willemssen, a property buyer filed suit against his broker and appraisers alleging negligence, breach of fiduciary duty, and negligent misrepresentation. (Willemssen, *supra*, 230 Cal.App at pp. 624-625.) An appraisal was prepared for the lender and stated it was intended to be used by the lender. The trial court granted the appraisers' motion for summary judgment. The buyer argued, under Soderberg, the appraiser could be liable for negligence and negligent misrepresentation. The appellate court disagreed: “In Soderberg, the appraiser issued an appraisal to a mortgage broker with the knowledge and intent that the mortgage broker would distribute it to a class of potential investors who would rely thereon in making their decision to invest or not invest. In the matter before us, however, there is no indication that the Defendants issued their appraisal report with the knowledge or intent that Willemssen would rely upon it in deciding whether to buy or not to buy the property. Rather, they knew and intended that the bank would use the appraisal report in determining whether the property had sufficient value to serve as its collateral.”

Other Topics of Interest

- Market Activity of the Subject Property

STANDARDS RULE 1-5, SALE AGREEMENTS, OPTIONS, LISTINGS, AND PRIOR SALES

When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:

- (a) analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal; and
- (b) analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.

STANDARDS RULE 2-2, CONTENT OF A REAL PROPERTY APPRAISAL REPORT

- (a) The content of an Appraisal Report must be appropriate for the intended use of the appraisal and, at a minimum:
 - (x) provide sufficient information to indicate that the appraiser complied with the requirements of STANDARD 1 by:
 - (1) summarizing the appraisal methods and techniques employed;
 - (2) stating the reasons for excluding the sales comparison, cost, or income approach(es) if any have not been developed;
 - (3) summarizing the results of analyzing the subject sales, agreements of sale, options, and listings in accordance with Standards Rule 1-5;

Comment: If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

Other Topics of Interest

Market Value, is defined as follows:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and acting in what they consider their own best interests;
3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Other Topics of Interest

- Definition of Market Value in the USPAP:

MARKET VALUE: a type of value, stated as an opinion, that presumes the transfer of a property (i.e., a right of ownership or a bundle of such rights), as of a certain date, under specific conditions set forth in the value definition that is identified by the appraiser as applicable in an appraisal.

Comment: Appraisers are cautioned to identify the exact definition of market value, and its authority, applicable in each appraisal completed for the purpose of market value.

Other Topics of Interest

Places where “Market Value” is mentioned in the Standards:

Definition of Exposure Time - **EXPOSURE TIME**: an opinion, based on supporting market data, of the length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal.

STANDARDS RULE 1-3, MARKET ANALYSIS, AND HIGHEST AND BEST USE

When necessary for credible assignment results in developing a market value opinion, an appraiser must:

STANDARDS RULE 1-5, SALE AGREEMENTS, OPTIONS, LISTINGS, AND PRIOR SALES

When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:

Other Topics of Interest

Question:

The definition of Exposure Time applies when developing a market value opinion. Does this mean that you do not need to form an opinion of Exposure Time in an assignment where the objective is liquidation value?

Answer: NO, you need to form an opinion of exposure time.

Other Topics of Interest

VERIFICATION vs CONFIRMATION

Where is the concept of “verification” used in the USPAP?

STANDARDS RULE 1-4, APPROACHES TO VALUE

In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

Also found in Advisory Opinion 22, Scope of Work

An appraiser is expected to be at least as knowledgeable as the typical market participant is about the market for the type of property to be appraised. By completing research and verification steps while performing the assignment, the appraiser is expected to become as knowledgeable about the subject property and its comparables as the typical market participant.

Other Topics of Interest

Definition of Verification in the 6th Edition of the Dictionary of Real Estate Appraisal

In valuation practice, the process of validating or establishing the truth about information from another source, which is critical to assignment results. A valuer or reviewer may confirm information directly with a party knowledgeable about the property or the transaction involving the property or with another credible source to determine the reliability of that information in the assignment.

Other Topics of Interest

Appraisal Practices Board of the Appraisal Foundation

First Exposure Draft – Collection and Verification of Residential Data in the Sales Comparison Approach. 6-30-2016

“The verification process helps the appraiser to decide whether or not a sales lead meets the definition of a market value transaction. Verification differs from confirmation. To *confirm* means to find information supporting what is already believed to be true. To *verify* means to find information eliminating an existing doubt.”

Other Topics of Interest

“Since most assignments that utilize the sales comparison approach require the use of *market value* sales, it is important to understand the details and purpose of the verification process. USPAP makes minimal reference to verification: “...an appraiser must collect, verify, and analyze all information necessary for credible assignment results.” USPAP does not define the word verify (or verification), but it is addressed in the form of guidance: “By completing research and verification steps while performing the assignment, the appraiser is expected to become as knowledgeable about the subject property and its comparables as the typical market participants.” The goal of verification is to establish the accuracy, correctness, or validity of something. This can be done by *comparing information* using at least *two* different sources, or by *gaining sufficient detail* about a specific piece of information from *one or more* sources. Verification is essentially proof, corroboration, authentication, or endorsement. By verifying, doubt is reduced and more credible and reliable data is established.”

Other Topics of Interest

With verification, each data point should be verified until it is considered adequately confirmed information, or until a point is reached where it is reasonable for the unverified data to be accepted as-is. Accepting weaknesses in data is a normal part of the appraisal process, and is often the only viable solution after verification has been attempted.

Verification occurs in all stages of the appraisal assignment and for all different types of data. However, when clients and appraisers specifically address the “verification process,” they are typically referring to the process of verifying specific data points of individual comparable sales.

Other Topics of Interest

To verify comparable sales data, the following will need to be determined for each specific appraisal assignment:

- **Client requirements** for verification
- **Type** of data being verified
- **Level** to which each data point will be verified
- **Data points** to verify
- **Who** will verify the data points
- **Sources** used to verify the data points
- **Reliability** of each data source
- **Method used** to verify data
- **Documenting** and **recording** verified and unverified data

Uniform Appraisal Standards for Federal Land Acquisitions 2016 (Yellowbook)

Section 1.5.2.2 Selection and Verification of Sales

“All comparable sales must be confirmed by the buyer, seller, broker , or other person having knowledge of the price, terms, and conditions of sale.”



USPAP Overview and Other Topics of Interest

The End

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