

# 15 Hour USPAP Course Answers

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## Part 2.

# USPAP Definitions

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### In the Real World

- 1) A client has hired an individual to provide consulting in a tax appeal case. The client has an appraisal report that provided a market value opinion of the property from an appraiser the client also hired. If the consulting individual did not provide the appraisal report, can the individual be an advocate for the client?

Yes, if the individual is **not** acting in the role of an appraiser, (i.e., is refraining from appraisal practice) **and** does not misrepresent his or her role in the assignment (assuming no state laws to the contrary).

- 2) A mortgage broker suggested to an appraiser that if he would increase the value conclusion on an appraisal by just \$2,000 there would be more assignments coming his way. Should the appraiser change his opinion of value since it is less than a 1% difference?

No. An appraiser must perform assignments without accommodation of personal interests (promise of additional work). Additionally, an appraiser must not advocate the cause or interest of any party (either the mortgage broker or the homeowner).

## In the Real World

- 1) A client wants to know the repaired value of a property currently damaged due to flooding from a severe storm. What type of assignment condition should the appraiser use?

Hypothetical condition: the property as if repaired does not currently exist.

- 2) A client has repaired a property that was damaged due to flooding. Several neighboring properties that were similarly flooded and later repaired soon developed mold problems. The client's property shows no evidence of mold as of the effective date. What type of assignment condition should the appraiser use if the client wants a current value opinion of the property?

Extraordinary assumption: as of the date of value, the fact of the potential condition (i.e., mold) is unknown, and it is reasonable to believe the current condition is true.

## USPAP in Action No. 1

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An appraiser performed the cost approach in an appraisal of a new warehouse; the buyer paid \$1.9 million for the building and site. The property's appraised value was \$2 million. Identify each of the three components: the reproduction cost developed by the appraiser; the \$1.9 million figure; and the \$2 million figure as

- a) fact,
  - b) estimate of fact, or
  - c) an opinion
- in relation to the appraisal of this property.

### Guidance:

The reproduction cost developed by the appraiser is an **estimate of fact** (b).

The \$1.9 million sale is the price as a stated **fact** (a).

The \$2 million value of the property is the appraiser's **opinion** (c).

## USPAP in Action No. 2



A lender has engaged an individual to perform an appraisal for refinance purposes on a property. The property owner pays the appraiser when they meet at the residence. Who are the client and other intended users in this assignment?

### Guidance:

The lender is the client and sole intended user unless the appraiser has specified other intended users at the time of the assignment based on communication with the client.

### In the Real World

A client requests “a number” over the phone in advance of the written appraisal report. How should an appraiser handle this type of request?

This is an additional report – oral report. A summary of the oral report must be included in the workfile. Additionally, the workfile must contain a true copy of the written report that is delivered to the client.

### **In the Real World**

A client contacts a broker to lease her office property. The broker also provides appraisal services, but the client was not aware of that when she contracted with the broker. Is this assignment under valuation services or appraisal practice?

Valuation services because the client does not have expectations that the broker will act in the role of an appraiser.

### **Additional guidance:**

It is, however, incumbent on the appraiser not to misrepresent his/her role in the assignment.

# Part 4.

## ETHICS RULE and COMPETENCY RULE

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### USPAP in Action No. 3



I know appraisers who consistently conclude that the market value of any property they appraise is equal to the contract sales price. In doing so, they facilitate sales and financing of purchases, which is apparently what keeps their clients happy. Is this a violation of USPAP?

#### **Guidance:**

A contract price can be a good indicator of a property's market value, and it may be logical and reasonable for the appraiser to conclude that they are the same. However, this is not always the case. A contract sale price, while a significant piece of market data, must not become a target in an appraisal assignment. Competent analysis of relevant and credible market data must be the appraiser's basis for a market value conclusion.

#### **Additional guidance:**

If an appraiser consistently concludes that the contract sale price of a property he appraises equals market value, particularly when a competent analysis of credible market data indicates otherwise, the appraiser's impartiality, objectivity, and independence appear to have been compromised. The Conduct section of the ETHICS RULE clearly prohibits such a practice. See FAQ-16, "Value Opinions that Equal Contract Prices."

### **In the Real World**

- 1) Is it ethical to reduce the fee for appraisals in cases when the loan did not close if the client agreed to pay extra for other assignments?

No. Direct the class to the Management section of the ETHICS RULE and point out the rule for compensation arrangements, specifically #5.

The fact that the fee could be made up in other fees does not change this interpretation.

- 2) A potential client has asked me to complete a form indicating what my appraisal fee would be for different assignments. The form asks me to indicate my appraisal fees according to appraised value by listing the fee for assignments with appraised values between \$100,000 and \$299,000, \$300,000 and \$499,000, and so on. Is it a violation of USPAP to quote fees in this manner?

Yes, this is a violation of USPAP. Completing and submitting such a form to a potential client establishes a compensation arrangement for assignments that is contingent on the amount of the value opinion. This is prohibited by the Management section of the ETHICS RULE, specifically the third paragraph. See FAQ-27, "Appraisal Fee is Contingent on the Appraised Value."

### **Additional guidance for INTRW 1:**

See FAQ-25, "Reducing Appraisal Fees When Transactions Fail to Close."

### **In the Real World**

- 1) A fee appraiser is seeking to get on the approved list for a local lender. The lender requires appraisers to provide sample appraisal reports performed within the past year. Is there a way the appraiser can accomplish this without violating USPAP?

Yes. The appraiser must satisfy the Confidentiality section of the ETHICS RULE when providing this information.

- 2) In order to satisfy the Record Keeping section of the ETHICS RULE, should an appraiser retain a photocopy of the appraisal report that was sent to the client?

The workfile must contain a “true copy” of the report. A photocopy or an electronic copy of the entire signed appraisal report that was sent or delivered to a client satisfies the USPAP requirement of a “true copy.”

#### **Guidance for INTRW 1:**

See FAQ-39, “Sample Appraisals and the ETHICS RULE.”

#### **Guidance for INTRW 2:**

See FAQ-49, “Photocopies of Appraisal Reports in Workfiles.”

### **In the Real World**

- 3) A client's business associate asked the appraiser for information relating to an appraisal report the appraiser prepared for the client. Can the appraiser disclose the results of an appraisal assignment to parties other than the client?

The appraiser may share the results only if he or she receives authorization from the client before sharing confidential information with the client's associate.

- 4) An independent contractor who works for an appraisal company on a regular basis wants to keep the files relating to his work in his own possession. The appraiser who owns the company has always kept all appraisal file documentation (including hard copies of appraisal reports, field notes, drawings, etc.). Under USPAP, must the appraiser personally keep the workfile?

According to USPAP, the appraiser, not the appraiser's employer or client, is ultimately responsible for the access to the workfile for the prescribed period.

#### **Guidance for INTRW 3:**

See FAQ-36, "Disclosing Results of Appraisal Assignments."

#### **Guidance for INTRW 4:**

See FAQ-53, "Responsibility for Workfile Retention."

## In the Real World

I just completed my first assignment for a new client, and the client is very angry and is refusing to pay me. The client is a lender and the subject property is a mid-size office property that I am well qualified to appraise. However, the client says that I did not use the right definition of market value, the one required by FIRREA and that I did not follow other requirements for appraisals used by federally regulated financial institutions.

The client did not tell me about these things when I started the assignment. I think it is their fault and not mine. I said if they want to pay me more, I will re-do the report with the new requirements.

Is the client or the appraiser correct? Has there been a violation of USPAP by the appraiser?

The client is correct. The appraiser has the responsibility to know all the laws and regulations applicable to an assignment, independent of information from the client. The *Comment* to the COMPETENCY RULE *requires recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment.* The SCOPE OF WORK RULE reiterates and expands this requirement in its discussion of assignment conditions. The burden is on the appraiser to determine the appropriate scope of work, which includes the competency to understand which assignment conditions are applicable given the intended use and intended users. Lack of an appraiser's knowledge or experience does not excuse that appraiser from fulfilling USPAP obligations.

### **In the Real World**

An appraiser is asked to accept an assignment involving a property type with which he has had no previous experience or knowledge. The appraiser notifies the client of his inexperience and lack of knowledge and the means for overcoming both issues. The report does not, however, disclose any of this information, as the client specifically asked the appraiser to keep the information confidential. Has the appraiser complied with USPAP?

No. The **COMPETENCY RULE** requires that the lack of experience be disclosed in the report, and failure to do so is a violation of this **RULE**.

## USPAP in Action No. 4

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A certified residential appraiser recently received a call from a client for a fee quote on a full-service car wash. Since she has prepared appraisals on small commercial properties (working with a certified general real property appraiser), she believes she can adequately prepare an appraisal on a car wash facility. May she take the assignment? Does her being a certified residential appraiser affect her taking the assignment?

### **Guidance:**

The first question cannot be simply answered with a yes or no. A full-service car wash is considerably different from a small commercial property and is typically a more complex assignment. The car wash also includes tangible personal property such as equipment and possible intangible interests such as an assembled workforce and capitalized economic profit. These elements of valuation are covered by STANDARDS 7-10.

### **Additional guidance:**

Before accepting the assignment, the appraiser must disclose her lack of knowledge and/or experience. She also must take the steps necessary to complete the assignment competently and describe the circumstances in the report. To answer these questions, appraisers must check their own applicable state real property appraisal laws, since the property is general in nature and thus typically outside the definition of property types covered for a state certified residential appraiser.

# Part 5.

## SCOPE OF WORK RULE

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### **USPAP in Action No. 5**



A real property appraiser is engaged to appraise a 12-unit apartment building to provide a market value opinion. The appraiser initially decided that the scope of work should include the inspection of two of each of the three unit types (studio, one- and two-bedroom). In the course of conducting the inspection, the property manager had a key for only one of the two-bedroom units; thus, the appraiser was unable to inspect one of the two-bedroom units as planned. Does this affect the scope of work?

#### **Guidance:**

The scope of work, which includes the degree of inspection, was affected because of lack of access. If the appraiser decides he/she has sufficient information to produce credible assignment results, the appraiser can complete the appraisal based on the inspection completed. The report would include a description of the scope of work performed, stating that five units had been inspected.

## USPAP in Action No. 6

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A real property appraiser accepted an assignment to appraise a three-unit residential property. The intended use of the appraisal was for mortgage financing. The client requested that the appraiser not verify the legal status (e.g., compliance with zoning, building codes, use permits) of the three units with municipal officials. What should the appraiser do?

### **Guidance:**

The appraiser must evaluate whether credible assignment results can be achieved under these assignment conditions.

If the client has already performed the research, (i.e., provided written confirmation from the zoning commission or planning department, etc. to the appraiser) the assignment might be acceptable.

## USPAP in Action No. 7

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An appraiser was engaged to appraise a one-unit residence. Based on the appraiser's identification of the appraisal problem, the appropriate scope of work was determined to include development of the sales comparison and cost approaches. However, at the time of inspection, the appraiser discovered that the property was not a one-unit, but instead a three-unit property. What should the appraiser do?

### **Guidance:**

Based on new information, the appraiser should reconsider the appraisal problem and the appropriate scope of work. The change in relevant property characteristics of the subject property significantly changes the appropriate scope of work. The initial scope of work is no longer suitable and would not produce credible assignment results. The type of data to be researched and the type of analysis to be applied changed when the property type changed from a one-unit to a three-unit. A new appraisal problem requires reexamination of the scope of work. The appropriate scope of work for the new problem includes considering the approaches to value that apply, such as the income approach and cost approach. Is either or both necessary for credible assignment results?

## USPAP in Action No. 8

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An appraiser has been engaged to perform an “exterior only” inspection for the appraisal of a one-unit house for a potential home equity loan. Another appraiser has been asked to appraise a one-unit home in the same development for an FHA loan. Since the subject properties are similar, would the assignments require the same scope of work?

### **Guidance:**

No. The subject of the assignment and its relevant characteristics is just one of several assignment elements that define an appraisal problem. Because of the critical differences in the intended use and the appraisal problem to be solved, the scope of work that is acceptable for the first assignment would not be acceptable for the second assignment (i.e., an appraisal performed for an FHA loan is subject to additional inspection requirements).

## USPAP in Action No. 9

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An appraiser has agreed to complete an assignment in the next two days. While conducting research, the appraiser discovers that the primary data source for the assignment, a regional computer database, is off-line and will not be available for three days. What is the appropriate course of action?

### **Guidance:**

If an appraiser is unable to perform research that the appraiser's peers would conduct and intended users would expect, the appraiser must modify the assignment to allow time for the research to be conducted or withdraw from the assignment.

## Part 6.

# JURISDICTIONAL EXCEPTION RULE

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### **In the Real World**

- 1) An appraiser was recently hired to perform an appraisal assignment for a government agency. The agency has a regulation that requires the appraiser to provide the appraisal report to other government agencies if requested. Does this regulation create a jurisdictional exception to the Confidentiality section of the ETHICS RULE?

No. Since the Confidentiality section allows for the disclosure of confidential information to “persons specifically authorized by the client and such third parties as may be authorized by due process of law,” the JURISDICTIONAL EXCEPTION RULE would not apply.

### **Guidance:**

See FAQ-67, “Jurisdictional Exception and Confidentiality.”

## **In the Real World**

- 2) A property owner's attorney in a condemnation case has asked a real property appraiser to invoke the JURISDICTIONAL EXCEPTION RULE of USPAP in a particular assignment. The subject property sold within one year of the appraisal for what everyone admits was a very low price, although all parties claim the sale was not made under duress. The attorney does not want the prior sale mentioned in the appraisal report.

The appraiser reviews USPAP with the attorney, showing him Standards Rule 1-5 (requires appraisers to analyze any prior sales of the property being appraised that occurred within three years). The attorney is aware that the JURISDICTIONAL EXCEPTION RULE exists and tells the appraiser to invoke it for this situation. How should the appraiser respond?

The JURISDICTIONAL EXCEPTION RULE is not invoked at a client's discretion. The Rule is not applicable unless the requirements of USPAP are contrary to the law or public policy of a jurisdiction.

## In the Real World

- 3) State whether each one of the following statements is a jurisdictional exception
- You have been asked to use a specific definition of market value in an assignment
  - Your state regulations say you need to keep your workfile for six years
  - The probate court pays appraisers based on the value of the property
  - In an eminent domain case, the state agency client does not want you to consider the future improvements

1<sup>st</sup> bullet: No – Is a problem identification issue

2<sup>nd</sup> bullet: No – Is a scope of work issue (assignment condition)

3<sup>rd</sup> bullet: Yes – Jurisdictional exception

4<sup>th</sup> bullet: No – Is a scope of work issue (assignment element in problem identification)

# Part 7.

## STANDARD 1

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### **In the Real World**

- 1) A local residential real property lender has asked me to appraise a 5-acre portion of a 20-acre improved property, stating that Fannie Mae will not lend on more than 5-acres. Am I permitted to comply with this request?
  
- 2) I was recently asked to perform an appraisal assignment, but the individual that contacted my firm was not the client and indicated that the client could not be identified. Can I accept this assignment and comply with USPAP?

No. Standards Rule 1-2 states that an appraiser must identify the client and other intended users. See Confidentiality section of the ETHICS RULE.

**Note: USPAP in Action No. 10 was intentionally omitted.**

## **USPAP in Action No. 11**

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A residential appraiser offers quick turnaround and the lowest fees in town. The appraiser asserts the secret to her success is her efficiency. She completes her property inspections in 10 minutes, using the city assessor's database for the site and building dimensions and enters data on the subject property directly into her laptop computer on site. Her comparable sales and photos come directly from the MLS database, and she does not inspect them. It is not unusual for her to complete 10 appraisals a day and electronically transmit them to her clients.

Two of her appraisals have recently come under fire. In one case, her best comparable sold under duress, a situation that would have been revealed by verification with a participant to the transaction. Another sale was located in a neighborhood of a different price range from that of the subject; this fact was not disclosed in her report. In the other case, the subject was actually 400 square feet larger than reported in the city records, resulting in a significant value difference.

The appraiser explained that she can't be efficient and earn a respectable fee if she has to measure the subject property each time, drive by the comparables and verify data with a participant to the transaction. Is she required by Standards to measure the subject property, drive by her sales and verify her data?

**Guidance:**

USPAP does not require either an inspection or verification of the improvements of a subject property (See AO-2, “Inspection of Subject Property”). The complexity of the assignment and the intended use provides the appraiser with the answer concerning the level of inspection, i.e., the scope of work that will produce credible assignment results.

The example does not specify the intended uses of the appraisal in question. Other issues to discuss are Standards Rule 1-1(b) and 1-1(c). Appraisers must use due diligence and due care in performing appraisal services, including gathering factual data such as square footage. Standards Rule 1-4 requires the appraiser to collect, verify, and analyze all information necessary for credible assignment results. It also requires analysis of comparable sales data that are available.

The term “verify” is not defined in USPAP and means different things to different appraisers. The scope of work decision is a function of expectations of participants in the market for similar appraisal services and what the appraiser’s peers’ actions would be in performing similar assignments.

### **In the Real World**

- 1) I am currently appraising an office building that was transferred 18 months ago by a deed in lieu of foreclosure. Am I required to analyze this transaction?

Yes. See AO-4 and Standards Rule 1-5(b).

- 2) Does Standards Rule 1-5 require an appraiser to analyze the sales history for the comparable sales?

No. This Standards Rule addresses only the subject property.

- 3) I know that USPAP requires an appraiser to develop a reconciliation of the approaches to value that are used in an assignment. Does USPAP require the appraiser to reconcile the data used in each approach to value?

Yes. See Standards Rule 1-6.

#### **Guidance for INTRW 1:**

See FAQ-150, “Sales History Analysis for Deed in Lieu of Foreclosure.”

#### **Guidance: for INTRW 2:**

See FAQ-149, “Analysis of Sales History for Comparable Sales.”

#### **Guidance: for INTRW 3:**

See FAQ-123, “Reconciliation of the Approaches to Value.”

# Part 8.

## STANDARD 2

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### **In the Real World**

- 1) I currently work as a trainee in an appraisal firm. I contribute significant real property appraisal assistance to appraisal assignments performed by other appraisers in the firm, but do not sign the certification or report. I understand my name must be stated in the certification. Must the certification include a description of my assistance?

No description is required in the certification. Standards Rule 2-2 requires the extent of the assistance to be described, summarized, or stated in the report.

- 2) I am employed at a firm where my reports are reviewed by a supervisory appraiser. The supervisory appraiser recently asked me to make changes to a report that resulted in a value opinion with which I do not agree. I am not comfortable signing the amended report. What are my obligations under USPAP?

If the report does not represent your own opinions and conclusions, then you must not sign the report or the certification. See Standards Rule 2-3.

### **Guidance for INTRW 1:**

It could be in the certification or included in some other section. See Standards Rule 2-2(a)(vii), (b)(vii), and (c)(vii) for reference. See AO-31, *Assignments Involving More than One Appraiser, and*. FAQ-161, “Reporting Significant Real Property Appraisal Assistance.”

### **Guidance for INTRW 2:**

See FAQ-162, “Disagree with Supervisor on Value Conclusion.”

## USPAP in Action No. 12

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An appraiser is asked to complete an appraisal and submit a Self-Contained Appraisal Report. The letter of transmittal and other sections of the document identify the report as such. In the appraisal report, the appraiser briefly summarizes the highest and best use section. However, the approaches to value are very detailed and meet the requirements of a Self-Contained Appraisal Report. Have the requirements for a Self-Contained Appraisal Report been satisfied?

### **Guidance:**

This example addresses the definitions and requirements of Standards Rule 2-2, especially the differences among **describe**, **summarize**, and **state**. The content requirements of each report option must be complied with 100%; otherwise, the entire report falls into a lesser requirement reporting option. If any report section is less than what is required by the specific option selected, then the entire report must be identified as the reporting option. In this instance, Standards Rule 2-2(a)(ix) requires the appraiser to describe the support and rationale for the highest and best use of the real estate.

## USPAP in Action No. 13

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A mortgage broker hired an appraiser to prepare an appraisal on a one-unit property. He asked that she discuss her value opinion with him orally prior to transmitting the report. The appraiser completed her analysis and telephoned the client with her conclusions. The broker client was indignant and objected strongly to the value conclusion, indicating that the “figure” would not help his client’s objectives. He further indicated that there would be no need to provide a written report. What are the appraiser’s obligations under USPAP?

### **Guidance:**

Clearly, reporting of the value conclusion to the mortgage broker client is an oral report. A summary of such a report, along with the appraiser’s signed and dated certification, must be included in the workfile. Reference is made to Standards Rule 2-4, which states that an oral appraisal report must address the substantive matters required in a Summary Appraisal Report (see Standards Rule 2-2(b)). The client does not have to take delivery of the written report. The appraiser has met the assignment conditions by completing the appraisal, providing an oral report and maintaining a workfile for the assignment. The workfile must be retained for the specified period required by USPAP.

# Part 9.

## STANDARD 3

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### **In the Real World**

I am performing a review of a real property appraisal, and my client has asked me to give my opinion of value even if I agree with the value in the appraisal. Does my concurrence constitute an appraisal opinion? If so, what do I need to do to comply with USPAP?

The Comment to Standards Rule 3-1(a) states, “If the assignment includes the reviewer developing his or her own opinion of value about the work under review, that opinion is an appraisal whether it concurs with or differs from the opinion of value in the work under review....”

### **Guidance:**

The steps that must be taken when the scope of work includes the reviewer expressing his or her own opinion of value are shown in the Comments to Standards Rule 3-1(c). Additional advice is contained in AO-20 and FAQ-201, “Reviewer Concurs with Value Conclusion.”

### **In the Real World**

Can a reviewer use information and data that took place after the effective date to impeach or impugn appraisals and appraisers?

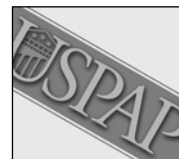
No. The Comment to Standards Rule 3-1(c) states: “The appraisal review must be conducted in the context of market conditions as of the effective date of the opinion in the work being reviewed.”

### **Guidance:**

Information available to the reviewer that could not have been available to the appraiser as of or subsequent to the date of the work being reviewed must not be used by a reviewer in the development of an opinion as to the quality of the work under review. See FAQ-199, “Post-Valuation Date Information in Appraisal Reviews.”

## USPAP in Action No. 14

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An appraiser regularly reviews residential appraisals for a major lender. He has found numerous errors in several reports prepared by the same appraiser. He believes the errors are intentional and caused the value conclusions to be inflated in several instances. He has discussed the matter with his client, but he is wondering if he is permitted by USPAP to file a complaint with the appraiser's state appraiser board without his client's consent. Is he permitted to do so?

### **Guidance:**

USPAP does not address filing complaints. Absent any higher precedent law or regulation, a reviewer may file a complaint with a state appraiser board without the consent of his or her client. The Confidentiality section of the ETHICS RULE states: "An appraiser must protect the confidential nature of the appraiser-client relationship" **and** "An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than the client and persons specifically authorized by the client; state enforcement agencies and such third parties as may be authorized by due process of law; and a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation." See FAQ-202, "Appraisal Review and State Appraiser Boards."

# Part 10.

## STANDARDS 4–10

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### **In the Real World**

A client asks an appraiser to review a real property appraisal report that was prepared by another appraiser. The client only wants an opinion about the quality of the original appraisal report and does not want the appraiser to develop a separate value opinion. May the client's request be treated as a real property appraisal consulting assignment under STANDARDS 4 and 5?

No. This is an appraisal review assignment that should be completed in compliance with STANDARD 3.

### **Guidance:**

The Comment to STANDARD 4 specifically states, "...an opinion as to the quality of another appraiser's work cannot be the purpose of an appraisal consulting assignment."

## USPAP in Action No. 15

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A real estate developer contacts a certified general appraiser and asks him to develop opinions as to the current market value of five different unit types that are being considered for a new development. In addition, the developer wants the appraiser to perform a study to determine what mix of unit types would yield the fastest projected absorption rate. Which Standards apply?

### **Guidance:**

The value opinions developed for the unit types are real property appraisals that should be developed in compliance with STANDARD 1 and communicated in compliance with Standards Rule 5-2(g). The assignment is a real property appraisal consulting assignment, which is driven by the results of the appraisal. The study of the absorption of the unit types should be developed in accordance with STANDARD 4 and communicated in compliance with STANDARD 5.

## USPAP in Action No. 16



The chief appraiser for a city assessor's office prepares the annual values for all the commercial and industrial properties. A state statute requires that the properties be appraised as if in fee simple. An owner of several multi-tenant properties in the city is appalled when he receives his assessment notices. He has owned the properties for over ten years, and some of his leases date back to the time he purchased the buildings. The owner calls the appraiser and learns the properties are being valued at market rent levels despite the fact that if he wanted to sell the buildings, the purchaser would have to honor the existing lease contracts. The owner's complaint filed with the city manager states the appraiser is not using the appropriate valuation methodologies and techniques for valuing his leased fee interest. Did the appraiser violate USPAP by valuing the properties using market rent levels rather than contract rents?

### Guidance:

The appraiser correctly appraised the properties as if in fee simple and unencumbered by existing leases as required by state statute. The Comment to Standards Rule 6-6(c) states: "In ad valorem taxation the appraiser may be required by **rules** or **law** to appraise the property as if in fee simple, unencumbered by existing leases. In such cases, market rent would be used in the appraisal, ignoring the effect of the individual, actual contract rents." (Bold added for emphasis.)

## USPAP in Action No. 17

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The owner/operator of an antique shop advertises that she offers appraisal services. An attorney has asked her to perform an appraisal of personal property for estate taxes, explaining that the estate was left to an only son. She accepts the assignment.

After inspecting the furniture, glassware, china, silver and other household contents, the appraiser completed the appraisal. In the report, she provided a short cover letter that simply stated she had performed the appraisal, identified the total marketable cash value, made an offer to buy the estate at the value given and included her signature. Attached were thirteen pages of inventory with short descriptions and individual values for each property.

Did the appraiser comply with USPAP?

### **Guidance:**

No. The appraiser failed to comply with STANDARD 8. The report did not contain much of the information required in Standards Rule 8-2(a) (b) or (c), including lack of disclosure of all limiting conditions and a disclosure of the scope of work undertaken to complete the assignment. The report did not include a signed certification (Standards Rule 8-3). The appraiser did not comply with the Conduct section of the ETHICS RULE. An offer to buy evidences a “prospective interest” in the subject of the assignment and implies at least a preference or inclination that precludes an appraiser’s impartiality.

The COMPETENCY RULE is also relevant. The appraiser demonstrated a lack of knowledge by either education or experience that seriously affected both the development of the appraisal and the communication of the results in the report.

## USPAP in Action No. 18

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An appraiser has been asked for a value based only on “rules of thumb” used in a specific industry. The client intends to rely on the value as a “guideline valuation” for a buy-sell agreement. What should the appraiser do?

### **Guidance:**

The key discussion point is the role of an appraiser compared to that of a person who does not hold him or herself out as an appraiser. In the business appraisal discipline, uses of “rules of thumb” are viewed as a very limited scope of work. For the intended use stated, there is a good chance that use of a rule of thumb without other research and analysis would not be an acceptable scope of work, i.e., produce credible assignment results. Therefore, the appraiser in this example would not be able to do the assignment as requested. However, an individual who does not hold him or herself out to be an appraiser is free to provide his/her client with a value conclusion based on a rule of thumb. The client would have no expectation that the individual would be providing professional appraisal advice.

### **In the Real World**

A company has recently redeemed a retired director's stock. However, no mention of any prior transaction in company stock is made in a later appraisal. You are reviewing the appraisal report and wonder why no mention of the prior transaction was made, especially since the prior transaction was conducted at a price of more than double the appraisal conclusion. Upon further analysis, you find that the prior transaction seems to be overpriced, and the appraisal results seem appropriate. Did the appraiser comply with USPAP?

The issue is addressed in Standards Rule 9-4(b)(iv), which calls for analyzing past sales of capital stock or other ownership interests in the business being appraised when they are relevant.

### **Guidance:**

The transaction appears relevant and thus should have been noted in the report; and, if it was not believed to be indicative of value, this should have been discussed and supported.