



Case Summary: 2022-14

Adjudicating Sub-Committee Hearing Date: October 11, 2022

General Summary:

File opened: November 14, 2017

An AIC Member submitted a complaint about an AACI-designated Member who had completed an Appraisal Review of Complainant Member's Appraisal Report on a commercial recreational property for the company that owned the property in 2016. In 2017, the Member produced a retrospective Appraisal Report on the property with an effective date in 2014 that identifies the company as the client.

The Advocate and the Member discussed the complaint issues and the allegations of breaches to CUSPAP and the Member conceded that there are technical issues with the report. The Advocate and the Member agreed that the breaches warranted a Reprimand and a Fine and a Settlement Agreement was signed.

This Settlement Agreement was submitted to an Adjudicating Sub-Committee Hearing Panel. The Panel deemed the terms of Settlement Agreement to be an appropriate resolution to the Complaint and made an Order to ratify the Settlement Agreement.

Complainant Allegations:

The complainant alleged:

1. The Member may have authored or co-authored a report on the subject property for another purpose.
2. The property rights in the report vary and are unclear and/or misleading.
3. The property does not have a marketable title, it appears to be misleading and contradictory.
4. No market and demographic data/information was included in the report.
5. Three structures were not knowingly included in the appraisal report for valuation purposes.
6. No details on comparables were shown.
7. No proven market evidence was supplied to support additional functional obsolescence depreciation applied at 50%.

8. The Income Approach was not supported by the actual financial statements for the subject property.
9. The Direct Comparison Approach estimate does not meet the test of the Reasonable Appraiser.
10. The Reconciliation and Final Estimate of Value do not meet the test of the Reasonable Appraiser.
11. There was a conflict of interest as the Member indicated that he was involved with the subject property owner on another venture.
12. The Member did not follow correct procedures for the Appraisal Review.

Issues Arising from the Complaint Review:

None

Adjudicating Sub-Committee Decision dated November 4, 2022

Breaches of CUSPAP 2016:

Ethics Standard Rules 4.2 Requirements of Members

4.2.2 – A Member of the Appraisal Institute of Canada must develop and communicate his/her analysis, opinions and advice in a manner that is meaningful to the client, not bemisleading in the marketplace and in compliance with these Standards.

Ethics Standard Rule 4.3.3 It is unethical for a Member to knowingly act in a manner that is misleading;

Ethics Standard Comment 5.3 Misleading Report

5.3.3 A misleading report can be caused by omission or commission any may result from a single large error or a series of small errors that, when taken in aggregate, lead to a report that is deemed to be misleading.

Real Property Appraisal Standard Rule 6.2.8 In the report the Member must identify the interest appraised and the location, and describe the characteristics of the property;

Real Property Appraisal Standard Comment 7.8 Characteristics of the Property

7.8.1 Relevant to the purpose and intended use of the report, characteristics of the property must be adequately described, analyzed and included in the report:

7.8.1.ii – the real property interest to be valued;

7.8.1.iii – physical, legal and economic attributes; and

7.8.1.v. – any known or apparent title restrictions, easements, encumbrances, leases, reservations, covenants, contracts, judgements, special assessments, liens, or other items

of a similar nature.

Real Property Appraisal Standard Rule 6.2.9 In the report the Member must identify all assumptions and limiting conditions (including extraordinary assumptions and extraordinary limiting conditions;

Real Property Appraisal Standard Comment 7.9 Assumptions and Limiting Conditions(including Extraordinary Assumptions and Extraordinary Limiting Conditions)

7.9.2. Wherever an opinion or conclusion is stated within a report, the extraordinary assumption must be either stated in its entirety or reference provided to its exact location within the report.

7.9.3. When referencing the subject matter of the extraordinary assumption within the body of a report, it must be clearly indicated that the subject matter is based on the extraordinary assumption.

Real Property Appraisal Standard Rule 6.2.10 In the report the Member must identify any hypothetical conditions;

Real Property Appraisal Standard Comment 7.10 Hypothetical Conditions

7.10.1 Hypothetical Conditions may be used when they are required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison. Common hypothetical conditions include, among others, proposed improvements, prospective appraisals and contaminated properties.

7.10.4 For every Hypothetical Condition, an Extraordinary Assumption is required in the report.

7.10.5 Hypothetical Conditions can apply whether the assignment is for the purpose of developing a retrospective, current, prospective, or update value opinion. The Member must avoid making unsupported assumptions. It must be clear to the reader that:

7.10.5.i the property condition does not in fact exist as at the effective date;

7.10.5.ii the analysis performed to develop the opinion of value is based on a hypothesis, specifically that the property condition is assumed to exist when, in fact, it does not;

7.10.5.v a different value conclusion would likely result in the absence of the hypothesis.

7.10.6 Appraisals for expropriation can incur Hypothetical Conditions, and may require the Member to invoke the Jurisdictional Exception protocol.

Real Property Appraisal Standard Rule 6.2.14 In the report the Member must describe and analyze all data relevant to the assignment;

Real Property Appraisal Standard Comment 7.14 Describe and Analyze All Data Relevant to the Assignment

7.14.1 The Member must take reasonable steps to ensure that the information and analyses provided are sufficient for the client and intended users to adequately understand the rationale

for the opinion and conclusions.

7.14.2 In the process of collecting and verifying relevant information the Member must perform this function in a manner consistent with the “Reasonable Appraiser” standard.

7.14.3 All three approaches to value require the collection of comparable data. The decision to inspect the comparable data and the extent of verification of data will be determined by the scope of the assignment, but in all cases the Member must conform to the “Reasonable Appraiser” standard.

Real Property Appraisal Standard Rule 6.2.15 In the report the Member must describe and apply the appraisal procedures to the assignments and provide reasoning for the exclusion of any of the relevant valuation procedures;

Real Property Appraisal Standard Comment 7.15 Appraisal Procedures

7.15.4 When a Direct Comparison Approach is applicable, the Member must analyze such comparable data as available to indicate a reasonable value conclusion.

7.15.5 When a Cost Approach is applicable, a Member must:

7.15.5.iii Analyze such comparable data as are available to estimate the difference between cost new and the present worth of the improvements (accrued depreciation).

7.15.6 When an Income Approach is applicable, a Member must:

7.15.6.i. Analyze trends, forecasts and such comparable rental data as are available to estimate the market rental of the property;

7.15.6.ii. Analyze such comparable operating expense data as are available to estimate the operating expenses of the property;

7.15.6.iii. Analyze such comparable data as are available to estimate rates of capitalization and/or rates of discount; and

7.15.6.iv. Base projections of future rent and expenses on reasonably clear and appropriate evidence.

Real Property Appraisal Standard Rule 6.2.16 In the report the Member must detail the reasoning supporting the analyses, opinions and conclusions of each valuation approach;

Real Property Appraisal Standard Comment— 7.16 Reasoning

7.16.1 Reasoning requires the logical review, analyses and interpretation of data in a manner that will support the value conclusion, not be misleading to a reader, and be to a level consistent with the “Reasonable Appraiser” standard.

Discipline:

Section 5.35.1 Reprimand. A Reprimand is a written warning calling the attention of a Member to a breach of the Institute By-Laws, Code of Conduct, Regulations, Policies, or CUSPAP.

Section 5.35.4 Fine. A fine in the amount of \$500.

Costs (Section 5.38):

Costs in the amount of \$500 were levied.