



BEST PRACTICES – EXAMPLES FROM THE FIELD

A COLLABORATION BY THE VOLUNTEER MEMBERS OF THE APPEAL SUB-COMMITTEE:

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"WHEN CONDUCTING APPRAISALS, IT IS HELPFUL TO LOOK AT A BUYER'S PERSPECTIVE AND CONSIDER THEIR ALTERNATIVES AND VIEW OF THE MARKET."

This article represents a collaboration of the Appeal Sub-Committee and is the first of a series that will appear in the 2016 quarterly editions of Canadian Property Valuation magazine. The Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP) focuses on a level of practice that can be described as minimum compulsory compliance to meet the 'reasonable appraiser' standard. There is an entire level of performance above the bare minimum that is generally referred to as 'best practices.' The Sub-Committee has identified examples from its collective experience and offers guidance on going above and beyond while ensuring compliance.

Think like a buyer – consider the options

When conducting appraisals, explaining value to a client/purchaser, or testifying as an expert witness, it is helpful to look at a buyer's perspective and consider their alternatives and view of the market.

For example, consider the case of a parcel of land you are asked to appraise. Obviously, the appraiser should use comparable land sales to estimate the market value, but it is equally important to think like a buyer who cannot have the properties that are now sold. The buyer has to find an alternative parcel. Therefore, the appraiser should not only use sales, but any relevant listings of

land for sale. Listings can be a useful reference point on the state of the market at the effective date. If there are not any relevant properties for sale, then maybe the current market value of the subject land is higher than initially thought (due to supply and demand). If there are several alternative sites to purchase, then perhaps the subject value should be adjusted downward.

Therefore, remember to check out available properties besides sales and consider an explanation similar to the above example. Tell the reader if there are alternatives. Use your skills to undertake a proper comparative analysis of the listings, just as you would if they were actual sales.

This procedure seems obvious, but it can be overlooked by many appraisers. Other factors to consider are the motivations involved in the sales. There is usually an interesting story behind every deal. Also, consider the trend of the local economy. For example, a real estate market dependent on oil and natural gas exploration might have declining real estate prices. However, this may not be a factor that is not reflected in the sales data, if the sales occurred prior to the downturn. List prices can provide insight when market conditions change suddenly.

The applicable Appraisal Standard Rule in CUSPAP is 6.2.15 "describe and analyze all data relevant to the



assignment.” Do not let yourself be restricted to considering only sales data when the sales might not tell the whole story.

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The three times test

Over the course of my career, I have had the privilege to mentor a number of Candidates. One piece of advice that I have shared with these Candidates is to use the ‘three times test; when dealing with any aspect of an assignment that is unusual.

What I define as the three times test is that any unusual aspect of an assignment should be covered at least three times in an appraisal report to ensure that it is not lost on the reader of the report. For example, take an appraisal of a property that includes an extraordinary assumption and assume that this extraordinary assumption involves a change in zoning.

The three times test would see this assumption discussed at least three times in the report. One time might be in the letter of transmittal, where the results of the appraisal are usually summarized. A second time might be either a separate section of the report, summarizing extraordinary assumptions, and/or the limiting conditions section (remember that introducing an extraordinary assumption also requires that an extraordinary limiting condition be added as well). The third could be in the description of land use controls, and/or in the highest and best use discussion.

Better yet, best practices suggest that, when such a critical assumption is made in a report, the appraiser should consider identifying this assumption wherever the value estimate is shown. This could take the form of “the market value estimate, ‘as-if-rezoned’ is \$XXX.” You might think of putting the limitation on the title page of the report. These suggestions are aimed at making it clear that your



report involves special circumstances that the reader must understand in order to understand the value estimate.

Using the three times test provides some assurance that your appraisal report is not capable of misleading a reader. Common examples of assignment conditions that fit the test are:

- appraisals from blueprints, or other conditions where an ‘as-if-complete’ value is required;
- terms of reference that require the appraiser to disregard a known condition (e.g., a construction defect, or a detrimental condition such as mould);
- appraisal for legal purposes, such as expropriation; and
- retrospective valuations.

It is worthy to note that this advice is not a requirement of *CUSPAP 2014*, but is offered as a suggestion for best practices. When it comes to an interpretation that a report is capable of misleading a reader, the best advice is to err on the side of caution. A report that is deemed to be misleading is a serious allegation,

and could potentially attract an Ethics violation (see *CUSPAP* Ethics Standard Rule 4.2.3 and Ethics Standard Comment 5.3). A misleading report can be through ‘omission’ or ‘commission,’ due to either one large error, or a combination of smaller errors that collectively lead to a report that is deemed to be misleading.

The three times test is an effective tool to ensure that neither an erroneous omission, nor an error by commission, would lead to the judgment that your report could mislead a reader.

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When market value is the wrong answer

For AIC members in Ontario, Alberta, Manitoba, New Brunswick and Nova Scotia, the provincial expropriation legislation creates an additional obligation for the appraiser, after addressing the traditional issue of market value. This component of the valuation assignment



relates to 'equivalent reinstatement' or the concept of 'a home for a home.'

In Ontario, the legislation frames the appraiser's task as follows:

INCREASE BY THE BOARD

15. Upon application, therefore, the Board shall, by order, after fixing the market value of lands used for residential purposes of the owner under subsection 14 (1), award such additional amount of compensation as, in the opinion of the Board, is necessary to enable the owner to relocate his or her residence in accommodation that is at least equivalent to the accommodation expropriated.

This is an area that the vast majority of expropriating authorities tend to conveniently ignore and, instead, address only the issue of traditional market value. However, depending on local market conditions at the valuation date, an expropriated homeowner may encounter significant difficulties replacing his or her home in the vicinity of the dwelling expropriated. Most expropriated homeowners have valid reasons for

wanting to stay in a particular area, such as school district boundaries, proximity to employment, family, friends and doctors. In this instance, after estimating traditional market value, the appraiser's task is to consider what properties were available to the owner for relocation.

'Equivalent reinstatement' has been interpreted in several ways. It may go beyond replacing the features of the dwelling in terms of replacing the number of bedrooms and baths. It can include amenities such as landscaping, barns, fencing, tennis court, etc. In one case, it included a three-acre vineyard developed and maintained by the owner's family as a recreational and family activity.

The concept that the appraiser should remember was summarized in *Dell Holdings Ltd v Toronto Area Transit Operating Authority* when the Supreme Court of Canada described the interpretation of expropriation legislation as follows:

"The expropriation of property is one of the ultimate exercises of government authority. To take all or part of a person's

property constitutes a severe loss and a very significant interference with a citizen's private property rights. It follows that the power of an expropriating authority should be strictly construed in favour of those whose rights have been affected."

The applicable Appraisal Standard Rules (ASR) in *CUSPAP* include:

ASR 6.6.2: identify the intended use of the appraiser's opinions and conclusions;

ASR 6.2.3: identify the purpose of the assignment including a relevant definition of value;

ASR 6.2.4: identify the scope of work necessary to complete the assignment; and,

ASR 6.2.15: describe and analyze all data relevant to the assignment, as well as any relevant Extraordinary Assumption and/or Extraordinary Limiting Condition

It should go without saying that the appraiser's responsibilities are much higher than a normal assignment when working in provinces with the equivalent reinstatement provision in their expropriation act(s). Members should also be aware that many provinces have more than one Act that provides for compulsory acquisition, and the provisions for compensation can vary, even in the same province.

As per *CUSPAP*, AIC members are required to comply with the applicable legislative and/or licensing requirements for all types of professional services assignments. In some jurisdictions, legislation may limit the qualifications of the practitioner and the legislation supersedes *CUSPAP*.

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