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*Paul Olscamp, AACI, P. App  
AIC President*

# Summing up – looking forward

**W**e have all heard numerous sayings with regard to time – time marches on... time passes you by, etc. Indeed, my time as your current President draws ever nearer to its conclusion. This article is a lead-in to my final report.

The Appraisal Institute of Canada (AIC) has been experiencing significant change over the past number of years. The building blocks identified within the New Horizons project and the existing Strategic Plan are continually evolving and becoming aligned. Together, we are **Building for the Future**. We are indeed in the middle of an ambitious program of professionalizing and repositioning the Institute and its members, and its success will depend on our ability to work together. “We may not be there yet, but we are closer than we were yesterday.” unknown.

Your elected representatives, the Board of Directors, are continually exploring opportunities and seeking innovative ways to help the membership respond to change, to grow and to improve.

Although the AIC is regarded as a visionary body and leader within the international valuation community, we are not alone in our efforts to respond to the changing marketplace, to be at the forefront, or to be relevant.

Our commitment to address the priorities of AIC continues to evolve, as we keep our future squarely within our sights. Those priorities are numerous, but the top three are branding, the Strategic Plan, and member services.

Once the membership has approved the branding direction, and this question has been resolved, we are committed to embarking on a communications and marketing program on a scale not seen before in our history. This is yet another step in our commitment to realizing our goal of elevating our profession.

Under the guidance of your Board of Directors, the AIC has been faithful to its initial Strategic Plan, which has served as the roadmap to achieving our vision for the future. The work of developing a new Plan is underway. I am pleased to report that the Board of Directors, together with all provincial presidents, had a very productive and successful meeting that resulted in the development of the framework for a new Strategic Plan. A subcommittee with representation from both groups is working on compiling all information as presented and discussed into a draft document that will see additional input from not only the original participants, but members as well. This draft has recently been posted to our web site and I encourage you to review and provide any comments that you may

“ We may not be there yet, but  
we are closer than we were yesterday.”

- Unknown

have. It is our goal that, once this document has been refined and agreed upon, AIC, together with all provincial affiliates, will adopt it. To meet the needs of each association, individual operational plans may then be developed.

The Member Services Delivery Task Force, similarly comprised of representatives from the Board and senior elected officials from all provinces has met on two occasions. Its mandate is to:

- collaboratively explore the

- current and alternative service delivery models; and
- develop a service delivery model that is efficient, consistent and accurate.

The ultimate goal is the elimination of redundancies and provision of measurable benefits to AIC members.

A subcommittee selected from and by the participants is now working on possible solutions and improvements, as identified by the larger group. Its findings and recom-

mendations are to be reported to the Board.

Your Board of Directors believes it is its fiduciary responsibility to examine the economies of scale of member services delivery, to determine if duplication exists and, if so, how to cost effectively avoid this. Ultimately, it is our view that, regardless of whether they are from BC or Newfoundland & Labrador, members should be assured of program delivery that is consistent and uniform.



## PROVINCIAL/ NATIONAL LIAISON

### PROVINCIAL LIAISON

It has been my pleasure to attend most of your provincial AGMs. My thanks to Past-President David Highfield and President-Elect Gordon Tomiuk for attending meetings in Nova Scotia and New Brunswick where scheduling conflicted and I could not.

It is a pleasure to have the opportunity to address members at AGMs and to participate in the provincial board meetings. The engaging questions and feedback obtained is valuable and educational for both.

### NATIONAL LIAISON

I attended the June meeting of the Canadian Directors of Assessment. This meeting provided an opportunity to update participants on the Institute's most recent five-year history, including our education programs as they relate to property assessment. As potential employers/clients, this group collectively represents significant potential for members considering valuation careers in the public sector.

In the fall of 2006, I attended various meetings

including The Real Property Association of Canada (REALpac). A joint terminology document developed with AIC is being reviewed and updated. Valuation for Financial Reporting (VFR) was discussed based upon its eventual implementation and the need for most, if not all, members of REALpac to require the expert advice of our members.

The annual Advisory Council meeting was held in Toronto. This was a very productive session where we heard from AIC clients and stakeholders representing both private and public sectors. The advice they provide clearly assists in present and future planning.

I attended the 40<sup>th</sup> annual meeting of the Canadian Property Tax Association, which provided an opportunity to exchange views and participate in various sessions. I was able to speak with the Ontario Ombudsman, Andre Morin, following his presentation on the Municipal Property Assessment Corporation. Our discussion allowed me to provide him with information on the AIC program of education, our accreditations and designations.

I was pleased to attend the annual meeting of the Ordre des évaluateurs agréés. We are currently working with the Ordre

on a project that explores harmonization of our *Standards*.

In early December, I, along with our CEO Georges Lozano, attended several prearranged meetings with senior banking officials in Toronto. Our mutual discussions provided a forum for dialogue on many question and answer topics. Among other things, we were able to inform all participants of our policies, including those related to education, designation, and the candidate registry system. We have been able to establish contacts within the banks that would allow for better dissemination of information down to the branch levels. Several trends were reconfirmed by the bank representatives including a move toward greater use of appraisal management firms, continued use of AVMs for residential mortgage lending, and continued pressure with respect to turn around times. The banks have confirmed that they most certainly turn to appraisers when AVMs cannot provide them with appropriate information or when circumstances warrant a full appraisal.



## INTERNATIONAL LIAISON

### INTERNATIONAL LIAISON

As President, I have had the opportunity to attend many of our allied organization meetings to continue a dialogue that has been established over the years.

The bi-annual Pan Pacific Conference in San Francisco provided the opportunity to meet with delegates from all Pacific Rim countries. In addition to attending Board meetings, I was able to schedule a meeting with the Australian, New Zealand and American Institute presidents, where we discussed areas of mutual interest, in particular our respective involvement with the IVSC and WAVO.

Meetings were also held with the International Right of Way Association (IRWA), the American Society of Appraisers (ASA), The

American Society of Farm Managers & Rural Appraisers (ASFMR), The Appraisal Institute (AI), and the North American Conference of Appraisal Organizations (NACAO)

Our involvement and the associated work continue with The Toronto Valuation Accord (TVA), where valuation for financial reporting remains at centre stage; the World Association of Valuation Organizations (WAVO), where we are working on reciprocity agreements with Australia, New Zealand and Singapore; the International Valuation Standards Committee (IVSC), where the restructuring of this body has been the immediate focus.

My thanks to all those individuals who are capably representing the AIC within these groups.

## Strategic Plan Highlights

### VISION

Members will be recognized nationally and internationally as highly qualified professionals.

The Institute's professional designation will reflect the highest standards of professionalism, knowledge and skills within the industry.

The Institute's brands will be implemented successfully in English and French.

The Institute will have adopted the organizational model that will be of most benefit to members.

### MISSION STATEMENT

To promote and support our members in providing high quality property advisory services for the benefit of the public.

### Primary Goals

1. To be the recognized leader in real property valuation and related service areas.
2. To expand the range of value-added services members can provide and to support members in this respect with high quality professional resources and services.
3. To protect the public by setting high standards of professional practice and implementing quality assurance programs to ensure member professionalism and competence.
4. To communicate effectively with the membership.
5. To maintain highly effective communications between the Institute and its affiliated associations.
6. Develop and implement a highly effective communications and marketing program that promotes the Institute members and their services to identified target markets.
7. To establish clear roles for the Institute and its provincial affiliates within a political and administrative structure that is effective and provides the membership with the best value for dollar possible.

In conclusion, I would like to recognize and thank all members, committee volunteers and staff who have contributed to our professional growth. Without their contributions, precious little would be achieved.

This past year has allowed me many friendships, and a much better understanding and appreciation of the splendid men and women com-

prising your Board of Directors. If our year has been successful, and I sincerely believe it has, most of it is due to the support accorded me by this group. It is not always an easy task to exhibit leadership in challenging times and I appreciate that they have time and again stepped up to the plate to make decisions in the best interests of members and the profession. 🍷

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*Paul Olscamp, AACI, P. App  
Président de l'ICE*

# Un résumé... un regard sur l'avenir

**N**ous avons tous entendu de nombreuses expressions au sujet du temps.

Le temps fuit...Faute de temps...Je manque de temps...etc. Et, effectivement, mon temps comme président actuel de l'Institut tire à sa fin. Cet article se veut donc en quelque sorte un préambule à mon rapport final.

Au cours des dernières années, l'Institut canadien des évaluateurs a subi de nombreuses transformations toutes aussi importantes les unes que les autres. Les assises jetées dans le cadre du projet Nouveaux Horizons et le plan stratégique actuel évoluent constamment et sont de plus en plus cohérentes.

**Ensemble, nous travaillons à bâtir notre avenir.** Nous sommes en fait au milieu d'un programme ambitieux qui vise à accroître le professionnalisme et à repositionner l'Institut et ses membres, et notre succès dépendra de notre collaboration. « Nous n'avons peut-être pas encore atteint notre but, mais nous en sommes plus près aujourd'hui que nous l'étions hier! » (auteur inconnu)

Vos représentants élus du Conseil d'administration sont toujours à la recherche de nouvelles occasions pour aider les membres à s'adapter au changement, à croître et à s'améliorer.

Bien que l'ICE soit considéré comme un organisme visionnaire et comme leader au sein de la communauté internationale des évaluateurs, nous ne sommes pas les seuls à déployer des efforts pour répondre au marché changeant de façon

avant-gardiste et pertinente.

Nous maintenons notre engagement à nous acquitter de nos priorités tout en concentrant sur l'avenir. Ces priorités sont nombreuses, mais les trois principales sont le positionnement, le plan stratégique et les services aux membres.

Une fois que les membres auront approuvé la question du positionnement, nous procéderons à la mise en oeuvre d'un plan de marketing et de communication encore sans précédent dans notre histoire, une autre étape dans le cadre de notre engagement visant à rehausser notre profession.

Sous la direction du Conseil d'administration, l'ICE n'a pas dérogé de son plan stratégique préliminaire qui a servi de carte routière à la réalisation de notre vision de l'avenir. L'élaboration d'un nouveau plan va bon train. Le Conseil d'administration et tous les présidents provinciaux ont tenu une réunion productive et couronnée de succès qui a donné lieu à un cadre de travail pour un nouveau plan stratégique. Un sous-comité formé de représentants des deux groupes s'affaire maintenant à compiler une ébauche contenant toute l'information présentée et discutée qui sera soumise aux commentaires non seulement des participants mais également de tous les membres. Cette ébauche a récemment été affichée sur le site web et je vous encourage fortement à en prendre connaissance et à nous faire part de vos commentaires. Une fois le document figolé et arrêté, il sera approuvé par

« Nous n'avons peut-être pas encore  
atteint notre but, mais nous en sommes plus  
près aujourd'hui que nous l'étions hier! »

- auteur inconnu

l'ICE et ses filiales provinciales. Des plans opérationnels individuels seront ensuite préparés en réponse aux besoins de chaque association.

Le groupe de travail sur la prestation des services aux membres, formé de représentants du Conseil et des principaux dirigeants élus de toutes les provinces, s'est réuni à deux reprises. Le groupe a pour mandat :

- d'étudier collectivement les modèles actuel et de rechange pour la prestation des services aux membres;

- d'élaborer un modèle de prestation de services qui soit efficace, cohérent et précis.

L'objectif ultime est d'éliminer les redondances et de produire des avantages mesurables pour les membres de l'ICE. Un sous-comité formé à même et par les participants s'affaire actuellement à étudier des solutions possibles et les améliorations identifiées par un groupe plus grand. Les conclusions et recommandations seront présentées au Conseil.

Votre Conseil d'administration est d'avis qu'il relève de ses responsabilités fiduciaires d'examiner les économies d'échelle associées à la prestation des services aux membres afin de déterminer s'il existe des dédoublements d'efforts et, dans l'affirmative, comment les éviter de façon efficace par rapport aux coûts. Nous croyons que tous les membres, qu'ils soient en C.-B. ou à Terre-Neuve et au Labrador, doivent pouvoir accéder à des services cohérents et normalisés.



## LIAISON À L'ÉCHELLE PROVINCIALE/NATIONALE

### LIAISON À L'ÉCHELLE PROVINCIALE

J'ai eu le plaisir d'assister à la plupart des AGA provinciales. À cause d'un horaire conflictuel, je remercie très sincèrement David Highfield, président sortant, et Gordon Tomiuk, président élu, pour avoir assisté aux réunions en Nouvelle-Écosse et au Nouveau-Brunswick en mon nom.

C'est un plaisir que d'adresser la parole aux membres lors des AGA et de participer aux réunions des Conseils provinciaux. Les questions et les commentaires soulevés sont éducatifs et d'une valeur inestimable pour les deux parties.

### LIAISON À L'ÉCHELLE NATIONALE

En juin, j'ai assisté à la réunion de la Canadian Directors of Assessment. Cette réunion a permis de présenter une mise à jour sur les activités de l'Institut au cours des cinq dernières années, y compris nos programmes pédagogiques liés à l'évaluation immobilière. Représentant collectivement des employeurs et clients éventuels, ce groupe offre beaucoup de potentiel aux membres qui considèrent une carrière d'évaluateur dans le secteur public.

À l'automne 2006, j'ai aussi

assisté à plusieurs réunions y compris celle de l'Association des biens immobiliers du Canada (REALpac). Un document terminologique commun, préparé en collaboration avec l'ICE, fait actuellement l'objet d'un examen et d'une mise à jour. Nous avons discuté l'évaluation aux fins de rapports financiers (ERF) à la lumière de sa mise en œuvre éventuelle et du besoin de la plupart, sinon tous de les membres de la REALpac de recourir aux conseils spécialisés de nos membres.

La réunion annuelle du Conseil consultatif a eu lieu à Toronto. Ce fut une session très productive au cours de laquelle nous avons écouté les propos des clients de l'ICE et des intervenants représentant les secteurs public et privé. Il est clair que les conseils promulgués faciliteront la planification courante et future.

J'ai assisté à la 40<sup>e</sup> réunion annuelle de l'Association canadienne de taxe foncière au cours de laquelle nous avons échangé des idées et participé à diverses séances d'information. J'ai aussi eu l'occasion de discuter avec l'Ombudsman de l'Ontario, André Morin, suite à sa présentation sur la Société d'évaluation foncière des municipalités. Cette discussion m'a permis de lui faire part des programmes pédagogiques de l'ICE et de lui expliquer notre processus d'accréditation et

nos désignations.

J'ai aussi eu le plaisir d'assister à l'assemblée annuelle de l'Ordre des évaluateurs agréés du Québec auquel moment nous avons discuté le projet commun visant l'harmonisation des normes.

Au début de décembre, le chef de la direction, Georges Lozano, et moi avons assisté à plusieurs réunions préétablies avec les dirigeants de banques à Toronto. Nos discussions ont ouvert la voie au dialogue sur plusieurs sujets. Entre autres choses, nous avons présenté nos politiques à tous les participants, y compris celles qui ont trait à l'éducation, la désignation et le registre des stagiaires. Nous avons établi des contacts bancaires qui permettront d'améliorer la dissémination d'information aux succursales. Plusieurs tendances ont été confirmées à nouveau par les représentants bancaires, y compris un recours accru aux cabinets de gestion en évaluation, l'utilisation continue des MIE pour les prêts hypothécaires résidentiels, et les pressions attribuables aux délais serrés. Les banques ont confirmé qu'ils ont certes recours aux évaluateurs lorsque les MIE n'offrent pas d'informations appropriées ou lorsque les circonstances justifient une évaluation complète.



## LIAISON À L'ÉCHELLE INTERNATIONALE

### LIAISON À L'ÉCHELLE INTERNATIONALE

Comme président, j'ai eu l'occasion d'assister à plusieurs réunions de nos alliés afin de poursuivre le dialogue amorcé au fil des ans.

La conférence pan-pacifique semestrielle à San Francisco m'a permis de rencontrer les délégués de tous les pays du littoral du Pacifique. En plus d'assister aux réunions du Conseil, j'ai rencontré les présidents des Instituts de l'Australie, de la Nouvelle-Zélande et des États-Unis avec qui j'ai discuté des sujets d'intérêt commun, en particulier notre participation respective auprès du IVSC et de WAVO.

Également, d'autres réunions ont eu lieu avec l'International Right of Way Assoc. (IRWA), l'American Society of Appraisers (ASA), l'American Society of Farm Managers & Rural Appraisers (ASFMRA), l'Appraisal Institute (AI) et la North American Conference of Appraisal Organizations (NACAO).

Notre participation et notre travail se poursuivent dans le cadre de l'Accord de Toronto où l'évaluation à des fins de préparation de rapports financiers continue de retenir l'attention; le World Association of Valuation Organizations (WAVO) où nous travaillons sur des ententes de réciprocité avec l'Australie, la Nouvelle-Zélande et Singapour; le International Valuation Standards Committee (IVSC) dont la restructuration occupe l'attention immédiate.

Je remercie très sincèrement tous les gens qui ont représenté l'ICE avec brio auprès de ces groupes.

En terminant, je remercie tous les membres, bénévoles auprès des comités et membres du personnel qui ont contribué à notre croissance professionnelle. Sans leur dévouement, très peu aurait été accompli.

L'année écoulée m'a permis de faire de nouveaux amis et de mieux comprendre et d'apprécier la qualité des femmes et des hommes qui sont membres de notre Conseil d'administration. Si nous avons connu le succès au cours de l'année, et je crois sincèrement que tel fut le cas, c'est certes grâce au soutien de cette équipe. Il n'est pas toujours facile de faire preuve de leadership en des temps difficiles et j'apprécie qu'ils n'ont pas hésité à prendre les décisions nécessaires dans les meilleurs intérêts des membres et de la profession. 🍷

## Faits saillants du plan stratégique

### VISION

Les membres seront reconnus aux paliers national et international comme des professionnels hautement qualifiés.

La désignation professionnelle de l'Institut reflétera les normes les plus élevées de professionnalisme, de connaissances et de compétences au sein de l'industrie.

Les marques de l'Institut seront mises en oeuvre et reconnues dans les deux langues officielles du pays.

Le modèle organisationnel qui a le plus à offrir aux membres aura été déterminé.

### ÉNONCÉ DE LA MISSION

Représenter et soutenir nos membres dans la prestation de services de qualité élevée

en matière de consultation immobilière auprès et à l'avantage du grand public.

### Objectifs principaux

1. Obtenir la reconnaissance comme chef de file dans le domaine de l'évaluation immobilière et les services connexes.
2. Accroître la gamme de services à valeur ajoutée qui sont offerts aux membres et à cette fin, offrir aux membres des services et des ressources professionnelles de qualité élevée.
3. Protéger le public en établissant des normes élevées de pratique professionnelle et en appliquant un programme d'assurance de qualité afin d'assurer le professionnalisme et la compétence des membres.
4. Communiquer efficacement avec les membres.
5. Maintenir un niveau hautement efficace de communication entre l'Institut et ses associations affiliées.
6. Élaborer et mettre en oeuvre un programme hautement efficace de communication et de marketing afin de promouvoir les membres de l'Institut et leurs services auprès de marchés-cibles préalablement identifiés.
7. Établir des rôles clairs et précis pour l'Institut et ses associations provinciales affiliées dans le cadre d'une structure politique et administrative efficace, tout en offrant aux membres la valeur la plus élevée pour leur investissement.



**Georges Lozano, MPA**  
*AIC Chief Executive Officer*

# Advancing AIC's professionalism

Over the past five years, the Appraisal Institute of Canada (AIC) has made significant changes at both the policy and the program levels. This has prompted questions from time to time about the role of the Institute as policy-setter and service provider. As a national non-profit association, AIC was established to represent real property appraisers and serve their best interests.

However, as a professional organization, the Institute plays a dual role – serving its members and working to protect the public. The Institute's Mission Statement sums it up as: "The Mission of the Appraisal Institute of Canada is to protect the public interest and support our members by ensuring high standards of professional real estate and related property advisory services."

AIC is first and foremost an accreditation body that sets the practice standards for the profession and accredits or designates those who fulfill its education, experience and professional requirements. The professional titles conferred by the Institute are its quality brands that assure the public that designated members are uniquely qualified and competent to perform certain kinds of work, as defined in the *Standards* of the Institute

As a quality assurance organization, the Institute is chiefly occupied with ensuring that its standards of practice are relevant to the marketplace and that they represent the state-of-the-art for the valuation profession. Second, the Institute strives for uniformity and consistency in the delivery of its professional programs to ensure that accredited members are equally competent no matter where in Canada they obtain their AIC designation. Third, the Institute

works to provide its members with useful educational and professional resources to assist them in achieving their designations, maintaining their competence, and expanding their careers as professional valuers. Finally, AIC promotes its members as the leading professionals in real property appraisal and related consulting services and its designations as the undisputed hallmarks of professionalism and quality.

In this respect, AIC is no different than any of the other well-established professional organizations in Canada. In short, it is a full-service professional association that serves its members and protects the public at the same time. However, AIC's membership is small in comparison with some of the other professional bodies, such as the associations representing the engineering, medical, legal and accounting professions. These organizations have more than 100,000 members and commensurate financial and other resources available to them. With less than 5,000 active members, the Institute faces the challenge of providing a similar service offering to its members with significantly less resources.

To achieve this, AIC relies heavily on the contribution of its volunteers. In addition, AIC is constantly looking at cost effective ways of delivering services to the members. In past years, certain services such as education and insurance were outsourced. This has made it possible to improve the quality of these programs, while keeping costs at a manageable level. Recently, a task force was established by the Board of Directors to look at additional ways of improving member service delivery while maintaining cost-effectiveness. One way to do this is by enhancing collabora-

tion between AIC and its provincial associations and harnessing resources to achieve the kinds of economies of scale that larger associations enjoy.

Provincial associations play a key role in delivering member services and in maintaining a high level of contact with the membership regionally. Moreover, provincial associations can address regional issues effectively and enhance the profile of the profession significantly across Canada.

Running an organization as complex and diverse as the Institute requires solid management, and again, volunteers play a lead role in this respect. Most often, the membership of professional associations delegates authority to some members to represent them and manage the association on their behalf and the Institute is no different. The *Bylaws* of the Institute state that: "The property, funds, and affairs of the Institute shall be managed within the limits of the *Bylaws* by a Board of Directors referred to as the Board."

Such functions as planning, leading, directing, communicating and policy-setting are handled by the Board of Directors. Day-to-day management of the Institute is handled by the Executive Committee working closely with the Chief Executive Officer and his staff of eight. The Institute's standing committees are tasked with specific duties including education, standards, qualifications, communications and professional practice. Ad hoc committees are established from time to time to deal with special projects. All in all, these volunteer members work on behalf of the general membership to drive the association forward and achieve the objectives identified in its Strategic Plan.

The Strategic Plan is the roadmap that guides volunteers and staff alike and helps to ensure that the Institute's objectives are achieved. Planning is a management function that rests squarely with the Board of Directors of AIC. Nonetheless, member input is vital, not only in the development of strategic plans, but for all major initiatives considered by the Insti-

“The Mission of the Appraisal Institute of Canada is to protect the public interest and support our members by ensuring high standards of professional real estate and related property advisory services.”

tute. Members are consulted on a regular basis and member feedback is carefully considered when policies and programs are developed and implemented. However, it is the Board of Directors that is ultimately responsible for transforming all input it receives into cohesive policies and programs that will meet the needs of all AIC members. This often involves making difficult decisions. At times, the course of action taken is not popular, but may be necessary to achieve long-term objectives. As such, Board members need to have sufficient authority and latitude, not only to set the Institute's course and establish its policies, but also to make midcourse corrections in a timely manner when they are required. The membership elects its Board of Directors each year at the annual general meeting and, in so doing, they place their trust in these Directors. Board members are aware of this and they work hard to maintain this trust.

Recently, a draft of a new Strategic Plan has been prepared by the Institute to update the plan that has been in place since 2000. The key elements of the new plan, including the updated Vision and Mission, the Main Objectives, and the Strategic Initiatives, were developed at a joint planning session that included the AIC Board of Directors and the presidents of the provincial associations. The draft has been posted on the AIC members' web site for exposure and comments. As mentioned previously, member input will be considered as the Board and other volunteers work to finalize the document.

Other planning and policy-setting work is being handled by the Institute's standing committees. For example, the 2007 *Standards* were issued at the beginning of the year, including a number of important revisions. As is customary, the membership and stakeholders were consulted prior to the publication of the final document by the Standards Committee. Policy enhancements aimed at improving the professional practice process have been proposed by the professional practice committees and they are being added to the *Regulations*. Important changes are under way with respect to the AIC program of professional studies. These include the addition of new professional development courses and improvements to the existing curriculum.

With respect to promotion of the profession, the approved Communications and Marketing Plan is being developed by the Communications Committee and will be launched once certain decisions have been made at the upcoming annual meeting of members with respect to the AIC brand. The planned marketing initiative will be aimed at the wide promotion of the appraisal profession and AIC members as its leaders.

These programs and activities, planned and approved by the Board of Directors, and implemented by staff across Canada, put the Appraisal Institute of Canada on par with the other major professional associations and serve the best interests of the membership while protecting the public. 🌟



**Georges Lozano, MPA**  
*Chef de la direction de l'ICE*

# Rehausser le professionnalisme de l'ICE

**A**u cours des cinq dernières années, l'Institut a apporté de nombreuses modifications importantes à ses politiques et programmes. Ces mesures ont à l'occasion soulevé plusieurs questions quant à son rôle comme prestataire de services et élaborateur de politiques. À titre d'organisme national à buts non lucratifs, l'ICE a été créé pour représenter les évaluateurs immobiliers et servir leurs intérêts. Toutefois, comme organisme professionnel, le rôle de l'Institut se présente sous deux volets : servir ses membres et protéger le public. La mission de l'Institut résume très bien la situation en disant : « La mission de l'Institut canadien des évaluateurs est de protéger l'intérêt public et d'appuyer ses membres en assurant l'application de normes élevées de pratique professionnelle aux services de consultation immobilière et services connexes. »

D'abord et avant tout, l'ICE est un organisme d'accréditation qui établit les normes de pratique pour la profession et qui accorde une reconnaissance à ceux qui répondent à toutes les exigences pédagogiques, professionnelles et d'expérience pratique. Les titres professionnels que confère l'Institut sont ses marques de qualité qui rassurent le public à l'effet que les membres ainsi agréés sont qualifiés et possèdent les compétences nécessaires pour accomplir les travaux définis dans les normes de l'Institut.

Comme organisme responsable d'assurer la qualité, l'Institut se préoccupe principalement de veiller à ce que ses normes de pratique soient pertinentes au marché et qu'elles reflètent une profession à la fine pointe dans le domaine de l'évaluation immobilière. Ensuite, l'Institut s'efforce d'assurer l'uniformité et la cohérence dans la prestation de programmes professionnels qui assurent que les membres agréés ont les mêmes

compétences peu importe la région du Canada où ils obtiennent leur désignation de l'ICE. En troisième lieu, l'Institut déploie tous les efforts pour offrir à ses membres des ressources pédagogiques et professionnelles utiles afin de les aider à obtenir leur désignation, maintenir leurs compétences et repousser les horizons de leur carrière comme évaluateurs professionnels. Enfin, l'ICE présente ses membres comme étant les professionnels de choix dans le domaine de l'évaluation immobilière et les services connexes de consultation, alors que ses désignations sont reconnues comme une marque de professionnalisme et de qualité.

À ce chapitre, l'ICE ne diffère aucunement des autres organismes professionnels bien établis au Canada. En bref, il s'agit d'une association professionnelle qui offre une gamme complète de services et qui se veut au service de ses membres tout en protégeant l'intérêt public. Cependant, le nombre de membres de l'ICE est peu élevé comparativement à celui d'autres organismes professionnels comme ceux qui représentent les ingénieurs, le corps médical, le milieu juridique et les comptables. Ces organismes comptent plus de 100 000 membres et ont donc des ressources générales et financières proportionnelles. Comptant moins de 5 000 membres actifs, l'Institut doit donc relever le défi d'offrir des services similaires mais avec beaucoup moins de ressources.

À cette fin, l'ICE compte donc largement sur la contribution de ses bénévoles. Aussi, l'Institut recherche constamment des moyens de servir ses membres d'une façon qui soit efficace par rapport aux coûts. Dans les années passées, certains services comme les services pédagogiques et d'assurance étaient donnés à contrat. Cette mesure a donc permis d'améliorer la qualité de ces programmes tout en maintenant les coûts à un niveau

raisonnable. Récemment, le Conseil d'administration a créé un groupe de travail devant examiner les façons d'améliorer les services aux membres tout en assurant l'efficacité par rapport aux coûts. Un moyen de parvenir à cette fin consiste à améliorer la collaboration entre l'ICE et ses associations provinciales et à réunir les ressources nécessaires pour réaliser les économies d'échelle qui caractérisent les associations plus grandes.

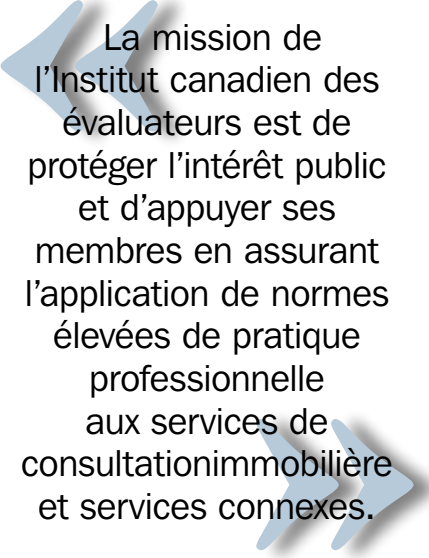
Les associations provinciales jouent un rôle clé dans la prestation des services aux membres et dans le maintien d'un niveau élevé de communication avec ces derniers au palier régional. Qui plus est, les associations provinciales peuvent traiter efficacement les questions régionales et améliorer de beaucoup le profil de la profession à l'échelle du pays.

La gestion d'un organisme aussi complexe et diversifié que l'Institut fait appel à une solide direction et, encore une fois, les bénévoles jouent un rôle important à ce chapitre. Plus souvent qu'autrement, les membres des associations professionnelles mandatent certains membres pour les représenter et gérer l'association en leur nom et l'Institut ne fait pas exception à cette règle. Les règlements de l'Institut stipulent : « Les biens, les fonds et les affaires de l'Institut seront gérés, dans les limites des règlements administratifs, par un Conseil d'administration, appelé le Conseil. »

Les tâches comme la planification, la direction, la communication et l'élaboration de politiques relèvent du Conseil d'administration alors que la gestion quotidienne des affaires de l'Institut est une responsabilité du Comité exécutif en étroite collaboration avec le Chef de la direction et un personnel de huit membres. Les comités permanents de l'Institut s'occupent de secteurs spécifiques y compris l'éducation, les normes, les qualifications, la communication et la pratique professionnelle. De temps à autre, il est nécessaire de créer des comités ad hoc qui s'occupent de projets spéciaux. D'ordre général, ces membres bénévoles visent, au nom de tous les membres, l'avancement de l'association et l'atteinte des objectifs définis dans le plan stratégique.

Le plan stratégique est en quelque sorte la carte routière que suivent les bénévoles et le personnel pour assurer l'atteinte des objectifs de l'Institut. La planification est une fonction de ges-

tion qui relève carrément du Conseil d'administration de l'ICE. Néanmoins, la contribution des membres est critique non seulement pour l'élaboration d'un plan stratégique mais également pour toutes les initiatives d'importance qui sont amorcées par l'Institut. Les membres sont régulièrement consultés et leurs commentaires font l'objet d'une considération attentive chaque fois que des politiques et programmes sont élaborés et mis en œuvre. Toutefois, c'est le Conseil d'administration qui est ultimement



**La mission de l'Institut canadien des évaluateurs est de protéger l'intérêt public et d'appuyer ses membres en assurant l'application de normes élevées de pratique professionnelle aux services de consultation immobilière et services connexes.**

responsable de transformer les commentaires en des politiques et programmes cohérents qui répondront aux besoins de tous les membres de l'ICE. Souvent, la chose fait appel à la prise de décisions difficiles. À l'occasion, les mesures prises ne reçoivent pas la faveur de tous, mais elles sont nécessaires à l'atteinte des objectifs à long terme. À ce titre, les membres du Conseil doivent disposer d'une autorité et d'une souplesse suffisantes non seulement pour établir la voie à suivre et les politiques correspondantes, mais également apporter de façon opportune les correctifs qui s'imposent en cours de route. Les membres élisent le Conseil d'administration chaque année lors de l'assemblée générale annuelle et ce faisant, accordent leur pleine confiance aux administrateurs élus. Les membres du Conseil en sont au courant et s'efforcent donc constamment de déployer tous les efforts pour maintenir la confiance manifestée à leur endroit.

Récemment, l'Institut a préparé l'ébauche d'un nouveau plan stratégique qui remplacera le plan en

place depuis l'an 2000. Les principaux éléments du nouveau plan, y compris une vision et une mission mises à jour, les principaux objectifs et les initiatives stratégiques, ont été établis lors d'une séance de planification commune qui voyait la participation du Conseil d'administration de l'ICE et les présidents des associations provinciales. L'ébauche a été affichée dans la section des membres du site web à des fins d'examen et de commentaires. Tel que mentionné précédemment les commentaires des membres seront pris en compte à mesure que le Conseil et les autres bénévoles mettent la dernière main au document. D'autres travaux de planification et d'élaboration de politiques se poursuivent au niveau des comités permanents de l'Institut. Par exemple, la version 2007 des normes, reflétant de nombreuses modifications importantes, a été présentée en début d'année. Comme d'habitude, les membres et les divers intervenants ont été consultés avant la publication de la version finale par le Comité des normes. Les améliorations de politique visant à rehausser le processus de pratique professionnelle ont été proposées par les Comités sur la pratique professionnelle et seront ajoutées aux règlements. Aussi, des modifications importantes seront apportées au programme d'études professionnelles de l'ICE. Entre autres choses, citons l'ajout de nouveaux cours de perfectionnement professionnel et l'amélioration du programme actuel.

En ce qui touche la promotion de la profession, le Comité sur les communications s'affaire à compléter le plan approuvé de communication et de marketing. Celui-ci sera mis en œuvre suite à la prise de certaines décisions lors de la prochaine assemblée générale annuelle des membres, tout particulièrement en rapport à la marque de l'ICE. L'initiative prévue de marketing visera la promotion à grande échelle de la profession d'évaluateur et celle des membres de l'ICE comme chefs de file dans leur domaine.

Ces activités et programmes, qui ont été planifiés et approuvés par le Conseil d'administration et mis en œuvre à l'échelle du Canada, contribuent à faire en sorte que l'Institut canadien des évaluateurs est sur un pied d'égalité avec les autres associations professionnelles reconnues et qu'il sert les meilleurs intérêts des membres tout en protégeant le public en général. 🍀

# FIRST PROFESSIONAL LIABILITY INSURANCE COMPANY

*In this issue, we discuss the role of the appraiser in rental arbitration disputes, both as an expert, an advocate and an arbitration chairman. As the demand increases for appraisers to act in these areas, there are certain pitfalls for the appraisal professional to keep in mind in pursuing this type of enterprise, which, if not heeded, may result in claims. Mark R. Frederick of Miller Thomson LLP's Toronto office, and Denis Rivard, now of SCM Adjusters, formerly Leonard French & Co. Ltd., discuss what the prudent appraiser should keep in mind.*



**Brian Duncan**  
*AAI, P. App,*  
*Chairman of the Board, FPLIC*

# The appraiser in commercial lease disputes

By Mark R. Frederick, LL.B. and Denis Rivard

**A**ny of us who have been business tenants or landlords know the tension created around lease negotiation time, as landlords and tenants strive to give as little/get as much out of the rental dollar as possible.

Landlords, and particularly commercial landlords, spend millions of dollars each year in Canada to help locate, secure and maintain viable, paying tenants. Good tenants enhance the value of a commercial property and bring confidence to landlords and tenants both, particularly in malls, office buildings and other multi-unit type commercial enterprises.

But, attracting good tenants is more than just offering a good building for them to lease. Good commercial tenancies have evolved complicated formulas and provisions within their contractual leases to create a fair process and certainty in the manner in which lease costs and renewal rates are determined. This need to determine lease rates, either prospectively or retrospectively, provides an appraiser the opportunity to fulfill a number of roles for clients, as expert, as advocate and as arbitrator (the trier of fact in such disputes). This article discusses the various roles appraisers may play and some of the risk-management issues they should keep in mind in undertaking such roles.

## THE PROCESS

The process arising out of a commercial lease is generally the same in most disputes – there will be a lease that provides a mechanism for how rental rates are to be determined. If there is no agreement between the

parties as to rates, the lease generally provides for an inexpensive and relatively quick process by which new rental rates can be determined. Typical formulas involve landlords providing estimates either backed by analysis or not, the tenant agreeing or challenging those rates and the parties either resolving the matter between them or moving it on to a process whereby the dispute is resolved. This process is where the appraiser becomes involved.

## THE ROLES

There are three roles in this process – the advocate, the expert and the trier of fact.

Most advocates we think of are lawyers, but, in a specialized discipline such as rental arbitrations, where the real issue is about value (a process for which appraisers are known), it is natural for appraisers to determine and put forward a case on behalf of their client. The process is not as simple as it seems, as a good advocate must not only piece together his or her own case with research and planning, but hire the right expert in order to convince an arbitration chairman (or panel, if there are more than three people sitting in judgement on the matter) that they are correct.

A good advocate should not advocate his or her own expertise, and, generally, an independent expert appraiser is hired to do the research and reach the opinion that justifies the position the advocate is putting forward. In complex matters, there can be numerous experts involved, each in their own areas of expertise and marshalled together to present one view of value.



A chairman is empowered by the parties to determine the issue between them. Depending on the language of the agreement, the determination by the chairman is usually viewed with some reverence by the Court, who will be want to interfere with it should an unsatisfied party wish to appeal the chairman's decision.

## THE PITFALLS

Some of the basic pitfalls that can lead to liability include:

**1. Conflict of interest** – appraisers acting as experts or chairmen should, at all costs, avoid being in a conflict of interest over their role.

Conflict means that there is or may be a perception of bias arising out of their acting for one party having previously acted for the opposing party, or, in the case of a chairman, having acted for either party.

Another type of conflict involves an expert or chairman not disclosing a material interest he or she may have in the property in dispute, or in the ownership interests of the parties.

Acting in the face of a conflict of interest can lead to a suit against the appraiser, should a hearing process be delayed or deferred by the appraiser being ejected from a role as an expert or chairman for undeclared conflict, or should his or her evidence be disregarded entirely.

This type of conflict could see an appraiser made liable for not only the costs of delay, but for hearing costs thrown away and/or hiring replacements.

**2. Failure of process** – appraisers may be liable for their conduct at a hearing.

As an advocate, an appraiser must present a case in an ordered fashion to not only prove his/her view of value, but also to demolish the points of an opponent and convince the chairman/panel accordingly.

Marshalling a case means to understand the case to logically present and gather evidence. This means to read and interpret the lease and understand how the lease works. An appraiser who is not up to understanding the mechanics of a lease cannot act as an advocate or an expert or a chairman. To this end, he or she should defer on taking this type of assignment or face a suit for negligence.

Research as to corresponding lease rents is what an advocate should look to in the efforts of the expert he retains. It will be up to the advocate to get that information from the expert and then lead it and comment upon it. If he or she is opposing a party, it is the advocate's job, with or without the help of an expert, to cross-examine the expert evidence adduced. They must first establish their own case and ensure they are able to call evidence that can refute the case of the opponent and the type of expert who can elicit the evidence to establish the point they want to prove.

An advocate must also be able to make submissions, in order to get their point across. Submissions may be in the way of oral or written submissions. A failure to make sufficient points or state argument appropriately may result in a case being lost.

Negligence ensues when one fails to prove a case when one otherwise had the opportunity to do so. Failing to call a witness, failing to properly serve documents within the time lines set out in the agreed upon procedure, failing to make the proper argument as called for in the relevant standard – all can lead to liability for the loss.

An expert must do the appropriate research to justify his or her opinions. If it comes out in questioning that research was not done, or if the obvious is missed, he or she will be negligent and liability will result.

**3. A chairman can also be liable in negligence**, but being wrong and being negligent are two different things. An appraiser can be wrong in the decision he or she makes as long as a position was arrived at in a reasonable fashion. Courts have deferred to the decisions of empowered specialists such as an appointed chairperson, but not when they leave the area of their calling to make errors of fact and law where they do not have the expertise or on matters that they were not empowered to make.

Chairmen then should be concerned that their rulings are built upon a firm foundation of the issues defined in the agreement or lease. A chairman going beyond the power given to him or her and determining issues not relevant to what is in issue results in his or her rulings being negligent. Refusal to consider proper evidence or failing to deliver a ruling in a timely fashion may also be negligent.

There are many considerations that appraisers should keep in mind before becoming involved in commercial lease disputes, so as to avoid situations where they may be called into account on their own. There are many courses of study that appraisers may take to become better advocates for their clients within the field of commercial lease disputes. The best teacher will always be experience. ♥

*Mark R. Frederick is a solicitor with Miller Thomson LLP, a national Canadian law firm. Denis Rivard is a Vice-President of Professional Indemnity programs with SCM Adjusters, formerly Leonard French & Co. Ltd.*

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# Successful transitions

**Mark Dean, AACI, P. App** is excited about the future. Eighteen months ago, after 17 years in the non-fee side of the profession, he opened his own fee appraisal practice – Precision Appraisal Services. “I love coming to work in the morning,” says Mark. “This is more than a job. It is a part of life.”

He started in the appraisal profession nearly two decades ago, when he joined the Saskatchewan Assessment Management Agency (SAMA). Mark conducted inspections of commercial, residential and agricultural properties for tax assessment purposes. He also worked on developing building and land assessment models for municipalities to levy property taxes.

A fairly large aspect of the job involved defence of value. Over the years, Mark attended many assessment appeal hearings to defend the models developed by SAMA.

“Now that I have opened my own business, I have switched sides by representing commercial clients at property tax appeals,” he notes, adding that this area of expertise has helped him with the transition from non-fee to fee appraisal work. “It gives me another source of income in addition to point-in time appraisals and helps diversify my business.”

At the same time, this can present a challenge. The City of Melfort, Saskatchewan is a small community of 5,000 and Mark finds himself across the table from the people that he worked with. Fortunately, even from the other side of the table, he has continued to have a positive and professional relationship with his former colleagues.

It was during his years with the agency that he started taking correspondence courses in appraisal through the University of British Columbia (UBC). His employer encouraged him to take further courses and to become a member of the Appraisal Institute of Canada (AIC). SAMA paid for



**MARK DEAN, AACI, P. App**

“After completing a valuation, I can look back at my accomplishments. I have helped someone buy a property or make a dream come true.”

the courses and encouraged him to first obtain his CRA designation and then his AACI.

“As I started taking courses, I became more interested in the fee appraisal side of things,” says Mark, adding that other fee appraisers also began encouraging him to make the switch. “In the course of becoming a member of the AIC, you meet a large network of people you can talk to and learn from.”

One of these people – Howard

Mattila, AACI, P. App in North Battleford – would eventually become his mentor. When the newly-minted CRA started working on his AACI, Mattila joined the voices of those encouraging Mark to consider the fee appraisal business.

“I could not have done it without him,” stresses Mark. “My biggest concern in making the transition was being intimidated by the responsibility placed on me by the intended users of my appraisal reports.” He points out that, unlike before, banks now rely on his information for mortgage financing and foreclosure proceedings. Meanwhile, individuals rely on them for important purchase and sale decisions and in divorce and estate settlements. Mark initially asked himself, “How will I know if I am right?”

Once again, his mentor proved instrumental in addressing this concern. He provided Mark with guidance based on years of expertise, as well as an abundance of market research accumulated over the span of his career. “When I left SAMA, he helped me in developing residential, commercial and agricultural reports,” Mark recalls. “He reviewed every report I did and helped me with everything from the valuation side right up to the business practices in my office. I phoned him every day, sometimes five times a day. He was also able to help me identify ‘sources’ of information. That was huge. It made the transition so much easier.”

Mark points out that his former mentor is not the only one he turns to for information and insights. In the course of doing appraisals, he phones other appraisers across Saskatchewan, Manitoba, Ontario and Alberta. “Everyone seems to understand that they were once in the same position,” he says. “Without getting help from someone, you would never make it.”

Soon after opening Precision Appraisal Services, Mark realized he already knew where to find

much of the information he would need as a fee appraiser. After all, both fee and non-fee appraising is concerned with real estate and research data is very important for both aspects of the profession. From his experience as a non-fee appraiser, including sales analyses and verification, Mark had acquired a good feel for the market. He had also built good relationships and connections to which he could still turn for valuable information.

But, despite all the resources, support and assurance by colleagues that work was available in abundance, Mark was still concerned about being able to make a living as a fee appraiser. Ironically, an equally serious concern was that becoming too busy would impinge on time with his young family. During his first year, he was reluctant to turn down projects, not only due to the uncertainty of incoming work, but also because of the importance of developing relationships in building up the business. "I go out of my way to help local people, even if that means working on weekends," he notes. With SAMA, Mark worked Monday to Friday from eight to five, with a guaranteed paycheque. Working as a fee appraiser requires more of a balancing act.

But, the rewards are proving to be greater than the challenges. "The fact that every day is a new and interesting challenge is a reward," says Mark. After 17 years in the public sector, he knew it was time for a change. In the end, the desire to work in the private sector outweighed his fears and concerns.

It is a transition he does not regret. "I find it extremely rewarding," he explains. "After completing a valuation, I can look back at my accomplishments. I have helped someone buy a property or make a dream come true."

On the other side of the country, in St. Catharines, Ontario, **Terri Otway, AACI, P. App** feels



**TERRI OTWAY, AACI, P. App**

“Looking around to determine niche markets that appeal to you and that offer opportunities to use your skill sets is very important.”

equally positive about her transition from the non-fee to the fee appraisal world. She finds her current work offers different challenges and rewards than the work she was doing as a Real Estate Officer for the Ministry of Transportation in Ontario (MTO).

Yet, like Dean, her primary concern when she left the Ministry in June 2002 was related to income. "Although I was giving up an excellent salary," says Terri, "I also had

to consider the loss of full benefits (medical, dental, pension, disability insurance, etc.) and, let's not forget, four weeks vacation." By the time she realized she could have bought into an extended health package, the deadline for eligibility had passed. She now regrets not delving deeper into her options. On the other hand, when it comes to having made the change back to fee appraising, Terri has absolutely no regrets.

In fact, it was in 1988 at a private firm in Thunder Bay, Ontario, that a 29-year-old Otway started her career in appraising after speaking with Brian MacDonnell, AACI, P. App, one of her best friends and a former colleague at Municipal Property Assessment Corporation, who believed that her background in assessment, real estate law and title searching could be an excellent fit for appraisal work. Initially, she was researching data for commercial reports, taking photos and proofreading every commercial report before it left the office. Her responsibilities quickly grew from there.

Then in 1992, Terri joined MTO as a Real Estate Officer, a position that encompassed appraisals, negotiations and land management. "I preferred the negotiations over the appraisal or land management work," she recalls.

Hoping to have the opportunity to pursue more negotiation work, Terri accepted a transfer in January 2001 to southern Ontario. Her goal was to move her way up to the position of Senior Arbitrations Officer with the Property Section Head Office. The position entailed overseeing and resolving all outstanding expropriation claims from the sub-office regions. This would have included co-ordinating court cases and hiring the experts necessary to successfully resolve disputes. However, she was not successful in the competition for the job. "That loss and a provincial strike at the same point in time, was the catalyst that prompted

me to consider career alternatives,” says Terri.

The stoppage in work afforded Terri the opportunity to work at the private firm of Ridley Appraisals for an eight week period. “That experience confirmed to me that I missed fee work and could adjust to it quite easily again,” she explains. Having completed the educational curriculum and the majority of articling time while she was in the private sector, she had the credentials to make a successful transition. Equipped with an AACI designation, she was able to elicit immediate recognition and respect within the profession.

In June 2002, at the age of 43, Terri left the Ministry and joined Ridley Appraisals, where she had worked during the strike. Although the prior relationship with the firm helped the transition, Terri knew she was facing a steep learning curve by moving into an entirely new market area with which she had no familiarity. “I have committed a great deal of time to learning the market and regularly taking courses that will improve my product,” she notes.

At the same time, Terri has aligned herself with quality appraisers she feels comfortable approaching when faced with difficult assignments. Like Mark Dean, she has found their feedback hugely beneficial. “Early on, I also recognized the importance of developing business contacts,” she adds. “Fortunately, I had been ‘trained’ by exceptional fee appraisers at the beginning of my career. Consequently, I did not have concerns about my abilities, or the lack thereof, regarding appraising or report writing.”

However, Terri did have other concerns about making the transition to fee appraising. Fluctuations in her income were among these concerns. “Some advice I would give to others who are considering such a career alternative is to make sure you have a healthy line of credit set up before making the transition,” she suggests. “I did not do this prior to leaving the government and found out, after the fact, that I could not get a line of credit

– even though I had an excellent credit rating – because I had not been self-employed for a minimum of three years. Also, if you have mortgage payments, make sure the term is longer than three years. I had recently bought a condo and my shift from non-fee to fee appraiser was a consideration in the purchase, so this was not a concern for me.”

On the other hand, start-up costs were an additional concern. At Ridley Appraisals, all appraisers are independent contractors responsible for their own equipment and costs. Terri had to buy a lap top computer, switch to fee status for

“Although the transition from a non-fee appraiser to a fee appraiser did not come without specific challenges, the rewards have been well worth it for both Terri and Mark.”

insurance, pay Real Estate Board fees, education costs and additional car expenses, and report GST. “Being an independent contractor also means that you no longer qualify for Employment Insurance and disability insurance is usually cost prohibitive,” says Terri. “In order to mitigate future concerns in this area, I secured disability insurance on both my mortgage and my car lease. I have also taken out critical illness insurance.”

She also recommends that those making the transition understand income tax rules. While a good accountant is important, some personal research is advisable. “I am continually looking for ways to work smarter, not harder,” says Terri. In

the first few years, she worked long hours, often seven days a week. But, she also realized that this would be necessary in the beginning. Now, in her fifth year, her work-life balance has improved.

Terri has replaced her computer system and has recently moved to a larger home in order to accommodate a better home office set-up. She admits she is *not* a morning person and usually starts work about 11:00 a.m. However, it is not uncommon for her to work until 9:00 p.m. “This is a personal preference,” she explains. “Not punching a clock has been the best thing to happen to me.”

Initially, time management was a challenge, including taking on and scheduling assignments, meeting completion dates and making sure the fee quotes are properly prepared. But, over time, Terri has learned to maximize the flexibility afforded by being a fee appraiser. In fact, she appreciates more than ever being able to adjust her schedule to make time for other pursuits, such as her passion for sailing and spending time with her two grandchildren.

She also enjoys being able to choose her assignments and to see a direct link between her work and her income. “Looking around to determine niche markets that appeal to you and that offer opportunities to use your skill sets is very important,” says Terri. She has been able to use the expertise she developed in expropriation issues while with the Ministry. Recently, she also qualified as an expert witness in court, something she looks forward to doing more often. “I am also able to negotiate property acquisitions for owners or municipalities,” she says. “When land is being acquired, the owner or municipality can hire me for the ‘expropriation’ expertise. This is an area which I would like to concentrate more in.”

Overall, she finds her work environment much more positive. The type of work she does today as a fee appraiser may be more challenging, but it is also more rewarding.

Although the transition from a non-fee appraiser to a fee appraiser did not come without specific challenges, the rewards have been well worth it for both Terri and Mark. 🍷



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## VOLUNTEER RECOGNITION



# Commitment and dedication... the keys to our success

*The Appraisal Institute of Canada (AIC) is blessed with a rich abundance of determined and dedicated volunteers who make the work of the Institute possible and who help move the profession forward in progressive and fundamental ways. Under heavy commitments both professionally and personally, AIC members have stepped to the fore and proudly serve in so many ways. Whether through elected office, serving on a committee, or assisting in conference planning, their contributions are invaluable.*

*We are pleased to recognize and honour our dedicated volunteers in Canadian Appraiser magazine. In each issue, you will meet some of your colleagues and learn why serving the Institute is so important to them both personally and professionally. We always need individuals to serve the Institute, now and in the future...we are sure that their stories will inspire you to get involved.*

**DAVE CUNNINGHAM, CRA**  
Owner, D. B. Cunningham Appraisals

**Dave Cunningham** joined the Appraisal Institute of Canada (AIC) in 1979. He earned his CRA designation in the early 1980s and, in 1985, experienced his initial volunteer role with the Institute when he became involved with Ontario's Oshawa/Durham Chapter.

Dave has continued his contribution over the past 20-plus years through periodic Chapter involvement. Over the years, he has held a variety of positions on the Chapter executive including Chapter Secretary and Chapter Chair a number of times.

In 2005, Dave expanded his volunteer involvement with the Institute to the provincial level, when he became the Ontario Provincial Director for Region 5 (Peterborough/Lindsay and Oshawa/Durham). He has now held that position for two years.

Like almost everyone in the profession, Dave has many personal and professional commitments, but he still finds time to volunteer with the Institute. "I enjoy working with

people who have a common interest," he says. As well, Dave believes in the value of volunteering because, as he sees it, "I feel strongly about certain issues and this is a way to have a voice in helping to determine the direction of our profession."

As sole proprietor of D.B. Cunningham Appraisals in Ajax, Ontario, Dave also cites another benefit of his volunteer work with the Institute – the fact that it has given him the opportunity to use and develop certain skills that he would not normally be required to utilize working on his own.

Dave offers lots of encouragement to members new and long-term who have not yet chosen to increase their involvement with AIC. "I would advise them to get involved, even if it is just attending a Chapter meeting," he says. "It is a great opportunity to meet fellow appraisers and to share ideas and experiences." It has been Dave's experience that people are more willing to talk to you when they have actually had the chance to meet you face to face. Further, he points to the fact that, by being involved, members have a better understanding of what is happening in our organization.

## GREG WILKINSON,

AACI, P. App, Partner  
Hoffer Wilkinson & Associates Ltd.

Winnipeg's **Greg Wilkinson** received his AACI designation in 1982 while working for CMHC in Ottawa. Two years later, employed by Revenue Canada in Winnipeg, Greg was asked to serve on an AIC local Admissions Committee (then called the Experience Rating Committee). So began his volunteer career with the Institute.

In 1986, Greg left Revenue Canada for private practice and again volunteered with the Institute, this time as a member of the then-Winnipeg Chapter executive. Between 1988 and 1994, he served in various capacities, but primarily as the chair of a committee writing legislation for regulating the Manitoba appraisal profession and attempting (unsuccessfully) to have it presented to the Legislature.

1991 marked Greg's initial involvement as a national volunteer with AIC, when he became a member of the newly-formed National Adjudicating Committee – a position he occupied until 1994.

In 1997, Greg returned to the now-Manitoba Association Council to chair a committee to design and implement a sales database for Winnipeg appraisers (success this time). Seven years of continued commitment later, he was elected president for the (2004/2005) term and is now in his second year as past president. During that time, he also served on the national Appeals Committee.

Greg admits that it would have been easy to not get involved. But, through the years, he has been sustained by his initial belief that it was his turn to give back to the Institute for having provided him with an education and a career opportunity. Greg says his continued involvement with AIC impresses upon him the fact that the Institute and its designations are only as strong as its membership. He believes that it is up to each individual to promote and support the organization.

Another appraiser once asked Greg why he "wasted" so much time on AIC business; time for which he would never be paid. His reply: "If everyone had the attitude that someone else will look after it, we would not have much of an organization."

Greg believes that the benefits he has derived from volunteering easily outweigh any costs. He says, "Volunteering has helped my business by keeping me current with changing standards and regulations, and it has provided me with valued networking opportunities. I have met appraisers from across the country and developed many friendships and professional connections. The number of intelligent and talented people involved in this organization continually amazes me."

Greg sums it up his thoughts as follows:

- ❑ When you volunteer, you are giving something back to the Institute for providing you with the opportunity of a rewarding career.
- ❑ The Institute needs new, younger members to continue to be a viable professional organization.
- ❑ Volunteering provides even greater benefits to individual members such as the satisfaction of making a difference; networking and making new friends; enriching your education; earning valuable recommendations for future employment; and enhancing your résumé. ♡

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# Your brand – your choice

**H**aving been immersed within the Appraisal Institute of Canada (AIC) rebranding process, I turned to the prestigious Kellogg School of Business, and its text *Kellogg on Branding*, to obtain a more in-depth understanding of the topic.

According to Kellogg, *“...a brand is a concept; a set of associations linked to a name or a mark. A name becomes a brand when people link it to other things. A brand is much like a reputation.”*

Whether consciously or not, every one of us, as professionals, wears a personal brand. Whether developed over years of interactions, or from a few brief meetings, or primarily from work that we have completed, each of our clients has a concept of us embedded within their psyche.

Upon hearing our name, for good or bad, our clients instantaneously make associations with it. Such associations are formed in all of our previous interactions with them, which accumulate to form an overall perception. All of our interactions, at every level, help to build our clients’ concept of us.

Pause for a moment, and reflect upon a professional whose services you have used; perhaps a lawyer, or an accountant. What is your concept of him or her? What factors influenced your perception or concept of that individual? Chances are that your impression was formed from a mixture of many different interactions; referrals, meetings, conversations, work performed, price, or perhaps by his or her attire, laugh, sense of humor, etc. Other clients of that profession may have a similar, or totally different, concept of him or her.

The aggregate of the various concepts that clients and stakeholders

have of us is our personal brand. The best personal brands include positive coherence, whereas other personal brands may be non-coherent and include negative associations.

Think of Donald Trump. Your perception of his personal brand probably just entered your mind. Your concept likely includes real estate developer, entrepreneur, billionaire, self-promoter, and bad hair.

*“...a brand is a concept; a set of associations linked to a name or a mark. A name becomes a brand when people link it to other things. A brand is much like a reputation.”*

Trump is a good example of a relatively strong and cohesive personal brand. We probably all have similar concepts of him. However, the reality is that much of what makes up Donald Trump’s personal brand was very likely intentionally created as part of a marketable public persona.

Most of us spend our careers building and protecting our reputa-

tion, our brand. To a large degree, you have control over the associations that are linked to your name. The best personal brands, from a professional perspective, are consciously created over a career, and are typically coherent and cohesive, and help the client to form a positive *perception* of that professional.

According to Kellogg, *“Perceptions, of course, matter most – how people perceive something matters far more than the absolute truth. The question generally is not which product or service is best; the question is which product or service people think is best.”* This is particularly true within professional service domains such as ours, where the complexity of what we do is often beyond the knowledge level of most clients.

Kellogg uses the example of an attorney to demonstrate how complexity of service often directs a customer’s focus to other cues for evaluation: *“Typical customers purchasing an attorney’s services are not trained in law, so the evaluation of the core purchase is beyond their abilities. Hence, they look to the cues that are within their realm of expertise.”* Such cues could include personal interactions, particularly those demonstrating professionalism, promptness of service, the look and feel of a report, the cost of the service, etc. Often, for example, a low cost is equated with lower quality.

The fundamentals of developing and managing a personal brand are easy for us to comprehend. Whether we do so consciously or not, it is part of our day-to-day life as a professional. Personal brand management means helping your clients perceive you as professional,



“Personal brand management means helping your clients perceive you as professional, letting them know all that you can do for them, helping them perceive you as informed and educated, helping them perceive you as ethical.”

letting them know all that you can do for them, helping them perceive you as informed and educated, helping them perceive you as ethical. Does this sound familiar? It should. It summarizes much of what AIC is attempting to achieve with the current rebranding process.

As a whole, the brand of the profession is essentially an aggregate of the individual member brands, and AIC's rebranding process is intended to move public perception in the direction that is most beneficial to us collectively.

Of course, AIC's rebranding

initiative is only one facet of what is required to direct positive public perception. The public's perception of our collective brand is primarily influenced by the day-to-day interactions with our 5,000 or so personal brands.

So, bear in mind that the personal brand management that you and I carry out on a day-to-day basis in our territories across Canada is an integral component of the Institute's current branding initiative, as it helps provide some very fertile ground in which our new organizational brand can grow. 🐛

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# AACI designation – passport to global opportunities

**T**he AACI designation is recognized across Canada as the hallmark of professionalism for real property appraisers. Now, the designation is also a passport to global opportunities, thanks to an initiative launched at the WAVO Congress in November 2006.

Under the auspices of the World Association of Valuation Organizations (WAVO), the Appraisal Institute of Canada (AIC), the Australian Property Institute (API), the Property Institute of New Zealand (NZPI) and the Singapore Institute of Surveyors and Valuers (SISV) have collaborated on a pilot program for recognition of designations. The four participating organizations signed a Memorandum of Understanding (MOU) at the November 2006 WAVO congress, subject to definition of local requirements and formal ratification by the respective Boards of each organization. Coincidentally, AIC's Learning Advisory Committee (LAC) and Professional Qualifications and Competency Committee (PQCC) had established a joint working group to review dormant reciprocal agreements with the above and other organizations at their joint meeting last September. The WAVO agreement and local requirements, as recommended jointly by the Learning Advisory Committee and the Professional Qualifications and Compe-



tency Committee, were approved at the February meeting of the AIC Board of Directors.

The agreement is intended to provide a high level recognition of each Institute's educational and designation/admission requirements. The AIC committees' research has demonstrated that these are very similar and, in fact, somewhat more stringent than AIC in some areas. Within the document, there are agreed

upon provisos by which members of the respective organizations would qualify to apply for recognition within the new country of residence. These include additional local requirements by each organization, e.g., practice requirement in the new country of residence of at least one year, any mandatory course requirements such as standards, an interview, etc. For example, members of API, NZPI, and SISV will be admitted to candidate membership on arrival in Canada, and then must complete the Standards Seminar, an approved course in Canadian Real Property Law and Real Estate Ethics (BUSI 112 or equivalent), one year of mentored experience, and present confirmation of their existing designation/accreditation before being granted the AACI, P. App designation.

Keith Goodwin, AACI, P. App (Fellow) is the AIC representative to WAVO. He describes the pilot program

as a win-win for participants. In presenting the proposal to the AIC Board, he wrote, "The agreement provides AIC with formal recognition as a major valuation organization in the valuation world, especially the developing Asian sector. It will provide opportunity to members who wish to travel and look for work in one of the three countries or accept relocation with an employer.

It adheres with the AIC strategic plan of working with international partners for the common good of the profession and promoting the AIC name and brand. It promotes the AIC as being an international leader, recognized by other international organizations that are leaders in the field of valuation that have high standards and competency. It suggests that the four organizations recognize that there is a present-day requirement by professions to work together to best serve global trade and industry. It may provide the beginning of common worldwide competencies.”

For information on the local requirements of each participating Institute, members should contact the organization of interest directly.

**Australian Property Institute**

<http://www.propertyinstitute.com.au>

**New Zealand Property Institute**

<http://www.property.org.nz/>

**Singapore Institute of**

**Surveyors and Valuers**

<http://www.sisv.org.sg/>

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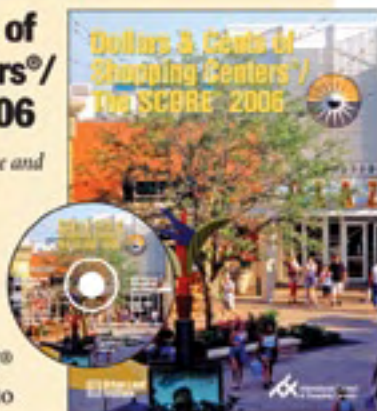
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# Working to help members avoid claims and complaints

**T**he Professional Affairs Co-ordinating Committee (PACC) is a forum for the chairs of the Professional Practice Committees to co-ordinate activities and address issues of common concern. The committee also reviews all comments that are received regarding the Professional Practice Committees, and the decisions that are taken by them.

Most significantly the PACC considers trends and developments in complaints and claims with a view to continuously updating education programs, standards and ethics seminars, and *CUSPAP* to give you, the appraiser, suggestions on how to reduce complaints and claims in your practice.

The PACC has begun to draft case studies that can be used in educational courses, and for your use in everyday practice. These are intended to provide you with indications of areas where various appraisers might have experienced difficulties. If you have, or are aware of a situation that would make a good case study, it may be submitted for review and possible publication. Some examples of future case studies include misuse of digital signatures, conflict of interest, and concealing your AIC designation or membership status.

These topics are chosen as they relate to issues that have commonly arisen during the investigation and hearings, and/or the insurance claims.

The PACC has the opportunity to involve the Learning Advisory Committee on these issues, in order to



permit them to review the educational programs, and possibly recommend changes or new courses to our education partners.

Additionally, the Standards Committee can also review this information and consider the implications to *CUSPAP* and the *Standards and Ethics* courses.

The PACC welcomes comments concerning possible improvements on the professional practice process. The aim of these case studies is to assist you, the member, in reducing complaints and claims that may be submitted against you. Much of the information has previously been presented at the Standards and Ethics Seminars, however, having access to more current professional practice issues in the form of case studies will allow members to consider them and adopt best business and appraisal practices. 🍷

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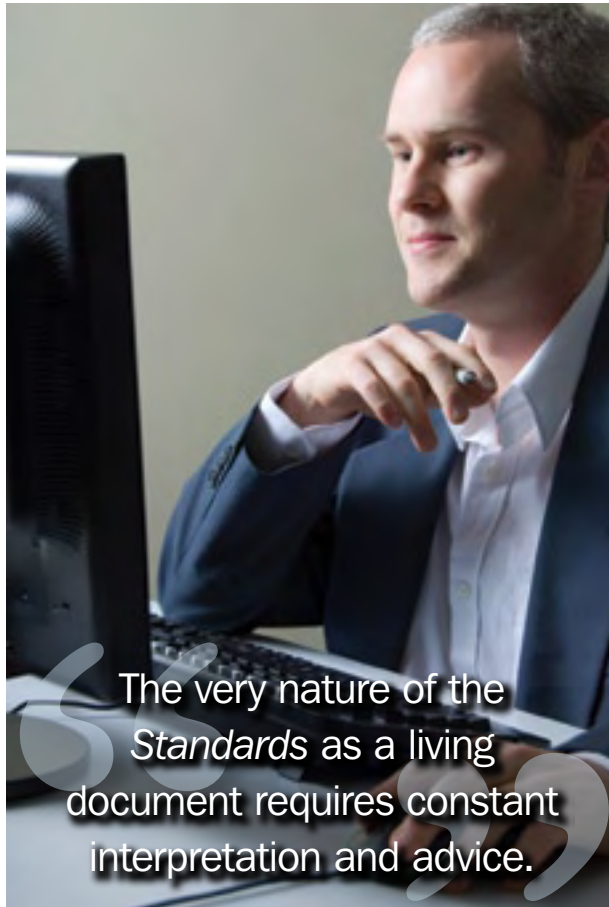
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# The Standards: a living document

The year 2007 brings a new Continuing Professional Development (CPD) cycle and, as in past cycles, members will be required to attend the mandatory Standards Seminar. For those who recently took the course, if you decide to take it again early in the new cycle, you will not notice a tremendous change in the actual content of the *Standards*.

You will, however, notice a new look for the Seminar, with a fresh, professionally designed presentation, new classroom resource materials, new case studies and a new lecturers' outlook. The *Standards Rules* remain basically the same, as do the Comments. Most changes occur in the Practice Notes, which are designed to advise members and keep them abreast of current industry practices.

While evolving practices sometimes bring the need for additional *Standards Rules*, a couple of recurring issues continue to concern members. One involves the issue of the expanded scope of work for CRAs who are continually being asked to provide opinions that push the limits of their qualifications. The current *Bylaws* as well as *Ethical Rule 5.2.2* of the *Standards* state that CRA members are qualified to appraise or consult on "individual, undeveloped residential dwelling sites and dwellings containing not more than four (4) self-contained



family housing units."

But, CRAs are being asked to appraise or consult on large acreage residential parcels, recreation lands, transition and mixed use properties, condominium projects, rooming houses, and residential design structures being used for other purposes, etc. The *Standards* clarify the limits of a CRA in these instances by requiring that a CRA undertake the test of Highest and Best Use. (12.35.1).

Further, a CRA must keep in mind that *Ethical Standards Rule 4.2.7* requires that a member can only undertake an assignment if he or she has the necessary competence.

The Standards Committee is currently in the process of creating additional Practice Notes on the subject. In the meantime, CRAs are being encouraged to expand their scope of practice into such areas as expropriation, narrative report writing for dispute resolution, assessment appeals, etc. As this occurs, there may be additional requirements of the Standards Committee to offer advice through the Practice Notes sections of the *Standards*.

In the spring 2003 edition of the *Canadian Appraiser*, Allan Beatty, AACI, P. App provided excellent advice on this very topic and I encourage anyone troubled with the CRA qualification issue to review the article. It is available at [http://www.aicanada.ca/e/resourcecenter\\_canadianappraiser\\_2003\\_spring.cfm](http://www.aicanada.ca/e/resourcecenter_canadianappraiser_2003_spring.cfm)

Another issue that the Standards Committee seems to deal with on a recurring basis involves *Appraisal Standards Rule 6.2.1*: Who is the client?

The *Standards* provide a definition of 'client' (2.15) as "the party or parties who engages an appraiser in a specific assignment." The problem arises when an appraisal is ordered

by an agent for the actual client. In a recent article in the summer 2006 edition of the *Appraisal Journal*, it was pointed out that the client could be one person or 'a number of people, or entities, acting together as one for the purpose of hiring the appraiser.' The *Appraisal Standard – Comment (7.2.1)* acknowledges that "It does not matter who pays for the work." For example, a lender might hire an appraiser, but the borrower might pay the appraiser. This does not necessarily make the borrower the client.

As the article points out, from a business standpoint, the client is the primary contact person. The client is the one from whom the appraiser obtains all the information about the assignment. 'From a *USPAP* standpoint, the client is the one to whom confidentiality is owed.' It was partly for these reasons that the Standards Committee revised the definition of the Client by removing the phrase 'by employment or contract.' Appraisers are continually asked to re-address a report or change the name of the client. By the *Standards* definition of 'client,' to be named as a client, one must engage the appraiser in the specific assignment. Therefore, the only way to be named as the client is to actually be the client. The only way to avoid this dilemma is to abide by *Ethics Standard Rule 4.2.10*, which states that it is unethical for a member to disclose results of an assignment to anyone but the client, except with the client's permission.

In the spring 2005 issue of the *Canadian Appraiser*, David Hildebrand, AAI, P. App tackled this issue. It is available at [http://www.aicanada.ca/e/resourcecenter\\_canadianappraiser\\_2005\\_vol\\_49\\_book\\_1.cfm](http://www.aicanada.ca/e/resourcecenter_canadianappraiser_2005_vol_49_book_1.cfm)

The Counsellor Professional Practice, Robert Patchett has also posted material on the AIC web site on this topic. It is available at: [http://www.aicanada.ca/e/members/members\\_professional\\_practice\\_case\\_studies.cfm](http://www.aicanada.ca/e/members/members_professional_practice_case_studies.cfm)

So, the *Standards Rules* have not changed all that much. In their present state, they offer valuable assistance to members faced with these day-to-day issues. They do provide

guidance for CRAs in wrestling with qualifications issues. They do provide guidance for members in wrestling with client and confidentiality issues. One reason they do not change that much is that the *Standards* do indeed reflect generally accepted international valuation principles.

However, the very nature of the *Standards* as a living document requires constant interpretation and advice, which is accomplished partly through various Practice Notes amendments and additions, and partly through the Standards Seminar presentation, which is designed specifically to allow members to keep abreast of current industry issues.

Comments regarding *Standards* amendments and updates can be forwarded to: [standards@aicanada.ca](mailto:standards@aicanada.ca), which are reviewed by the AIC Standards Committee. 🍁

**End notes:**

<sup>1</sup> *The Appraisal Journal*, summer 2006, Page 234 - Stephanie Coleman, MAI, SRA

<sup>2</sup> Ibid

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# Partially completed appraisal reports

Each day, fee appraisers encounter a variety of situations, some of which may not be definitively outlined in the *Standards*. The following should be considered as a guideline only. Always use good judgement and consider what a 'reasonable appraiser' would do.

**The Scene:** *One of your best clients, Mr. Good Banker, is on the phone asking if you have a "verbal" on 123 Musthave Cove. You are familiar with the area, viewed the property, completed the preliminary market research and plugged the sales data into the DCA chart, making adjustments along the way. The rest of the form is a combination of 'skeleton' data and pieces of data that you have input because it carries over into the DCA chart. You are familiar with the area, having completed at least five other reports on similar homes within the past two months. After a basic analysis of the sales, you have estimated that the market value is no more than \$200,000. This is divulged to Mr. Good Banker. He remarks that the homeowner thought his home was worth well over \$250,000 and if the value is not going to be close to that, the potential for the mortgage-equity loan is dead. Mr. Good Banker thanks you for your opinion and instructs you not to complete the report. He asks that you "send what you have done so far, along with your reduced invoice." What should you do?*

Providing oral reports is not a recommended 'best practice,' but it is a reality. Even if the report is



never completed and delivered, the member must prepare and retain a work file. The appraiser, the oral report and the work file retention requirements must still comply with the *Canadian Standards of Professional Appraisal Practice*.

Definitely send the invoice (the reduction in fee is a business decision), but keep the partially completed report as part of your work file (as required under 4.2.9 with Comments 5.9 – with particular attention to 5.9.6). Mark your electronic file and your paper file with the details of the conversation (time, date, parties to the conversation and what was discussed). In the work file, note the addresses of other similar properties that you have recently appraised in the area and may have relied on when arriving at the con-

clusion. Depending on the circumstances, you may want to complete further work on the file.

Marking your electronic file as 'incomplete' is recommended, as you may not recall all the details, if asked. Remember, your work file must be retained by you for seven years. Also, if you 'clone' reports, this is not a report from which you would want to import data. Print the incomplete report and file it with your work file as you normally would. If you have a paperless (or less-paper) office, print your partially completed report to a PDF and store it along with your normal means of electronic storage. Modifying the file name to reflect the incomplete nature of the file is a good practice.

A partially completed appraisal report should not be released to



“A partially completed appraisal report should not be released to a client as a draft.”

a client as a draft. Do not sign, electronically or by hand, a partially completed appraisal report. Remember, you are responsible for each report that bears your signature. **NEVER release a partially completed report as support for your invoice.**

Advise your client that they will not be receiving an appraisal report and the work to date will remain in your file should it be required in the future. A covering letter could be sent along with the invoice. The letter could include a statement such as “Further to our telephone conversation on (insert date), this letter will confirm that our preliminary research and analysis will not support the market value required for your

mortgage lending purposes. As per your instructions, we have not completed the written appraisal report. All file notes, research and documentation have been retained in our work file.” Do not state the value, range of value or direction in value in this letter.

Non-researched oral opinions on market values should never be provided if the appraiser is unfamiliar with the area, has not completed the basic research necessary to render such an opinion, or on properties that may be require more in-depth analysis.

In a future issue of the *Canadian Appraiser*, we will discuss when it may be appropriate to provide a draft report and what steps you should take when providing one. 🐼

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# Reviewing the process

**T**he Adjudicating Committee (AC) is comprised of six AACI fee appraisers from five provinces. A committee of six people allows for two three-person hearing panels to conduct hearings at the same time during a meeting. The AC currently meets twice a year in Vancouver and Ottawa and handles about 24 cases per year. Some cases proceed as formal hearings, while the rest are conditional guilty plea agreements, which means that the member has agreed to the charges and accepts the discipline recommended by the Investigating Committee (IC). The AC must review the case file and decide whether or not to approve the agreement. Formal hearings can take up to three hours and sometimes longer. The number of cases heard by the AC depends on how many files the IC brings to the meeting.

The AC panel members review the hearing brief prior to a hearing. This brief contains a copy of the appraisal and all correspondence between the member and the IC. Some briefs are lengthy, often extending to hundreds of pages. The mistakes that the AC sees are mainly due to careless procedures. Some reports are poor work and display a lack of basic appraisal knowledge. The majority of the cases are residential reports and some residential acreage properties. While the AC does see some small commercial or industrial properties, larger commercial properties are never seen.

The IC representative acts as a prosecutor would in court and the three-member AC panel assumes the role of judges. The IC representative presents the case and explains why the member should be charged under the Regulations and disciplined. The charged member can cross-exam-

ine the IC representative, followed by questions from the AC panel. The charged member presents his or her defence of the charges and can be cross-examined by the IC, with the AC panel again having the opportunity to ask questions. Both sides make summations at the end of the hearing.

Members disagreeing with the IC charges can choose to appear in person or by teleconference. Some members bring lawyers to act on their behalf. Generally, if this occurs, then the IC will also bring a lawyer. The AC does not always agree with the IC charges or recommended discipline and can choose to amend them in its decision. For Conditional Guilty Plea Agreements, the AC cannot render a discipline greater than that recommended by the IC. In formal hearings, the AC may prescribe any discipline approved in the *Regulations* and is not limited by previous discussions between the IC and the member as to the appropriate discipline. The AC must provide its written decision within 60 days of the hearing date.

The two most common disciplines imposed are either a Reprimand, which stays on the member's record for five years, or a Censure, which stays on the member's record permanently. A Reprimand is not made known to the public or the AIC membership. A Censure may be published in an AIC Special Digest and there may be publication in the local newspaper, depending on the circumstances of the case. Additional disciplines often include educational requirements. If discipline is imposed, the AC can require the member to pay the costs of the proceedings. Also, the IC may seek and the AC may confirm other disciplines such as Suspension and even Expulsion.

Should the charged member or

the IC disagree with the AC decision, either party has the option of appealing to the Appeal Committee within the required time limit. The rules and procedures governing professional practice can be found in the Consolidated Regulations of the Institute.

The AC also has the responsibility of reviewing the files of the Counsellor of Professional Practice once or twice a year to ensure that complaints or enquiries are being handled properly and that the Counsellor's decisions are fair and consistent with those of the professional practice committees.

In a future article, the AC will provide advice to members who may choose to attend an AC hearing to answer charges brought by the IC. The article will also address common misconceptions about the function of the committees and how the hearings proceed.

Special thanks to other AC members for assisting with this article. 🍷

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# From the Counsellor's Desk

BY ROBERT PATCHETT, LL.B, CD, AIC COUNSELLOR, PROFESSIONAL PRACTICE

## Business practice and ethics – on being professional

**W**hen one reads the *Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP)* and the *AIC Regulations*, a question that has often come up is *Does poor business practice necessarily mean unprofessional conduct?* The answer, unfortunately vague, is that it depends.

When an individual's morals, values and ethics lead him to cross the line so that his actions are perceived as something less than professional, the Ethics Standards at Section 4 of *CUSPAP* set out the various behaviours that are viewed as unethical or unprofessional (e.g., is it unethical to engage in conduct that will prejudice your professional status at 4.2.2)

What business practices could this include?

- a. *Poor communications:* You committed to deliver a report by a certain date, and then find you are unable to meet that date, and fail to communicate with the client. To add to this, you fail to return phone calls or emails. It is important to let your client know if delays arise.
- b. *Time spent on inspection:* You are familiar with the market, familiar with the neighbourhood, and maybe the property you are inspecting, and yet the homeowner questions why you spend only five minutes in the home and would not consider reviewing their list of improvements. It is incumbent on you to spend sufficient time during inspection, to complete the inspection in such a manner that the homeowner will have confidence in your results.

- c. *You are not paid for an assignment:* The report is ready for delivery to the client and it is imperative to you that you be paid before delivery. Not having this very important aspect of your service delivery confirmed in advance will cause no end of difficulty. Your action or reaction to not being paid may be viewed as unprofessional conduct. It is recommended that you have engagement letters for assignments, and that your billing and payment policies be clearly set out in advance. If you can avoid surprising your client with the unexpected, it is less likely the client is going to call the Counsellor, Professional Practice for assistance.

These are three examples of formal complaints received in the Counsellor's office that may be considered as representing unprofessional conduct.

If you remember that appraising is a service industry, the better the service, the more repeat and referral business you will get from all of your satisfied clients.

When you are contacted by the Counsellor, Professional Practice, it is important that you follow up on your commitment to remedy the situation. Your clients do call the Counsellor back to say how things have been resolved, and, when not resolved, your clients do submit formal complaints.

Sound business practices are an integral part of being professional. When you deal with people in a professional manner, you give your clients the service they deserve, but you also derive benefits for yourself, your profession and AIC, as you effectively enhance the reputation of all three. ☺

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# AIC designations granted / Désignations obtenues de l'ICE

The Appraisal Institute of Canada (AIC), together with the provincial associations and the provincial bodies affiliated with the AIC, commend the following members who completed the rigorous requirements for accreditation as a designated member of the AIC during the period February 1, 2007 to April 18, 2007:

*L'Institut canadien des évaluateurs (ICE), en collaboration avec les associations provinciales et les organismes provinciaux affiliés à l'ICE, félicite les membres suivants qui ont complété le programme rigoureux d'accréditation à titre de membre désigné de l'ICE durant la période du 1 février au 18 avril 2007 :*

## AACI, P. App

### Accredited Appraiser Canadian Institute

These members are congratulated on the successful completion of all AACI, P. App designation requirements. We welcome these individuals as fully accredited members of the Institute through the granting of their AACI, P. App designation.

*Nous félicitons ces membres pour avoir complété avec succès le programme menant à la désignation AACI P. App. Nous les accueillons comme membres pleinement accrédités de l'Institut et leur accordons avec fierté la désignation AACI, P. App.*

#### BRITISH COLUMBIA

Bryan Chambers  
Robbin Greig  
Brian D. Moro  
Christopher J. C. Whyte

#### ONTARIO

Luigi lafrate  
Kamton Kam Tong Chun

#### NORTHWEST TERRITORIES

Anna-Marie Meckling

## CRA

### Canadian Residential Appraiser

These members are congratulated on the successful completion of the CRA designation requirements.

*Nous félicitons ces membres pour avoir complété avec succès le programme menant à la désignation CRA.*

#### ALBERTA

Aaron N. Davies  
Kelly Onusko  
Kate Rung

#### BRITISH COLUMBIA

Josephine Guevara  
Stefanie Tennent  
Jagmohan S. Turna  
Frank Satre  
Vanit Kumar

#### ONTARIO

Cherryl Ann Bondy  
Wendy D. Evelyn  
Jennifer Fazari

Jimmy J. Kal  
Nicola LeJan  
Kwan Win Mak  
Carl W. Maki  
Lakhbir Makkar  
Kathy A. Murphy  
Kate A. Richardson  
David C. Spensley Lauren  
D. Vaughan  
Christine Zettel-Kocher

#### SASKATCHEWAN

Nicole M. L. Gagne  
*Designation date  
December 22, 2006*

## Candidates / Stagiaires

AIC welcomed the following new candidate members during the period February 1, 2007 to April 18, 2007:

*L'ICE souhaite la bienvenue aux personnes suivantes qui ont joint les rangs des membres stagiaires durant la période du 1 février au 18 avril 2007 :*

#### CANDIDATE

Laura Ferelith Cruz  
Laurel Fadeeff  
Graham Gooch  
Kevin Pedersen  
Nadia Pirbhai  
Moe Rahall

Kristin Sheptycki  
Prabhdeep Singh  
Mark S. Whitchelo

#### INTERNATIONAL

Dinesh Shankar Dani

#### MANITOBA

C. Dean Jordan

#### ONTARIO

Johanne Paquet  
Korosh Shahbazi

#### QUEBEC

Paul Drouin

#### SASKATCHEWAN

Pamela Lory Connor

## Student / Étudiant

AIC welcomed its first student member, Jennifer Mary Christian of Ontario.

This new category of membership was implemented January 1, 2007 and now serves as the first step on the path to designation for those completing their requirements for Candidate membership. Students considering the appraisal profession as a career option are also welcomed to this new category of membership.

*L'ICE accueille son premier membre étudiant, Jennifer Mary Christian de l'Ontario.*

*Cette nouvelle catégorie de membre entrain en vigueur le 1er janvier 2007 et constitue la première étape sur la voie de la désignation pour ceux qui s'affairent à compléter les exigences de la catégorie de membre stagiaire. Les étudiants qui contemplant une carrière comme évaluateur professionnel sont bienvenus à joindre cette nouvelle catégorie de membre.*

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Jennifer Mary Christian

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## About the Trust

The trust will advance education in the areas of appraisal and valuation in the following ways:

- By providing financial assistance through scholarships and bursaries to members of the public who wish to undertake a course of studies in the areas of appraisal and valuation.
- The Appraisal Institute of Canada has academic requirements for accreditation and requires candidates to complete a prescribed course of studies.
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## News Flash!

The Directors of the Jack Warren Education Trust are pleased to announce that they will be awarding two AIC conference registrations to two selected Jack Warren Trust recipients each year.

The free registrations will be randomly drawn from the names of all past Jack Warren Education Trust recipients who are current members in good standing of the Appraisal Institute of Canada. The

draw will be made each April and individuals will be notified so that travel arrangements may be made in plenty of time.

This prizes do not include transportation or accommodation to/from/at the conference. Winning conference registrations are for the exclusive use of the Jack Warren Educational Trust recipients and only for the current year conference. They may not be transferred to other

individuals or delayed to a future conference.

The registration fee will be reimbursed following the conference upon confirmation of attendance.

**Good luck to past recipients!**

**One more reason to apply. Don't delay!**

## CRITICAL DATES

The following dates are provided as a reminder to AIC members of critical dates throughout the year pertaining to CPD credits, dues and insurance obligations.

- |                           |   |
|---------------------------|---|
| <b>January 1, 2006</b>    | Candidates required to complete one course per year, but given grace period in which to enroll and complete first course. |
| <b>August 15, 2007</b>    | Dues invoices mailed to members.  |
| <b>September 30, 2007</b> | Deadline to complete current CPD cycle requirements.  |
| <b>October 1, 2007</b>    | Membership dues payment due date.   |
| <b>November 5, 2007</b>   | Insurance Levy billings mailed to members.  |
| <b>December 31, 2007</b>  | Insurance Levy payment due date.  |
| <b>July 31, 2008</b>      | Candidates' first deadline to report course completion.   |



## ON THE MOVE

**Stephen Hiscox, AACI, P. App**, a 21-year member of the Appraisal Institute of Canada (AIC), has recently been promoted to the position of Vice President and Director of the Realty Group at TD Securities in Toronto, Ontario.

TD Realty Group provides a complete range of advisory and transactional services to corporations, real estate investment trusts and institutional investors involved in the real estate industry, and to other corporate and institutional owners and users of real estate assets.

Prior to joining TD, Steve was the senior partner at HealthTrust Canada, a national real estate advisory firm providing feasibility, due diligence and valuations to the seniors housing industry.

Over the past 10 years, Steve has consulted on more than 500 retirement and nursing home properties across Canada. He has spoken at various industry events and conducted seminars on seniors housing for the Ontario Retirement Communities Association (ORCA) and the AIC.

He is presently the Chairperson of the Toronto Board of Examiners for the AIC and serves on ORCA's Commercial Members Board.

**NOTE: If you or someone you know in the real estate industry is changing positions, taking on new responsibilities, moving to a new company or location, winning awards, etc., please send the information to [joannec@aicanada.ca](mailto:joannec@aicanada.ca) so that we can include it in our ON THE MOVE section of Canadian Appraiser.**



## Mark your calendar and make plans to attend these future AIC Conferences

- **June 4 - June 7, 2008**  
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- **May 27 - May 30, 2009**  
Fairmont Tremblant Hotel,  
Mont-Tremblant, Quebec
- **June 2 - June 5, 2010**  
The Fairmont Empress Hotel,  
Victoria, British Columbia

# Letter to the Editor



## Kudos to the *Canadian Appraiser*

Please pass along my thanks to the Appraisal Institute of Canada staff and Board for the practical and timely articles in the latest edition of the *Canadian Appraiser* (Volume 51, Book 1, 2007).

This edition had a good balance between global input (President's Message), national issues (Real Estate Fraud), legal information, practical suggestions on business (CEO report), and even succession planning and candidate management. I could go on, but you get the idea.

We use these articles as a basis for our firm's PD sessions and find them extremely helpful. By utilizing the articles, it ensures that people read the magazine, and it allows us to have more in-depth dialogue regarding the various issues currently affecting our industry. It is a great learning tool for those leading the PD sessions.

Keep up the great work!

**Gordon Daman**, CRA, CAFA, Dip. Agr.  
Red River Appraisal Services  
Niverville, Manitoba

# The market valuation of submerged lands



By W. Harrison Goodwin Jr.,  
AACI, P. App, BA, FRI,

**Consisting of** New Brunswick (NB), Nova Scotia (NS), Prince Edward Island (PEI) and Newfoundland, Canada's Atlantic region defines itself by the Atlantic Ocean. Its various forms of coastline (on salt water, 'the littoral'), consists of bays, tidal inlets, rivers, and other streams connecting land to sea. All of the provinces are 'maritime' in the sense that they are directly connected by coastal frontage to the sea. The littoral, to the mean high water mark on the shore front, is within the jurisdiction of the federal government and applies to all tidal shorefronts.

The federal government has dominion over the waters and the submerged land under the water extending from the coastline to agreed lines between provinces and other countries, notably the US and France, and as far out as 200 miles into the sea.

Tides throughout the Atlantic region ebb and flow twice in 24 hours, and thus are described as being 'semi-diurnal.' Saint John Harbour, NB, on the Bay of Fundy, has a tidal range of up to 52 feet at high tide, making it one of the greatest tidal ranges in the world, along with other NB and NS Bay of Fundy ports, and the Mersey River in England. The height of the range is an indication of its power, in that the speed of ebbing and flowing tides can reach up to six knots, the hull speed of many small ocean-going sailing yachts. The tidal range and power within a harbour or river may render certain uses either impractical, such as a small craft marina in the case of Saint John Harbour, or economically unfeasible for certain uses for which a demand might otherwise exist.



Rivers, such as NB's Miramichi River, are tidal for several miles upriver, and thus, regulatory control over the development and use of the upland comes within both federal and provincial jurisdictions. In such instances, federal jurisdiction usually trumps provincial, especially if the use of property is allowed by the province, but not allowed by the federal ministry having jurisdiction. This is especially true in environmental matters or uses affecting fish habitat. Inland rivers, lakes and streams which do not empty into salt water are within the jurisdiction of the province to regulate and police.

'Riparian rights' refer to the banks along an inland water course and, technically, do not include the banks of an inland lake. Prior to Confederation, riparian rights were often conferred by the English Crown *Ad Medium Filum Aquae* (to the middle thread of the river), which actually conveyed the ownership of the submerged land extending that far from the river bank, in much the same way that a water lot may convey a right to use a defined area of water only, or the same defined area of land submerged under the defined area of water.

'Accretion,' or extension of the useable area of land into the sea, does not count as upland amelioration unless the accretion has occurred as a natural process over time. When one improves property to extend into the water from the existing bank, unless a water lot and the right to improve it with a permanent structure (including surcharging) already exists, the right to do so must be acquired from the government having jurisdiction over the water body and real property in question.

Before and during the 1980s, especially for commercial or industrial developments adding to the economic base of the local or regional economy, the federal government, in particular, always encouraged such developments by (1) charging only a nominal lease rate, and (2) negating property tax, which is the jurisdiction of the provinces only, and, until the 1980s, did not include federal leaseholds for property tax purposes. One suspects that many developments that took place would have otherwise been prohibited from doing so because of economic infeasibility.

For a time during the 1980s,

developments into urban harbours could take place precisely because the development would be devoid of annual property tax payments. Complexes of office buildings, hotels, shopping centres, condominiums, marinas and others were initiated because of this economic advantage. Of course, the issue had surfaced in the NB courts in the 1970s and in assessment appeal cases elsewhere in Atlantic Canada.

fish species; cranberry bogs; sphagnum peat bogs; saw mills; etc.

Therefore, the most important consideration in the appraisal of the market value of submerged land is its highest and best use. The determination of optimum use, by systematically answering the criteria of the principle, i.e., the one use or group of associated uses that is (are) physically possible, legally permissible, financially feasible and maximally productive, will

## “The most important consideration in the appraisal of the market value of submerged land is its highest and best use.”

Curiously, many seashore developments in the Atlantic region have been on Glebe land and other privately owned surplus farmland, where the land only was assessed to the owner and the leases tended to have token rents because of the non-profit nature of the ownership. The leases were long-term, and, in many instances, there were fully functioning permanent houses on the lands, with the residential owner paying no property taxes.

In NB, the *Assessment Act* (14.7.2) was amended to provide for the owners of the residential improvements namely, the land lessees, to be considered owners of the land for tax purposes, if the term of the lease was of duration at or in excess of five years. The Act's subsequent clause 14.8 provided for lands leased from the federal government to be assessed and taxed in similar fashion.

Typically, in this region, water lots in various forms are used for the mining of petroleum products in the ocean; for the leasehold improvement of water lots, including uses such as wharves, transit sheds, office buildings, hotels, grain terminals, marinas, and other ocean front uses; inland riverfront marinas with floating docks in water lots; private salmon angling facilities, which are worth much less if there are no historically productive natural fish holding pools in the water; spring-fed man made lakes for fishing trout and other game

determine the approaches to value that one should try to employ, in order to reflect the actions of lessees/lessors, buyers and sellers of the subject property in the market place.

As with the appraisal of many other income-producing, investment real estate properties, such as lodging facilities, restaurants, golf courses, etc., that are labour intensive and involve capital personal property components such as furnishings, fixtures and equipment, without which the business of real estate cannot function, and with a significant entrepreneurial component, all of which contribute to the profits of the enterprise, the appraisal will initially focus upon the business(es) that will be carried on at the site.

The Business Enterprise Valuation Technique (BEVT) is necessary for the determination of the financial feasibility of the development, as well as the determination of its maximal productivity. It will also be used for the income approach to value, in conjunction with the cost approach and the sales comparison approach, so that each will hopefully have sufficient information to be employable.

The BEVT is not a business valuation, the purpose of which is to value the shares of a company or a business that may also include investment assets and liabilities other than the subject property and its actual or hypothetical development and specifically related profit centres.

If the purpose of the appraisal is to estimate the market value of the submerged land, with or without the upland component of the enterprise, then, applying the principle of surplus productivity, the land component of the enterprise can be isolated from the other components of wealth production, i.e., capital, labour and entrepreneurship.

In the 1989 appraisal of an intended waterfront industrial wharf site at the Town of Chatham, NB on the Miramichi River, for its expropriation in 1983, the methodology of the appraisal was explained in my report as follows:

- i. Describe the market and participants of the market for wharf/transit shed facilities in the Atlantic region where the prod-

- the sizes of vessel, i.e., 15,000-tonne (gwt), and the annual throughput of all commodities to be shipped to and from the subject site as if improved);
- iii. Identify and quantify the sources and amounts of annual revenue production;
- iv. Describe competitive wharf/transit shed facilities and estimate the capture rate for the hypothetical subject property development in light of the actual and anticipated competitive facilities (this may involve the investigation of available similar wharf sites on other rivers within a competitive travel distance to the subject property, i.e., its market area);
- v. Project and evaluate the cost

able to each agent of production, then include their costs as line item expenses and capitalize the combined net operating incomes at an overall rate for the entire enterprise. Note that labour is typically handled as a line item expense. Sometimes, incomes and capitalization rates can be attributed separately to the real estate, capital and entrepreneurship components of the four agents of production. (In NB, the *Employment Standards Act* states wage rates for all types of labour, while the *Crown Contracts Act* states the rental rates paid by the province for the rental of all types of machinery and equipment used in construction, transportation and distribution.)

- viii. Subtract all of the project development costs that have not been capitalized or expensed separately from the total property value estimate to indicate the market value of the submerged land.

**“If the purpose of the appraisal is to estimate the market value of the submerged land, the land component of the enterprise can be isolated from the other components of wealth production.”**

ucts to be shipped will be used in the global market place. (The buyers, sellers and financiers of such facilities are often stevedore outfits such as LOGITEC or Seaboard Stevedores Inc. or shipping companies, many of which are publicly traded companies. The market area is limited to the locations of competitive properties that would serve the likely shippers or users of the subject site as if improved.)

- ii. Estimate the demand for a marginal wharf facility with a 100,000 square foot, 31-foot high transit shed for the storage of hot packaged ground wood pulp (the improvements as having been determined from a productivity analysis and intended project development described by an independent professional engineer in a report to the owner in 1981, the size of the facilities is determined by

- of constructing the hypothetical intended development as if in situ for the production of those estimated revenues;
- vi. Describe and quantify all sources of revenue and operating expenses (build a chart of accounts) to be incurred in the annual operation of the hypothetical project as if developed;
- vii. Provide an Income & Expense Pro Forma Statement based upon mature amounts developing going concern earnings before interest, depreciation, amortization and taxes (EBIDAT); Capitalize the incomes attributable to the real estate that is the submerged land and its hypothetical improvements, capital and entrepreneurship using separate and applicable capitalization rates from evidence in the wharf/transit shed real estate submarket. If it is not possible to separate the incomes attribut-

It was not possible to use the sales comparison approach. A quantity survey cost estimate for the entire projected development was supplied to the owner in 1983 by a professional engineer, who provided it for this appraisal prepared for litigation purposes.

The foregoing methodology describes a development approach to value, and includes all of the fundamental steps to be taken in the appraisal of any income producing property by defining the market area and participants, and estimating and describing the factors of supply and demand for the most probable and maximally productive use of the site, i.e., a market analysis. This is followed by a marketability analysis to answer the question of ‘how the subject property would perform operating against the existing and anticipated competition,’ followed by the feasibility analysis and maximal productivity, assuming that the physical location and market characteristics of the subject property will have defined the sizes of the (hypothetical) facilities to be developed.

## THE SUBJECT PROPERTY

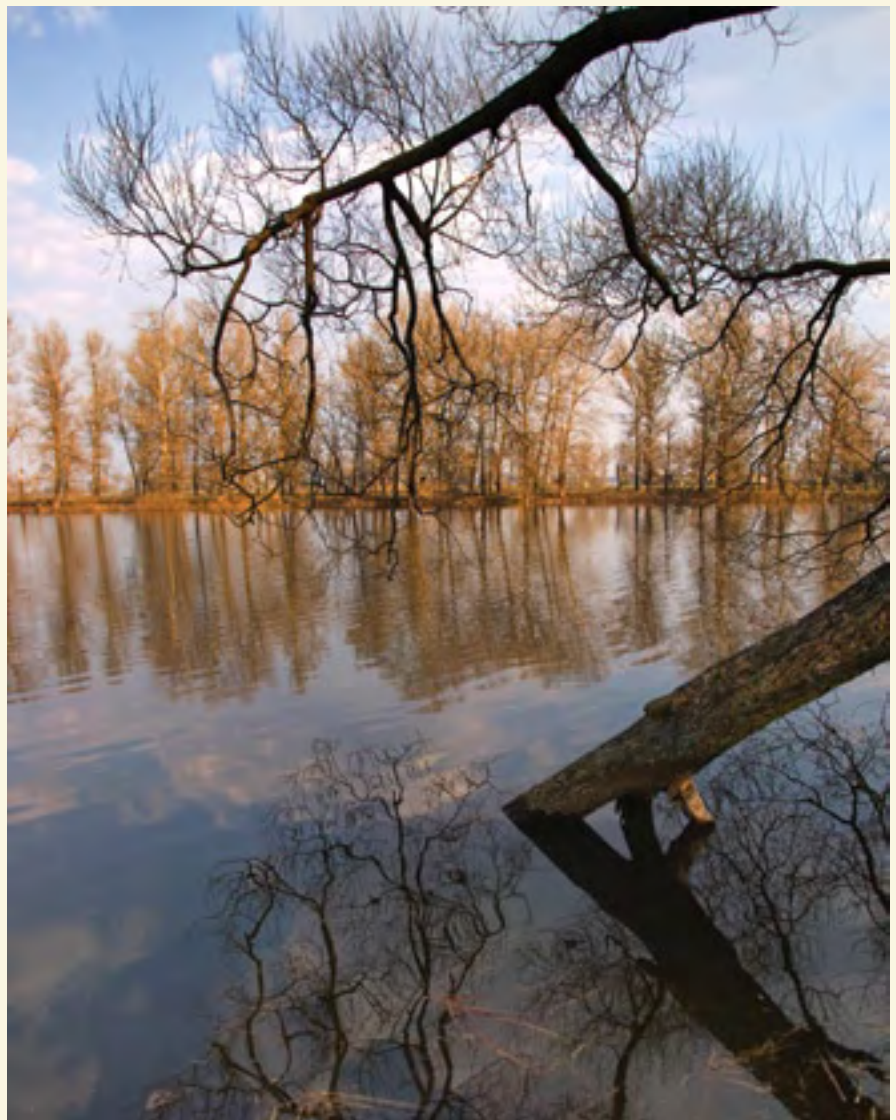
The subject property consisted of a peninsula of upland extending from the shoreline. It contained about eight acres, with a significant depth of compacted sawdust from a mill that had burned years before, and an adjoining water lot containing about four acres, in which the ruins of a 120-year old wharf remained.

An irregular quadrilateral in shape, the western boundary was just under 5,000 feet long entirely along the full depth of the natural river channel, which, at the time, could accommodate 'Panamax draught' vessels (26 feet at low water, with room to spare). The river had been dredged to accommodate 15,000-tonne (gross weight) vessels, and ice breaking service was provided each winter by the federal government.

The distance from the shore line to the channel was about 1,000 feet, but the channel depth was encountered about 500 feet from the mean high water mark. There was room for a protected anchorage, a bonus for the type of shipping that would be carried on at the site.

The site was down river from two vehicular bridges and one rail bridge, had frontage on a paved road and on a railroad from which a spur could have been built, and had electricity, telephone, water and sewer.

The air draught of the first bridge was insufficient for the freight ship users of facilities upriver from it. As a political decision had been made to establish the wharf facility in Newcastle, a few miles upriver; 10,000-tonne vessels needed to lay over for a day in order to take down the funnel and upper equipment of the ship, and then wait for slack tide at low water in order to proceed to the Newcastle wharf/transit shed facility. If the pilot encountered a flood tide in the course of moving upriver, which was sometimes the case; there was a danger of hitting the second bridge. Also, in order to berth and moor under that circumstance, the vessel would occasionally drop anchor to swing itself in the opposite direction to face down river. This was a tricky manoeuvre with a fully laden freighter, and one that would have been unnecessary had the wharf and transit shed been



built down river at the subject site in Chatham.

Considering the superior location and physical characteristics of the subject property to all other likely competitive sites, (including the one chosen in Newcastle), as if before the expropriation in 1983, all other criteria of the highest and best use led to the conclusion that the owner's intended use as a 1,200 foot marginal wharf, complete with a 100,000 square foot, 31-foot high transit shed and related office building, was the optimum one.

The market analysis had revealed that a demand existed for such a facility at the subject property site to handle and ship the following goods: Wood pulp: 300,000 tonnes; Lumber: 17,000,000 board feet; Wafer boards: 6,000 tonnes;

Utility poles: 9,000 tonnes;  
Peat moss: 400,000 bales;  
Salt cake: 16,000 tonnes;  
Fish: 5,000 tonnes;

Revenues to the wharf/transit shed owner/operator are categorized as follows:

1. *Berthage*: a charge on a vessel while occupying a berth, or not moored, but loading or unloading by lighter to and from the wharf. A berthage charge is based upon the deadweight tonnage of a vessel per day. In 1983, this charge averaged \$100.00 per 10,000 tonnes (dwt); the existing normal eight hour, 5.5 day ship loading work week is used;
2. *Wharfage*: means a charge on all goods that:(i) pass over, onto or under corporation property; (ii) are trans-shipped between

- vessels in the harbour; (iii) are unloaded over side from a vessel to the water or loaded over side to a vessel from the water at a harbour; or, (iv) are landed from or placed in the water at the wharf corporation property; in 1983, the wharfage charge averaged \$1.03 per tonne;
3. *Throughput*: refers to the amount of material put through a loading/storage process, and is charged by the wharf/transit shed owner as a net rent for the use of the real estate. In 1983, the throughput charge was \$3.00 per tonne;
  4. *Handling\**: a terminal operator receives up to 25% profit from handling services. In this case, the profit averaged \$1.00 per tonne handled;
  5. *Receiving\** (tailgating): connotes the process of unloading the trucks onto the terminal property. The amount used was \$3.00 per tonne, or (\$4.00/T less \$1.00/T handling);
  6. *Demurrage* (storage): may be charged for goods placed inside or stored outside of the transit shed on the terminal property and is charged (1983) at a rate of \$.50 per tonne per week or any part thereof after the first 30 days on site;
  7. *Delivery*: refers to the transfer of the goods to be shipped from the transit shed or other area of the terminal property's storage area to the loading station on the wharf apron. The charge for this part of the handling service is \$5.00 per tonne of which the wharf/transit shed owner would be paid \$1.25 per tonne by the handlers for being able to work on the property;
  8. *Stevedoring*: this aspect of handling refers to the loading/unloading of the vessels, and, in 1983, was \$5.00 per tonne, with the property owner receiving 25% of the charge or \$1.25 per tonne;
- \* Handling receiving, delivery and stevedoring percentages taken by the owner/operator of the terminal as a license for the labour to operate on the property should be treated as entrepreneurial profit. Because the operator collects the charges and pays the handlers, the entire charge

emanating from each activity should be included as revenues to the enterprise, deducting as line item expenses all labour wages, salaries and benefits, and capitalizing entrepreneurial profit at a separate rate if the appraiser chooses to do so.

The estimated annual gross income of the enterprise was over \$2,550,000.00. At a time when overall capitalization rates for such industrial real estate were running 12.5 %, the overall business capitalization rates were ranging from 14% to 25 %, with an average rate on well founded, new developments running at a rate of 20%.

I was the fourth appraiser to value this property. The first government appraiser had reached a value conclusion for the property of \$17,000.00. There was no discussion in his report about the highest and best use of the subject property. However, the methodology used was the *4-3-2-1 Rule*, which had been sanctioned by a consensus of appraisers attending a water lot appraisal seminar in 1975. The rule unfortunately attributes the highest value of the property to the upland, with the lowest value placed upon the quarter furthest out from land. In this case, the basis of value of the submerged land was precisely because of the depth of water at the outermost boundary of the property from the water to the upland part of the site. It was for this reason that a marginal wharf facility could be developed.

Having rejected this appraisal out of hand, the owner caused a second appraiser to be hired by Public Works Canada. That appraiser also ignored the development of a highest and best use conclusion, and concluded a value of \$68,000.00. A generous amount considering the great red flag he had raised in his report concerning the proximity of the town sewerage lagoon and its adverse affect on the eventual use of the property, whatever that might be. It would have had no injurious affect on the operation of a wharf/transit shed facility.

In May of 1975, Public Works Canada in Halifax had convened a conference of appraisers from across Canada to discuss the methodology

of valuing submerged lands and water lots. The discussion focused upon valuation techniques and methods, but ignored the principle of highest and best use as a determinant in the approaches to be used to conclude a value for the real estate.

Moreover, the convention among appraisers at the time was that one could not use business enterprise income/expenses to value the real estate. Times have changed. The appraiser hired by the property owner before me had arrived at a conclusion of \$475,000.00 for the whole property 'as is, where is,' but without a highest and best use analysis, or a similar development approach, had also produced an unconvincing report, which Public Works Canada rejected. Within two weeks of receiving my report, the owner was paid \$800,000.00, which included fees, disbursements and interest from the time of the taking.

Highest and best use analysis begins with a sound market analysis. The Appraisal Institute (Chicago) has a good text on market analysis (by Fanning, Grissom and Pearson), and, in 2004, the Urban Land Institute (Washington, DC) produced *Real Estate Market Analysis* by Schmitz and Brett that also contains complete case studies and a great appendix containing sources of data. There is also the web.

Whether the submerged land appraisal indicates use as a recreational boat marina, wharf, high rise office building, fishing lodge, or something else, there are publications available that will provide information on their operations and how they make money. The subsequent fundamental analysis will then be facilitated by the appraiser who will be informed as to what questions to ask whom.

Especially for litigation purposes, this type of appraising often takes hundreds of hours spread over months. Neither business valuers, who tend to be accountants, nor professional engineers are as well equipped as AACIs for the tasks of performing a fundamental analysis in a market analysis, especially where the end goal is to value the real

estate component of an actual or hypothetical enterprise. Accountants tend to rely entirely on information gleaned from financial statements from other similar enterprises, which will tell them nothing about the nature and quantities of the goods that would be shipped through the hypothetical facility. Engineers are usually poorly informed about direct comparison and income approaches, although, frequently, they are no worse than some supposedly qualified appraisers, who ignore the use of the methods they have been taught, or perform essential methods incompetently. From the position of an expropriated property owner, considering what compensation he may receive based upon an incompetent appraisal, the costs of producing a competent appraisal are well worth it. 🐼

W. Harrison Goodwin Jr., BA, AACI, P. App, FRI, lives in Riverview (Moncton), New Brunswick. He retired from active practice in 2003.

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**BC British Columbia Association (AIC)**  
**Standards Seminars**  
 Although venues have not yet been selected for all locations, we are currently accepting registrations for the following dates.  
**2007 Tentative Dates**  
 May 25-26 – Lower Mainland (this seminar is now fully booked)  
 June 15-16 – Nanaimo  
 September 14-15 – Okanagan or Kamloops  
 September 21-22 – Lower Mainland  
 October 19-20 – Victoria  
 November 23-24 – Lower Mainland  
 The registration form can be found at:  
[http://www.appraisal.bc.ca/news\\_events/index.php/listing/181](http://www.appraisal.bc.ca/news_events/index.php/listing/181)  
 Payment in the form of a cheque or money order must be received 4-6 weeks prior to the seminar. Credit card payments will be processed 4-6 weeks prior to the seminar.  
**Pre-2007 National Conference Standards Seminar**  
 June 5-6, 2007 – Westin Bayshore, 1601 Bayshore Drive  
 Vancouver, BC V6G 2V4  
 For information please contact Kathy Porter [info@appraisal.ab.ca](mailto:info@appraisal.ab.ca) or (604) 266-8287 or check our website [www.appraisal.bc.ca/](http://www.appraisal.bc.ca/)

**MB Manitoba Association (AIC)**  
**2007 Fall seminars** are currently under development.  
 For information please contact Lynne Smith Dark [mbaic@mts.net](mailto:mbaic@mts.net) or (204) 943-1177 or check our website [www.aimanitoba.ca](http://www.aimanitoba.ca)

**NB New Brunswick Association of Real Estate Appraisers**  
**Atlantic Region Appraisers Conference**  
 September 14-16, 2007, For information please contact the Executive Director at [nbarea@nb.aibn.com](mailto:nbarea@nb.aibn.com) or (506) 450-2016 or check our website [www.nbarea.org/main.asp](http://www.nbarea.org/main.asp)

**NL Newfoundland Labrador Association (AIC)**  
 For further information contact Sherry House  
[nfaic@nl.rogers.com](mailto:nfaic@nl.rogers.com) or (709) 753-7644

**NS Nova Scotia Real Estate Appraisers Association**  
**Standards Seminar**  
 Halifax  
 June 15-16, 2007  
 For further information please contact Davida Mackay [nsreeaa@nsappraisal.ns.ca](mailto:nsreeaa@nsappraisal.ns.ca) or (902) 422-4077 or check our website [www.nsappraisal.ns.ca/](http://www.nsappraisal.ns.ca/)

**ON Ontario Association (AIC)**  
**Seminars**

June 1-2	Standards	Toronto
June 22-23	Standards	Kingston
July 6-7	Standards	Toronto
August 3-4	Standards	Peterborough
Sept 28-29	Standards	Toronto
Nov 23-24	Standards	Toronto

June 8 - Examinations for Discovery and Cross-Examination & Capital Gains on Rental and Primary Property, Toronto  
 June 15 - Small Business Workshop, Toronto  
 June 29 - Water-The New Realty Problem & Appraising Water Front Properties, Peterborough  
 September 7 - A Commercial Inspection Walk-Through & Preparation and Participation in Examinations for Discovery & Cross-Examination, Toronto  
 September 14 - Mold - Where, How, When and Why & Water - The New Realty Problem, Kingston  
 September 21 - From MFP to Sponsorgate: Regulatory Changes Mean Business for Appraisers & Small Claims Court, Toronto  
 October 26 - Small Claims Court & Time Well Spent: A Guide to Personal Organization and Self Management in a Busy Workplace, Toronto  
 November 16 - Update on the Law of R.E. Appraisers' Liabilities & Public Sector Accountability, Toronto

**Education**  
 BUSI 330 - SEPTEMBER 17 - NOVEMBER 1, 2007 - evening course  
 Classes will be held two nights per week  
 Monday & Thursday ( 6:30 - 9:30pm)  
 registration deadline is August 20, 2007  
 course fee \$990.00 (includes Materials, examination and GST)  
 For further information please contact Lorraine Rigas [lrigas@oaaic.on.ca](mailto:lrigas@oaaic.on.ca) or (416) 695-9333 or check our website: [www.oaaic.on.ca](http://www.oaaic.on.ca)

**PEI Prince Edward Island Association (AIC)**  
 For further information contact Suzanne Pater [peiaic@xplornet.com](mailto:peiaic@xplornet.com) or (902) 368-3355

**QC L'Association du Québec de l'Institut Canadien des Évaluateurs**  
 For further information contact Ginette St-Jean [aqice@qc.aira.com](mailto:aqice@qc.aira.com) or (450) 454-0377

**SK Saskatchewan Association (AIC)**  
 For further information please contact Marilyn Steranka [skaic@sasktel.net](mailto:skaic@sasktel.net) or (306) 352-4195 or check our website: [www.skaic.org/](http://www.skaic.org/)

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