

**Protect Your Appraisal Practice -
Practice Professionally**

**Arkansas Appraiser Licensing Board
2018 - Day With Appraisers Seminar**

Presentation by
Larry Disney

Introductions

- **Attendees:**
 - **Appraisers**
 - **LRRP**
 - **CR**
 - **CG**
 - **Trainees**
 - **Non-Appraisers**
 - **Instructor**

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Seminar Objectives:

- Avoid actions that can result in appraisal complaints.
- Be familiar with the reporting options of USPAP.
- Recognize steps for developing and reporting compliant value opinions.
- Recognize and use terminology accepted by the appraisal profession.
- Identify the information and items required to be included in the workfile.
- Use the class information to minimize the issues that can result in appraiser regulatory sanctions.

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Seminar Topic Outline

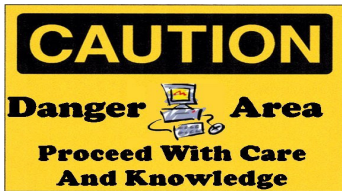
- The complaint process, allegations and deficiencies.
- Protecting yourself – Scenarios of actual case examples.
- Methods and techniques that can assist the professional appraiser in demonstrating compliance.
- Q&A – Summary

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Why should you care?

Those who forget the past are condemned to repeat the same mistakes!



Your career as a professional real property appraiser is judged on the basis of Ethical and Competent practice!

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Past Events have brought change

What Next:

Today, what is the value of an appraisal to the client?

The need for a qualified and competent *appraiser* to use information that is collected, verified and analyzed will always be present. But, understanding and using current technology, methods, and techniques will be essential.

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KEY for Minimizing Risk is Knowledge

- ***Mistake – Failure on the part of the appraiser to recognize that he or she is a professional with the sole responsibility for knowing and understanding the requirements for both developing and reporting credible value opinions, and valuation services.***

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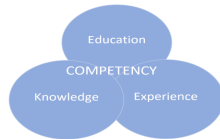
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ALL LICENSEES ARE NOT EQUALLY COMPETENT

Qualified – State Credentialed

Someone who is qualified has satisfied the ***minimum*** education and other requirements necessary to work in a particular profession.

REAL PROPERTY PRACTICE CREDENTIAL
 Issued by Order of the State
 Having satisfied Education, Experience, and Examination
 Approved by Order of the Credentialing Agency



Competency – Knowledge, Skills, training, experience

Having the ability to do something successfully and efficiently.

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Developing Competency

1. Education – Continual learning.
2. Experience – Practice with knowledge
 - A. Supervision – Key for trainee competency.
 - B. Training
 - a. Geographic Competency
 - b. Property Specific Competency
 - c. Submarket Competency
 - d. Knowledge of Practice

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PROFESSIONAL

A **professional** is a member of a profession or any person who earns their living from a specified professional activity. The term also describes the standards of **education** and **training** that prepare members of the profession with the particular **knowledge** and **skills** necessary to perform their specific role within that profession.

Affiliate with peers, join organizations, complete enhanced education, current topics.

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I Want A "Good" professional. Someone who will...?

What is the most important pronoun?

When identified as a professional in any field, **one** is identified with **everyone** in that profession!

Each individual professional is labeled as **them** and **they** by the public.

But, not **every** professional speaks of we and us when describing professionals in his/her field.

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PROFESSIONAL GROWTH THROUGH EDUCATION

The man who views the world at 50 the Same as he did at 20 has wasted 30 Years of his life.

"Mahammad Ali"



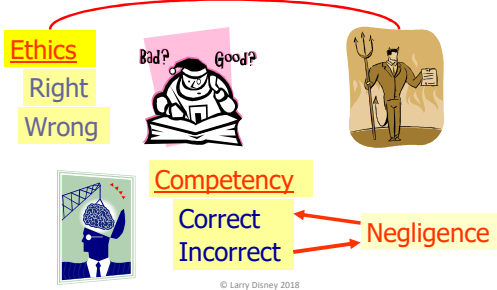
If you don't like change, you will like irrelevance even less.

"General Eric Shinseki"

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Compliance is built upon an individual's **ethics**, personal **knowledge**, **education**, **experience** and a **desire** to do good and avoid bad (evil).



COMPLAINTS



NO FINDING / FINDING

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Allegation versus Deficiency

- ***Mistakes*** – Failure to perform assignments ethically and competently, or exercise due diligence is typically classified as one of the following levels of violation:
 - Ethics Violation is intentional.
 - Violation of competency is not understanding or knowing.
 - Negligence and gross negligence typically occur because of failure to review the work completed or to develop a proper SOW.

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Findings and Reasons of Complaints –
Discussion with appraiser regulatory investigators

- Competency 5%
- Negligence 80%
- Fraud 3%
- Conduct 12%

- Opinion did not support the sales price.
- Client failed to understand the report.

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Who files complaints?
Discussions with appraiser regulatory investigators

- Clients (homeowners, buyers, sellers) 30%
- Lenders 10%
- Builders/Attorneys 5%
- AMCs 5%
- Appraisers 10%
- Real Estate Agents 20%
- Appraiser Regulatory Agencies 1%
- Anonymous 15%
- Others? 4%

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Frequent Deficiencies - Failure to:

- Support the scope of work.
- Provide a true copy of an appraisal report in response to an agency allegation.
- **Disclose significant professional assistance for the person who did inspect the subject property.**
- Report relevant subject property characteristics.

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Common Deficiencies – Failure to:

- Report a summary of the **HBU** opinion for the subject property.
- Report negative external issues near the subject property.
- Include a different report date for each appraisal report submitted due to multiple requests for revised data and information.

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Frequent Deficiencies – Failure to:

- Report a summary of analysis for a pending sales agreement of the subject property.
- **Summarize the analysis necessary to support the reported site value.**
- **Report a summary of the applicable depreciation and cost estimates in the Cost Approach.**

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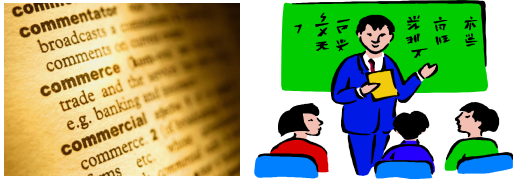
Frequent Deficiencies – Failure to:

- Provide a written summary to demonstrate support for the Cost, Sales Comparison, and Income Approaches developed in an assignment, including the adjustments applied.
- Produce a meaningful workfile for the assignment.
- Provide written support of the reason for omitting one or more of the three approaches to value.
- Report that the use of extraordinary assumptions and/or hypothetical conditions might impact the value opinion, if later discovered to be contrary to what is reported.

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Mistakes will happen, but complaints are often filed because professionals fail to understand the appraisal assignment.



PROFESSIONAL PRACTICE STANDARDS

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USPAP and the Definitions

The purpose of the *Uniform Standards of Professional Appraisal Practice* (USPAP) is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers.

It is essential that *appraisers* develop and communicate their analyses, opinions, and conclusions to intended users of their services in a manner that is meaningful and not misleading.

Definitions specific to USPAP will be addressed throughout this presentation.

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USPAP Terminology – Key to assignment

APPRAISER: one who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.

Comment: Such expectation occurs when individuals, either by *choice* or by requirement placed upon them or upon the service they provide by *law, regulation, or agreement with the client or intended users, represent that they comply.*

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USPAP Terminology – Key to assignment

APPRAISAL: (noun) the act or process of developing an opinion of value; an opinion of value. (adjective) of or pertaining to appraising and related functions such as appraisal practice or appraisal services.

Comment: An appraisal must be numerically expressed as a specific amount, as a range of numbers, or as a relationship (e.g., not more than, not less than) to a previous value opinion or numerical benchmark (e.g., assessed value, collateral value).

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Assignment Terminology – Key to assignment

ASSIGNMENT: a valuation service that is provided by an *appraiser* as a consequence of an *agreement* with a *client*.

CLIENT: the party or parties who engage, by employment or contract, an appraiser in a specific assignment.

Comment: The client may be an individual, group, or entity, and *may engage and communicate with the appraiser directly or through an agent*.

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Assignment Terminology – Key to assignment

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

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Relationships and Application

VALUATION SERVICES: services pertaining to aspects of property value.
Comment: Valuation services pertain to all aspects of property value and include services performed both by appraisers and by others.

USPAP Obligations

APPRAISAL PRACTICE: valuation services performed by an individual acting as an appraiser, including but not limited to appraisal and appraisal review.
Comment: *Appraisal practice* is provided only by appraisers, while *valuation services* are provided by a variety of professionals and others.

2018-2019 USPAP, definitions and AO-21, page 121 © Larry Disney 2018 28

Steps in the Initial Engagement

1. A Client contacts an Appraiser.
2. Will there will be other intended users?
3. The Appraiser agrees to perform an assignment (What service is expected?)
4. Will the client provide an Engagement Letter or a signed agreement?
5. You have the assignment, now what?

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Steps in Completing the Assignment

Appraisal

Appraisal Review

Development

REPORT: *any communication*, written or oral, of an appraisal or appraisal review that is transmitted to the client or a party authorized by the client upon **completion of an assignment.**

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Assignment Results – An appraiser’s opinions or conclusions developed specific to an assignment.

- opinions or conclusions developed in an appraisal assignment, not limited to value;
- opinions or conclusions, developed in an appraisal review assignment, not limited to an opinion about the quality of another appraiser’s work; or
- opinions or conclusions developed when performing a valuation service other than an appraisal or appraisal review assignment.

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Identify the Assignment Scope of Work



Be cautious and always protect *Your* career!

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Become proactive and avoid a deficiency!

Be familiar with your jurisdiction’s laws concerning your obligations and duties as a real property appraiser.

Develop office policies, practices, standards of care, etc.

Perform only those activities that are within the scope of your knowledge and are within the permitted practice of your specific type of real property appraiser credential.

Too often the 1004 form is thought to be the appraisal, and is used for every assignment.

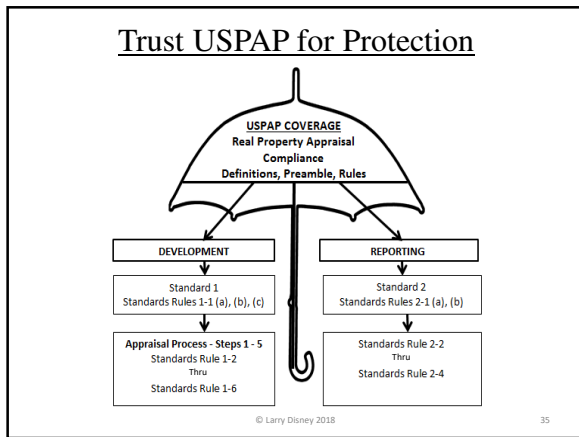
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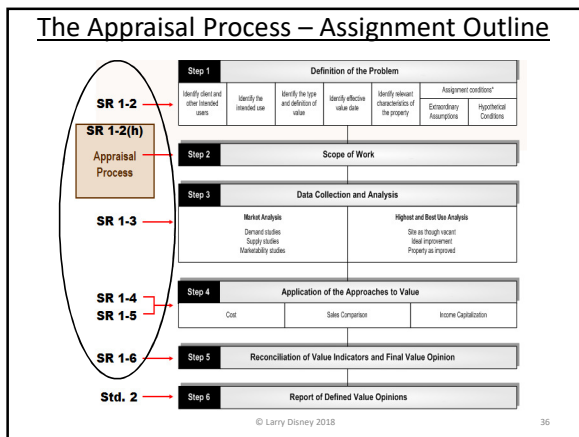
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Real Property Appraisal Practice

Pages 1-33 Real Property Appraisal and Appraisal Review

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Scope of Work Rule – KEY to Each Assignment

For each appraisal and appraisal review assignment, an appraiser must:

1. identify the problem to be solved;
2. determine and perform the scope of work to be completed.

Identify not only the client and SOW, but also what type of report you will use to communicate the results.

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Step 1 – SR 1-2(h) Problem Identification (SOW)

Client should provide the appraiser sufficient information to identify the following items:

Reporting - SR 2-2(a) (i), (ii), (iii), (v), (vi), and (x)*

The appraiser is responsible for identifying and reporting relevant and credible information.

(i)	(ii)	(v)	(vi)	(iii)	(x)
Identify client and other intended users	Identify the intended use	Identify the type and definition of value	Effective date of the opinion	Identify the relevant characteristics of the property	Assignment conditions* ----- Extraordinary Assumptions Hypothetical Conditions

* Also includes assumptions, laws and regulations, jurisdictional exceptions, and other conditions that affect the scope of work.

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An appraiser identifies the problem to be solved in order to determine the appropriate scope of work.

Comment: Scope of work includes, but is not limited to:

- the extent to which the property is identified;
- the extent to which tangible property is inspected;
- the type and extent of data researched; and
- the type and extent of analyses applied to arrive at opinions or conclusions.

Appraisers have broad flexibility and significant responsibility in determining the appropriate scope of work for an appraisal or appraisal review assignment.

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Help yourself be prepared; **Assignment Conditions.**



Then comply, using Judgment and Execution!

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**Client requirements in addition to USPAP –
SOW Assignment Conditions**

- Fannie Mae/Freddie Mac
- VA
- FLA

Make certain you have read, understand, and have the current copies of all appraisal assignment requirements and guidance prior to completing applicable assignments.

- Client Engagement Letters
- USFLA (Yellow Book)
- State Appraiser agency laws and regulations
- Be cautious of using the Fannie Mae forms for reporting non-Fannie Mae intended use assignments!

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APPRAISAL vs REPORT



DEVELOP

Communicate

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Standards Rule 1-1 (Development)

SR 1-1 (a) – be aware of, understand, and correctly employ those recognized techniques necessary to produce a credible appraisal; Remain current; meaningful CE.

SR 1-1 (b) – not commit a *substantial* error of *omission* or *commission* that *significantly* affects an appraisal; and

SR 1-1 (c) – not render appraisal services in a *careless* or *negligent* manner, such as making a *series* of errors that, although individually might not significantly affect the results, in the *aggregate* affects the *credibility* of those results. Perfection is not attainable.

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What Definition of Market Value applies?

Market Value *is not* defined in USPAP.

Source for market value should be:

- a recognized authority;
- a specific legal jurisdiction;
- a specific body of knowledge; or
- customized and specific to the client’s intended use and intended scope of work. (Be cautious.)

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Why does USPAP not have a definition for Market Value?

- The components of *market value* are defined in USPAP rather than an actual definition because
 - There are a variety of *market value* definitions.
 - No specific definition of market value or source is USPAP endorsed.

The definition on page 5 of USPAP is a concept, #s 1 – 3, a recognized authority is not listed.

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Fannie Mae Definition of Market Value

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

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Fannie Mae Definition of Market Value

- buyer and seller are typically motivated;
- both parties are well informed or well advised, and each acting in what he or she considers his/her own best interest;
- **a reasonable time is allowed for exposure in the open market;**
- payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- *the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.*

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Note: Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs that are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable because the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third-party institutional lender that is not already involved in the property

Inserting -0- is an adjustment, meaning a development.

Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession, but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

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Banking Agencies - Market Value Definition FDIC Rules and Regulations Section 323.2

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

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Banking Agencies Market Value Definition FDIC Rules and Regulations Section 323.2

(1) Buyer and seller are typically motivated;

(2) Both parties are well informed or well advised, and acting in what they consider their own best interests;

(3) *A reasonable time is allowed for exposure in the open market;*

(4) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and

(5) *The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.*

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Other Definitions U.S. Dept. of The Treasury

Fair Market Value: The price that a knowledgeable buyer and a knowledgeable seller would be able to agree upon in the open market, provided that both have access to sufficient information.

Federal Banking Agency (FBA): One of four agencies: 1) Comptroller of the Currency 2) Board of Governors of the Federal Reserve System 3) Federal Deposit Insurance Corporation 4) Office of Thrift Supervision.

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Other Definitions

Interagency Appraisal and Evaluation Guidelines

Going Concern Value--The value of a business entity rather than the value of the real property. The valuation is based on the existing operations of the business and its current operating record, with the assumption that the business will continue to operate.

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Other Definitions

Interagency Appraisal and Evaluation Guidelines

Value opinions such as "going concern value," "value in use," or a special value to a specific property user may not be used as market value for federally related transactions. An appraisal may contain separate opinions of such values so long as they are clearly identified and disclosed.

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Standard 1 versus Standard 2

Standard 1 requires the appraiser to analyze relevant information. *Development* of SOW.

Standard 2 requires the appraiser to communicate the results of the analysis in either statement or summary detail. Std. 2 does not include a SOW requirement.

The key for reporting content is to provide a sufficient description for conveying a credible report of assignment results.

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Standard 2 – Using more than one pre-printed form

STANDARD 2: REAL PROPERTY APPRAISAL, REPORTING
In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Comment: STANDARD 2 does not dictate the form, format, or style of real property appraisal reports.

The form, format, and style of a report are functions of the needs of intended users and appraisers. The substantive content of a report determines its compliance.

STANDARD 2 addresses the content and level of information required in a report that communicates the results of a real property appraisal.

Frequent Cause of Agency Findings

Using the Fannie Mae 1004 form for all assignments regardless of whether the appraisal is intended for Fannie Mae consideration or mortgage lending.

The Fannie Mae forms, UAD and CU are exclusive for Fannie Mae, why use them for all assignments?

Instead, consider an alternative form, i.e. a general purpose form or write a narrative report.

Fannie Mae / Freddie Mac Forms

Uniform Residential Appraisal Report
([Form 1004](#))

Exterior-Only Inspection Residential Appraisal Report ([Form 2055](#))

Manufactured Home Appraisal Report
([Form 1004C](#))

Individual Condominium Unit Appraisal Report
([Form 1073](#))

Fannie Mae / Freddie Mac Forms

Small Residential Income Property Appraisal Report (Form 1025)

Appraisal Update and/or Completion Report (Form 1004D)

It is essential that this form be completed with greatest care and due diligence in understanding the service that is being requested.

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Fannie Mae Notice

“The appraiser’s analysis should go beyond any limitations of the forms, with additional comments and exhibits being used if they are needed to adequately describe the subject property, document the analysis and valuation process, or support the appraiser’s conclusions.

The extent of the appraiser’s data collection, analysis, and reporting must be determined by the complexity of the appraisal assignment.”

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PROBLEM

The Fannie Mae/Freddie Mac forms are intended for a mortgage purchase / lending decision.

The form instruction language can create a misleading report for uses that are not lending.

No specific form is USPAP complaint, therefore the appraiser must use care to include all information that will ensure compliance.

Example – The following land form, if used, will require addenda.

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Comments on Market Data: _____
 Comments and Conditions of Appraisal: _____
 Final Reconciliation: _____

RECONCILIATION

I ESTIMATE THE MARKET VALUE, AS DEFINED, OF SUBJECT PROPERTY AS OF _____ to be \$ _____

Appraiser(s) _____ Review Appraiser (if applicable) Did Did Not Physically Inspect Property

This form is often used for reporting large agriculture land tract assignments, with the Fannie Mae assumptions and certification attached!

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Record Keeping Rule (Best Evidence for an appraiser)

An appraiser must prepare a workfile for each appraisal or appraisal review assignment. A workfile must be in existence prior to the issuance of any report or other communication of assignment results. A written summary of an oral report must be added to the workfile within a reasonable time after the issuance of the oral report.

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The workfile must include:

- the name of the client and the identity, by name or type, of any other intended users;
- true copies of all written reports, documented on any type of media. (A true copy is a replica of the report transmitted to the client. A photocopy or an electronic copy of the entire report transmitted to the client satisfies the requirement of a true copy.);

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The workfile must include:

- **summaries of all oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification; and**
- **all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP, or references to the location(s) of such other data, information, and documentation.**

Review each report before sending.

1.) Review each report. Use a checklist to ensure each item of USPAP is developed, and reported, especially *statement* or *summarization*.



2.) Carefully read the certification in each report before you sign it or affix your signature!

STANDARDS RULE 2-1

Each written or oral real property appraisal report must:

(a) clearly and accurately set forth the appraisal in a manner that will not be misleading;

(b) contain sufficient information to enable the intended users of the appraisal to understand the report properly; and

(c) clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.

STANDARDS RULE 2-2

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

The report content and level of information requirements set forth in this Standard are minimums for each type of report. An appraiser must supplement a report form, when necessary, to ensure that any intended user of the appraisal is not misled and that the report complies with the applicable content requirements set forth in this Standards Rule.

A party receiving a copy of an Appraisal Report or Restricted Appraisal Report in order to satisfy disclosure requirements does not become an intended user of the appraisal unless the appraiser identifies such party as an intended user as part of the assignment.

SR 2-2 (a) & (b) requirements, regardless of the client, include the following:

STANDARDS RULE 2-2(a) & (b)

(a) Appraisal Report	(b) Restricted Appraisal Report
i. state the identity of the client and any intended users, by name or type;	i. state the identity of the client by name or type; and state a prominent use restriction that limits use of the report to the client and warns that the rationale for how the appraiser arrived at the opinions and conclusions set forth in the report may not be understood properly without additional information in the appraiser's workfile;
ii. state the intended use of the appraisal;	ii. state the intended use of the appraisal;
iii. summarize information sufficient to identify the real estate or personal property involved in the appraisal, including the property characteristics relevant to the assignment;	iii. state information sufficient to identify the real estate or personal property involved in the appraisal;
iv. state the property interest appraised;	iv. state the property interest appraised;
v. state the type and definition of value and cite the source of the definition;	v. state the type of value and cite the source of its definition;
vi. state the effective date of the appraisal and the date of the report;	vi. state the effective date of the appraisal and the date of the report;
vii. summarize the scope of work used to develop the appraisal;	vii. state the scope of work used to develop the appraisal;

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SR 2-2(a) (iii)

(iii) summarize information sufficient to identify the real estate involved in the appraisal, including the physical, legal, and economic property characteristics relevant to the assignment;

Comment: The real estate involved in the appraisal can be specified, for example, by a legal description, address, map reference, copy of a survey or map, property sketch, and/or photographs or the like. The summarized information can include a property sketch and photographs in addition to written comments about the legal, physical, and economic attributes of the real estate relevant to the type and definition of value and intended use of the appraisal.

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SR 2-2(a) (v) – (More than statement)

(v) state the type and definition of value and cite the source of the definition;

Comment: Stating the definition of value also requires any comments needed to clearly indicate to the intended users how the definition is being applied.

When reporting an opinion of market value, state whether the opinion of value is:

- in terms of cash or of financing terms equivalent to cash, or
- based on non-market financing or financing with unusual conditions or incentives.

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SR 2-2(a) (v) (More than statement)

When an opinion of market value is not in terms of cash or based on financing terms equivalent to cash, summarize the terms of such financing and explain their contributions to or negative influence on value.

When an opinion of reasonable exposure time has been developed in compliance with Standards Rule 1-2(c), the opinion must be stated in the report.

SR 2-2(a) (vi) (Two critical dates)

(vi) state the effective date of the appraisal and the date of the report;

Comment: The *effective date of the appraisal* establishes the context for the value opinion, while *the date of the report* indicates whether the perspective of the appraiser on the market and property as of the effective date of the appraisal was *prospective, current, or retrospective*.

SR 2-2(a) (vii)

(vii) summarize the scope of work used to develop the appraisal;

Comment: Because intended users' reliance on an appraisal may be affected by the scope of work, *the report must enable them to be properly informed and not misled*. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

SR 2-2(a) (vii)

When any portion of the work involves significant real property appraisal assistance, the appraiser must summarize the extent of that assistance. The name(s) of those providing the significant real property appraisal assistance must be stated in the certification, in accordance with Standards Rule 2-3.

STANDARDS RULE 2-2(a) and (b)

vii. summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;	viii. state the appraisal methods and techniques employed, state the value opinion(s) and conclusion(s) reached and reference the workfile; exclusion of the sales comparison approach, cost approach, or income approach must be explained;
ix. state the use of the property existing as of the date of value and the use of the real estate or personal property reflected in the appraisal;	ix. state the use of the property existing as of the date of value and the use of the real estate or personal property reflected in the appraisal;
x. when an opinion of highest and best use or the appropriate market or market level was developed by the appraiser, summarize the support and rationale for that opinion;	x. when an opinion of highest and best use or the appropriate market or market level was developed by the appraiser, state that opinion;
xi. clearly and conspicuously state all extraordinary assumptions and hypothetical conditions; and that their use might have affected the assignment results; and	xi. clearly and conspicuously state all extraordinary assumptions and hypothetical conditions; and that their use might have affected the assignment results; and
xii. include a signed certification in accordance with Standards Rule 2-3 or 8-3.	xii. include a signed certification in accordance with Standards Rule 2-3 or 8-3.

Comments have not been included in this chart

SR 2-2(a) (x)

(viii) summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;

Comment: An Appraisal Report must include sufficient information to indicate that *the appraiser complied with the requirements of STANDARD 1*. The amount of detail required will vary with the significance of the information to the appraisal.

SR 2-2(a) (x)

(x) when an opinion of highest and best use was developed by the appraiser, **summarize the support and rationale for that opinion;**

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SR 2-2(a) (xi)

(xi) **clearly and conspicuously: (Two steps)**

- state all extraordinary assumptions and hypothetical conditions; and
- state that their use might have affected the assignment results;

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Real World Cases (Development and Reporting)

Negligence, Competency, and Fraud



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Knowledge + Intent = Fraud

Each Mortgage Fraud scheme contains some type of "material misstatement, misrepresentation, or omission" relating to the property or potential mortgage relied on by an underwriter or lender to fund, purchase or insure a loan.

Be cautious of using the term fraud when reporting the results of an appraisal review!

Know who determines an act to be classed fraud. (Intent)

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SR 2-3 Frequent Allegation

I certify that, to the best of my knowledge and belief:

- **the statements of fact contained in this report are true and correct.**
- **my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.***

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SR 2-3 Frequent and serious Allegation

When **any** portion of the work involves significant real property appraisal assistance, the appraiser must summarize the extent of that assistance. The name(s) of those providing the significant real property appraisal assistance must be stated in the certification, in accordance with Standards Rule 2-3.*

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Significant Professional Assistance

Significant appraisal assistance means contribution related to the appraisal process.

The individual must contribute to the valuation in a noteworthy way. (Not collecting or providing data.)

Although assistance by non-appraisers might be identified, the name and contribution are not a requirement of SR 2-3; USPAP applies only to appraisers.

Frequent Complaint Allegation (1004)

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

2. *I performed* a complete visual inspection of the interior and exterior areas of the subject property. *I reported* the condition of the improvements in factual, specific terms. *I identified* and reported the physical deficiencies that could affect the livability, soundness, or structural integrity of the property.

Frequent Complaint Allegation (1004)

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

25. *Any intentional or negligent* misrepresentation(s) contained in this appraisal report may result in civil liability and/or criminal penalties including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Section 1001, et seq., or similar state laws.

Possible Consequences!

- **Making false statements** (18 U.S.C. [§ 1001](#)) is the common name for the United States federal crime laid out in Section 1001 of Title 18 of the United States Code which generally prohibits knowingly and willfully making **false** or **fraudulent** statements, or concealing information, in "any matter within the "jurisdiction" of the federal government of the United States, even by merely denying guilt when asked by a federal agent.

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Possible Consequences!

- A number of notable people have been convicted under the section, including Martha Stewart, Rod Blagojevich, Michael T. Flynn, Rick Gate, Scooter Libby, Bernard Madoff, and Jeffrey Skilling.
- This statute is used in many contexts. Most commonly, prosecutors use this statute to reach cover-up crimes such as perjury, false declarations, and obstruction of justice and government fraud cases

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Case scenario –Actual Case.

The following was alleged:

“The appraiser typically signs report certifications for subject properties that the appraiser never visits, and *fails to acknowledge assistance performed by unlicensed individuals.*”

Fannie Mae form 1004

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Mortgage Fraud Blog – by Rachell Dollar

Appraiser Sentenced for Use of Non-Licensed Assistants - August 15, 2017 —

XX, 34, licensed real estate appraiser, Lexington, Kentucky, was sentenced in federal court to five months in prison and five months home confinement. He was also ordered to pay a \$5,500 fine. XX pled guilty in May of 2017 to conspiracy to commit wire fraud and making false statements to a federal agency.

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According to the indictment, in 2015, XX began an illegal and deceptive practice of using uncertified and unlicensed surrogates, including two individuals identified in the indictment as XX and XX, to perform appraisals and fill out Uniform Residential Appraisal Reports without attributing the reports to those individuals or identifying their involvement. In most instances, XX never visited the property. He paid the surrogates a portion of his appraisal fee.

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The indictment further alleges that XX instructed his surrogates to pretend to be him if questioned by anyone during the appraisal process and he provided them with his own business cards to provide to others, if necessary.

By doing this, XX was able to greatly increase the number of appraisals he could perform in a given time.

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According to the indictment, XX made the following material statements by signing and submitting the appraisal reports performed by surrogates:

1. That he had personally performed the appraisal;
2. That he had not been assisted by any other person in performing the appraisal;
3. That he was knowledgeable of and experienced in the market where the property was located.

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***CORRECTION:** This article originally stated that MG was charged with bank fraud. *He was actually charged with violation of 18 USC 371* – conspiracy and the underlying substantive offenses are identified as wire fraud in violation of Title 18 USC 1343 and false statements in a matter within the jurisdiction of an agency of the United States in violation of Title 18 USC 1001.

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MG Sentenced Under 18 – U.S. Code 371

Title 18 - U.S. Code - § 371 - Conspiracy to commit offense or to defraud United States

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

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18 U.S.C. 1343—Elements of Wire Fraud

The elements of wire fraud under Section 1343 directly parallel those of the mail fraud statute, but require the use of an interstate telephone call or electronic communication made in furtherance of the scheme.

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18 U.S.C. 1343—Elements of Wire Fraud

(the four essential elements of the crime of wire fraud are: (1) that the defendant voluntarily and intentionally devised or participated in a scheme to defraud another out of money; (2) that the defendant did so with the intent to defraud; (3) that it was reasonably foreseeable that interstate wire communications would be used; and (4) that interstate wire communications were in fact used)

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Bank Fraud versus Wire Fraud

• **Title 18, Part 1, Ch. 63 § 1344. Bank fraud.**

Whoever knowingly executes, or attempts to execute, a scheme or artifice--

- (1) to defraud a financial institution; or
- (2) to obtain any of the moneys, funds, credits, assets, securities or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises; shall be fined not more than **\$1,000,000** or imprisoned not more than **30 years, or both.**

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Fraud versus Mistake

Although an appraiser might sign a certification without having any nefarious reason for doing so, the fact that a report is submitted without disclosure of assistance or acknowledging an action not completed, becomes a major allegation with potential for severe consequences, including a violation of law and regulation.

What sanction(s) might an appraiser regulatory agency decide for certifying something done or completed when it is not? i.e. not visiting the property, not recognizing significant assistance.

Fannie Mae form 1004

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How can this be avoided?

Please read the certification language of each report before you sign.

While an appraisal result is an *opinion*, signing a certification that you did something when it is proven that you did not is a *fact*.

A proven *Fact* can lead to a finding of *Intent*.

Fannie Mae form 1004

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Be concerned, but:

Make certain you read the certification language before you sign, and also make certain when you check or enter I did, that is a fact.

Fraud is an intentional act.

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LIABILITY CONCERNS



PRACTICE WITH CAUTION

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Fannie Mae Form 1004D

SUMMARY APPRAISAL UPDATE REPORT

INTENDED USE: The intended use of this appraisal update is for the lender/client to evaluate the property that is the subject of this report to determine if the property has declined in value since the date of the original appraisal for a mortgage finance transaction.

INTENDED USER: The intended user of this appraisal update is the lender/client.

SCOPE OF WORK: The appraiser must, at a minimum: (1) concur with the original appraisal, (2) perform an exterior inspection of the subject property from at least the street, and (3) research, verify, and analyze current market data in order to determine if the property has declined in value since the effective date of the original appraisal.

HAS THE MARKET VALUE OF THE SUBJECT PROPERTY DECLINED SINCE THE EFFECTIVE DATE OF THE ORIGINAL APPRAISAL? Yes No

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

- I have, at a minimum, developed and reported this appraisal update in accordance with the scope of work requirements stated in this appraisal update report and concur with the analysis and conclusions in the original appraisal.
- I performed this appraisal update in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal update was prepared.
- I have updated the appraisal by incorporating the original appraisal report.
- I have summarized my analysis and conclusions in this appraisal update and retained all supporting data in my work file.

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

- I directly supervised the appraiser for this appraisal update assignment, have read the appraisal update report, and agree with the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
- I accept full responsibility for the contents of this appraisal update report including, but not limited to, the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.

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Fannie Mae Form 1004D

CERTIFICATION OF COMPLETION

INTENDED USE: The intended use of this certification of completion is for the lender/client to confirm that the requirements or conditions stated in the appraisal report referenced above have been met.

INTENDED USER: The intended user of this certification of completion is the lender/client.

HAVE THE IMPROVEMENTS BEEN COMPLETED IN ACCORDANCE WITH THE REQUIREMENTS AND CONDITIONS STATED IN THE ORIGINAL APPRAISAL REPORT? Yes No If No, describe any impact on the opinion of market value.

APPRAISER'S CERTIFICATION: I certify that I have performed a visual inspection of the subject property to determine if the conditions or requirements stated in the original appraisal have been satisfied.

SUPERVISORY APPRAISER'S CERTIFICATION: I accept full responsibility for this certification of completion.

SIGNATURES

ADDITIONAL CERTIFICATION: I/we certify that if this report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this report containing a copy or representation of my signature, the report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

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Developing Opinions

STANDARDS RULE 1-4

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

(a) When a sales comparison approach is necessary for credible assignment results, an appraiser must analyze *such comparable sales data as are available* to indicate a value conclusion.

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Developing Opinions – (Steps)

(b) When a cost approach is necessary for credible assignment results, an appraiser must:

(i) develop an opinion of site value by an appropriate appraisal method or technique;

(ii) analyze such comparable cost data as are available to estimate the cost new of the improvements (if any); and

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

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Developing Opinions – (Steps)

(c) When an income approach is necessary for credible assignment results, an appraiser must:

(i) analyze such comparable rental data as are available and/or the potential earnings capacity of the property to estimate the gross income potential of the property;

(ii) analyze such comparable operating expense data as are available to estimate the operating expenses of the property;

(iii) analyze such comparable data as are available to estimate rates of capitalization and/or rates of discount; and

(iv) base projections of future rent and/or income potential and expenses on reasonably clear and appropriate evidence.

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Reporting the Development of Opinions

STANDARDS RULE 2-2(a)(viii)

(viii) summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained;

Comment: An Appraisal Report must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 1. The amount of detail required will vary with the significance of the information to the appraisal.

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The Following, although amended, represents an actual review with language that appeared in the report.

Let's examine the information, and decide if the report contains sufficient reasoning for credibility.

Also decide if the information presented as alternative methods and techniques is more supportive.

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Standards Rule 1-6 – Reconciliation & Standards Rule 2-2(a)(viii)

Actual scenario - Using canned comments.

Failure to support results can be prevented:

“Cost approach supports the sales comparison approach which is the best indication of market value. Buyers and sellers in this market rarely make decisions concerning single family residential properties based on income potential, therefore the income approach is not considered appropriate in this market, for this type of property, the most weight is and should be given to the sales comparison approach.”

Cost \$199,761; Sales Comp. \$155,000; Income App. N/A

2016-2017 USPAP edition

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Competency vs. Negligence (Continued Scenario)

Although specific to the Actual Example, the following items are frequent flaws of support for the methodology results. Included is an example of one development method that can be used to support the opinion for:

...improvement age, condition, and SF adjustments...

Caution – The example is only one method. SR 1-1(a)

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Common Responses for Resistance!

“The Cost Approach is not relevant or acceptable when developing an opinion of market value!”



“An appraiser should never mix cost and sales when developing an opinion of value!”

“You must use only matched pair analysis!”

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Class Example for Discussion - The actual numbers were presented in an appraisal report reviewed for compliance.

Feature	Subject	Comparable No. 1	Comparable No. 2	Comparable No. 3	Comparable No. 4
Address	Any Town USA	Any Town USA	Any Town USA	Any Town USA	Any Town USA
Sale Price	\$155,000.00	\$150,000.00	\$163,500.00	\$159,000.00	\$167,500.00
Sale Price / SQ FT	\$94.86	\$92.82	\$113.54	\$94.06	\$104.69
Date of Sale / Time	Current	Current	Current	Current	Current
Quality of Construction	Q4	Q4	Q4	Q4	Q4
Actual Age	6	9	7	6	11
Condition	C3	C3	C3	C3	C3
Above Grade Room Count	6 Rm - 3 BR - 2.1 Baths	6 Rm - 4 BR - 3.0 Baths	6 Rm - 3 BR - 2.0 Baths	7 Rm - 3 BR - 2.0 Baths	6 Rm - 3 BR - 2.1 Baths
Gross Living Area	1,634 Sq. Ft.	Bath -\$1,200 1,616 SF \$0.00	Bath +\$1,200 1,440 SF +\$8,700	Bath +\$1,200 1,700 SF -\$3,000	Bath +\$1,200 1,600 SF +\$1,500
Garage / Carport	1-DW	1 DW	2 GA - 1 DW	2 GA - 1 DW	2 GA - 1 DW
Porch/Patio/Deck	CvP/Patio	CvP/Patio	CvP/Deck	CvP/Deck	CvP/Deck
Amenities	1 FP	None +\$2,000	None +\$2,000	None +\$2,000	1 FP
Net Adjustment Total	\$800.00	\$800.00	-\$4,100.00	-\$10,800.00	-\$10,300.00
Adjusted Sales Price of Comp Sales	\$150,800.00	\$150,800.00	\$159,400.00	\$149,100.00	\$157,200.00
Indicated Value by Sales Comparison \$155,000 as of 01/22/2016 Cost Indicated Value \$199,761 - Indicated Value by the Income Approach \$0.00					
The sales comparison approach is the best representation of the market action of buyers and sellers, thus given the greatest weight and consideration. The cost approach was developed and supports the value opinion. The income approach was not applicable.					
Cost Approach - Land sales indicated \$31,900, \$35,200, \$31,500, \$30,000, \$34,500. Therefore, site value is \$30,000					
Dwelling	1,634 SF	\$97.00 per Sq. Ft.			\$158,498.00
FP/APP/FLCV					\$12,000.00
Cost New					\$170,498.00
Depreciation	Physical \$15,737	Functional \$0.00	External \$0.00	REL 59 - Years	-\$15,737.00
Improvements Deprec.					\$154,761.00
AS IS Val Site Improv.					\$15,000.00
Site Value					\$30,000.00
Indicated Value by Cost Approach					\$199,761

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Support for the opinion of site value (summary of comparable land sales or other methods for estimating site value)

Characteristics	Sale #1	Sale #2	Sale #3	Sale #4	Sale #5
Sale Price	\$31,900	\$35,000	\$31,500	\$30,000	\$34,500
Date of sale	Current	Current	Current	Current	Current
Location	.25-Mile	.25-Mile	.5-Mile	.5-Mile	.25-Mile
Land Size	¼ Acre	¼ Acre	¼ Acre	¼ Acre	¼ Acre
Zoning	R-1C	R-1C	R-1C	R-1C	R-1C
Indicated Sale Price	\$31,900	\$30,000	\$28,500	\$31,000	\$34,500

Fannie Mae form 1004 requirement

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Using data in the report yields the following results.

Note: Adjust only black text, DO NOT adjust red text!

Results using appraiser's data.

	Subject	Sale 1	Sale 2	Sale 3	Sale 4
Sale Price	\$155,000	\$150,000	\$163,500	\$159,000	\$167,500
Site Contribution	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000
Indicated Improvement Contribution	\$125,000	\$120,000	\$133,500	\$129,000	\$137,500
Cost New / SF	\$104.34	\$104.34	\$106.00	\$108.00	\$104.34
Square Footage	1,634	1,616	1,440	1,700	1,600
Total Cost New	\$170,492	\$168,613	\$152,640	\$183,600	\$166,944
Indicated Improvement Contribution	\$125,000	\$120,000	\$133,500	\$129,000	\$137,500
Accrued Depreciation \$	\$45,492	\$48,613	\$19,140	\$54,600	\$29,444
Accrued Depreciation %	26.68%	28.83%	12.54%	29.74%	17.64%
Effective Age	6	6	6	6	6
Annual Depreciation \$	\$7,582	\$8,102	\$3,190	\$9,100	\$4,907
Annual Depreciation %	4.45%	4.81%	2.09%	4.96%	2.94%
Total Economic Life Expectancy	22	21	48	20	34

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What is the problem, and why?

- The economic life is clearly inconsistent with the reported opinion, and internally inconsistent with the age data reported...

The sale ages listed 9, 7, 6 and 11 years.

The subject dwelling REL is listed 59 years, and current age 6 Years, implying 65-Years total life.

Subject depreciation in report $6 / 65 = 9.23\%$

Cost new $\$170,498 \times 9.23\% = \$15,737 = \$154,761 + \$30,000 \text{ Site} + \$15,000 \text{ Site Improvements} = \$199,761$

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What is the problem, and why?

- What is wrong and what is the authority for identifying the correct use of "recognized methods and techniques"...
- How do you calculate an age, quality or condition adjustment?
- (Development is a fact, but the result is an Opinion.)

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Review result(s) using data within the appraisal report, and assumption of REL.

Note: Adjust only black text, DO NOT adjust red text!

Results using appraiser's data.

	Subject	Sale 1	Sale 2	Sale 3	Sale 4
Sale Price	\$155,000	\$150,000	\$163,500	\$159,000	\$167,500
Site Contribution	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000
Indicated Improvement Contribution	\$125,000	\$120,000	\$133,500	\$129,000	\$137,500
Cost New / SF	\$84.25	\$81.75	\$102.10	\$83.60	\$94.75
Square Footage	1,634	1,616	1,440	1,700	1,600
Total Cost New	\$137,665	\$132,108	\$147,024	\$142,120	\$151,600
Indicated Improvement Contribution	\$125,000	\$120,000	\$133,500	\$129,000	\$137,500
Accrued Depreciation \$	\$12,665	\$12,108	\$13,524	\$13,120	\$14,100
Accrued Depreciation %	9.20%	9.17%	9.20%	9.23%	9.30%
Effective Age	6	6	6	6	6
Annual Depreciation \$	\$2,111	\$2,018	\$2,254	\$2,187	\$2,350
Annual Depreciation %	1.53%	1.53%	1.53%	1.54%	1.55%
Total Economic Life Expectancy	65	65	65	65	65

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Development Expectations 1-1(a)

- The information necessary for the appraiser to estimate the age/condition adjustment is inherent in the analyses which must be performed for each assignment.
 - Calculate the total economic life applicable to the subject **and** competitive properties.
 - Realistic site value of the subject and comparable sales.
 - Realistic opinion for the effective age, (condition) or quality of the subject and comparable sales.
 - The calculation is for physical, not functional or external.

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Why is this concept so misunderstood?

- Statements used for resistance....
 - Age is not a factor in market behavior!
 - Rational adjustments are not possible!
 - Adjustments are a guess!
 - I wasn't taught that!
 - I use the Marshall and Swift tables!
 - Fannie Mae does not require this type of support!
 - You cannot mix cost and sales data to support the market adjustment!
 - This formula doesn't work in my area!

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Development Issues

- Reality, all adjustments are intended to answer a question and each approach to value is based on *market* data (Cost, Sales, and Income)
- “Ask, what would the comparable sale have sold for had it exhibited physical characteristics which suggest an *effective age* the same as the subject?”
- Do you consider effective age and condition synonymous?

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Age and Condition Concerns (What if?)

Items	Subject	Sale 1	Sale 2	Sale 3
Condition	C3	C3	C3	C3
Age	3	12	16	9
Quality	Q3	Q3	Q3	Q3

Without adjustment or explanation, how can a 3 year old subject property be matched with older sales and assume that each sale exhibits the same age, condition and quality?

Some appraiser's have written, "market participants do not recognize age differences."

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Other Development Issues – What if?

Assume the cost approach, \$199,761 is credible.

Assume physical depreciation, \$15,737 is credible.

\$199,761 – (\$15,737 Depreciation - \$30,000 Site - \$15,000 Site improvements) = \$139,024

Assume the sales comparison, \$155,000 is credible – (\$30,000 Site - \$15,000 Site Improvements) = \$110,000.

What area(s) might the appraiser consider adjusting for the additional \$29,000?

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Analyzing Sales and Cost Data - Depreciation

Note: Adjust only black text, DO NOT adjust red text!

	<u>Subject</u>	<u>Sale 1</u>	<u>Sale 2</u>	<u>Sale 3</u>	<u>Sale 4</u>
Sale Price	\$155,000	\$150,000	\$163,500	\$159,000	\$167,500
Site Contribution	<u>\$30,000</u>	<u>\$30,000</u>	<u>\$30,000</u>	<u>\$30,000</u>	<u>\$30,000</u>
Indicated Improvement Contribution	\$125,000	\$120,000	\$133,500	\$129,000	\$137,500
Cost New / SF	\$84.25	\$81.75	\$102.10	\$83.60	\$94.75
Square Footage	<u>1,634</u>	<u>1,616</u>	<u>1,440</u>	<u>1,700</u>	<u>1,600</u>
Total Cost New	\$137,665	\$132,108	\$147,024	\$142,120	\$151,600
Indicated Improvement Contribution	\$125,000	\$120,000	\$133,500	\$129,000	\$137,500
Accrued Depreciation \$	\$12,665	\$12,108	\$13,524	\$13,120	\$14,100
Accrued Depreciation %	9.20%	9.17%	9.20%	9.23%	9.30%

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Analyzing Sales and Cost Data - Depreciation

Effective Age	6	6	6	6	6
Annual Depreciation \$	\$2,111	\$2,018	\$2,254	\$2,187	\$2,350
Annual Depreciation %	1.53%	1.53%	1.53%	1.54%	1.55%
Total Economic Life Expectancy	65	65	65	65	65

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Analyzing Sales and Cost Data – SF Adjustment

Supporting Sq. Ft. Adjustment					
Sales Price	\$155,000	\$150,000	\$163,500	\$159,000	\$167,500
Less Concessions	\$0	\$0	\$0	\$0	\$0
Less Site V. and other Site Improve	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000
Less Quality	\$0	\$0	\$0	\$0	\$0
Less Basement	\$10,000	\$0	\$18,000	\$0	\$0
Less Garage	\$8,000	\$8,000	\$8,000	\$10,000	\$10,000
Less porches	\$5,000	\$8,000	\$5,000	\$2,000	\$5,000
Less Pool	\$0	\$0	\$0	\$0	\$0
Cont V of Living area	\$102,000	\$104,000	\$102,500	\$117,000	\$122,500
Dwelling Size SF Above Grade	1,634	1,616	1,440	1,700	1,600
Indicated Cont Value per SF	\$62	\$64	\$71	\$69	\$77
Based on size increment difference	50%	50%	50%	50%	50%
Ind Adj. Above Grade SQ FT	\$31	\$32	\$36	\$34	\$38

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Analyzing Sales Data – Functional Utility

Standards Rule 2-2(a) (iii) summarize information sufficient to identify the real estate involved in the appraisal, including the physical, legal, and economic property characteristics relevant to the assignment;

Comment: The real estate involved in the appraisal can be specified, for example, by a legal description, address, map reference, copy of a survey or map, property sketch, and/or photographs or the like. The summarized information can include a property sketch and photographs in addition to written comments about the legal, physical, and economic attributes of the real estate relevant to the type and definition of value and intended use of the appraisal.

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Actual Review Scenario – Functional obsolescence in cost approach (Basement) not summarized.

Actual cost information.

Item	Sq. Footage	Cost per SF	Indicated Cost
Dwelling Above Grade	2,500	\$80.00	\$200,000
Unfinished Basement	2,500	\$12.00	\$ 30,000
Depreciation or Obsolescence			-\$0.00-
Cost			\$230,000

The basement cost **\$30,000** new. The definition of value cited was from Fannie Mae form 1004 March 2005.

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However, the contribution of basement value is significantly less, based upon analysis of Sales data within the appraisal report.

Sales data

Items	Sale 1	Sale 2	Sale 3	Sale 4
Sales Price	\$200,000	\$215,000	\$205,000	\$220,000
The cost new was reported \$30,000, but the market only recognizes \$15,000?				
Dwelling	2,500	2,500	2,800	2,800
Curable or incurable? Why?				
Basement	Crawl	Full/Unfin.	Crawl	Full/Unfin.
Site	1-Acre	1-Acre	1-Acre	1-Acre

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Other Issues - HBU and Site Value

STANDARDS RULE 1-3

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

- (a) identify and analyze the effect on use and value of existing land use regulations, reasonably probable modifications of such land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends; and

Comment: An appraiser must avoid making an unsupported assumption or premise about market area trends, effective age, and remaining life.

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HBU and Site Value

STANDARDS RULE 1-3

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

- (b) develop an opinion of the highest and best use of the real estate.

Comment: An appraiser must analyze the relevant legal, physical, and economic factors to the extent necessary to support the appraiser's highest and best use conclusion(s).

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Steps in Developing Opinion of Highest and Best Use

Legally Permitted

Physically Possible

Economically Feasible

Maximum Productivity

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Requirement to Report HBU

STANDARDS RULE 2-2(a) (x)

When an opinion of highest and best use was developed by the appraiser, *summarize* the support and rationale for that opinion;

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HBU and Site Value

Summary of HBU is a USPAP requirement, regardless of the Fannie Mae form 1004 instructions to only check a box.

1004 Form Requirement - If the appraiser reports a site value using the Fannie Mae form 1004, the form instruction directs that a site value opinion shall be supported with sales of similar sites and a reconciliation summary for the opinion. (Assignment condition.)

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Conditions, Covenants, and Restrictions (CC&Rs)

Private voluntary limitations include:

- Deed restrictions that limit property use. Including easement, right-of-way, and encroachments.

Neighborhood requirements, legally binding and enforced by residents.

Critical that you perform due diligence in researching the properties you analyze.

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Physical Limitations Impact Use and Value

Property is fixed by location, and regardless of ownership rights, the location can be a positive or negative, including:

- Size of acreage, width and depth.
- Topography
- Natural barriers
- Access to primary streets or highways
- View

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Analyzing HBU and Market Analysis

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One Method - Calculating the contribution Value for Site and Improvements

Contribution	% of Price	
% of price attributed to the land.		Each property sale includes a contribution for the site as vacant at time of appraisal development.
% of price attributed to the all Improvements		Each improved sale includes contribution for all improvements to the site at the time of appraisal development.

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More to consider than simply total land area!

Know the permitted uses of land based on size:

Plottage. Combining two or more sites into one larger tract for purposes of increasing sales price potential.

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More to consider than simply total land area!

Know the permitted uses of land based on size:

Excess land. Land that is not needed to serve or support the existing use. The highest and best use of the excess land may or may not be the same as the highest and best use of the improved. Excess land is referred to as additional parcel. Excess land has the potential to be sold separately and is valued separately.

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More to consider than simply total land area!

Know the permitted uses of land based on size:

Surplus land. Land that is not currently needed to support the existing use but cannot be separated from the property and sold off for another use. Surplus land does not have an independent highest and best use and may or may not contribute value to the improved parcel.



Example – Legal Permissibility

You are asked to appraise a 15-acre tract of land in an area where 5-acre sites have been selling for \$15,000 each. Similar agriculture use sites have been selling for \$2,600 per acre. There is a pending offer for \$50,000. However, you have discovered that the property has a twenty (20) foot entry access from the primary road, current zoning requires at least 250 feet of width per buildable site.

Given the above, what would be your opinion of value?

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Location is fixed, therefore it is the key analysis to consider, develop and analyze:

Neighborhood

- Urban
- Suburban
- Rural

Older residential properties along a highway or street that are transitioning to commercial and business uses.
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Example - Highest and Best Use?



This property was sold as a residential use. The appraiser reported that the use, a 1-unit residence, complied with current zoning requirements.

What questions and concerns do you think a lender might ask, when presented with the following factual information?

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Example - Highest and Best Use - (Consistent Use Theory)



Zoning – B-3 Highway Business
Current occupied use – Residential
Land size 0.25 Acre
Similar residential sales support \$200,000, site contributes 25% of value.

Similar size vacant B-3 sites sell for \$180,000

What is the current property market value?

“As Is” residential use contribution of the existing improvement?

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Property description language is critical

Group Discussion – What is a farm?

Does the planning and zoning law or regulation identify an agriculture unit or tract size?

What wording does an appraiser use when describing a farm, what about permitted uses?



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Q and A

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