



California Office of Real Estate Appraisers

Summer Conference
2009:
Appraisal Deficiency
Issues

Appraisal Deficiency Issues

Overview

- A. Common USPAP Violations
- B. Case Scenarios/Land Valuation
- C. HVCC and AMC's
- D. Residential Issues
- E. Appraiser's Responsibilities

Appraisal Deficiencies

- A. Business Practices/Due Diligence
- B. Advocacy Issues
- C. Competency

Key USPAP Enforcement Issues

Common Deficiencies

1-2(a) Identify the intended user...

1-2(b) Identify the intended use...

These are drivers of the Scope of Work which helps to define objectivity.

Key USPAP Enforcement Issues

1-2(e) Identify the characteristics...that are relevant to the type of and definition of value and intended use of the appraisal...

(i) its location, physical, legal, and economic attributes;

Often a result of lack of due diligence, competency, and failure to identify scope of work. If intentional, it may involve ethics.

Key USPAP Enforcement Issues

1-2(f) Identify any extraordinary assumption necessary in the assignment;

Must have a reasonable basis and result in a credible analysis. Often underutilized and misunderstood.

Key USPAP Enforcement Issues

1-2(g) Identify any hypothetical conditions necessary in the assignment;

Must result in a credible analysis and comply with USPAP disclosure requirements.

Key USPAP Enforcement Issues

1-3(a) identify and analyze the effect on use and value of existing land use regulations...;

1. As related to zoning is often incorrect
2. General plans and market trends often not developed
3. Results in unsupported Highest and Best Use; i.e., misleading report

Key USPAP Enforcement Issues

1-4 In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.

1. Sales comparables often misrepresented
2. Primary data sources are often necessary in assignments
3. Level of entitlements or restrictions not verified

Key USPAP Enforcement Issues

1-5(a) analyze all agreements of sale, options, and listings...;

1-5(b) analyze all sales of the subject property...;

1. Requirement is to analyze, not just disclose
2. Omission of key data can be basis for Ethics violations

USPAP

Conduct Section of Ethics Rule

“...An appraiser must not engage in criminal conduct. An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interest.”

1. The degree of violations may constitute a breach of Conduct section of Ethics Rule
2. Errors in one direction
3. Evidence of impartiality, objectivity, or independence in an assignment is a segue to violation of Conduct section of Ethics rule.

Competency Rule

1. Lack of technical competency is often a factor in complex appraisal assignments
2. Geographic competency is especially a concern
3. These violations result in misleading reports and are a cause for significant discipline

Scope of Work Rule

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

1. Identify the problem to be solved;
2. Determine and perform the scope of work necessary to develop credible assignment results; and
3. Disclose the scope of work in the report.

Case Scenarios

1. Agricultural Land - 48 acres
2. Ag/Open Space Land - 212 acres
3. Commercial/Residential Zoned Land in Municipality - 14 acres
4. Hypothetical Condition Involving Proposed Finished Sites

Case Scenario 1

- **Subject Property:** 48 Acres Agricultural Land
- **Intended Use:** Mortgage financing purposes
- **Physical Characteristics:**
 1. Comprised of 4 parcels; 3 of which are subject to Williamson Act.
 2. Land is within a proposed Primary Sphere of Influence area, resulting in potential annexation.

Case Scenario 1 (continued)

Appraisal Omissions:

1. Failure to discuss the Williamson Act & Notice of Non Renewal recently filed
2. Proposed Sphere of Influence not discussed
3. Marketing Trends not analyzed
4. Sales Comparables - none had Williamson restrictions and were entitled

Case Scenario 2

- **Subject Property:** 212 Acres Agricultural/
Open Space Land
- **Intended Use:** Government Acquisition
- **Physical Characteristics:**
 1. Zoning allowed one unit per 100 acres
 2. Subject to Endangered Species Act (natural habitat)
 3. Wetlands on site
 4. Located in unincorporated county area; not within Sphere of Influence
 5. County general plan - long term agriculture

Case Scenario 2 (continued)

Appraisal Omissions:

1. Development assumed imminent low to medium density residential development
2. Sphere of Influence boundaries not disclosed
3. Development impediments not analyzed
4. Local market conditions and nearby influences not analyzed.
5. Sales Comparables had superior levels of entitlements

Case Scenario 3

- **Subject Property:** 14 Acres vacant land in incorporated city
- **Intended Use:** Government agency acquisition for open space
- **Physical Characteristics:**
 1. Residential and Commercially zoned vacant site with 12 - 15% slope.
 2. Surrounded by mature development
 3. Serious ingress and egress issues
 4. Public bicycle easement dissects property (leased by municipality)
 5. Portion of site within 100 year flood zone
 6. Oak tree mitigation issue - two acre oak tree reserve area
 7. Building permit required approval of site development plans

Case Scenario 3 (continued)

Appraisal Omissions:

1. Physical restrictions to site development not disclosed or analyzed
2. Flood zone not analyzed
3. Oak tree reserve and mitigation requirements not disclosed or analyzed
4. Comparable sales included sites fully entitled

Case Scenario 4

- **Subject Property:** 88 Acres containing 7 non- contiguous parcels located near a lake
- **Intended Use:** Lending purposes
- **Physical Characteristics:**
 1. Primary zoning was open space with a 6 acre parcel zoned residential
 2. Surrounding land uses were residential with lakeside orientation
 3. Non-contiguous parcels presented infrastructure problems
 4. Located in a back basin area that did not have suitable elevations for residential sites
 5. Sites would require an additional 20+ feet of fill
 6. Fill material must be from basin area, not imported

Case Scenario 4 (continued)

Appraisal Omissions:

1. Appraised with Hypothetical Condition that site was suitable for residential development
2. Failed to analyze potential zoning change which was unlikely
3. Assumed all utilities were available to the site
4. Site fill requirements not analyzed.
5. All sales comparables were fully entitled

Leased Fee Valuation Issues

- Failure to fully analyze leases - terms & conditions
- Economic rental data - comparable rental attributes not fully analyzed
- Operating expense analysis deficiencies

Residential Issues

- HVCC/AMC
- Common Residential Deficiencies

Home Valuation Code of Conduct (HVCC)

- Effective 5/1/09
- Independence of Appraisal Process
- Appraisal Management Companies (AMCs)
- Independent Valuation Protection Institute (IVPI)
- Title Appraisal Vendor Management Association (TAVMA)

Who is the Client?

The Appraisal Foundation FAQ - 71

Question:

I accept assignments from an Appraisal Management Company (AMC) that has informed me they are an authorized agent for the lenders they represent. The AMC does not want me to list their name as the client, and asks that I only list the name of the lender they are representing. USPAP says the appraiser's client is the party who engages the appraiser. Is it ethical to omit the AMC's name as the client on my reports?

Who is the Client?

The Appraisal Foundation FAQ - 71

Response:

Yes. If the AMC is acting as a duly authorized agent for a lender, identifying only the lender as your client is acceptable.

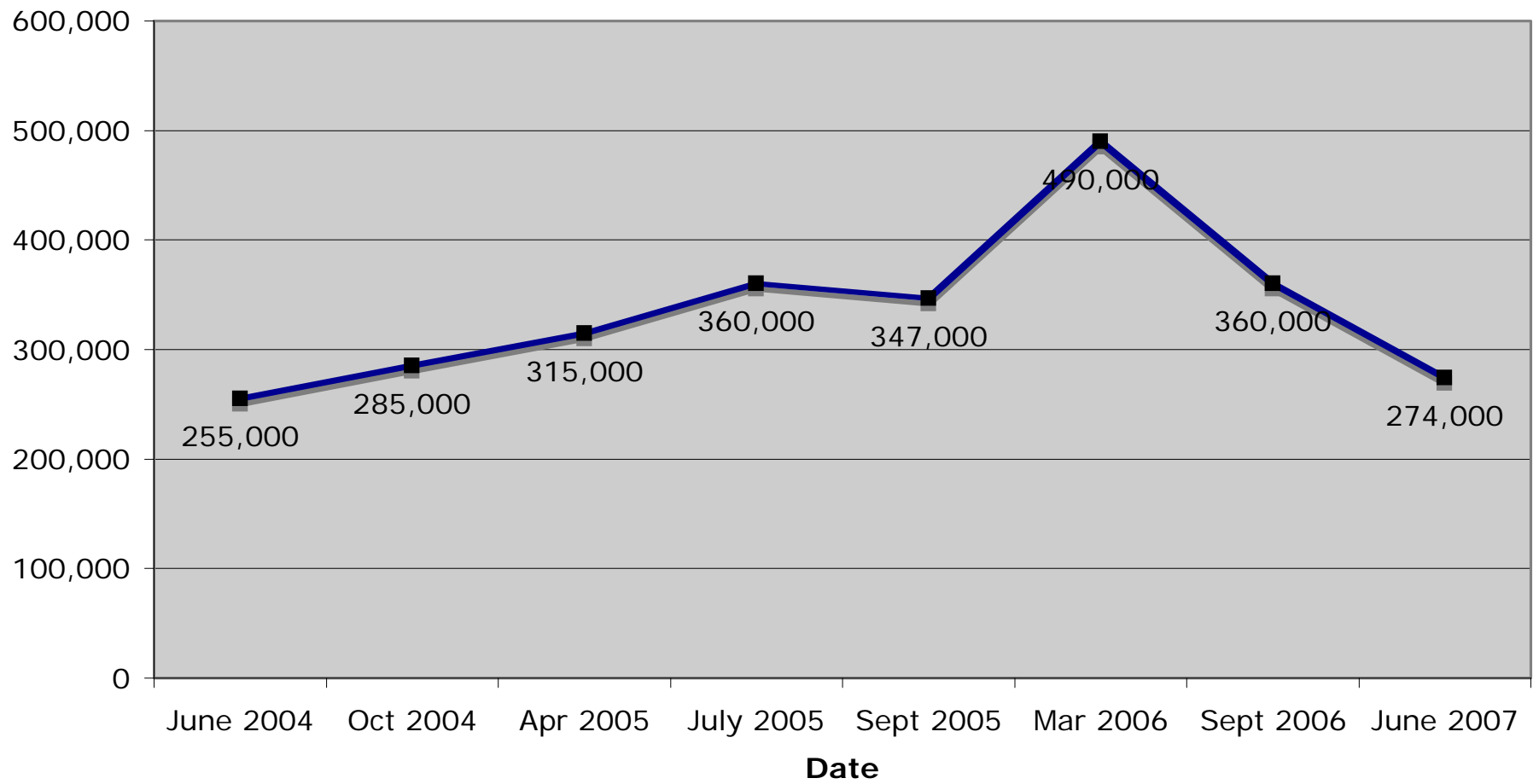
Common Residential Deficiencies

- 1-2(e)(i)
 - Failure to accurately analyze market conditions
 - Misrepresentations of site & building improvements
- 1-3(a)
 - Zoning is often inaccurate
 - Failure to analyze legal conformity
 - Failure to analyze improvement additions (Permits)

Common Residential Deficiencies

- 1-4
 - Verification is often not adequate
 - Omission of relevant comparable sales
 - Cost references are not understood
- 1-5
 - Failure to analyze current listing or past sales history
- 2-3
 - False certifications

"No Money Down" Transactions



Appraiser's Responsibilities

1. Adhere to sound appraisal practice
2. Always comply with USPAP
3. Practice due diligence
4. Be cognizant of physical defects
5. Practice technical and geographic competency
6. Proper use of extraordinary assumptions and hypothetical conditions
7. "When in doubt, disclose."

Appraiser's Responsibilities (Continued)

9. Practice effective record keeping
10. Primary tenets of Conduct section of Ethics
Rule:
 - a) Objectivity
 - b) Impartiality
 - c) Independence

Office of Real Estate Appraisers

QUESTIONS?

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