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Appraising Problems, Not Stuff

Chad J. Pomeroy

St. Mary's University School of Law, cpomeroy@stmarytx.edu

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Chad J. Pomeroy, *Appraising Problems, Not Stuff*, 52 *St. Mary's L. J.* 495 (2021).

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ARTICLE

APPRAISING PROBLEMS, NOT STUFF

CHAD J. POMEROY*

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I. INTRODUCTION

If you are a lawyer, you will deal with value. “Value,” here, means the valuation of *something*. And all lawyers must concern themselves with this, in some way, at some point (or, for many of us, over and over again). Business lawyers, of course, help clients craft business plans, transactional strategies, and documents. Essentially, these are entirely directed to exchanges of value. Litigation lawyers, too, are effectively always contesting

* Professor of Law, St. Mary’s University School of Law. The author thanks the University and the American Society of Appraisers, both, for providing support and help to him as he wrote this Article.

matters of value—lawsuits turn on the value of goods, opportunities, injuries, or any number of things. Family lawyers, government lawyers, criminal lawyers—all lawyers must deal with items or things of value at some point.

And when I say, “deal with value,” what I mean is that you will disagree with someone else about the value of some item or thing and have to convince them (or a third-party arbitrator) that you are correct. This is maybe most obvious when it comes to litigation over value. As an example, assume you are a lawyer representing a client whose property has been condemned by the city. The city offers a “market value” of \$100,000, but you (your client) insist the value is actually \$500,000. This is contention over value, very clearly. But, again, this arises for all lawyers, virtually continuously. Your client wants to purchase a business but thinks its goodwill is only worth \$2,000,000, while the seller believes it is worth \$3,000,000. Your client is divorcing her husband, and he believes her dental practice (a community property asset) is worth \$1,000,000, but you (she) insist it is only worth \$250,000. You are a prosecuting attorney and are sure the defendant caused \$10,000 of damage, which pushes his crime from a misdemeanor to a felony; of course, he (his attorney) believes the damage is minor, no more than \$2,500.

Value, then, is all around we lawyers. So how do we deal with this? Of course, many times, we simply press our point, negotiate, and reach a reasoned settlement with our counterparty—we meet them in the middle on the value of the goodwill or agree that the practice can be valued at more than we think if the house can be valued at less than he thinks.

Other times, though, we rely on an expert. It is tempting to think of “relying on an expert” as a generalized strategy that covers a whole area of concern. Need to put on evidence of medical malpractice? Put on an expert. Need to have a complex machine explained to the court? Put on an expert. Need to value some property? Put on an expert. That, however, is far too simple. Or, at least, it is far too simple when it comes to value.

Putting on an expert to discern (and perhaps testify to) value is not the endpoint for an attorney—it is merely an option that, in and of itself, requires a significant amount of thought, understanding, and work. Too often, lawyers simply find someone who has some experience—maybe in the right field, maybe just in any field—and asks them what something is worth. This is *not* good lawyering. This Article seeks to make that plain by explaining what appraisals are, who is qualified to do them, and how they work. It further provides several recommendations to help you navigate

this process and demonstrates how these suggestions can aid lawyers as they pursue their ever-extant fight over value.

Part II starts this process by providing a real-world example of an appraisal gone wrong—a situation where an appraisal was done improperly—along with an explanation as to what mischief this can cause. Part III pivots to an explanation of the standards that guide appraisers and that lawyers must be familiar with if they are to engage with appraisers properly. Particularly, it introduces the Uniform Standards of Professional Appraisal Practice (USPAP) and walks through some of the key, core elements therein. Part IV places this within the context of expert testimony, generally, and follows up on this by building the information from USPAP into a simple recommendation for lawyers, seeking to guide attorneys to pick the right appraisers, review reports intelligently, and use and understand appraisals properly.

II. AN EXAMPLE OF OVERSIMPLIFICATION

Let us—in order to drive home what a valuation dispute looks like and where one can go wrong—look at a real-life example. The initial appraisal at issue purported to appraise the value of the commercial equipment of a business entity and to have arrived at an “estimated replacement value” of \$21,690,078, using two approaches—a “cost approach” and a “sales comparison approach.”¹

Note that this is precisely the kind of appraisal that you, as a lawyer, might get in any of the circumstances discussed above. If you are not prepared—or at least passably knowledgeable in this area—then you will either have little ammunition against such an appraisal or be relegated to simply getting your “own” expert and hoping for a “better” result. However, a more educated view can lead to a more educated response.

In this particular case, the initial appraisal report did not adequately address its scope of work. It did note that it was intended to be used by the recipient to determine a given value at a given point in time, but that generalized description is effectively meaningless, as it could be used to describe any appraisal at any time. As the opinion on the report (the OOR) points out, USPAP requires a much more specific statement of intent.

1. NorCal Valuation, Inc., Appraisal Review Report 3 (Dec. 19, 2019) (unpublished appraisal review report) (on file with author) [hereinafter *Appraisal Review Report*]. This example is an anonymized one, drawn from an independent opinion on an actual appraisal report prepared in 2018, which is hereafter relied upon, without further attribution.

“Because personal property can trade in many different markets on any one day and may or may not be sold as part of the going concern, and may or may not be installed, it is critical that the appraisal clearly state the intended use of the appraisal in order for the [intended user] to know if the requirements of the appraisal have been met.”² In other words, the value of property varies depending on what the property is being used for. Without specifying the context of the appraisal, the valuation reached is essentially—or, at least, potentially—arbitrary.

Consider the following analogy. Assume that you are an executive in the National Basketball Association, and you are attempting to put a value on a particular player. The player—we will call him Player A—at issue is an incredible shooter, with great range and the ability to get his shot off in very little space. He changes the court every time he touches the ball on offense because every opposing player has to be aware of where he is and the likelihood that he could hit a three-pointer any time he gets the ball. On the other hand, he is a very poor defender and always has to guard the other team’s slowest player. What is the value of that player?³ Should you pay him \$25,000,000 per year or only \$10,000,000 per year? The answer obviously depends both on your goal and on the current composition of your team. If the goal is to win games, and your current team has a number of solid defenders, then Player A can absolutely help you win games and is perhaps worth the higher number. If the goal is to win, but your current team has no good defenders and is already well-stocked with shooters, then Player A may not make much of a difference and is perhaps only worth the lower number. Or if the goal is to entertain your fan base and score a lot of points—whatever the outcome ends up being in total wins—then, again, perhaps Player A should get paid the maximum amount.

This is the idea identified in the OOR, which early on cites to USPAP Standard 8. This Standard requires that an appraisal report has to be consistent with the intended use of the appraisal and also has to have enough information to enable an intended user of the appraisal to understand the report (within that given context and intended use).³ The report at issue—which, recall, settled on a precise valuation of

2. *Id.* at 10.

3. *See generally*, APPRAISAL STANDARDS BD., UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 49 (The Appraisal Found., 2018–2019 ed.), www.uspap.org [hereinafter APPRAISAL STANDARDS BD., USPAP] (providing an overview for how an appraiser should address “the content and level of information required in a report”).

\$21,690,078—contained insufficient information regarding the analytic methods utilized, meaning that neither the intended user nor a subsequent reviewer could be sure whether the valuation actually matched up to the intended use.

For instance, the report claimed broadly to have used “the cost approach,” but it had no discussion of the validity of cost data used,⁴ of the trending index used,⁵ or of what effect depreciation had on the analysis.⁶ This means that the report—though broadly appealing to most casual reviewers (including lawyers)—simply did not have enough data to validate that it was saying what the user was asking for.⁷ Back to our analogy, the general manager got a report that the player was a “shooter,” but there was no indication as to why the evaluator was stating that (individualized stats, historical assessments, year-to-year comparisons, etc.). The report was not really telling the general manager what he needed to know to decide whether the player was a good fit.

Similarly, the report also claimed broadly to have used the “sales comparison/sales comparison approach,” but—again—failed to do so in a way susceptible of proper analysis and validation. As noted in the OOR, a Sales Comparison Approach is the most reliable for appraising equipment and machinery⁸ when there is an active market that provides enough sales of comparable property. In the report at issue, though, the appraiser did not provide nearly enough information about comparable sales—he did not detail how the comparables were chosen (or adjusted) or specify the dealers/manufacturers/professionals who were interviewed or polled in determining comparable sales numbers.⁹ This was particularly troubling because the property at issue involved a lot of installation cost and so was

4. Cost data explains everything built into the costs being used for comparison. For example, are installation costs accounted for, are repairs capitalized, etc.?

5. A trending index, in this context, reflects cost that measures varying costs over time.

6. Was the property depreciated? If so, over what lifespan? Were functional and economic obsolescence analyzed?

7. The content of USPAP will be discussed more below, but this kind of weakness is anticipated by USPAP 7-4(b). *See* APPRAISAL STANDARDS BD., USPAP 46, www.uspap.org (indicating any appraiser utilizing a cost approach *must* analyze available comparable cost data to estimate (1) the cost new of the property, and (2) the difference between cost new and the present worth of the property (i.e., to account for depreciation)).

8. It is itself the kind of thing that an intelligent consumer/reviewer of an appraisal would be well-served to know.

9. Instead of specifics, the report simply stated that the opinion was “the result of a thorough professional analysis of a vast quantity of data.”

rarely traded openly prior to it approaching the end of its normal, useful life. That underscores the importance of seeing the underlying “data” to determine just how comparable the sales were.¹⁰ Failing to do so was underscored by the report’s apparent confusion of market value with “highest and best” use. In the end, the report simply did not provide any confidence that its comparable sales were actually comparable.

These are problems with methodology but largely growing from a lack of direction. Again, an appraisal must be directed to a particular problem. It must be intended to arrive at the value called for in the context. The report at issue simply said it was to be used to determine value “at that point in time.”¹¹ That is not specific enough to draw any intelligent conclusions. Returning to our basketball analogy, it is like the general manager’s report assures him that the subject player is “an excellent shooter” who is worth \$25,000,000 on the open market because “many other excellent shooters have gone for a similar amount.”¹² Think about getting that kind of an analysis. No discussion of who the comparable players were, what point they were at in their career, or what their statistics were—simply saying that “a bunch of other similar players went for this much.” That is the kind of analogy you, as a lawyer, need to be thinking through when faced with a report like this.

And the problems did not stop there. The report ultimately found the current value (as of the date of the report) was more than \$700,000 higher than the cost basis (that is, the value of the equipment when purchased).¹³ That seems unlikely but was perhaps not entirely out of character with some of the other elements of the report, including the claim that all of the assets were inspected (remembering that the total appraised value was over \$20,000,000) and that all of the relevant data was thoroughly analyzed on a single day. Similarly, the report described itself as a “Summary Appraisal

10. Again, USPAP is instructive here. Standard 7-3 requires an appraiser to “define and analyze the appropriate market” and to analyze the underlying economic conditions that affect valuation, including the condition of the property and the supply and demand thereof. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 46.

11. *Appraisal Review Report*, *supra* note 1, at 4, 10.

12. *See id.* at 10 (“Because personal property can trade in many different markets on any one day and may or may not be sold as part of the going concern, and may or may not be installed, it is critical that the appraisal clearly state the intended use of the appraisal . . .”).

13. That is on top of the fact that the precise estimate of \$21,690,078 is a specific, non-rounded number and so implies an unreasonable level of accuracy. *See id.* at 11 (“[A] specific, non-rounded amount is generally considered to reflect an unreasonable level of accuracy, especially for a value that [is referred] to as ‘estimated.’”).

Report,” but that term was an antiquated appraisal term of art, indicating that the report was not carefully drafted,¹⁴ and it simply did not state the source for the report’s determination of replacement cost (a concept that is not generally relevant to purchase price allocations, in any event).

In the end, the report did not comply with a number of USPAP principles or rules. These failures—and the attendant weakness of the report—mean the report was essentially unsupported by evidence, at least as assessed by an expert in the field applying expert criteria.¹⁵

This is the kind of analysis that a lawyer should be able to do, or at least to understand. Of course, a careful reading of this narrative indicates that being able to do so is tethered to the underlying standards governing professionally performed appraisals. USPAP embodies those standards and is taken up in a detailed fashion in the next section.

III. USPAP

As indicated above, USPAP is really the key to understanding appraisals and, ultimately, disputed valuations. USPAP is an attempted summation of the standard of care for how appraisals are prepared, prepared, and ultimately analyzed. A lengthy, weighty attempt to centralize professional standards—in a variety of different settings and circumstances—into one tome, USPAP cannot be summarized completely, nor would it be helpful to attempt to do so.¹⁶ It is possible, though, to get a sense of the scope of the standards and of the relevant concepts that should provide structure to any attempt to assess and critique an appraisal.¹⁷ Indeed, perhaps one of the primary benefits of a baseline level understanding of USPAP would be an

14. This is in addition to a number of other outdated and misused terms. *See generally id.* at 10–12 (noting throughout the review various terms that are no longer used in general practice).

15. *See id.* at 12 (concluding the previous report failed to comply with USPAP ethics, work of scope, and competency rules as well as being incomplete in critical areas leaving the value opinion unsupported).

16. Nor would it ultimately be sufficient, in some circumstances. There are other, non-USPAP standards that may need to be considered, depending on the kind of appraisal at issue. An appraisal done for a tax filing, for instance, needs to comply with relevant IRS guidelines; appraisals involving machinery and equipment may be governed by the American Society of Appraiser’s book *Valuing Machinery and Equipment*; and financial reporting appraisals must comply with Generally Accepted Accounting Principles. However, the structure of USPAP—and the concept of an appraisal structure, in and of itself—is a useful starting point.

17. The balance of this section is drawn from USPAP, with references where necessary for clarity. USPAP is updated periodically and has been updated since the drafting of this Article. The newest version is the 2020 edition. However, this Article was written based on the 2018 edition. References should be made to the 2018–19 version of the USPAP.

awareness of when to reach out to an appraisal expert (and to whom to reach out).

USPAP has multiple sections—a preamble, definitions, rules, and the standards themselves—and is over 300 pages long. The five rules that it contains relate to all appraisal areas—ethics, record keeping, competency, scope of work, and jurisdictional exception. And USPAP Standards (ten of them) regulate appraisals relating to property types (real property, personal property, and business property) and appraisal types (mass appraisal and appraisal review).

A. *A “Real” Appraisal*

As is generally the case in any systematic attempt to understand a subject, the place to start is with the definitions of the words used.¹⁸ And starting with the definition of “appraisal” makes still more sense.

Under USPAP, an appraisal, when used as a noun, is “the act or process of developing an opinion of value; an opinion of value.”¹⁹ When used as an adjective, appraisal is defined as, “of or pertaining to appraising and related functions such as an appraisal practice or appraisal services.”²⁰ So it is developing an opinion of value, which is straightforward, but it is done in the context of an “appraisal practice or appraisal services.”

Appraisal practice, in turn, is the collection of “valuation services performed by an individual acting as an appraiser, including but not limited to appraisal and appraisal review.”²¹ The comment thereto notes that such a practice “is provided only by appraisers, while *valuation* services are provided by a variety of professionals and others.”²² Valuation services are pretty generic—these are “services pertaining to aspects of property value”²³—and can be conducted by appraisers or by others.

What this means is that, while other professionals (like a sales agent or auctioneer) might provide a valuation opinion, the designation of

18. I once worked with a seasoned transactional attorney who could generally understand the scope of a transaction, and the likely deal points to be negotiated, solely by reviewing the definitions of a given document. Any structural understanding of a topic will be built upon the concepts inherent in the building blocks thereof, which, in turn, depend on the meaning of those building blocks.

19. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 3.

20. The comment thereto notes that “[a]n 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 opinion or numerical benchmark.” *Id.*

21. *Id.*

22. *Id.*

23. *Id.* at 6.

“appraiser” stands apart.²⁴ These individuals, by USPAP mandate, “expected to perform valuation services competently and in a manner that is independent, impartial, and objective.”²⁵

Competence and ethical behavior are explicitly defined. “Competency requires . . . the ability to properly identify the problem to be addressed; the knowledge and experience to complete the assignment competently; and recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment.”²⁶ Of course, one would like to believe that anyone offering an opinion on value would be competent, but that is by no means certain, and USPAP underscores the importance of this by providing that if an “assignment cannot be completed competently, the appraiser must decline or withdraw from the assignment.”²⁷ Ethical guidelines are also emphasized. “An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics.”²⁸ This means that “[a]n appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.”²⁹

One of the more critical aspects of USPAP to lawyers is the scope of work rule. As is discussed below, USPAP standards provide context and guiderails to an appraisal (and thus serve as an access point for lawyers and opposing appraisers in understanding and critiquing an appraisal), but scope of work is what provides the structure of the appraisal.

This rule is broken down into two parts—defining the appraisal problem and planning to solve the problem. This is key. An appraisal—like a legal

24. “Value” is, of course, a critical concept in a variety of circumstances and is susceptible of many interpretations. *See, e.g., In re TOUSA, Inc.*, 680 F.3d 1298, 1310–11 (11th Cir. 2012) (showing judicial disagreement about how to assess value in fraudulent conveyance controversy).

25. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 3.

26. *Id.* at 11.

27. *Id.*

28. *Id.* at 7.

29. There is also the “Record Keeping Rule,” which provides that appraisers “must prepare a workfile for each appraisal or appraisal review assignment.” *Id.* at 10. Such file must include, among other things, the name of the client; true copies of all written reports; summaries of all oral reports or testimony; and all other data, information, and documentation necessary to support the appraiser’s opinions and conclusions and to show compliance with USPAP. *Id.* Similarly, there is a scope of work rule, which requires the appraiser—for every appraisal and appraisal review assignment—to identify the problem to be solved, determine and perform the work needed to develop a credible result, and disclose the scope of work in the report. *Id.* at 12. Doing this requires performing the research and analyses necessary to develop credible results and to not permit work limitations or assignment restrictions to limit the appraiser or her professional competence. *Id.* at 13.

argument—is only useful if it pertains to the actual issue at hand. As lawyers, that should be obvious. You would never try to convince a judge that an opposing party is liable for trespass by citing to laws negligence. Similarly, an appraisal must be addressed to, and accurately account for, the actual object of the appraisal. The scope of work is where an attorney can ensure that it does so. A report's discussion of the appraisal problem should include a few important elements, which are easily identifiable by attorneys. These elements are essentially what the appraiser is retained to address, and each should align with the client's appraisal needs, given the actual problem to be assessed. They include the client and any intended user, other than the client. Appraisers have a responsibility to ensure that these parties are able to use the appraisal and understanding the scope of work. They also include the intended use. The purpose of an appraisal is always to arrive at a value opinion, and the intended use must indicate how that opinion of value will be used. An appraisal is put together for a specific use, and, if that use changes, so must the appraisal itself.³⁰ The elements also include a definition of value, which can vary significantly and which is often based on the intended use;³¹ an effective date, which is usually tied to an extrinsic fact (the date of inspection, the date of a loss); the relevant characteristics that affect the property's value or marketability; and the assignment conditions, which include assumptions that are relevant to value conclusions.

The extent to which an appraisal addresses these elements says much more about the usefulness and competence of the exercise than does the appraiser's resume. This part of a report should not be filled with boilerplate or meaningless jargon, and lawyers can gather important context and information here by carefully reading and evaluating the manner in which

30. USPAP Advisory Opinion 36 gives an example of this. Therein, a residential home appraisal is done differently, and means different things, depending on whether it is done for a homeowner who wants to know how much home equity he has, a bank that is evaluating an equity loan, or a lawyer representing one of the owners in a divorce. Depending on the intended use, the appraisal may provide a range of value or a specific estimate. It may involve a detailed inspection or a "drive-by" assessment. It may depend on comparable sales or relate to replacement costs.

31. The definition of value—that is, the property identified, the nature of any inspection, the data gathered, and the analysis applied—will vary depending on the intended use. Contrast an appraisal for an estate tax return, for instance, with one done for a bank in connection with a loan, with one for financial accounting purposes. Depending on the level of technicality involved, a reviewer may be particularly helpful to an attorney with respect to this issue.

the appraisal was put together, as shaped (or not) by its purpose.³² As the title of the Article implies, this is the first step for attorneys—understanding that appraisals are tools that address specific problems and then assessing the extent to which they usefully do so.

All that said, appraisal professionals must ground their opinion in USPAP definitions and standards, must—in other words—follow the correct guidelines in order to assess the problem at hand. One such operative—and enormously important—definition is that of “market value.” This is “a type of value, stated as an opinion, that presumes the transfer of a property . . . as of a certain date, under specific conditions set forth in the definition of the term identified by the appraiser as applicable in an appraisal.”³³ The comment thereto goes on to note that, while “[f]orming an opinion of market value is the purpose of many real property appraisal assignments . . . [t]he conditions included in market value definitions establish market perspectives for development of the opinion.”³⁴ This means that market value is not a pat, standard number that can be reached by anyone.³⁵ It is responsive to the context of the hypothetical sale establishing that value, which depends on a variety of circumstances and conditions (including the motivation of the selling and purchasing parties, the terms of sale, and the nature of the sale).³⁶

More broadly, these definitions and rules ensure that an “appraisal” performed by an “appraiser” is a delimited result performed pursuant to articulable standards and guidelines. This means that lawyers can do quite a lot to assess both the qualifications of the individual offering an opinion

32. Note that USPAP does not dictate the form of an appraisal, and a scope of work section is not required. As such, the absence of one—or a difficult to understand or unduly technical one—is a clear suggestion that an appraisal is not well-crafted in the context of the problem at hand.

33. *Id.* at 5.

34. *Id.*

35. Compare this standard-based approach *with* that identified in the case of *Estate of Richmond v. Comm’r of Internal Revenue*, 107 T.C.M (CCH) 1135, at 16–17 (2014) (discussing a number of technical valuation issues and ultimately holding that having an appraisal performed by an individual with some appraisal experience but without any credentials or certifications exposed the party utilizing the expert to a statutory penalty tied to unreasonableness and lack of good faith). See also *Zaffarkhan v. Domesek*, No. G054604, 2018 WL 2296346 1, 3–7 (Cal. Ct. App., May 18, 2018) (setting aside an *unopposed* expert’s valuation due to lack of experience, misunderstanding and misstating of basic facts, and a general lack of basis for ultimate valuation opinion); *Estate of Jones v. Comm’r of Internal Revenue*, 118 T.C.M (CCH) 143, at 9 (2019) (assessing an experts competence by noting his experience in something as narrow as business valuations “of sawmills and timber product companies”).

36. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 5 (providing an extensive list of physical, economic, and psychological factors that influence perceived value compared to listed price).

on value (or an assessment of such an opinion) and the opinion itself. The fact that USPAP creates a galaxy of standards that set forth how value assessments should be credibly and properly performed means that lawyers who understand those standards can independently assess (and criticize) the results of any resultant analysis. Clearly, then, it is important to understand the standards, which are explained in detail in the next section.

B. *USPAP Standards*

Given the emphasis on USPAP, above, this Article posits that the Standards are important to properly assess and analyze an appraisal.³⁷ As such, here follows a basic discussion of the standards and how they govern appraisals and valuations.

There are multiple kinds of appraisals addressed by the standards: real property, mass, personal property, and business appraisals. In addition, there are also USPAP appraisal reviews. With respect to each, it sets forth standards for development (that is, how to go about forming the relevant appraisal or review) and reporting (that is, how to go about properly cataloguing and representing the results thereof). These standards are essentially guidelines as to how this work must be done—and therefore provide a structure as to how to understand, process, and critique this kind of work.

To start, let us examine real property appraisals under USPAP Standard 1. The overarching dictate is that an appraisal must identify the problem to be solved, assess the correct scope of work, and properly complete the research

37. Given the importance of USPAP, and for ease of reference, a complete rendition of USPAP is set forth in Appendix A, attached hereto. As above, the following material is generally taken from USPAP, so sentence-by-sentence citations are not provided. For an example of the extent to which these standards are relied upon, see KAN. STAT. ANN. §§ 79-505, 79-506 (2014) (requiring property tax appraisals to be performed pursuant to USPAP standard, though noting that Kansas-specific standards can take effect, instead). See also *Saline Cnty. Bd. of Cnty. Comm'rs v. Jensen*, 88 P.3d 242, 246 (Kan. App. 2004) (indicating that a failure of the Board of Tax Appeals to adhere to USPAP might amount to “a deviation from a prescribed procedure or an error of law”). It is worth noting, however, that USPAP standards are useful simply because they are standards. That is, they provide a systematic way to approach an expert opinion that is transparent and comprehensible to lawyers. This would be like having a set of standards that govern medical doctors in giving expert medical opinions—it would not enable lawyers to directly offer a contrary opinion, of course, but it would allow lawyers to understand the substantive and procedural rules by which those opinions are governed and to craft an appropriate legal strategy in response (or relation) thereto. In other words, lawyers do not have to simply rely on “experts” and try to find one that comes up with the “right” response.

and analysis necessary to do credible work.³⁸ These concepts change, and USPAP Standard 1 specifically requires appraisers to understand what they are assessing, why they are conducting the assessment in this specific manner, and to be able to demonstrate that their knowledge and methodology is contemporary and up-to-date.³⁹ The process also involves making sure that there are no errors by omission.⁴⁰ This provides an opportunity for criticism (constructive or otherwise) by soliciting not-included relevant data from other appraisers and eliciting a concrete, clear explanation from an appraiser as to why any data was not included.

More holistically, USPAP Standard 1 requires an appraiser to specifically identify all intended users *and* the intended use of the opinion or conclusion.⁴¹ Recall from above the relevance of ensuring that the appraisal is addressing the relevant problem or issue (not just any problem or issue). It must also “identify the type and definition of value.”⁴² Often, that will be market value—but an appraiser cannot simply stop at that. Appraisers must determine whether the market value will be the most probable price in terms of cash, financing, or some other terms—in other words, market value is a multi-variable equation, which depends on the circumstances (including, but not limited to, the nature of the contemplated sale).⁴³

All of this must be set forth as a specific date and must be supported by a clear articulation of the nature of the real property to be appraised—the location of the property, the nature of the interest, any accompanying personal property, and any extent to which the property deviates from a prototypical fee simple.⁴⁴ All of this must come from reliable sources—inspections, surveys, title searches, etc. The reliability of any of those sources is, then, open for examination and study. If these circumstances are not sufficient on their own, an appraiser must affirmatively identify any

38. See APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 15 (illustrating Rule 1-1 specifically outlines the concepts and factors that an appraiser must use in addition to conditions, data and other information that would have a significant effect on credibility).

39. *Id.*

40. *Id.*

41. See *id.* at 15 (discussing what an appraiser must include in developing a real property appraisal).

42. See *id.* at 16 (listing the various components an appraiser must identify in their appraisals).

43. *Id.*

44. For instance, easements, restrictions, assessments, and zoning restrictions are all relevant to value. As is whether the interest is a fractional or partial one. Among other things, this perhaps indicates that an appraiser cannot do a complete job in performing an appraisal (nor can a lawyer do so in evaluating one) without a clear title search and history.

extraordinary assumptions or hypothetical conditions (and justify the same) that may affect or alter value.

USPAP 1 also specifically requires an appraiser to account for relevant zoning restrictions and potential market trends and must do so while understanding the highest and best use of the property.⁴⁵ The appraiser must also perform their analysis in terms of a sales comparison approach, a cost approach, or an income approach, ensuring that the inputs into any such analysis (i.e., comparable sales,⁴⁶ cost of construction, depreciation, earnings, operating expenses, etc.) are contemporary, relevant, and comparable.⁴⁷

Once that is completed, the appraiser must report the appraisal in a way that is not misleading.⁴⁸ That means the report must contain enough information to allow its intended users to understand but not so much that it becomes incomprehensible to a non-expert.⁴⁹ It also must clearly state any assumptions, hypothetical conditions, or limiting conditions so that any corresponding limitation is clear and does not require a counter-expert to identify and critique. Further, USPAP 2 (setting forth the standards for reporting the real property appraisals described in USPAP 1) requires all appraisers to set forth any written opinion in either an "Appraisal Report" or a "Restricted Appraisal Report."⁵⁰ The former is required when the intended users include parties other than the client, while the latter can be used if the intended users do not extend beyond the client.⁵¹ The difference between the two is the amount of information provided. An Appraisal Report is broader and must include, among other things, the identity of the client (unless the client has specifically requested otherwise), the identity of intended users, the intended use of the property, the property interest appraised, and the type and definition of value.⁵² It also must adequately

45. See APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 17–18 (stating what is necessary for credible assignment results).

46. Though not a "comparable" sale, this includes any sales (or potential sales) involving the property itself, going back at least three years.

47. See APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 17–18 ("In developing a real property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.").

48. See *id.* at 20 (addressing the requirements of submitting an appraisal report).

49. *Id.*

50. *Id.*

51. *Id.*

52. See *id.* at 20–21 (examining what appraisal reports must include and the exceptions to these requirements).

summarize the information analyzed and properly (and accurately) defend the techniques utilized and conclusion reached.⁵³ A restricted appraisal report is narrower. It should (if possible) state the identity of the client and identify any use restrictions that limit the use of the report.⁵⁴ It should also warn the reader that the report may not be properly understood without the information in the appraiser's workfile.⁵⁵ Moreover, it identifies the property, but in lesser detail, and does not provide as much background or detail regarding the appraisal methods or techniques used or the rationale for the appraiser's opinions and conclusions.

Finally, all reports have to include a certification from the appraiser as to a number of things.⁵⁶ Among other attestations, appraisers must state that, to the best of their knowledge and belief: (1) the facts therein are true; (2) the opinions are unbiased; and (3) the appraisal is the result of her work.⁵⁷ The certification is key, and one that does not conform to USPAP is a good and easy indication that the appraiser did not conform to USPAP.⁵⁸

The formatting for a mass appraisal, personal property, and business appraisal is similar to that outlined above. Mass appraisals are addressed in USPAP 5 (development) and USPAP 6 (reporting). Mass appraisals can be technical and difficult to understand, and a full explanation is beyond the parameters of this Article. However, USPAP 5 does for this topic the same thing it does for other appraisal topics: sets forth standards that must be followed and effectively provide a roadmap for any lawyer looking to understand the same. In particular, USPAP 5 requires an appraiser to be clear on the recognized methods and techniques required to produce a credible mass appraisal.⁵⁹ This requires identifying the properties to be appraised, defining the relevant market area of consistent behavior applicable to those properties, and identifying the characteristics that affect

53. *See id.* at 22 (“An Appraisal Report must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 1.”).

54. *Id.*

55. *Id.*

56. *See id.* at 24 (“In an assignment that includes only assignment results developed by the real property appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report.”).

57. *Id.*

58. The USPAP does contemplate the possibility of an oral real property appraisal, but it is difficult to see how one could adequately conform to the standards described herein.

59. *See* APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 34 (“STANDARD 5 is directed toward the substantive aspects of developing credible analyses, opinions, and conclusions in the mass appraisal of properties.”).

the creation of value in that area.⁶⁰ From there, an appraiser has to develop a model that incorporates those characteristics and that is calibrated sufficiently to accurately reflect mass valuations.⁶¹

Again, the nature of a mass appraisal is more technical than a normal appraisal. The USPAP requires modeling that results in estimates of value allowing for statistical review and analysis.⁶² This means that lawyers may desire to consult with statisticians or other experts, in addition to appraisers, in understanding, assessing, and critiquing these models. It also means that appraisers are expressly required to stay abreast of new methods and techniques, which lawyers should be able to probe and explore.

Much of the rest of USPAP 6 is similar to USPAP 2, explored above, in that it requires an articulation of the client, identified user, and the type and definition of value. It is more specific (as one would imagine) in terms of how to group properties and value them based upon group characteristics (including location, legal, and economic characteristics).⁶³ All of this must be considered in the context of the relevant economic conditions existing as of the time of valuation,⁶⁴ and—as always—the scope of work must be clear and govern the appraisal.⁶⁵

60. *Id.*

61. *Id.*

62. The comment following Standards Rule 5-4(b) and (c) states:

The formal development of a model in a statement or equation is called model specification. Mass appraisers must develop mathematical models that, with reasonable accuracy, represent the relationship between property value and supply and demand factors, as represented by quantitative and qualitative property characteristics.

Models are the vehicle, and they may build upon cost, sales comparison, or income appraisals. “The specification format may be tabular, mathematical, linear, nonlinear, or any other structure suitable for representing . . . observable property characteristics.” Models must be properly calibrated. “Calibration refers to the process of analyzing sets of property and market data to determine the specific parameters of a model Models must be calibrated using recognized techniques, including, but not limited to, multiple linear regression, nonlinear regression, and adaptive estimation.” APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 37.

63. Ad valorem tax appraisals are a subset of mass appraisals.

64. Significantly adding to the burden associated with mass appraisals, appraisers must ensure the quantity and quality of the underlying factual data are sufficient to produce credible appraisals.

65. USPAP 6 sets forth the reporting requirements for mass appraisals. This looks similar to the reporting requirements of USPAP 2, with an emphasis on clarity and a need to present enough background and data to ensure the appraisal is not misleading. This includes providing “a summary of the rationale for each model, the calibration techniques to be used, and the performance measures to be used.” It should also summarize any calibration methods considered but not chosen. In particular, the nature of mass appraisal should be explained and explicitly contrasted with the sales comparison, cost, and income approaches. The appraiser must also state any assistance she received in preparing

USPAP 7 is similar to these, as well, in that it governs the substantive development of an appraisal—in this case, a personal property appraisal.⁶⁶ As stated before, the key is to identify the problem to be solved and determine the scope of work necessary to do so. An appraiser must be aware, of course, of the relevant personal property practices affecting value. This includes how such property is acquired, marketed, and used. It also includes the physical and economic conditions of the property, such as condition, style, quality, obsolescence, and a host of other factors.⁶⁷ These must factor into value, which will itself depend on whether such property is to be valued in terms of cash, cash equivalents, or some other defined terms.⁶⁸ And, as with real property, the appraiser must explain and defend her valuation approach—whether a sales comparison approach, a cost approach, or an income approach.⁶⁹

And USPAP 9 and 10 address business appraisal. These standards provide guidelines as to how appraisers are to value an interest in a business enterprise or intangible asset. Perhaps more clearly here than in other contexts, the ability of an appraiser to identify the problem and solve *that particular* problem is key here. The intended user and the intended use clearly have significant effect on how one goes about valuing a business interest, and the characteristics of the property to be valued (the nature of the

the appraisal. As before, this must be signed and certified. *See* APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 40–43 (providing requirements for mass appraisal reporting).

66. *See id.* at 44 (detailing the development of a personal property appraisal and what requirements must be met).

67. Such information can come from “any combination of a property inspection and documents or other resources to identify the relevant characteristics of the subject property.” *Id.* at 45.

68. For instance, if the value is to be based on some kind of bespoke financing, “the terms of such financing must be clearly identified and the appraiser’s opinion of their . . . influence on value must be developed by analysis of relevant market data.” *Id.* at 45. Also, an appraiser must understand and “analyze the property’s current use and alternative uses” that are relevant to value and identify the relevant market defining valuation (i.e., “a wholesale level of trade, retail level of trade, or . . . various auction conditions”). *Id.* at 37. And, in that context, an appraiser must analyze the whole of what is before her—she must analyze what is there as a whole and “must refrain from valuing the whole solely by adding together the individual values of the various component parts.” *Id.* at 18.

69. As with real property and mass appraisals, there is a standard—USPAP 8—that governs reporting a personal property appraisal. This looks similar to the others, requiring the appraiser to communicate their opinion clearly and ultimately, not misleading. *See id.* at 49–54 (addressing “the content and level of information required in a report that communicates the results of a personal property appraisal”). It must set forth enough information so that the users can understand the report properly, and—as with real property appraisals—appraisers are permitted to provide full reports or restricted appraisal reports. As always, the content of the report needs to be consistent with the intended use of the appraisal report and include a certification by the appraiser.

interest, any associated buy-sell agreements or other purchase restrictions, majority or minority status, liquidity, etc.) are all key. Understanding the extent to which an appraiser thought through, and accounted for, these issues will guide one in determining whether that appraisal is accurate or the extent to which it is material and convincing. Any business appraisal report must account for these issues and must be clear and understandable to its intended users.

Finally, USPAP also includes standards governing how an appraiser should go about reviewing another's appraisal report. USPAP 3 sets forth the manner in which an appraiser must develop an appraisal review, so this is an important standard if you are evaluating your expert's critique of another appraiser, or if you are cross-examining another's expert regarding their critique of your side's appraisal. And, again, the scope of work is key. In many ways, this work often mimics the work of an original appraiser in that a reviewer must make their own independent judgments about the methods and techniques required to answer *the issue at hand*. In doing so—as we have already seen—the reviewer must diligently and competently assess the problem at hand and then prepare a review that is neither biased nor apt to be mis-used by the client. This does not necessarily involve the development of an independent opinion of value. That is one possible route, though lawyers may note how doing so opens the reviewer up to many of the same kinds of criticisms and lines of questioning as the original appraiser.⁷⁰ Another route is to simply deconstruct the appraisal under review, noting the scope of work involved and assessing whether the methodologies, assumptions, or hypothetical conditions utilized were appropriate and accurate.⁷¹

USPAP 4 follows on USPAP 3 and dictates the manner of reporting an appraisal review.⁷² The review report is to be separate from the work under review and must be clear and accurate. Additionally, it must be sufficiently detailed to permit the intended user to understand the work under review and the reviewer's opinion, which must be clearly stated. Of course, the

70. See APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 28 (“When the assignment includes the reviewer developing his or her opinion of value or review opinion, the [relevant USPAP standards apply.]”).

71. *Id.* (“Information that should have been considered by the original appraiser can be used by the reviewer” Similarly, “[i]nformation that was not available to the original appraiser . . . may also be used by the reviewer.”).

72. See *id.* at 40 (acknowledging “the content and level of information required in a report that communicates the results of an appraisal review”).

reviewer's opinions and conclusions, and any reasons for disagreement, must be spelled out and clear. Finally, a review, like an appraisal, must be certified.

C. *The Importance of USPAP*

A number of cases make it clear how critical USPAP Standards can be in the context of legal maneuverings and litigation. Kansas is an example of a state that takes these standards very seriously. Indeed, “Kansas law requires all appraisals to be prepared in accordance with USPAP standards.”⁷³ A failure, then, to adhere to USPAP standards summarized herein may be in and of itself enough for a court to hold an appraisal non-persuasive.⁷⁴ Similarly, in Missouri, “[s]tate-certified appraisers, state-licensed real estate appraisers, and state-licensed appraiser trainees shall comply with the [USPAP] promulgated by the appraisal standards board of the appraisal foundation.”⁷⁵ This means, according to Missouri courts, an appraiser's failure to comply with USPAP is cause for discipline.⁷⁶

Kansas and Missouri are relatively extreme examples, statutorily requiring ad valorem appraisals to conform to these standards, but its courts are far from the only ones to take note of USPAP. In South Dakota, for example, the Supreme Court of South Dakota has assessed appraiser competence against compliance with USPAP, per administrative rule, and in Colorado, the Colorado Court of Appeals held that USPAP is evidence of the standard of care applicable to appraisers.⁷⁷

Reading these cases is instructive in that it demonstrates how some courts use USPAP like a governing standard, against which appraisals must be measured.⁷⁸ Again, the key point here is that lawyers should be aware of

73. *In re* Equalization Appeal of Target Corp., 410 P.3d 939, 942 (Kan. Ct. App. 2017).

74. *See In re* Ruffin Woodlands, LLC, No. 120,705, 2020 WL 3579798, at *6 (Kan. Ct. App. July 2, 2020) (applying this in the context of a tax appraisal and decision by the Kansas Board of Tax Appeals).

75. *Dwiggins v. Mo. Real Estate Appraisers Comm'n*, 515 S.W.3d 765, 767 (Mo. Ct. App. 2017) (quoting MO. REV. STAT. § 339.535 (2020)).

76. *See id.*

77. *See In re* Klein, 670 N.W.2d 367, 369–70 (S.D. 2003) (noting an appraiser's failure to adhere to Standards Rule 1-1 may result in a declaration “that the appraisal was incompetent”); *Hice v. Lott*, 223 P.3d 139, 145 (Col. Ct. App. 2009) (“USPAP standards, adopted as part of an administrative regulatory scheme, may be used as evidence of the standard of care”); *see also* *Thomas Ctr. Owners Ass'n. v. The Robert E. Thomas Tr.*, 2020 WL 6036828, at *4, 6 (stating use of USPAP in an appraisal shows a decision was not reached through an “arbitrary or capricious action”).

78. *See Ruffin*, 2020 WL 3579798, at *6 (noting that Standard 6-3(a) requires an appraiser to analyze the effect on use and value of the highest and best use of the property and then determining

the USPAP and utilize it the way they utilize common law principles, statutes, and controlling regulations and rules: as a guidepost that informs and gives structure to appraisals and valuations. Too often, lawyers mentally consign “appraisal” to the realm of an expert, artlessly reading their own experts’ opinions and simply relying on the same to assess and critique those of opposing experts. But USPAP provides important context and, while not removing appraisal and valuation from the realm of expert authority, it can help lawyers do their jobs better, as is discussed further in Section IV, below.

IV. USPAP AS EXPERT TESTIMONY AND RECOMMENDATIONS FOR LAWYERS

Before turning to a more concrete examination of how USPAP can positively affect a lawyer’s approach to a case, it is helpful to, even briefly, articulate that these series of standards, in aggregate, as interpreted and applied by appraisers, is expert evidence, as traditionally understood. It differs from traditional expert opinion in that “a witness who is to give expert opinion about the standard of care within a particular licensed profession must be licensed in that same profession,” whereas courts will receive valuation information from non-licensed individuals.⁷⁹ It is also the case that lawyers probably generally have more flexibility as to whether to call an appraisal expert. Even if not strictly necessary, though, “it can strengthen the proponent’s case by adding an aura of authoritativeness and objectivity to the presentation.”⁸⁰

validity of appraisal based on whether the appraisal did so); *In re* Johnson Cnty. Appraiser, 283 P.3d 823, 834 (Kan. Ct. App. 2012) (asking whether the relevant appraisal was “invalid because it did not comply with Standards 1 and 2 of the USPAP”); *In re* Protests of City of Hutchinson, 221 P.3d 598, 606 (Kan. Ct. App. 2009) (finding a taxpayer’s proposed appraisal violated USPAP and was therefore “contaminated” and “of no utility in valuing th[e] property”); *In re* Equalization Appeal of Kan. Star Casino, LLC, 362 P.3d 1109, 1120 (Kan. Ct. App. 2017) (holding the Board of Tax Appeals “may not rely on an approach to value that is expressly prohibited by USPAP,” though noting “USPAP violations that are not ‘materially detrimental’ to an appraiser’s overall opinion of value are not fatal”) (quoting *In re* Equalization Proceeding of Amoco Production Co., 102 P.3d 1176, 1184 (Kan. Ct. App. 2004)).

79. 3 Tex. Prac. Guide Torts § 13:41 (2020).

80. 2 Examination of Witnesses § 12:6 (2020). “For example, where the value of land is in issue . . . the owner of the property, even though not an expert in valuation, may ordinarily testify as to his opinion of its value. The problem with such testimony is that the witness, being an interested party to the lawsuit, is easily impeached on that basis.” *Id.*

And, as is the norm for all expert evidence, the “touchstone for expert [appraisal] testimony is helpfulness.”⁸¹ The dominant method for establishing valuation (clearly in the case of real estate, but with respect to other objects of value, as well) is valuation by a professional appraiser, via opinion evidence.⁸²

Given that this a traditional form of evidence utilized by lawyers, and given the standing attempt of this Article to place it within the grasp and use of lawyers in their practice, the primary recommendation here is simple but powerful: be aware. Appraisers give ultimately subjective opinions of value, and it is certainly possible to understand and critique these opinions. Errors in data sources and errors in selection and adjustment of comparable sales are possible, of course.⁸³ But here, the real value is knowing appraisers are governed by objective standards—and knowing what those standards are—makes lawyers immeasurably better-prepared to understand when they need an expert, to understand and criticize adversarial appraisals, and to interact with and prepare same-side appraisals. Given the existence of USPAP, a widely adopted and well-respected set of guidelines, there is no need to be at a loss when dealing with valuations and assessments.⁸⁴ In particular, a knowledgeable lawyer should be well-positioned to prepare good discovery and to prepare their own appraiser for adversarial interactions. This does not mean that a lawyer must become an expert in USPAP any more than an appraiser must become intimately aware of the Rules of Procedure or of Evidence.⁸⁵ But it does mean that some level of examination, analysis, and evaluation is possible and necessary in order to assess any legal issues or cases that turn upon an appraisal.

81. *Id.*

82. See John F. Shampton, *Statistical Evidence of Real Estate Valuation: Establishing Value Without Appraisers*, 21 S. ILL. U. L.J. 113, 116–18 (1996) (noting valuation of real estate as being the mere “subjective opinion of an expert” that is just as susceptible to critique).

83. See *id.* at 130 (discussing other, non-opinion centric methods out there such as, “[m]athematically, the Hedonic Pricing Function [which] is an equation relating the value of a property (the so-called dependent variable) to a set of variables representing attributes which influence that value (the independent variables)”).

84. Robert P. Schweih, *The Relationship between the Attorney and the Valuation Analyst*, FORENSIC ANALYSIS INSIGHTS (2012), [<https://perma.cc/AD83-AZCT>] (setting forth practical aspects of the relationship between a valuation analyst, the USPAP, and an attorney).

85. Indeed, lawyers should strongly consider retaining qualified appraisal experts in many settings where appraisals are at issue, including for the purposes of preparing for discovery, as discussed *infra*.

And, in that context, the first logistical recommendation is to prepare good discovery. Good discovery will give you the information you need to know regarding the appraiser, the appraiser's credentials, and the basis of the appraiser's report.⁸⁶ The USPAP is essentially a roadmap for how to prepare appraisals of all stripes, so it is also a roadmap for how to question an appraiser about their opinion. There is no need for generic "expert questions"—you should come at the issue from the standpoint of the governing standards to see how closely the report conforms to it and to assess whether the opinion is based on appropriate analyses and methodologies.

Similarly, on the other side of the coin, you can prepare your appraisers. You can do this by carefully reviewing their appraisals with them to ensure that you understand their opinions in the context of USPAP.⁸⁷ You can also make sure your appraisers are prepared for discovery and, particularly, depositions. Walking through a report in the context of the operable standards, and the underlying opinion in the context of appropriate analyses and methodologies, should ensure that your appraiser is ready for adversarial questioning.

V. CONCLUSION

In sum, appraisals are technical, specific opinions. They arise in virtually every area of the practice of law, but their technical nature does not have to stymie lawyers as they advocate for their clients. Indeed, appraisals are particularly accessible by laypeople in that they are governed by relatively clear and straightforward standards. Lawyers who understand these standards can assess whether purported appraisers are qualified, utilize proper experts, and ensure their clients' interests are protected. This Article seeks to demystify this part of the law by setting forth those standards, explaining how they work (and do not work), and making a number of recommendations for lawyers who find themselves dealing with appraisals.

86. See *infra* Appendix B (providing an example of potential discovery requests). These are, of course, merely illustrative. Every situation is different, and discovery must always be narrowly tailored to meet the particular situation. That said, it is hoped that these will serve as a helpful baseline for some of the kinds of information you can elicit from adversarial appraisers. These are direct requests to opposing parties, as well as subpoena requests and deposition-style questions for the appraisers themselves.

87. And, of course, to ensure the appraisal was properly informed.

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APPENDIX A

As discussed above, a key part of understanding the complexities and nuance of appraisal is being aware of, and familiar with, the standards that govern an accredited appraiser. Knowing these standards exist, thinking through the concepts they embody, and being able to assess an appraisal in terms of their application is the key to differentiating between an appropriately performed appraisal and one that is misguided or ultimately irrelevant.

As outlined above, there are ten standards:

1. Real Property Appraisal, Development
2. Real Property Appraisal, Reporting
3. Appraisal Review, Development
4. Appraisal Review, Reporting
5. Mass Appraisal, Development
6. Mass Appraisal, Reporting
7. Personal Property Appraisal, Development
8. Personal Property Appraisal, Reporting
9. Business Appraisal, Development
10. Business Appraisal, Reporting

These standards are set forth below, verbatim:⁸⁸

STANDARD 1: REAL PROPERTY APPRAISAL, DEVELOPMENT⁸⁹

In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of the work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal.

Comment: STANDARD 1 is directed toward the substantive aspects of developing a credible appraisal of real property. The requirements set forth in STANDARD 1 follow the appraisal development process in the order of topics addressed and can be used by appraisers and the users of appraisal services as a convenient checklist.

STANDARDS RULE 1-1⁹⁰

In developing a real property appraisal, an appraiser must:

(a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;

Comment: This Standards Rule recognizes that the principle of change continues to affect the manner in which appraisers perform appraisal services. Changes and developments in the real estate field have a substantial impact on the appraisal profession. Important changes in the cost and manner of constructing and marketing commercial, industrial, and residential real estate as well as changes in the legal framework in which real property rights and interests are created, conveyed, and mortgaged have resulted in corresponding changes in appraisal theory and practice. Social change has also had an effect on appraisal theory and practice. To keep abreast of these changes and developments, the appraisal profession is constantly reviewing and revising appraisal methods and techniques and devising new methods and techniques to meet new circumstances. For this reason, it is not sufficient for appraisers to simply maintain the skills and the knowledge they possess when they become appraisers. Each appraiser must

88. These standards are set forth in the 2018–2019 version of the USPAP, are copyrighted by The Appraisal Foundation, and are reprinted herein with permission therefrom. For ease of reading, a general citation for the standard will be provided at the heading for each standard in lieu of citing the same source throughout this article.

89. See APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 15 (providing an overview of the requirements and guidance for the appraisal of real property).

90. *Id.*

continuously improve [their] skills to remain proficient in real property appraisal.

(b) not commit a substantial error of omission or commission that significantly affects an appraisal; and

Comment: An appraiser must use sufficient care to avoid errors that would significantly affect their opinions and conclusions. Diligence is required to identify and analyze the factors, conditions, data, and other information that would have a significant effect on the credibility of the assignment results,

(c) not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.

Comment: Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Standards Rule requires an appraiser to use due diligence and due care.

STANDARDS RULE 1-2⁹¹

In developing a real property appraisal, an appraiser must:

(a) identify the client and other intended users,⁹²

(b) identify the intended use of the appraiser's opinions and conclusions,⁹³

Comment: An appraiser must not allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased.⁹⁴

91. *Id.* at 15–17.

92. See APPRAISAL STANDARDS BD., *Advisory Opinion 36: Identification and Disclosure of Client, Intended Use, and Intended Users*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 169–70 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 36*] (noting the purpose of this requirement is to “ensure that the client . . . can recognize their relationship to the assignment and report, and . . . that parties other than the intended users will not mistakenly assume that they are the client”).

93. See *id.* at 169 (explaining how identifying the intended use can help the appraiser and the client make important decisions about the appraiser's assignment).

94. See APPRAISAL STANDARDS BD., *Advisory Opinion 19: Unacceptable Assignment Conditions in Real Property Appraisal Assignments*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 107–11 (suggesting appraisers carefully review rules regarding situations that may cause the appraiser's results to be biased).

(c) identify the type and definition of value, and, if the value opinion to be developed is market value, ascertain whether the value is to be the most probable price:

- (i) in terms of cash; or
- (ii) in terms of financial arrangements equivalent to cash; or
- (iii) in other precisely defined terms; and

(iv) if the opinion of value is to be based on non-market financing or financing with unusual conditions or incentives, the terms of such financing must be clearly identified and the appraiser's opinion of their contributions to or negative influence on value must be developed by analysis of relevant market data;

Comment: When reasonable exposure time is a component of the definition for the value opinion being developed, the appraiser must also develop an opinion of reasonable exposure time linked to that value opinion.⁹⁵

(d) identify the effective date of the appraiser's opinions and conclusions,⁹⁶

(e) identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal,⁹⁷ including:

95. See APPRAISAL STANDARDS BD., *Advisory Opinion 7: Marketing Time Opinions*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 78–79 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 7*] (“Marketing time differs from exposure time, which is always presumed to precede the effective date of appraisal.”); see also APPRAISAL STANDARDS BD., *Advisory Opinion 35: Reasonable Exposure Time in Real and Personal Property*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 166–68 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 35*] (“Exposure time is different for various types of property and under various market conditions.”).

96. See APPRAISAL STANDARDS BD., *Advisory Opinion 34: Retrospective and Prospective Value Opinions*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 164–65 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 34*] (“To avoid confusion, the appraiser must clearly establish the date to which the value opinion applies.”).

97. See APPRAISAL STANDARDS BD., *Advisory Opinion 4: Inspection of Subject Property*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 72–74 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] (holding the appraiser responsible for “gathering information about the characteristics of the property” that are pertinent to its value); see also APPRAISAL STANDARDS BD., *Advisory Opinion 23: Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 131–34 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 23*] (“Identifying the relevant property characteristics, together with the other information . . . enables an appraiser to make a sound scope of work decision.”).

- (i) its location and physical, legal, and economic attributes;
- (ii) the real property interest to be valued;
- (iii) any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal;
- (iv) any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature; and
- (v) whether the subject property is a fractional interest, physical segment, or partial holding;

Comment on (i)–(v): The information used by an appraiser to identify the property characteristics must be from sources the appraiser reasonably believes are reliable.

An appraiser may use any combination of a property inspection and documents, such as a physical legal description, address, map reference, copy of a survey or map, property sketch, or photographs, to identify the relevant characteristics of the subject property.

When appraising proposed improvements, an appraiser must examine and have available for future examination, plans, specifications, or other documentation sufficient to identify the extent and character of the proposed improvements.⁹⁸

Identification of the real property interest appraised can be based on a review of copies or summaries of title descriptions or other documents that set forth any known encumbrances.

An appraiser is not required to value the whole when the subject of the appraisal is a fractional interest, a physical segment, or a partial holding.

- (f) Identify any extraordinary assumptions necessary in the assignment;

Comment: An extraordinary assumption may be used in an assignment only if:

- it is required to properly develop credible opinions and conclusions;
- the appraiser has a reasonable basis for the extraordinary assumption;
- use of the extraordinary assumption results in a credible analysis; and

98. See APPRAISAL STANDARDS BD., *Advisory Opinion 17: Appraisals of Real Property with Proposed Improvements*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 97–100 (The Appraisal Found., 2018-2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 17*] (“An appraisal of real property with proposed improvements presents complex analysis and reporting issues because some portion of the property appraised does not exist at the time of the appraisal.”).

- the appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.

(g) identify any hypothetical conditions necessary in the assignment; and

Comment: A hypothetical condition may be used in an assignment only if:

- use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;
- use of the hypothetical condition results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.

(h) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE.⁹⁹

STANDARDS RULE 1-3¹⁰⁰

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 ages and remaining life.

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

99. See APPRAISAL STANDARDS BD., *Advisory Opinion 28: Scope of Work Decision, Performance, and Disclosure*, UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 145–49 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 28*] (explaining how certain “assignment elements necessary for problem identification in an appraisal or appraisal review assignment also serve as reference points in determining whether the scope of work performed was appropriate to provide credible results.”); see also APPRAISAL STANDARDS BD., *Advisory Opinion 29: An Acceptable Scope of Work*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 149–50 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 29*] (outlining the two benchmarks established by the scope of work rule, which “[a]n acceptable scope of work must satisfy”).

100. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 17.

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).

STANDARDS RULE 1-4¹⁰¹

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.

(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).

(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.¹⁰²

Comment: In developing income and expense statements and cash flow projections, an appraiser must weigh historical information and trends,

101. *Id.* at 17–18.

102. See APPRAISAL STANDARDS BD., *Advisory Opinion 33: Discounted Cash Flow Analysis*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 162–63 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 33*] (emphasizing the appraiser's responsibility “to ensure that the controlling input is consistent with market evidence and prevailing market attitudes.”).

current supply and demand factors affecting such trends, and anticipated events such as competition from developments under construction.

(d) When developing an opinion of the value of a leased fee estate or a leasehold estate, an appraiser must analyze the effect on value, if any, of the terms and conditions of the lease(s).

(e) When analyzing the assemblage of the various estates or component parts of a property, an appraiser must analyze the effect on value, if any, of the assemblage. An appraiser must refrain from valuing the whole solely by adding together the individual values of the various estates or component parts.

Comment: Although the value of the whole may be equal to the sum of the separate estates or parts, it also may be greater than or less than the sum of such estates or parts. Therefore, the value of the whole must be tested by reference to appropriate data and supported by an appropriate analysis of such data.

A similar procedure must be followed when the value of the whole has been established and the appraiser seeks to value a part. The value of any such part must be tested by reference to appropriate data and supported by an appropriate analysis of such data.

(f) When analyzing anticipated public or private improvements, located, on or off the site, an appraiser must analyze the effect on value, if any, of such anticipated improvements to the extent they are reflected in market actions.¹⁰³

(g) When personal property, trade fixtures, or intangible items are included in the appraisal, the appraiser must analyze the effect on value of such non-real property items.

Comment: When the scope of work includes an appraisal of personal property, trade fixtures[,] or intangible items, competency in personal property appraisal¹⁰⁴ or business appraisal¹⁰⁵ is required.

103. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 15–17; *see also* APPRAISAL STANDARDS BD., *Advisory Opinion 17*, *supra* note 98, at 99 (“In an appraisal with a prospective date of value . . . the appraiser also should report that the extraordinary assumption might have affected the assignment results.”).

104. *See* APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 44–49 (laying out basic requirements an appraiser of personal property must follow to produce credible work).

105. *See id.* at 55–57. (requiring an appraisal of businesses to have the knowledge and technique that is necessary to produce credible opinions).

STANDARDS RULE 1-5¹⁰⁶

When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:¹⁰⁷

(a) analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal; and

(b) analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.¹⁰⁸

Comment: See the Comments to Standards Rules 2-2(a)(viii) and 2-2(b)(viii) for corresponding reporting requirements relating to the availability and relevance of information.

STANDARDS RULE 1-6¹⁰⁹

In developing a real property appraisal, an appraiser must:

(a) reconcile the quality and quantity of data available and analyzed within the approaches used; and

(b) reconcile the applicability and relevance of the approaches, methods and techniques used to arrive at the value conclusion(s).

STANDARD 2: REAL PROPERTY APPRAISAL, REPORTING¹¹⁰

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

106. *Id.* at 18.

107. See APPRAISAL STANDARDS BD., *Advisory Opinion 24: Normal Course of Business*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 135 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 24*] (“The ‘normal course of business’ is determined by the actions of an appraiser’s peers and by the expectations of parties who are regularly intended users for similar assignments.”).

108. See APPRAISAL STANDARDS BD., *Advisory Opinion 1: Sales History and Advisory Opinion 4: Standards Rule 1-5(b)*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 69–71, 77 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 1*] (noting the benefit of knowing the history of sales for the item you are appraising).

109. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 19.

110. *Id.* at 20.

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.

STANDARDS RULE 2-1¹¹¹

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 2-2¹¹²

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.¹¹³

Comment: When the intended users include parties other than the client, an Appraisal Report must be provided. When the intended users do not include parties other than the client, a Restricted Appraisal Report may be provided.

The essential difference between these two options is in the content and level of information provided. The appropriate reporting option and the level of information necessary in the report are dependent on the intended use and the intended users.

111. *Id.*

112. *Id.* at 20–24.

113. See APPRAISAL STANDARDS BD., *Advisory Opinion 11: Content of the Appraisal Report Options of Standards Rules 2-2, 8-2, and 10-2*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 84–85 (The Appraisal Found., 2018–2019 ed.), <http://majorappraisals.com/wp-content/uploads/2018/02/USPAP-2018-2019.pdf> [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 11*] (“The prominent statement of which option was used is a label that indicates to the reader how the appraisal is reported.”); see also APPRAISAL STANDARDS BD., *Advisory Opinion 12: Use of the Appraisal Report Options of Standards Rules 2-2, 8-2, and 10-2*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 88 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 12*] (“When the intended users include parties other than the client, an Appraisal Report must be provided. When the client is the only intended user, a Restricted Appraisal Report may be provided.”).

An appraiser must use care when characterizing the type of report and level of information communicated upon completion of an assignment. An appraiser may use any other label in addition to, but not in place of, the label set forth in this Standard for the type of report provided.

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.

(a) The content of an Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

(i) state the identity of the client, unless the client has specifically requested otherwise; state the identity of any intended users by name or type;¹¹⁴

Comment: An appraiser must use care when identifying the client to avoid violations of the Confidentiality section of the ETHICS RULE. If a client requests that the client's identity be withheld from the report, the appraiser may comply with this request. In these instances, the appraiser must document the identity of the client in the workfile and must state in the report that the identity of the client has been withheld at the client's request.

Types of intended users of the report might include parties such as lenders, employees of government agencies, partners of a client, and a client's attorney and accountant.

(ii) state the intended use of the appraisal;¹¹⁵

114. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 20–24 (highlighting the importance of knowing who will be using the appraised object because “additional intended user . . . , the scope of work may increase. This is because the assignment results typically need to satisfy more objectives as the number of intended users increase.”); see also *Advisory Opinion 25: Clarification of the Client in a Federally Related Transaction*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 138–39 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] (requiring an appraiser to know their client and the purpose of the assignment so that may comply with the “USPAP . . . [and] not be misleading in the marketing of their services”).

115. APPRAISAL STANDARDS BD., *Advisory Opinion 36*, *supra* note 77, at 169–71 (“An appraiser can avoid misleading parties in possession of an appraisal or appraisal review report by clearly identifying the intended use in the report and stating that other uses are not intended.”).

(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;¹¹⁶

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.

(iv) state the real property interest appraised;

Comment: The statement of the real property rights being appraised must be substantiated, as needed, by copies or summaries of title descriptions or other documents that set forth any known encumbrances.

(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.

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.

116. See APPRAISAL STANDARDS BD., *Advisory Opinion 2: Inspection of Subject Property*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 72–73 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 2*] (“[I]nformation about the characteristics of the property that are relevant to its value” is key when appraising property and thus one should perform a personal inspection); see also APPRAISAL STANDARDS BD., *Advisory Opinion 23*, *supra* note 97, at 131–32 (detailing how appraisals should be communicated when “either a retrospective or prospective date is used so that the report is not misleading”).

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.¹¹⁷

(vi) state the effective date of the appraisal and the date of the report;¹¹⁸

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.

(vii) summarize the scope of work used to develop the appraisal;¹¹⁹

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.

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*.¹²⁰

117. APPRAISAL STANDARDS BD., *Advisory Opinion 7*, *supra* note 95, at 78–79 (“It is appropriate for the appraiser to . . . contrast different potential prices . . .”); *see also* APPRAISAL STANDARDS BD., *Advisory Opinion 22: Scope of Work in Market Value Appraisal Assignments, Real Property*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 125–27 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 22*] (illustrating the steps required by Standards Rule 1-2 in a real property appraisal); APPRAISAL STANDARDS BD., *Advisory Opinion 35*, *supra* note 95, at 166–68 (understanding the difference between marketing time and exposure time is important when making decisions or accounting for assets).

118. *See* APPRAISAL STANDARDS BD., *Advisory Opinion 34*, *supra* note 96, at 164–65 (detailing how appraisals should be communicated when “either a retrospective or prospective date is used so that the report is not misleading”).

119. *See* APPRAISAL STANDARDS BD., *Advisory Opinion 28*, *supra* note 99, at 145 (setting out the three steps to the “Scope of Work Rule”); *see also* APPRAISAL STANDARDS BD., *Advisory Opinion 29*, *supra* note 99, at 149 (explaining “[t]he scope of work is acceptable when it meets or exceeds both (1) the expectations of parties who are regularly intended users for similar assignments; and (2) what an appraiser’s peers’ actions would be in performing the same or a similar assignment. An acceptable scope of work must satisfy both benchmarks”).

120. *See* APPRAISAL STANDARDS BD., *Advisory Opinion 31: Assignments Involving More than One Appraiser*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 155–58 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 31*] (defining the specific USPAP obligations when an appraisal or appraisal review involves more than one appraiser).

(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.

The appraiser must provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions, including reconciliation of the data and approaches, in accordance with Standards Rule 1-6.

When reporting an opinion of market value, a summary of the results of analyzing the subject sales, agreements of sale, options, and listings in accordance with Standards Rule 1-5 is required.¹²¹ If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

(ix) state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal;

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

(xi) clearly and conspicuously:

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

(xii) include a signed certification in accordance with Standards Rule 2-3.

(b) The content of a Restricted Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

(i) state the identity of the client, unless the client has specifically requested otherwise¹²² 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

121. See APPRAISAL STANDARDS BD., *Advisory Opinion 1*, *supra* note 108, at 69–71 (defining, with particularity, the nature of sales history provisions in the USPAP).

122. See APPRAISAL STANDARDS BD., *Advisory Opinion 36*, *supra* note 77, at 169–71 (asserting the information an appraiser must identify and consider with regards to the intended use and users).

understood properly without additional information in the appraiser's workfile:

Comment: An appraiser must use care when identifying the client to avoid violations of the Confidentiality section of the ETHICS RULE. If a client requests that the client's identity be withheld from the report, the appraiser may comply with this request. In these instances, the appraiser must document the identity of the client in the workfile and must state in the report that the identity of the client has been withheld at the client's request.

The Restricted Appraisal Report is for client use only. Before entering into an agreement, the appraiser should establish with the client the situations where this type of report is to be used and should ensure that the client understands the restricted utility of the Restricted Appraisal Report.

(ii) state the intended use of the appraisal;¹²³

Comment: The intended use of the appraisal must be consistent with the limitation on use of the Restricted Appraisal Report Option in this Standards Rule (i.e., client use only).

(iii) state information sufficient to identify the real estate involved in the appraisal;¹²⁴

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

(iv) state the real property interest appraised;

(v) state the type of value and cite the source of its definition;¹²⁵

Comment: 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.

(vi) state the effective date of the appraisal and the date of the report;¹²⁶

123. *Id.* (asserting what information an appraiser must identify and consider with regards to the intended use and users).

124. *See* APPRAISAL STANDARDS BD., *Advisory Opinion 2*, *supra* note 116, at 72–74 (“The primary reason for the inspection of a property is to gather information about the characteristics of the property that are relevant to its value.”).

125. *See* APPRAISAL STANDARDS BD., *Advisory Opinion 7*, *supra* note 95, at 78–79 (listing a number of possible sources for the type of value); *see also* APPRAISAL STANDARDS BD., *Advisory Opinion 22*, *supra* note 117, at 125–30 (determining the importance of identifying the specific definition of market value); *see also* APPRAISAL STANDARDS BD., *Advisory Opinion 34*, *supra* note 96, at 164–65 (advising the ASB on the issue of retrospective and prospective appraisals).

126. *See* APPRAISAL STANDARDS BD., *Advisory Opinion 34*, *supra* note 96, at 164–65 (noting the importance of “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.

(vii) state the scope of work used to develop the appraisal;¹²⁷

Comment: Because the client's 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.

When any portion of the work involves significant real property appraisal assistance, the appraiser must state 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 2-3.¹²⁸

(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;

Comment: An appraiser must maintain a specific, coherent workfile in support of a Restricted Appraisal Report. The contents of the workfile must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 1 and for the appraiser to produce an Appraisal Report.

When reporting an opinion of market value, a summary of the results of analyzing the subject sales, agreements of sale, options, and listings in accordance with Standards Rule 1-5 is required. If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

(ix) state the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal;

127. See APPRAISAL STANDARDS BD., *Advisory Opinion 28*, *supra* note 99, at 145–48 (outlining three steps an appraiser must take for each appraisal and appraisal review assignment); see also APPRAISAL STANDARDS BD., *Advisory Opinion 29*, *supra* note 99, at 149–50 (detailing the requirements to fulfill the scope of work rule).

128. See APPRAISAL STANDARDS BD., *Advisory Opinion 31*, *supra* note 120, at 155–58 (identifying relevant USPAP references).

(x) when an opinion of highest and best use was developed by the appraiser, state that opinion;

(xi) clearly and conspicuously:

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

(xii) include a signed certification in accordance with Standards Rule 2-3.

STANDARDS RULE 2-3¹²⁹

Each written real property appraisal report must contain a signed certification that is similar in content to the following form:

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

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or the specified) personal interest with respect to the parties involved.
- I have performed no (or the specified) services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the

129. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 24–25.

occurrence of a subsequent event directly related to the intended use of this appraisal.

- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)¹³⁰
- no one provided significant real property appraisal assistance to the person signing this certification. (If *there* are exceptions, the name of each individual providing significant real property appraisal assistance must be stated.)

Comment: A signed certification is an integral part of the appraisal report. An appraiser who signs any part of the appraisal report, including a letter of transmittal, must also sign this certification.

In an assignment that includes only assignment results developed by the real property appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. In an assignment that includes personal property, business or intangible asset assignment results not developed by the real property appraiser(s), any real property appraiser(s) who signs a certification accepts full responsibility for the real property elements of the certification, for the real property assignment results, and for the real property contents of the appraisal report.

When a signing appraiser(s) has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser(s) is required to have a reasonable basis for believing that those individuals performing the work are competent. The signing appraiser(s) also must have no reason to doubt that the work of those individuals is credible.

130. See APPRAISAL STANDARDS BD., *Advisory Opinion 2*, *supra* note 116, at 72–74 (explaining USPAP requires the certification to indicate whether the subject property was personally inspected or not).

The names of individuals providing significant real property appraisal assistance who do not sign a certification must be stated in the certification. It is not required that the description of their assistance be contained in the certification, but disclosure of their assistance is required in accordance with STANDARDS RULE 2-2(a)(vii) or 2-2(b)(vii) as applicable.¹³¹

STANDARDS RULE 2-4¹³²

To the extent that it is both possible and appropriate, an oral real property appraisal report must address the substantive matters set forth in Standards Rule 2-2(a).

Comment: See the RECORD KEEPING RULE for corresponding requirements.

STANDARD 3: APPRAISAL REVIEW, DEVELOPMENT¹³³

In developing an appraisal review, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal review.

Comment: STANDARD 3 is directed toward the substantive aspects of developing a credible opinion of the quality of another appraiser's work that was performed as part of an appraisal or appraisal review assignment. The requirements set forth in STANDARD 3 generally follow the appraisal review development process in the order of topics addressed and can be used by appraisers and the users of appraisal services as a convenient checklist.

In this Standard, the term "reviewer" is used to refer to an appraiser performing an appraisal review.

STANDARDS RULE 3-1¹³⁴

In developing an appraisal review, the reviewer must:

131. See APPRAISAL STANDARDS BD., *Advisory Opinion 31*, *supra* note 120, at 156 ("The certification is also where significant assistance from others not signing the certification must be acknowledged.").

132. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 25.

133. *Id.* at 26–29 (discussing the standards and requirements for an appraisal review such as identifying the problems to be solved and determining the scope of the work).

134. *Id.* at 26 (explaining the acceptable and unacceptable standards for an appraisal review as they relate to the methods, techniques, and errors).

(a) be aware of, understand, and correctly employ those methods and techniques that are necessary to produce a credible appraisal review;

Comment: Changes and developments in economics, finance, law, technology, and society can have a substantial impact on the appraisal profession. To keep abreast of these changes and developments, the appraisal profession is constantly reviewing and revising appraisal methods and techniques and devising new methods and techniques to meet new circumstances. Each appraiser must continuously improve his or her skills to remain proficient in appraisal review.

The reviewer must have the knowledge and experience needed to identify and perform the scope of work necessary to produce credible assignment results. Aspects of competency for an appraisal review, depending on the review assignment's scope of work, may include, without limitation, familiarity with the specific type of property or asset, market, geographic area, analytic method, and applicable laws, regulations and guidelines.

(b) not commit a substantial error of omission or commission that significantly affects an appraisal review; and

Comment: A reviewer must use sufficient care to avoid errors that would significantly affect his or her opinions and conclusions. Diligence is required to identify and analyze the factors, conditions, data, and other information that would have a significant effect on the credibility of the assignment results.

(c) not render appraisal review services in a careless or negligent manner, such as making a series of errors that, although individually might not significantly affect the results of an appraisal review, in the aggregate affects the credibility of those results.

Comment: Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal review services in a careless or negligent manner. This Standards Rule requires a reviewer to use due diligence and due care.

STANDARDS RULE 3-2¹³⁵

In developing an appraisal review, the review must:

(a) identify the client and other intended users;¹³⁶

135. *Id.* at 26–28.

136. *See* APPRAISAL STANDARDS BD., *Advisory Opinion 36*, *supra* note 77, at 169–71.

(b) identify the intended use of the reviewer's opinions and conclusions;¹³⁷

Comment: A reviewer must not allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased. A reviewer must not advocate for a client's objectives.

The intended use refers to the use of the reviewer's opinions and conclusions by the client and other intended users; examples include, without limitation, quality control, audit, qualification, or confirmation.

(c) identify the purpose of the appraisal review, including whether the assignment includes the development of the reviewer's own opinion of value or review opinion related to the work under review;¹³⁸

Comment: The purpose of an appraisal review assignment relates to the reviewer's objective; examples include, without limitation, to determine if the results of the work under review are credible for the intended user's intended use, or to evaluate compliance with relevant USPAP requirements, client requirements, or applicable regulations.

In the review of an appraisal assignment, the reviewer may provide an opinion of value for the property that is the subject of the work under review.

In the review of an appraisal review assignment, the reviewer may provide an opinion of quality of the work that is the subject of the appraisal review assignment.

(d) identify the work under review and the characteristics of that work which are relevant to the intended use and purpose of the appraisal review, including:

(i) Any ownership interest in the property that is the subject of the work under review;

(ii) The date of the work under review and the effective date of the opinions or conclusions in the work under review;

(iii) The appraiser(s) who completed the work under review, unless the identity is withheld by the client; and

(iv) The physical, legal, and economic characteristics of the property, properties, property type(s), or market area in the work under review.

137. *See id.*

138. *See* APPRAISAL STANDARDS BD., *Advisory Opinion 20: An Appraisal Review Assignment That Includes the Reviewer's Own Opinion of Value*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 112–16 [hereinafter APPRAISAL STANDARDS BD., *Advisory Opinion 20*] The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] (opining how purpose and intended use affect scope of work).

Comment: The subject of an appraisal review assignment may be all or part of a report, a workfile, or a combination of these, and may be related to an appraisal or appraisal review assignment.

(e) identify any extraordinary assumptions necessary in the review assignment;

Comment: An extraordinary assumption may be used in a review assignment only if:

- it is required to properly develop credible opinions and conclusions;
- the reviewer has a reasonable basis for the extraordinary assumption;
- use of the extraordinary assumption results in a credible analysis; and
- the reviewer complies with the disclosure requirements set forth in USPAP for extraordinary assumptions

(f) identify any hypothetical conditions necessary in the review assignment; and

Comment: A hypothetical condition may be used in a review assignment only if:

- use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;
- use of the hypothetical condition results in a credible analysis; and
- the reviewer complies with the disclosure requirements set forth in USPAP for hypothetical conditions.

(g) determine the scope of work necessary to produce credible assignment results in accordance with the Scope of Work Rule.¹³⁹

Comment: Reviewers have broad flexibility and significant responsibility in determining the appropriate scope of work in an appraisal review assignment.

Information that should have been considered by the original appraiser can be used by the reviewer in developing an opinion as to the quality of the work under review.

139. See APPRAISAL STANDARDS BD., *Advisory Opinion 28*, *supra* note 99, at 145–48 (declaring what an appraiser must do under the scope of work rule); see also APPRAISAL STANDARDS BD., *Advisory Opinion 29*, *supra* note 99, at 149–50 (detailing the two benchmarks for measuring the acceptability of the scope of work).

Information that was not available to the original appraiser in the normal course of business may also be used by the reviewer; however, the reviewer must not use such information in the reviewer's development of an opinion as to the quality of the work under review.

STANDARDS RULE 3-3¹⁴⁰

In developing an appraisal review, a reviewer must apply the appraisal review methods and techniques that are necessary for credible assignment results.

(a) When necessary for credible assignment results in the review of analyses, opinions, and conclusions, the reviewer must:

(i) develop an opinion as to whether the analyses are appropriate within the context of the requirements applicable to that work;

(ii) develop an opinion as to whether the opinions and conclusions are credible within the context of the requirements applicable to that work; and

(iii) develop the reasons for any disagreement.

Comment: Consistent with the reviewer's scope of work, the reviewer is required to develop an opinion as to the completeness, accuracy, adequacy, relevance, and reasonableness of the analysis in the work under review, given law, regulations, or intended user requirements applicable to the work under review.

(b) When necessary for credible assignment results in the review of a report, the reviewer must:

(i) develop an opinion as to whether the report is appropriate and not misleading within the context of the requirements applicable to that work; and

(ii) develop the reasons for any disagreement.

Comment: Consistent with the reviewer's scope of work, the reviewer is required to develop an opinion as to the completeness, accuracy, adequacy, relevance, and reasonableness of the report, given law, regulations, or intended user requirements applicable to that work.

(c) When the assignment includes the reviewer developing his or her own opinion of value or review opinion, the following apply,¹⁴¹

140. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 26–29.

141. *See* APPRAISAL STANDARDS BD., *Advisory Opinion 20*, *supra* note 138, at 112–16 (requiring STANDARDS 1, 3, 4, 5, 7, and 9 be taken into account when making an opinion of value).

(i) The requirements of STANDARDS 1, 5, 7, or 9 apply to the reviewer's opinion of value for the property that is the subject of the appraisal review assignment.

(ii) The requirements of STANDARD 3 apply to the reviewer's opinion of quality for the work that is the subject of the appraisal review assignment.

Comment: These requirements apply to:

- The reviewer's own opinion of value when the subject of the review is the product of an appraisal assignment; or
- The reviewer's own opinion regarding the work reviewed by another when the subject of the review is the product of an appraisal review assignment.

These requirements apply whether the reviewer's own opinion:

- concurs with the opinions and conclusions in the work under review; or
- differs from the opinion and conclusions in the work under review.

When the assignment includes the reviewer developing his or her own opinion of value or review opinion, the following apply:

- The reviewer's scope of work in developing his or her own opinion of value or review opinion may be different from that of the work under review.
- The effective date of the reviewer's opinion of value may be the same or different from the effective date of the work under review.
- The reviewer is not required to replicate the steps completed by the original appraiser. Those items in the work under review that the reviewer concludes are credible can be extended to the reviewer's development process on the basis of an extraordinary assumption. Those items not deemed to be credible must be replaced with information or analysis developed in conformance with STANDARD 1, 3, 5, 7, or 9, as applicable, to produce credible assignment results.

STANDARD 4: APPRAISAL REVIEW, REPORTING¹⁴²

In reporting the results of an appraisal review, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Comment: STANDARD 4 addresses the content and level of information required in a report that communicates the results of an appraisal review.

STANDARD 4 does not dictate the form, format, or style of appraisal review 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.

STANDARDS RULE 4-1¹⁴³

Each written or oral Appraisal Review Report must be separate from the work under review and must:

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

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

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

Comment: An Appraisal Review Report communicates the results of an appraisal review, which can have as its subject another appraiser's work in an appraisal or appraisal review assignment.

The report content and level of information in the Appraisal Review Report is specific to the needs of the client, other intended users, the intended use, and requirements applicable to the assignment. The reporting requirements set forth in this Standard are the minimum for an Appraisal Review Report. An appraiser must supplement a report form, when necessary, to ensure that any intended user of the appraisal review is not misled and that the report complies with the applicable content requirements set forth in this Standards Rule.

142. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 30–33.

143. *Id.* at 30.

STANDARDS RULE 4-2¹⁴⁴

The content of an Appraisal Review Report must be consistent with the intended use of the appraisal review and, at a minimum:

(a) state the identity of the client, unless the client has specifically requested otherwise; state the identity of any intended users by name or type;¹⁴⁵

Comment: An appraiser must use care when identifying the client to avoid violations of the Confidentiality section of the ETHICS RULE. If a client requests that their identity be withheld from the report, the appraiser may comply with this request. In these instances, the appraiser must document the identity of the client in the workfile and must state in the report that the identity of the client has been withheld at the client's request.

(b) state the intended use of the appraisal review;

(c) state the purpose of the appraisal review;

(d) state information sufficient to identify:

(i) the work under review, including any ownership interest in the property that is the subject of the work under review;

(ii) the date of the work under review;

(iii) the effective date of the opinions or conclusions in the work under review; and

(iv) the appraiser(s) who completed the work under review, unless the identity is withheld by the client.

Comment: If the identity of the appraiser(s) in the work under review is withheld by the client, that fact must be stated in the appraisal review report.

(e) state the date of the appraisal review report;

(f) clearly and conspicuously:

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

(g) state the scope of work used to develop the appraisal review;

Comment: Because intended users' reliance on an appraisal review may be affected by the scope of work, the appraisal review report must enable them to be properly informed and not misled. Sufficient information

144. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 30–31.

145. See APPRAISAL STANDARDS BD., *Advisory Opinion 36*, *supra* note 77, at 169–70 (stating “an appraiser must identify the client and other intended users” of the opinions and conclusions in a report).

includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant appraisal or appraisal review assistance, the reviewer must state the extent of that assistance. The name(s) of those providing the significant assistance must be stated in the certification, in accordance with Standards Rule 4-3.

(h) state the reviewer's opinions and conclusions about the work under review, including the reasons for any disagreement;

Comment: The report must provide sufficient information to enable the client and intended users to understand the rationale for the reviewer's opinions and conclusions.

(i) when the scope of work includes the reviewer's development of an opinion of value or review opinion related to the work under review, the reviewer must:¹⁴⁶

(i) state which information, analyses, opinions, and conclusions in the work under review that the reviewer accepted as credible and used in developing the reviewer's opinion and conclusions;

(ii) if applicable, state the effective date of the reviewer's opinion of value;

(iii) at a minimum, summarize any additional information relied on and the reasoning for the reviewer's opinion of value or review opinion related to the work under review;

(iv) clearly and conspicuously:

- state all extraordinary assumptions and hypothetical conditions connected with the reviewer's opinion of value or review opinion related to the work under review; and
- state that their use might have affected the assignment results.

Comment: The reviewer may include his or her own opinion of value or review opinion related to the work under review within the appraisal review report itself without preparing a separate report. However, data and analyses provided by the reviewer to support a different opinion or conclusion must match, match, at a minimum, except for the certification requirements, the reporting requirements for an:

146. See APPRAISAL STANDARDS BD., *Advisory Opinion 20*, *supra* note 138, at 112–16 (analyzing the impact reviewer's opinions of value have on the scope of work).

- Appraisal Report for a real property appraisal (Standards Rule 2-2(a));
 - Appraisal Report for a personal property appraisal (Standards Rule 8-2(a));
 - Appraisal Review Report for an appraisal review (Standards Rule 4-2);
 - Mass Appraisal Report for mass appraisal (Standards Rule 6-2); and
 - Appraisal Report for business appraisal (Standards Rule 10-2(a)).
- (j) Include a signed certification in accordance with Standards Rule 4-3.

STANDARDS RULE 4-3¹⁴⁷

Each written Appraisal Review Report must contain a signed certification that is similar in content to the following form:

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

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of the work under review and no (or the specified) personal interest with respect to the parties involved.
- I have performed no (or the specified) services, as an appraiser or in any other capacity, regarding the property that is the subject of the work under review within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of the work under review or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.

147. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 32–33.

- my compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in this review or from its use.
- my compensation for completing this assignment is not contingent upon the development or reporting of predetermined assignment results or assignment results that favors the cause of the client, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal review.
- my analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
- I have (or have not) made a personal inspection of the subject of the work under review. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the subject of the work under review.) (For reviews of a business or intangible asset appraisal assignment, the inspection portion of the certification is not applicable.)
- no one provided significant appraisal or appraisal review assistance to the person signing this certification. (If there are exceptions, the name of each individual(s) providing appraisal or appraisal review assistance must be stated.)

Comment: A signed certification is an integral part of the Appraisal Review Report. A reviewer who signs any part of the appraisal review report, including a letter of transmittal, must also sign the certification.

Any reviewer who signs a certification accepts responsibility for all elements of the certification, for the assignment results, and for the contents of the Appraisal Review Report.

Appraisal review is distinctly different from the cosigning activity addressed in Standards Rules 2-3, 6-3, 8-3, and 10-3. To avoid confusion between these activities, a reviewer performing an appraisal review must not sign the work under review unless he or she intends to accept responsibility as a cosigner of that work.

When a signing appraiser has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser is required to

have a reasonable basis for believing that those individuals performing the work are competent. The signing appraiser also must have no reason to doubt that the work of those individuals is credible.

The names of individuals providing significant appraisal or appraisal review assistance who do not sign a certification must be stated in the certification. It is not required that the description of their assistance be contained in the certification, but disclosure of their assistance is required in accordance with Standards Rule 4-26(g).

STANDARDS RULE 4-4¹⁴⁸

To the extent that it is both possible and appropriate, an oral Appraisal Review Report must address the substantive matters set forth in Standards Rule 4-2.

Comment: See the RECORD KEEPING RULE for corresponding requirements.

STANDARD 5: MASS APPRAISAL, DEVELOPMENT¹⁴⁹

In developing a mass appraisal, an appraiser must be aware of, understand, and correctly employ those recognized methods and techniques necessary to produce and communicate credible mass appraisals.

Comment: STANDARD 5 applies to all mass appraisals of real or personal property regardless of the purpose or use of such appraisals.¹⁵⁰ STANDARD 5 is directed toward the substantive aspects of developing credible analyses, opinions, and conclusions in the mass appraisal of properties. The reporting and jurisdictional exceptions applicable to public mass appraisals prepared for ad valorem taxation do not apply to mass appraisals prepared for other purposes.

A mass appraisal includes:

1. identifying properties to be appraised;
2. defining market area of consistent behavior that applies to properties;

148. *Id.* at 33.

149. *Id.* at 34–39 (discussing the requirements for a mass appraisal).

150. See APPRAISAL STANDARDS BD., *Advisory Opinion 32: Ad Valorem Property Tax Appraisal and Mass Appraisal Assignments*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE, (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> [<https://perma.cc/NFR7-R9KL>] (opining on the impact of Standard 5).

3. identifying characteristics (supply and demand) that affect the creation of value in that market area;
4. developing a model structure that reflects the relationship among the characteristics affecting value in the market area;
5. calibrating the model structure to determine the contribution of the individual characteristics affecting value;
6. applying the conclusions reflected in the model to the characteristics of the property(ies) being appraised; and
7. reviewing the mass appraisal results.

The JURISDICTIONAL EXCEPTION RULE may apply to several sections of STANDARD 5 because ad valorem tax administration is subject to various state, county, and municipal laws.

STANDARDS RULE 5-1¹⁵¹

In developing a mass appraisal, an appraiser must:

(a) be aware of, understand, and correctly employ those recognized methods and techniques necessary to produce a credible mass appraisal;

Comment: Mass appraisal provides for a systematic approach and uniform application of appraisal methods and techniques to obtain estimates of value that allow for statistical review and analysis of results.

This requirement recognizes that the principle of change continues to affect the manner in which appraisers perform mass appraisals. Changes and developments in the real property and personal property fields have a substantial impact on the appraisal profession.

To keep abreast of these changes and developments, the appraisal profession is constantly reviewing and revising appraisal methods and techniques and devising new methods and techniques to meet new circumstances. For this reason it is not sufficient for appraisers to simply maintain the skills and the knowledge they possess when they become appraisers. Each appraiser must continuously improve his or her skills to remain proficient in mass appraisal.

(b) not commit a substantial error of omission or commission that significantly affects a mass appraisal; and

151. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 34–35.

Comment: An appraiser must use sufficient care to avoid errors that would significantly affect his or her opinions and conclusions. Diligence is required to identify and analyze the factors, conditions, data, and other information that would have a significant effect on the credibility of the assignment results.

(c) not render a mass appraisal in a careless or negligent manner.

Comment: Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Standards Rule requires an appraiser to use due diligence and due care.

STANDARDS RULE 5-2¹⁵²

In developing a mass appraisal, an appraiser must:

(a) identify the client and other intended users;¹⁵³

Comment: It is the appraiser's responsibility to identify the client and other intended users. In ad valorem mass appraisal, the assessor, or party responsible for certification of the assessment or tax roll is required to apply the relevant law or statute and identify the client, and other intended users (if any).

(b) identify the intended user of the appraisal;¹⁵⁴

Comment: An appraiser must not allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased.

(c) identify the type and definition of value, and, if the value opinion to be developed is market value, ascertain whether the value is to be the most probable price:

(i) in terms of cash; or

(ii) in terms of financial arrangements equivalent to cash or;

(iii) in such other terms as may be precisely defined; and

(iv) if the opinion of value is based on non-market financing or financing with unusual conditions or incentives, the terms of such financing must be clearly identified and the appraiser's opinion of their contributions to or

152. *Id.* at 35–36.

153. *See* APPRAISAL STANDARDS BD., *Advisory Opinion 36*, *supra* note 77, at 169–71 (“An appraiser must identify and consider the client, any other intended users, and the intended use of the appraiser's related opinions . . .”).

154. *See id.* (discussing the kind of information that an appraiser must identify).

negative influence on value must be developed by analysis of relevant market data;

(d) identify the effective date of the appraisal;¹⁵⁵

(e) identify the characteristics of the properties that are relevant to the type and definition of value and intended use,¹⁵⁶ including:

(i) the group with which a property is identified according to similar market influence;

(ii) the appropriate market area and time frame relative to the property being valued; and

(iii) their location and physical, legal, and economic characteristics'

Comment: The properties must be identified in general terms, and each individual property in the universe must be identified, with the information on its identity stored or referenced in its property record.

When appraising proposed improvements, an appraiser must examine and have available for future examination, plans, specifications, or other documentation sufficient to identify the extent and character of the proposed improvements.¹⁵⁷

Ordinarily, proposed improvements are not appraised for ad valorem tax purposes. Appraisers, however, are sometimes asked to provide opinions of value of proposed improvements so that developers can estimate future property tax burdens. Sometimes units in condominiums and planned unit developments are sold with an interest in un-built community property, the pro rata value of which, if any, must be considered in the analysis of sales data.

(f) Identify the characteristics of the market that are relevant to the purpose and intended use of the mass appraisal including:

(i) location of the market area;

(ii) physical, legal, and economic attributes;

(iii) time frame of market activity; and

(iv) property interests reflected in the market;

(g) in appraising real property or personal property:

155. See APPRAISAL STANDARDS BD., *Advisory Opinion 34*, *supra* note 96, at 164–65 (“Because most appraisals require current value opinions, the importance of specifying both the date of the report and the effective date of the analysis is sometimes lost.”).

156. See APPRAISAL STANDARDS BD., *Advisory Opinion 23*, *supra* note 97, at 131–35 (discussing how the scope of the work decision is affected by the characteristics of the subject).

157. See APPRAISAL STANDARDS BD., *Advisory Opinion 17*, *supra* note 98, at 97–100 (explaining the complexities of an appraisal with proposed improvements and that care that is required with such appraisals).

(i) identify the appropriate market area and time frame relative to the property being valued;

(ii) when the subject is real property, identify and consider any personal property, trade fixtures, or intangibles that are not real property but are included in the appraisal;

(iii) when the subject is personal property, identify and consider any real property or intangibles that are not personal property but are included in the appraisal;

(iv) identify known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of similar nature; and

(v) identify and analyze whether an appraised fractional interest, physical segment or partial holding contributes pro rata to the value of the whole;

Comment: The above requirements do not obligate the appraiser to value the whole when the subject of the appraisal is a fractional interest, physical segment, or a partial holding. However, if the value of the whole is not identified, the appraisal must clearly reflect that the value of the property being appraised cannot be used to develop the value opinion of the whole by mathematical extension.

(h) analyze the relevant economic conditions at the time of the valuation, including market acceptability of the property and supply, demand, scarcity, or rarity;

(i) identify any extraordinary assumptions and any hypothetical conditions necessary in the assignment; and

Comment: An extraordinary assumption may be used in an assignment only if:

- it is required to properly develop credible opinions and conclusions;
- the appraiser has a reasonable basis for the extraordinary assumption;
- use of the extraordinary assumption results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.

A hypothetical condition may be used in an assignment only if:

- use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;
- use of the hypothetical condition results in a credible analysis; and

- the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.
- (j) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE.¹⁵⁸

STANDARDS RULE 5-3¹⁵⁹

When necessary for credible assignment results, an appraiser must:

(a) in appraising real property, identify and analyze the effect on use and value of the following factors: existing land use regulations, reasonably probable modifications of such regulations, economic supply and demand, the physical adaptability of the real estate, neighborhood trends, and highest and best use of the real estate; and

Comment: This requirement sets forth a list of factors that affect use and value. In considering neighborhood trends, an appraiser must avoid stereotyped or biased assumptions relating to race, age, color, gender, or national origin or an assumption that race, ethnic, or religious homogeneity is necessary to maximize value in a neighborhood. Further, an appraiser must avoid making an unsupported assumption or premise about neighborhood decline, effective age, and remaining life. In considering highest and best use, an appraiser must develop the concept to the extent required for a proper solution to the appraisal problem.

(b) in appraising personal property, identify and analyze the effects on use and value of industry trends, value-in-use, and trade level of personal property. Where applicable, analyze the current use and alternative uses to encompass what is profitable, legal, and physically possible, as relevant to the type and definition of value and intended use of the appraisal. Personal property has several measurable marketplaces; therefore, the appraiser must define and analyze the appropriate market consistent with the type and definition of value.

Comment: The appraiser must recognize that there are distinct levels of trade and each may generate its own data. For example, a property may have a different value at a wholesale level of trade, a retail level of trade, or under various auction conditions. Therefore, the appraiser must analyze the subject property within the correct market context.

158. See APPRAISAL STANDARDS BD., *Advisory Opinion 28*, *supra* note 99, at 145–49 (“An appraiser must be prepared to demonstrate that the scope of work is sufficient to produce credible assignment results.”).

159. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 37.

STANDARDS RULE 5-4¹⁶⁰

In developing a mass appraisal, an appraiser must:

(a) identify the appropriate procedures and market information required to perform the appraisal, including all physical, functional, and external market factors as they may affect the appraisal;

Comment: Such efforts customarily include the development of standardized data collection forms, procedures, and training materials that are used uniformly on the universe of properties under consideration.

(b) employ recognized techniques for specifying property valuation models; and

Comment: The formal development of a model in a statement or equation is called model specification. Mass appraisers must develop mathematical models that, with reasonable accuracy, represent the relationship between property value and supply and demand factors, as represented by quantitative and qualitative property characteristics. The models may be specified using the cost, sales comparison, or income approaches to value. The specification format may be tabular, mathematical, linear, nonlinear, or any other structure suitable for representing the observable property characteristics. Appropriate approaches must be used in appraising a class of properties. The concept of recognized techniques applies to both real and personal property valuation models.

(c) employ recognized techniques for calibrating mass appraisal models.

Comment: Calibration refers to the process of analyzing sets of property and market data to determine the specific parameters of a model. The table entries in a cost manual are examples of calibrated parameters, as well as the coefficients in a linear or nonlinear model. Models must be calibrated using recognized techniques, including, but not limited to, multiple linear regression, nonlinear regression, and adaptive estimation.

STANDARDS RULE 5-5¹⁶¹

In developing a mass appraisal, when necessary for credible assignment results, an appraiser must:

(a) collect, verify, and analyze such data as are necessary and appropriate to develop:

160. *Id.* at 34.

161. *Id.* at 38.

- (i) the cost new of the improvements;
- (ii) depreciation;
- (iii) value of the land by sales of comparable properties;
- (iv) value of the property by sales of comparable properties;
- (v) value by capitalization of income or potential earnings (i.e., rentals, expenses, interest rates, capitalization rates, and vacancy data);

Comment: This Standards Rule requires appraisers engaged in mass appraisal to take reasonable steps to ensure that the quantity and quality of the factual data that are collected are sufficient to produce credible appraisals. For example, in real property, where applicable and feasible, systems for routinely collecting and maintaining ownership, geographic, sales, income and expense, cost, and property characteristics data must be established. Geographic data must be contained in as complete a set of cadastral maps as possible, compiled according to current standards of detail and accuracy. Sales data must be collected, confirmed, screened, adjusted, and filed according to current standards of practice. The sales file must contain, for each sale, property characteristics data that are contemporaneous with the date of sale. Property characteristics data must be appropriate and relevant to the mass appraisal models being used. The property characteristics data file must contain data contemporaneous with the date of appraisal including historical data on sales, where appropriate and available. The data collection program must incorporate a quality control program, including checks and audits of the data to ensure current and consistent records.

- (b) base estimates of capitalization rates and projections of future rental rates and/or potential earnings capacity, expenses, interest rates, and vacancy rates on reasonable and appropriate evidence;¹⁶²

Comment: This requirement calls for an appraiser, in developing income and expense statements and cash flow projections, to weigh historical information and trends, current market factors affecting such trends, and reasonably anticipated events, such as competition from developments either planned or under construction.

- (c) identify and, as applicable, analyze terms and conditions of any available leases; and

162. See APPRAISAL STANDARDS BD., *Advisory Opinion 33*, *supra* note 102, at 162–65 (noting “an appraiser must not render appraisal services in a careless or negligent manner, such as making a series of errors that . . . in the aggregate would affect the credibility of those results”).

- (d) identify the need for and extent of any physical inspection.¹⁶³

STANDARDS RULE 5-6¹⁶⁴

When necessary for credible assignment results in applying a calibrated mass appraisal model an appraiser must:

(a) value improved parcels by recognized methods or techniques based on the cost approach, the sales comparison approach, and income approach;

(b) value sites by recognized methods or techniques; such techniques include but are not limited to the sales comparison approach, allocation method, abstraction method, capitalization of ground rent, and land residual technique;

(c) when developing the value of a leased fee estate or a leasehold estate, analyze the effect on value, if any, of the terms and conditions of the lease;

Comment: In ad valorem taxation the appraiser may be required by rules or law to appraise the property as if in fee simple, as though unencumbered by existing leases. In such cases, market rent would be used in the appraisal, ignoring the effect of the individual, actual contract rents.

(d) analyze the effect on value, if any, of the assemblage of the various parcels, divided interests, or component parts of a property; the value of the whole must not be developed by adding together the individual values of the various parcels, divided interests, or component parts; and

Comment: When the value of the whole has been established and the appraiser seeks to value a part, the value of any such part must be tested by reference to appropriate market data and supported by an appropriate analysis of such data.

(e) when analyzing anticipated public or private improvements, located on or off the site, analyze the effect on value, if any, of such anticipated improvements to the extent they are reflected in market actions.

STANDARDS RULE 5-7¹⁶⁵

In reconciling a mass appraisal an appraiser must:

163. See APPRAISAL STANDARDS BD., *Advisory Opinion 2*, *supra* note 116, at 72–74 (“The primary reason for inspection of a property is to gather information about the characteristics of the property that are *relevant* to its value.”).

164. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 38–39.

165. *Id.* at 39.

(a) reconcile the quality and quantity of data available and analyzed within the approaches used and the applicability and relevance of the approaches, methods and techniques used; and

(b) employ recognized mass appraisal testing procedures and techniques to ensure that standards of accuracy are maintained.

Comment: It is implicit in mass appraisal that, even when properly specified and calibrated mass appraisal models are used, some individual value conclusions will not meet standards of reasonableness, consistency, and accuracy. However, appraisers engaged in mass appraisal have a professional responsibility to ensure that, on an overall basis, models produce value conclusions that meet attainable standards of accuracy. This responsibility requires appraisers to evaluate the performance of models, using techniques that may include but are not limited to, goodness-of-fit statistics, and model performance statistics such as appraisal-to-sale ratio studies, evaluation of hold-out samples, or analysis of residuals.

STANDARD 6: MASS APPRAISAL, REPORTING¹⁶⁶

In reporting the results of a mass appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Comment: STANDARD 6 addresses the content and level of information required in a report that communicates the results of a mass appraisal.

STANDARD 6 does not dictate the form, format, or style of mass 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.

STANDARDS RULE 6-1¹⁶⁷

Each written report of a mass appraisal 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

166. *See generally id.* at 40–43 (explaining the standards required for reporting the results of a mass appraisal).

167. *Id.* at 40.

Comment: Documentation for a mass appraisal for ad valorem taxation may be in the form of (1) property records, (2) sales ratios and other statistical studies, (3) appraisal manuals and documentation, (4) market studies, (5) model building documentation, (6) regulations, (7) statutes, and (8) other acceptable forms.

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

Comment: The report must clearly and conspicuously:

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

STANDARDS RULE 6-2¹⁶⁸

Each written report of a mass appraisal must:

(a) state the identity of the client, unless the client has specifically requested otherwise; state the identity of any intended users by name or type;¹⁶⁹

Comment: An appraiser must use care when identifying the client to avoid violations of the Confidentiality section of the ETHICS RULE. If a client requests that the client's identity be withheld from the report, the appraiser may comply with this request. In these instances, the appraiser must document the identity of the client in the workfile and must state in the report that the identity of the client has been withheld at the client's request.

(b) state the intended use of the appraisal;¹⁷⁰

(c) disclose any assumptions or limiting conditions that result in deviation from recognized methods and techniques or that affect analyses, opinions, and conclusions;

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

Comment: In ad valorem taxation the effective date of the appraisal may be prescribed by law. If no effective date is prescribed by law, the effective

168. *Id.* at 40–42.

169. *See* APPRAISAL STANDARDS BD., *Advisory Opinion 36*, *supra* note 77, at 169–71 (discussing the importance of identification of the client in an appraisal).

170. *See id.* (identifying the appraisal's intended use is necessary to understand certain responsibilities in the appraisal).

date of the appraisal, if not stated, is presumed to be contemporaneous with the data and appraisal conclusions.

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.¹⁷¹

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

Comment: Stating the type and definition of value also requires any comments needed to clearly indicate to intended users how the definition is being applied.¹⁷²

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 with unusual conditions or incentives.

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.

(f) state the properties appraised including the property rights;

Comment: The report documents the sources for location, describing and listing the property. When applicable, include references to legal descriptions, addresses, parcel identifiers, photos, and building sketches. In mass appraisal this information is often included in property records. When the property rights to be appraised are specified in a statute or court ruling, the law must be referenced.

(g) summarize the scope of work used to develop the appraisal;¹⁷³ exclusion of the sales comparison approach, cost approach, or income approach must be explained;

171. See APPRAISAL STANDARDS BD., *Advisory Opinion 34*, *supra* note 96, at 164–65 (stating the date of the report indicates the appraiser's point of view and the effective date indicates context for the opinion).

172. See *id.* (emphasizing the need for context to reduce ambiguity or confusion).

173. See APPRAISAL STANDARDS BD., *Advisory Opinion 28*, *supra* note 99, at 145 (outlining the requirements for identifying the scope of work in an appraisal assignment); see also APPRAISAL STANDARDS BD., *Advisory Opinion 29*, *supra* note 99, at 149 (promulgating acceptable standards for an appraiser's scope of work).

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.

When any portion of the work involves significant mass appraisal assistance, the appraiser must describe the extent of that assistance. The signing appraiser must also state the name(s) of those providing the significant mass appraisal assistance in the certification, in accordance with Standards Rule 6-3.¹⁷⁴

(h) summarize and support the model specification(s) considered, data requirements, and the model(s) chosen;

Comment: The appraiser must provide sufficient information to enable the client and intended users to have confidence that the process and procedures used conform to accepted methods and result in credible value conclusions. In the case of mass appraisal for ad valorem taxation, stability and accuracy are important to the credibility of value opinions. The report must include a summary of the rationale for each model, the calibration techniques to be used, and the performance measures to be used.

(i) summarize the procedure for collecting, validating, and reporting data;

Comment: The report must summarize the sources of data and the data collection and validation processes. Reference to detailed data collection manuals or electronic records must be made, as appropriate, including where they may be found for inspection.

(j) summarize calibration methods considered and chosen, including the mathematical form of the final model(s); summarize how value conclusions were reviewed; and, if necessary, state the availability and location of individual value conclusions;

(k) when an opinion of highest and best use, or the appropriate market or market level was developed, summarize how that opinion was determined;

Comment: The mass appraisal report must reference case law, statute, or public policy that describes the highest and best use requirements. When actual use is the requirement, the report must discuss how use-value opinions were developed. The appraiser's reasoning in support of the

174. See APPRAISAL STANDARDS BD., *Advisory Opinion 31*, *supra* note 120, at 156 (requiring appraisers to disclose any assistance they received).

highest and best use opinion must be provided in the depth and detail required by its significance to the appraisal.

(l) identify the appraisal performance tests used and the performance measures attained;

(m) summarize the reconciliation performed, in accordance with Standards Rule 5-7; and

(n) include a signed certification in accordance with Standards Rule 6-3.

STANDARDS RULE 6-3¹⁷⁵

Each written mass appraisal report must contain a signed certification that is similar in content to the following form:

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

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report, and I have no (or the specified) personal interest with respect to the parties involved.
- I have performed no (or the specified) services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to any property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the

175. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 42–43.

attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- I have (or have not) made a personal inspection of the properties that are the subject of this report. (If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)¹⁷⁶
- no one provided significant mass appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant mass appraisal assistance must be stated.)

Comment: The above certification is not intended to disturb an elected or appointed assessor's work plans or oaths of office. A signed certification is an integral part of the appraisal report. An appraiser, who signs any part of the mass appraisal report, including a letter of transmittal, must also sign this certification.

In an assignment that includes only assignment results developed by the real property appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. In an assignment that includes personal property assignment results not developed by the real property appraiser(s), any real property appraiser(s) who signs a certification accepts full responsibility for the real elements of the certification, for the real property assignment results, and for the real property contents of the appraisal report.

In an assignment that includes only assignment results developed by the personal property appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. In an assignment that includes real property assignment results not developed by the personal property appraiser(s), any personal property appraiser(s) who

176. See APPRAISAL STANDARDS BD., *Advisory Opinion 2*, *supra* note 116, at 72–73 (requiring the name of every appraiser who personally inspected the property).

signs a certification accepts full responsibility for the personal property elements of the certification, for the personal property assignment results, and for the personal property contents of the appraisal report.

When a signing appraiser(s) has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser(s) is required to have a reasonable basis for believing that those individuals performing the work are competent. The signing appraiser(s) also must have no reason to doubt that the work of those individuals is credible.

The names of individuals providing significant mass appraisal assistance who do not sign a certification must be stated in the certification. It is not required that the description of their assistance be contained in the certification, but disclosure of their assistance is required in accordance with Standards Rule 6-2(g).¹⁷⁷

STANDARD 7: PERSONAL PROPERTY APPRAISAL, DEVELOPMENT¹⁷⁸

In developing a personal property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal.

Comment: STANDARD 7 is directed toward the substantive aspects of developing a credible appraisal of personal property. The requirements set forth in STANDARD 7 follow the appraisal development process in the order of topics addressed and can be used by appraisers and the users of appraisal services as a convenient checklist.

STANDARDS RULE 7-1¹⁷⁹

In developing a personal property appraisal, an appraiser must:

(a) be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal;

Comment: This Standards Rule recognizes that change continues to affect the manner in which appraisers perform appraisal services. Changes and developments in personal property practice have a substantial impact

177. See APPRAISAL STANDARDS BD., *Advisory Opinion 31*, *supra* note 120, at 156 (noting how important it is for an appraiser to disclose any assistance received in their certification).

178. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 44-48.

179. *Id.* at 44.

on the appraisal profession. Important changes in the cost and manner of acquiring, producing, and marketing personal property and changes in the legal framework in which appraisers perform their assignments result in the need for corresponding changes in personal property appraisal theory and practice. Social change has also had an effect on appraisal theory and practice. The appraisal profession responds to changing circumstances with revised and new appraisal methods and techniques. Therefore, it is not sufficient for appraisers to maintain the skills and the knowledge they possess when they become appraisers. Each appraiser must improve and update his or her skills and knowledge to remain proficient in the appraisal of personal property.

(b) not commit a substantial error of omission or commission that significantly affects an appraisal; and

Comment: An appraiser must use sufficient care to avoid errors that would significantly affect his or her opinions and conclusions. Diligence is required to identify and analyze the factors, conditions, data, and other information that would have a significant effect on the credibility of the assignment results.

(c) not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affect the credibility of those results.

Comment: Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Standards Rule requires an appraiser to use due diligence and care.

STANDARDS RULE 7-2¹⁸⁰

In developing a personal property appraisal, an appraiser must:

- (a) identify the client and other intended users;¹⁸¹
- (b) identify the intended use of the appraiser's opinions and conclusions;¹⁸²

180. *Id.* at 44–45.

181. *See* APPRAISAL STANDARDS BD., *Advisory Opinion 36*, *supra* note 77, at 169 (stating that an appraiser is required to identify clients, or any other intended users of an appraisal report).

182. *See id.* (“An appraiser must identify and consider . . . the intended use of the appraiser’s reported opinions and conclusions in order to identify the problem to be solved and to understand his or her development and reporting responsibilities in an appraisal or appraisal review assignment.”).

Comment: An appraiser must not allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased.

(c) identify the type and definition of value, and ascertain whether the value is to be:

- (i) in terms of cash; or
- (ii) in terms of financial arrangements equivalent to cash; or
- (iii) in other precisely defined terms; and
- (iv) if the opinion of value is to be based on non-market financing or financing with unusual conditions or incentives, the terms of such financing must be clearly identified and the appraiser's opinion of their contributions to or negative influence on value must be developed by analysis of relevant market data;

Comment: When reasonable exposure time is a component of the definition for the value opinion being developed, the appraiser must also develop an opinion of reasonable exposure time linked to that value opinion.¹⁸³

(d) identify the effective date of the appraiser's opinions and conclusions;

(e) identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including:

- (i) sufficient characteristics to establish the identity of the item including the method of identification;¹⁸⁴
- (ii) sufficient characteristics to establish the relative quality of the item (and its component parts, where applicable) within its type;
- (iii) all other physical and economic attributes with a material effect on value;

Comment: Some examples of physical and economic characteristics include condition, style, size, quality, manufacturer, author, materials, origin, age, provenance, alterations, restorations, and obsolescence. The type of property, the type and definition of value, and intended use of the appraisal determine which characteristics have a material effect on value.

183. See APPRAISAL STANDARDS BD., *Advisory Opinion 7*, *supra* note 95, at 78–79 (noting the important role exposure time has in the appraisal process); see also APPRAISAL STANDARDS BD., *Advisory Opinion 35*, *supra* note 95, at 166–68 (discussing the difference between marketing time and exposure time).

184. See APPRAISAL STANDARDS BD., *Advisory Opinion 2*, *supra* note 116, at 72–74 (“The primary reason for inspection of a property is to gather information about the characteristics of the property that are *relevant* to its value.”).

- (iv) the ownership interest to be valued;
- (v) any known restrictions, encumbrances, leases, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature if relevant to the assignment; and
- (vi) any real property or intangible items that are not personal property but which are included in the appraisal;

Comment: on (i)–(vi): The information used by an appraiser to identify the property characteristics must be from sources the appraiser reasonably believes are reliable.

An appraiser may use any combination of a property inspection and documents or other resources to identify the relevant characteristics of the subject property.

When appraising proposed modifications, an appraiser must examine and have available for future examination, documentation sufficient to identify the extent and character of the proposed modifications.

An appraiser may not be required to value the whole when the subject of the appraisal is a fractional interest, a physical segment, or a partial holding.

- (f) identify any extraordinary assumptions necessary in the assignment;

Comment: An extraordinary assumption may be used in an assignment only if:

- it is required to properly develop credible opinions and conclusions;
- the appraiser has a reasonable basis for the extraordinary assumption;
- use of the extraordinary assumption results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.

- (g) identify any hypothetical conditions necessary in the assignment; and

Comment: A hypothetical condition may be used in an assignment only if:

- use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;
- use of the hypothetical condition results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.

(h) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE.¹⁸⁵

STANDARDS RULE 7-3¹⁸⁶

In developing a personal property appraisal, when necessary for credible assignment results, an appraiser must:

(a) analyze the property's current use and alternative uses as relevant to the type and definition of value and intended use of the appraisal;

Comment: In the context of personal property, value can be a function of the choice of the appropriate market or, in some cases, market level for the type of item, the type and definition of value, and the intended use of the appraisal.

The appraiser must consider the various uses of the property when viable alternative uses exist and when those alternative uses may result in a different value.

(b) define and analyze the appropriate market consistent with the type and definition of value; and

Comment: The appraiser must recognize that there are distinct levels of trade (measurable marketplaces) and each may generate its own data. For example, a property may have a different value at a wholesale level of trade, retail level of trade, or under various auction conditions. Therefore, the appraiser must analyze the subject property within the correct market context.

(c) analyze the relevant economic conditions that exist on the effective date of the valuation, including market acceptability of the property and supply, demand, scarcity or rarity.

STANDARDS RULE 7-4¹⁸⁷

In developing a personal 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.

185. See APPRAISAL STANDARDS BD., *Advisory Opinion 28*, *supra* note 99, at 145–48 (discussing what an appraiser must identify, determine, and disclose in each appraisal); see also APPRAISAL STANDARDS BD., *Advisory Opinion 29*, *supra* note 99, at 149–50 (indicating when an appraiser's scope of work is acceptable).

186. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 46.

187. *Id.* at 46–47.

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

(i) analyze such comparable cost data as are available to estimate the cost new of the property; and

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

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

(i) analyze such comparable data as are available to estimate the market income 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 income and expenses on reasonably clear and appropriate evidence.

Comment: An appraiser must, in developing income and expense statements and cash flow projections, weigh historical information and trends, current supply and demand factors affecting such trends, and competition.

(d) When developing an opinion of the value of a lease, leased, or encumbered property, an appraiser must analyze the effect on value, if any, of the terms and conditions of the lease(s) or encumbrances.

(e) When appraising multiple objects, the appraiser must consider the significance of the value of the individual assets to the assignment results. Those objects which are more significant to the assignment results should be the focus of the analysis and analyzed in appropriate detail.

Comment: A group of objects may have a mix of high and low value items. Those objects that are more significant to the assignment results should be subject to a greater and appropriate depth of analysis.

(f) When analyzing the assemblage of the various component parts of a property, an appraiser must analyze the effect on value, if any, of the assemblage. An appraiser must refrain from valuing the whole solely by adding together the individual values of the various component parts.

Comment: Although the value of the whole may be equal to the sum of the separate parts, it also may be greater than or less than the sum of such parts. Therefore, the value of the whole must be tested by reference to appropriate data and supported by an appropriate analysis of such data.

A similar procedure must be followed when the value of the whole has been established and the appraiser seeks to value a part. The value of any such part must be tested by reference to appropriate data and supported by an appropriate analysis of such data.

(g) When analyzing anticipated modifications to the subject property, an appraiser must analyze the effect on value, if any, of such modifications to the extent they are reflected in market actions.

(h) When real property or intangible items are included in the appraisal, the appraiser must analyze the effect on value of such non-personal property items.

Comment: When the scope of work includes an appraisal of real property or intangible items, competency in real property appraisal¹⁸⁸ or business appraisal¹⁸⁹ is required. In addition, competency in other types of personal property outside of the appraiser's specialty area may be necessary.¹⁹⁰

STANDARDS RULE 7-5¹⁹¹

When necessary for credible assignment results, an appraiser must, if such information is available to the appraiser in the normal course of business:¹⁹²

(a) analyze all agreements of sale, validated offers or third-party offers to sell, options, and listings of the subject property current as of the effective date of the appraisal if warranted by the intended use of the appraisal; and

(b) analyze all prior sales of the subject property that occurred within a reasonable and applicable time period if relevant given the intended use of the appraisal and property type.

Comment: The data needed for the required analyses in Standards Rule 7-5(a) and 7-5(b) may not be available or relevant in all assignments. See the Comments to Standards Rules 8-2(a)(viii) and 8-2(b)(viii) for corresponding reporting requirements.

188. *See id.* at 15–19 (issuing “the substantive aspects of developing a credible appraisal of real property”).

189. *See id.* at 55–57 (emphasizing the procedure an appraiser must follow when developing a credible appraisal in a business enterprise).

190. *See id.* at 44–48 (stating “an appraiser . . . must not render appraisal services in a careless or negligent manner . . .”); *see also id.* at 11 (“An appraiser must determine . . . that he or she can perform the assignment competently.”).

191. *Id.* at 47–48.

192. *See* APPRAISAL STANDARDS BD., *Advisory Opinion 24*, *supra* note 107, at 135–37 (emphasizing certain information an appraiser must require in the normal course of business).

STANDARDS RULE 7-6¹⁹³

In developing a personal property appraisal, an appraiser must:

(a) reconcile the quality and quantity of data available and analyzed within the approach or approaches used; and

(b) reconcile the applicability and relevance of the approach or approaches, methods and techniques used to arrive at the value conclusion(s).

**STANDARD 8: PERSONAL PROPERTY APPRAISAL,
REPORTING**¹⁹⁴

In reporting the results of a personal property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Comment: STANDARD 8 addresses the content and level of information required in a report that communicates the results of a personal property appraisal.

STANDARD 8 does not dictate the form, format, or style of personal property appraisal reports, which are functions of the needs of intended users and appraisers. The substantive content of a report determines its compliance.

STANDARDS RULE 8-1¹⁹⁵

Each written or oral personal 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.

193. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 48.

194. *Id.* at 49–54.

195. *Id.* at 49.

STANDARDS RULE 8-2¹⁹⁶

Each written personal 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.¹⁹⁷

Comment: When the intended users include parties other than the client, an Appraisal Report must be provided. When the intended users do not include parties other than the client, a Restricted Appraisal Report may be provided.

The essential difference between these two options is in the content and level of information provided. The appropriate reporting option and the level of information necessary in the report are dependent on the intended use and intended users.

An appraiser must use care when characterizing the type of report and level of information communicated upon completion of an assignment. An appraiser may use any other label in addition to, but not in place of, the label set forth in this Standard for the type of report provided.

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.

(a) The content of an Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

(i) state the identity of the client, unless the client has specifically requested otherwise; state the identity of any intended users by name or type;¹⁹⁸

196. *Id.*

197. See APPRAISAL STANDARDS BD., *Advisory Opinion 11*, *supra* note 113, at 84–87 (advising on the “content of the Appraisal Report Options of Standards Rules 2-2, 8-2, and 10-2”); see also APPRAISAL STANDARDS BD., *Advisory Opinion 12*, *supra* note 113, at 88 (providing the appropriate circumstances when to use these options).

198. See APPRAISAL STANDARDS BD., *Advisory Opinion 36*, *supra* note 77, at 169–71 (“In order to properly define the problem and to understand his or her responsibilities in an assignment, an appraiser must identify the client and other intended users.”).

Comment: An appraiser must use care when identifying the client to avoid violations of the Confidentiality section of the ETHICS RULE. If a client requests that the client's identity be withheld from the report, the appraiser may comply with this request. In these instances, the appraiser must document the identity of the client in the workfile and must state in the report that the identity of the client has been withheld at the client's request.

Types of intended users of the report might include parties such as lenders, employees of government agencies, partners of a client, and a client's attorney and accountant.

(ii) state the intended use of the appraisal;¹⁹⁹

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

(iv) state the property interest appraised;

(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 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.

When an opinion of 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 7-2(c), the opinion must be stated in the report.²⁰⁰

199. See *id.* (identifying "intended use" as "the use[s] of an appraiser's reported appraisal or appraisal review assignment results, as identified by the appraiser based on communication with the client at the time of the assignment").

200. See APPRAISAL STANDARDS BD., *Advisory Opinion 7*, *supra* note 95, at 78–79 (noting the important role exposure time has in the appraisal process); see also *Advisory Opinion 35*, *supra* note 95, at 166–68 (discussing the required elements for an opinion of reasonable exposure).

(vi) state the effective date of the appraisal and the date of the report,²⁰¹

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.

(vii) summarize the scope of work used to develop the appraisal;²⁰²

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.

When any portion of the work involves significant personal property appraisal assistance, the appraiser must summarize the extent of that assistance. The name(s) of those providing the significant personal property appraisal assistance must be stated in the certification, in accordance with Standards Rule 8-3.²⁰³

(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;²⁰⁴

Comment: An Appraisal Report must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 7. The amount of detail required will vary with the significance of the information to the appraisal and with the significance of a particular object or group of objects to the overall assignment results.

When the appraiser has developed an analysis of agreements of sale, validated offers or third-party offers to sell, options, listings or prior sales of the subject property in accordance with Standards Rule 7-5, the appraiser must report a summary of the results of the analysis. If such information

201. See APPRAISAL STANDARDS BD., *Advisory Opinion 34*, *supra* note 96, at 164–65 (emphasizing the importance of these two dates to an appraisal report).

202. See APPRAISAL STANDARDS BD., *Advisory Opinion 28*, *supra* note 99, at 145–48 (“The competency necessary to determine an appropriate scope of work within the allowed flexibility resides with the appraiser.”); see also APPRAISAL STANDARDS BD., *Advisory Opinion 29*, *supra* note 99, at 149–50 (indicating when an appraiser’s scope of work is acceptable).

203. See APPRAISAL STANDARDS BD., *Advisory Opinion 31*, *supra* note 120, at 155–58 (commenting how usually more than one appraiser works on a single appraisal assignment).

204. See APPRAISAL STANDARDS BD., *Advisory Opinion 2*, *supra* note 116, at 72–74 (“Because of the infinite variability of inspections, it is important that the appraisal report clearly communicates the degree of the inspection in order for the report to be meaningful.”).

was unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

The appraiser must provide sufficient information to enable the client and intended users to understand the rationale for the opinion and conclusions, including reconciliation of the data and approaches, in accordance with Standards Rule 7-6.

(ix) state, as appropriate to the class of personal property involved, the use of the property existing as of the date of value and the use of the property reflected in the appraisal;

Comment: In the context of personal property, value can be a function of the current and alternative use of the subject property, the choice of the appropriate market or market level for the type of item, the type and definition of value, and intended use of the report.

(x) when an opinion of the appropriate market or market level was developed by the appraiser summarize the support and rationale for that opinion;

(xi) clearly and conspicuously:

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

(xii) include a signed certification in accordance with Standards Rule 8-3.

(b) The content of a Restricted Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

(i) state the identity of the client, unless the client has specifically requested otherwise;²⁰⁵ 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;

Comment: An appraiser must use care when identifying the client to avoid violations of the Confidentiality section of the ETHICS RULE. If a client requests that the client's identity be withheld from the report, the appraiser may comply with this request. In these instances, the appraiser

205. See APPRAISAL STANDARDS BD., *Advisory Opinion 36*, *supra* note 77, at 169–71 (discussing the disclosure of a client in an appraisal).

must document the identity of the client in the workfile and must state in the report that the identity of the client has been withheld at the client's request.

The Restricted Appraisal Report is for client use only. Before entering into an agreement, the appraiser should establish with the client the situations where this type of report is to be used and should ensure that the client understands the restricted utility of the Restricted Appraisal Report.

(ii) state the intended use of the appraisal;²⁰⁶

Comment: The intended use of the appraisal must be consistent with the limitation on use of the Restricted Appraisal Report option in this Standards Rule (i.e., client use only).

(iii) state information sufficient to identify the property involved in the appraisal;

(iv) state the property interest appraised;

(v) state the type of value and cite the source of its definition;²⁰⁷

Comment: When an opinion of reasonable exposure time has been developed in compliance with Standards Rule 7-2(c), the opinion must be stated in the report.

(vi) state the effective date of the appraisal and the date of the report;²⁰⁸

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.

(vii) state the scope of work used to develop the appraisal;²⁰⁹

Comment: Because the client's 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

206. See *id.* (identifying "intended use" as "the use(s) of an appraiser's reported appraisal or appraisal review assignment results, as identified by the appraiser based on communication with the client at the time of the assignment").

207. See APPRAISAL STANDARDS BD., *Advisory Opinion 7*, *supra* note 95, at 78–79 (providing an example with value of exposure time); see also APPRAISAL STANDARDS BD., *Advisory Opinion 35*, *supra* note 95, at 166–68 (commenting on the effect of exposure time on the value of property and the appraisal report).

208. See APPRAISAL STANDARDS BD., *Advisory Opinion 34*, *supra* note 96, at 164–65 (asserting these "two dates are essential to an appraisal report").

209. See APPRAISAL STANDARDS BD., *Advisory Opinion 28*, *supra* note 99, at 145–48 ("The competency necessary to determine an appropriate scope of work within the allowed flexibility resides with the appraiser."); see also APPRAISAL STANDARDS BD., *Advisory Opinion 29*, *supra* note 99, at 149–50 (indicating when an appraiser's scope of work is acceptable).

analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant personal property appraisal assistance, the appraiser must state the extent of that assistance. The name(s) of those providing the significant personal property appraisal assistance must be stated in the certification, in accordance with Standards Rule 8-3.²¹⁰

(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;²¹¹

Comment: An appraiser must maintain a specific, coherent workfile in support of a Restricted Appraisal Report. The contents of the workfile must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 7 and for the appraiser to produce an Appraisal Report.

Information analyzed in compliance with Standards Rule 7-5 is significant information that must be disclosed in a Restricted Appraisal Report. If such information was unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

(ix) state, as appropriate to the class of personal property involved, the use of the property existing as of the date of value and the use of the property reflected in the appraisal;

Comment: In the context of personal property, value can be a function of the current and alternative use of the subject property, the choice of the appropriate market or market level for the type of item, the type and definition of value, and intended use of the report.

(x) when an opinion of the appropriate market or market level was developed by the appraiser, state that opinion;

(xi) clearly and conspicuously;

210. See APPRAISAL STANDARDS BD., *Advisory Opinion 31*, *supra* note 120, at 155–58 (“Any appraiser who provides significant appraisal or appraisal review assistance in the assignment must sign the certification or be identified in the certification.”).

211. See APPRAISAL STANDARDS BD., *Advisory Opinion 21: Inspection of Subject Property*, in UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE 117–24 (The Appraisal Found., 2018–2019 ed.), <https://uspap.org> (explaining “valuation services are part of appraisal practice and require compliance with USPAP”).

- state all extraordinary assumptions and hypothetical conditions; and
 - state that their use might have affected the assignment results; and
- (xii) include a signed certification in accordance with Standards Rule 8-3.

STANDARDS RULE 8-3²¹²

Each written personal property appraisal report must contain a signed certification that is similar in content to the following form:

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

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or the specified) personal interest with respect to the parties involved.
- I have performed no (or the specified) services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

212. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 53.

- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- I have (or have not) made a personal inspection of the property that is the subject of this report. (If more than one person signs this certification, the certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)²¹³
- no one provided significant personal property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant personal property appraisal assistance must be stated.)

Comment: A signed certification is an integral part of the appraisal report. An appraiser who signs any part of the appraisal report, including a letter of transmittal, must also sign this certification. In an assignment that includes only assignment results developed by the personal property appraiser(s) from the same personal property specialty, any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. In an assignment involving appraisers with expertise in different specialties (e.g., antiques, fine art, or machinery and equipment), an appraiser who signs the certification may accept responsibility only for the elements of the certification, assignment results, and report contents specific to the appraiser's specialty. The role of each appraiser signing the certification must be disclosed in the report.

In an assignment that includes real property, business, or intangible asset assignment results not developed by the personal property appraiser(s), any personal property appraiser(s) who signs a certification accepts full responsibility for the personal property elements of the certification, for the personal property assignment results, and for the personal property contents of the appraisal report.

When a signing appraiser(s) has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser(s) is required

213. See APPRAISAL STANDARDS BD., *Advisory Opinion 2*, *supra* note 116, at 72–74 (exploring how all appraisal reports must contain sufficient relevant information on the extent of the inspection performed).

to have a reasonable basis for believing that those individuals performing the work are competent. The signing appraiser(s) also must have no reason to doubt that the work of those individuals is credible.²¹⁴

The names of individuals providing significant personal property appraisal assistance who do not sign a certification must be stated in the certification. It is not required that the description of their assistance be contained in the certification, but disclosure of their assistance is required in accordance with Standards Rule 8-2(a)(vii) or 8-2(b)(vii) as applicable.²¹⁵

STANDARDS RULE 8-4²¹⁶

To the extent that it is both possible and appropriate, an oral personal property appraisal report must address the substantive matters set forth in Standards Rule 8-2(a).

Comment: See the RECORD KEEPING RULE for corresponding requirements.

STANDARD 9: BUSINESS APPRAISAL, DEVELOPMENT²¹⁷

In developing an appraisal of an interest in a business enterprise or intangible asset, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete the research and analyses necessary to produce a credible appraisal.

Comment: STANDARD 9 is directed toward the substantive aspects of developing a credible appraisal of an interest in a business enterprise or intangible asset.

STANDARDS RULE 9-1²¹⁸

In developing an appraisal of an interest in a business enterprise or intangible asset, an appraiser must:

(a) be aware of, understand, and correctly employ those recognized approaches, methods and procedures that are necessary to produce a credible appraisal;

214. See APPRAISAL STANDARDS BD., *Advisory Opinion 31*, *supra* note 120, at 155–58 (“An appraiser providing assistance must comply with those parts of USPAP that apply to the assistance that he or she provides.”).

215. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 54.

216. *Id.*

217. *Id.* at 55.

218. *Id.*

Comment: Changes and developments in the economy and in investment theory have a substantial impact on the business and intangible asset appraisal profession. Important changes in the financial arena, securities regulation, financial reporting requirements, and law may result in corresponding changes in appraisal theory and practice.

(b) not commit a substantial error of omission or commission that significantly affects an appraisal; and

Comment: An appraiser must use sufficient care to avoid errors that would significantly affect his or her opinions and conclusions. Diligence is required to identify and analyze the factors, conditions, data, and other information that would have a significant effect on the credibility of the assignment results.

(c) not render appraisal services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affect the credibility of those results.

Comment: Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Standards Rule requires an appraiser to use due diligence and due care.

STANDARDS RULE 9-2²¹⁹

In developing an appraisal of an interest in a business enterprise or intangible asset, an appraiser must:

(a) identify the client and other intended users;²²⁰

(b) identify the intended use of the appraiser's opinions and conclusions;²²¹

Comment: An appraiser must not allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased.

(c) identify the standard (type) and definition of value and the premise of value;

(d) identify the effective date of the appraisal;

219. *Id.* at 55–56.

220. *See* APPRAISAL STANDARDS BD., *Advisory Opinion 36*, *supra* note 77, at 170 (defining client and intended user).

221. *See id.* (explaining intended use).

(e) identify the characteristics of the subject property that are relevant to the standard (type) and definition of value and intended use of the appraisal, including:

- (i) the subject business enterprise or intangible asset, if applicable;
- (ii) the interest in the business enterprise, equity, asset, or liability to be valued;

Comment: The interest to be valued may represent all ownership rights or a subset of those rights, such as a specific right to use the asset.

(iii) all buy-sell and option agreements, investment letter stock restrictions, restrictive corporate charter or partnership agreement clauses, and similar features or factors that may have an influence on value;

(iv) the extent to which the interest contains elements of ownership control; and

Comment: The elements of control in a given situation may be affected by law, distribution of ownership interests, contractual relationships, and many other factors.

(v) the extent to which the interest is marketable and/or liquid;

Comment on (i)–(v): An appraiser must identify the attributes of the interest being appraised, including the rights and benefits of ownership.

The information used by an appraiser to identify the property characteristics must be from sources the appraiser reasonably believes are reliable.

(f) identify any extraordinary assumptions necessary in the assignment;

Comment: An extraordinary assumption may be used in an assignment only if:

- it is required to properly develop credible opinions and conclusions;
- the appraiser has a reasonable basis for the extraordinary assumption;
- use of the extraordinary assumption results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.

(g) identify any hypothetical conditions necessary in the assignment; and

Comment: A hypothetical condition may be used in an assignment only if:

- use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;

- use of the hypothetical condition results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions.

(h) determine the scope of work necessary to produce credible assignment results in accordance with the SCOPE OF WORK RULE.²²²

STANDARDS RULE 9-3²²³

In developing an appraisal of an equity interest in a business enterprise with the ability to cause liquidation, an appraiser must investigate the possibility that the business enterprise may have a higher value by liquidation of all or part of the enterprise than by continued operation as is. If liquidation of all or part of the enterprise is the indicated premise of value, an appraisal of any real property or personal property to be liquidated may be appropriate.

Comment: This Standards Rule requires the appraiser to recognize that continued operation of a business is not always the best premise of value because liquidation of all or part of the enterprise may result in a higher value. However, this typically applies only when the business equity being appraised is in a position to cause liquidation. If liquidation of all or part of the enterprise is the appropriate premise of value, the scope of work may include an appraisal of real property or tangible personal property. If so, competency in real property appraisal (STANDARD 1)²²⁴ or tangible personal property appraisal²²⁵ (STANDARD 7) is required.

222. See APPRAISAL STANDARDS BD., *Advisory Opinion 28*, *supra* note 99, at 145 (defining scope of work); see also APPRAISAL STANDARDS BD., *Advisory Opinion 29*, *supra* note 99, at 149–54 (explaining acceptable scope of work).

223. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 58.

224. See APPRAISAL STANDARDS BD., *Advisory Opinion 1*, *supra* note 108, at 15–19 (“STANDARD 1 is directed toward the substantive aspects of developing a credible appraisal of real property. The requirements set forth in STANDARD 1 follow the appraisal development process in the order of topics addressed and can be used by appraisers and the users of appraisal services as a convenient checklist.”).

225. See APPRAISAL STANDARDS BD., *Advisory Opinion 7*, *supra* note 95, at 44–48 (identifying the various components of a personal property appraisal development).

STANDARDS RULE 9-4²²⁶

In developing an appraisal of an interest in a business enterprise or intangible asset, an appraiser must collect and analyze all information necessary for credible assignment results.

(a) An appraiser must develop value opinion(s) and conclusion(s) by use of one or more approaches that are necessary for credible assignment results.

(b) An appraiser must, when necessary for credible assignment results, analyze the effect on value, if any, of:

- (i) the nature and history of the business enterprise or intangible asset;
- (ii) financial and economic conditions affecting the business enterprise or intangible asset, its industry, and the general economy;
- (iii) past results, current operations, and future prospects of the business enterprise;
- (iv) past sales of capital stock or other ownership interests in the business enterprise or intangible asset being appraised;
- (v) sales of capital stock or other ownership interests in similar business enterprises;
- (vi) prices, terms, and conditions affecting past sales of similar ownership interests in the asset being appraised or a similar asset; and
- (vii) economic benefit of tangible and intangible assets.

Comment on (i)–(vii): This Standards Rule directs the appraiser to study the prospective and retrospective aspects of the business enterprise and to study it in terms of the economic and industry environment within which it operates.

(c) An appraiser must, when necessary for credible assignment results, analyze the effect on value, if any, of buy-sell and option agreements, investment letter stock restrictions, restrictive corporate charter or partnership agreement clauses, and similar features or factors that may influence value.

(d) An appraiser must, when necessary for credible assignment results, analyze the effect on value, if any, of the extent to which the interest appraised contains elements of ownership control and is marketable and/or liquid.

Comment: An appraiser must analyze factors such as holding period, interim benefits, and the difficulty and cost of marketing the subject interest.

226. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 56–57.

Equity interests in a business enterprise are not necessarily worth the pro rata share of the business enterprise interest value as a whole. Also, the value of the business enterprise is not necessarily a direct mathematical extension of the value of the fractional interests. The degree of control, marketability and/or liquidity or lack thereof depends on a broad variety of facts and circumstances that must be analyzed when applicable.

STANDARDS RULE 9-5²²⁷

In developing an appraisal of an interest in a business enterprise or intangible asset, an appraiser must:

- (a) reconcile the quality and quantity of data available and analyzed within the approaches, methods, and procedures used; and
- (b) reconcile the applicability and relevance of the approaches, methods and procedures used to arrive at the value conclusion(s).

Comment: The value conclusion is the result of the appraiser's judgment and not necessarily the result of a mathematical process.

STANDARD 10: BUSINESS APPRAISAL, REPORTING²²⁸

In reporting the results of an appraisal of an interest in a business enterprise or intangible asset, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

Comment: STANDARD 10 addresses the content and level of information required in a report that communicates the results of an appraisal of an interest in a business enterprise or intangible asset developed under STANDARD 9.

STANDARD 10 does not dictate the form, format, or style of business or intangible asset appraisal reports, which are functions of the needs of intended users and appraisers. The substantive content of a report determines its compliance.

STANDARDS RULE 10-1²²⁹

Each written or oral appraisal report for an interest in a business enterprise or intangible asset must:

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

227. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 57.

228. *Id.* at 58.

229. *Id.*

(b) contain sufficient information to enable the intended user(s) to understand the report; and

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

STANDARDS RULE 10-2²³⁰

Each written appraisal report for an interest in a business enterprise or intangible asset must be prepared in accordance with one of the following options and prominently state which option is used: Appraisal Report or Restricted Appraisal Report.²³¹

Comment: When the intended users include parties other than the client, an Appraisal Report must be provided. When the intended users do not include parties other than the client, a Restricted Appraisal Report may be provided.

The essential difference between these options is in the content and level of information provided. The appropriate reporting option and the level of information necessary in the report are dependent on the intended use and intended users.

An appraiser must use care when characterizing the type of report and level of information communicated upon completion of an assignment. An appraiser may use any other label in addition to, but not in place of, the label set forth in this Standard for the type of report provided.

The report content and level of information requirements set forth in this Standard are minimums for both types of report.

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

(a) The content of an Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

(i) state the identity of the client, unless the client has specifically requested otherwise; state the identity of any intended users by name or type;²³²

230. *Id.*

231. See APPRAISAL STANDARDS BD., *Advisory Opinion 11*, *supra* note 113, at 84–86 (differentiating between appraisal reports and restricted appraisal report); see also APPRAISAL STANDARDS BD., *Advisory Opinion 12*, *supra* note 113, at 86 (explaining what report option to choose).

232. See APPRAISAL STANDARDS BD., *Advisory Opinion 36*, *supra* note 77, at 169 (indicating disclosure of client is required unless requested otherwise).

Comment: An appraiser must use care when identifying the client to avoid violations of the Confidentiality section of the ETHICS RULE. If a client requests that the client's identity be withheld from the report, the appraiser may comply with this request. In these instances, the appraiser must document the identity of the client in the workfile and must state in the report that the identity of the client has been withheld at the client's request.

Types of intended users of the report might include parties such as lenders, employees of government agencies, partners of a client, and a client's attorney and accountant.

(ii) state the intended use of the appraisal;²³³

(iii) summarize information sufficient to identify the business or intangible asset and the interest appraised;

Comment: The identification information must include property characteristics relevant to the type and definition of value and intended use of the appraisal.

(iv) state the extent to which the interest appraised contains elements of ownership control, including the basis for that determination;

(v) state the extent to which the interest appraised lacks elements of marketability and/or liquidity, including the basis for that determination;

(vi) state the standard (type) and definition of value and the premise 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.

(vii) 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 or property as of the effective date of the appraisal was prospective, current, or retrospective.

(viii) summarize the scope of work used to develop the appraisal;²³⁴

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

233. See *id.* (identifying the purpose of intended use language).

234. See APPRAISAL STANDARDS BD., *Advisory Opinion 28*, *supra* note 99, at 146 (explaining the scope of work rule); see also APPRAISAL STANDARDS BD., *Advisory Opinion 29*, *supra* note 99, at 149 (illustrating acceptable scope of work).

research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant business and/or intangible asset appraisal assistance, the appraiser must summarize the extent of that assistance. The name(s) of those providing the significant business and/or intangible asset appraisal assistance must be stated in the certification, in accordance with Standards Rule 10-3.²³⁵

(ix) summarize the information analyzed, the appraisal procedures followed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the market approach, asset-based (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 9. The amount of detail required will vary with the significance of the information to the appraisal.

The appraiser must provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions, including reconciliation in accordance with Standards Rule 9-5.

(x) clearly and conspicuously:

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

(xi) include a signed certification in accordance with Standards Rule 10-3.

(b) The content of a Restricted Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum:

(i) state the identity of the client, unless the client has specifically requested otherwise;²³⁶ 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;

235. See APPRAISAL STANDARDS BD., *Advisory Opinion 31*, *supra* note 120, at 155–56 (explaining the requirements for signatures for assignments with one or more appraiser).

236. See APPRAISAL STANDARDS BD., *Advisory Opinion 36*, *supra* note 77, at 169–70 (indicating disclosure of client is required unless requested otherwise).

Comment: An appraiser must use care when identifying the client to avoid violations of the Confidentiality section of the ETHICS RULE. If a client requests that the client's identity be withheld from the report, the appraiser may comply with this request. In these instances, the appraiser must document the identity of the client in the workfile and must state in the report that the identity of the client has been withheld at the client's request.

The Restricted Appraisal Report is for client use only. Before entering into an agreement, the appraiser should establish with the client the situations where this type of report is to be used and should ensure that the client understands the restricted utility of the Restricted Appraisal Report.

(ii) state the intended use of the appraisal;²³⁷

Comment: The intended use of the appraisal must be consistent with the limitation on use of the Restricted Appraisal Report option in this Standards Rule (i.e., client use only).

(iii) state information sufficient to identify the business or intangible asset and the interest appraised;

Comment: The identification information must include property characteristics relevant to the type and definition of value and intended use of the appraisal.

(iv) state the extent to which the interest appraised contains elements of ownership control, including the basis for that determination;

(v) state the extent to which the interest appraised lacks elements of marketability and/or liquidity, including the basis for that determination;

(vi) state the standard (type) of value and the premise of value, and cite the source of its definition;

(vii) 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 or property as of the effective date of the appraisal was prospective, current, or retrospective.

(viii) state the scope of work used to develop the appraisal;²³⁸

Comment: Because the client's reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed

237. *See id.* (explaining intended use).

238. *See* APPRAISAL STANDARDS BD., *Advisory Opinion 28*, *supra* note 99, at 146 (illustrating the scope of work rule); *see also* APPRAISAL STANDARDS BD., *Advisory Opinion 29*, *supra* note 99, at 149 (explaining acceptable scope of work).

and not misled. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

When any portion of the work involves significant business and/or intangible asset appraisal assistance, the appraiser must state the extent of that assistance. The name(s) of those providing the significant business and/or intangible asset appraisal assistance must be stated in the certification, in accordance with Standards Rule 10-3.²³⁹

(ix) state the appraisal procedures followed, state the value opinion(s) and conclusion(s) reached, and reference the workfile; exclusion of the market approach, asset-based (cost) approach, or income approach must be explained;

Comment: An appraiser must maintain a specific, coherent workfile in support of a Restricted Appraisal Report. The contents of the workfile must include sufficient information to indicate that the appraiser complied with the requirements of STANDARD 9 and for the appraiser to produce an Appraisal Report.

(x) clearly and conspicuously:

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

(xi) include a signed certification in accordance with Standards Rule 10-3.

STANDARDS RULE 10-3²⁴⁰

Each written appraisal report for an interest in a business enterprise or intangible asset must contain a signed certification that is similar in content to the following form:

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

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my

239. See APPRAISAL STANDARDS BD., *Advisory Opinion 31*, *supra* note 120, at 155–56 (explaining the requirements for signatures for assignments with one or more appraiser).

240. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 61.

personal, impartial, and unbiased professional analyses, opinions, and conclusions.

- I have no (or the specified) present or prospective interest in the property that is the subject of this report, and I have no (or the specified) personal interest with respect to the parties involved.
- I have performed no (or the specified) services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- no one provided significant business and/or intangible asset appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant business and/or intangible asset appraisal assistance must be stated.)

Comment: A signed certification is an integral part of the appraisal report. An appraiser who signs any part of the appraisal report, including a letter of transmittal, must also sign this certification.

In an assignment that includes only assignment results developed by the business and/or intangible asset appraiser(s), any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. In an assignment that includes real property or personal property assignment results not developed by the business and/or intangible asset appraiser(s),

any business and/or intangible asset appraiser(s) who signs a certification accepts full responsibility for the business and/or intangible asset elements of the certification, for the business and/or intangible asset assignment results, and for the business and/or intangible asset contents of the appraisal report.

When a signing appraiser(s) has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser(s) is required to have a reasonable basis for believing that those individuals performing the work are competent. The signing appraiser(s) also must have no reason to doubt that the work of those individuals is credible. The names of individuals providing significant business and/or intangible asset appraisal assistance who do not sign a certification must be stated in the certification. It is not required that the description of their assistance be contained in the certification but disclosure of their assistance is required in accordance with Standards Rule 10-2(a)(vii) or 10-2(b)(vii), as applicable.²⁴¹

STANDARDS RULE 10-4²⁴²

To the extent that it is both possible and appropriate, an oral appraisal report for an interest in a business enterprise or intangible asset must address the substantive matters set forth in Standards Rule 10-2(a).

Comment: See the RECORD KEEPING RULE for corresponding requirements.

241. See APPRAISAL STANDARDS BD., *Advisory Opinion 31*, *supra* note 120, at 155 (explaining the reporting requirements when work involves significant assistance).

242. APPRAISAL STANDARDS BD., USPAP, *supra* note 3, at 169.

APPENDIX B

As discussed above, attached is a sample set of discovery requests to help you assess adversarial appraisers and reports. Of course, interrogatories are directed at opposing parties, so the “you” below is that party. “Appraiser” is a catch-all term for the appraiser being utilized by such party, and “Property” is the property being appraised. Also, different jurisdictions handle attorney-expert communications differently. These requests may have to be adjusted, depending on the contours of the governing rules of procedure.

Interrogatories

Identify all persons answering these Interrogatories, Requests for Admission, or Requests for Production.

Please set forth in detail all communications you had with Appraiser.

Please identify all documents that reflect or in any way relate to your agreement with Appraiser.

Please describe your understanding of Appraiser’s obligations to provide appraisal services to You.

Please identify all agents, employees, independent contractors, or representatives working for, or associated with you, who have knowledge of any of the issues surrounding appraisal or value of the Property.

Set forth in detail any prior agreements you have had with Appraiser.

Identify any past attempts to sell the Property.

Identify any offers you have ever received regarding the sale of the Property.

Identify any prior appraisals or valuations of the Property, including, but not limited to, any coming from governmental or municipal authorities.

Requests for Production of Documents

Any and all correspondence between you and anyone regarding the Appraiser.

Any and all correspondence between you and the Appraiser.

Any and all documents you have that mention or in any manner relate to the Appraisal or the value of the Property.

Any and all documents that constitute, evidence, discuss, refer to, or relate to your communications with Appraiser.

Any and all documents that relate to, support, or contradict your claims as to the valuation of the Property in this case.

Questions for Expert Deposition/Subpoena Requests to Expert

All certifications held by the Appraiser.

All training programs and continuing education courses taken by the Appraiser in the last three years.

All communications from client regarding the Property or the appraisal thereof.

All documents reviewed in connection with the Appraisal.

A catalogue of all properties reviewed or examined in connection with the appraisal of the Appraisal.

Your complete file assembled in connection with the Appraisal.

Any relevant information excluded from the Appraisal.

Any assumptions, hypothetical conditions, or limiting conditions that affect your Appraisal that are not set forth in your report.

All mass appraisals you have prepared at any time in the last three years.

All training or continuing education you have had in the last three years pertaining to mass appraisal.

Any and all aid or help you received in preparing the Appraisal.

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