

July 13, 2010

Sandra Guilfoil, Chair
Appraisal Standards Board
The Appraisal Foundation
1155 15th Street, NW, Suite 1111
Washington, DC 20005

RE: Comments on the Second Exposure Draft of Proposed Changes for the 2012-13 edition of the *Uniform Standards of Professional Appraisal Practice*

Dear Ms. Guilfoil,

On behalf of the Appraisal Institute, the Appraisal Institute's Appraisal Standards Committee ("ASC") submits these comments on the Second Exposure Draft of proposed changes for the 2012-13 edition of the *Uniform Standards of Professional Appraisal Practice*. We appreciate the Appraisal Standards Board's efforts to promote a high level of public trust in appraisal practice.

Item 1 – Proposed Revisions to DEFINITIONS

Consideration of the definitions in the Second Exposure Draft led the ASC to the following suggested alternative definitions:

Report: An appraisal report or an appraisal review report.

- (New definition) Appraisal report: Any communication, written or oral, of an opinion of value developed in an appraisal assignment.
- (New definition) Appraisal review report: Any communication, written or oral, of an opinion of the quality of another appraiser's work developed in an appraisal review assignment.

The ASC submits the following responses to proposed revisions to other terms:

Scope of Work

Reporting should not be added to the definition of Scope of Work. See our comments regarding the SCOPE OF WORK RULE.

Appraiser's Other Opinions

We are concerned that these opinions do not appear to be covered under the Confidentiality Section of the ETHICS RULE.

Adoption of our proposed definitions of Report, Appraisal Report, and Appraisal Review Report (above), along with adoption of a SCOPE OF REPORTING RULE, would make this term unnecessary.

Item 2 – Proposed changes Related to Reporting – Revisions to the SCOPE OF WORK RULE to Include Reporting Elements

If the ASB adopts the proposed changes, the effects on the basic structure of USPAP would be dramatic. One of the fundamental concepts in USPAP is that the appraiser bears the ultimate responsibility for the Scope of Work decision. If reporting is added to Scope of Work, then that fundamental concept would no longer be true.

Reporting is driven by clients and other intended users, not by appraisers. Appraisers' knowledge, skill, training and experience should lead to credible assignment results. The needs of the clients drive report content. In fact, clients often mandate reports in a certain format (e.g. Fannie Mae forms).

If reporting is added to the definition of Scope of Work, then the Scope of Work decision is no longer within the purview of the appraiser and will be driven, at least in part, by the client. That is a fundamental shift that would require significant editing to USPAP, Advisory Opinions, and other communications.

The requirement to identify the appropriate scope of work is found in the development standards. If reporting is added to the definition of Scope of Work, development standards would then address reporting issues. Such fundamental conflicts in the structure of USPAP would be confusing and no longer in the best interest of public trust.

The SCOPE OF WORK RULE provides a good model for handling the reporting issue in USPAP. However, simply adding reporting to the existing SCOPE OF WORK RULE does not create a workable solution because the SCOPE OF WORK RULE was designed to address only development issues. We encourage ASB to develop a separate SCOPE OF REPORTING RULE as an alternative to this proposed change.

Item 3 – Proposed Changes Related to Reporting – Addition of COMMUNICATION RULE

This proposed COMMUNICATION RULE is unworkable. The language is vague, unclear, and overbroad and relies on terms that are undefined. The proposed RULE includes items that should be Standards Rules and not included in a general RULE.

This proposed RULE would impose reporting requirements on appraisal practice that do not involve appraising or appraisal review. For example, teaching an appraisal course or a seminar is identified as appraisal practice not having specific reporting rules yet communication must include the nine items listed from lines 142 through 159. This defies logic.

The nine listed items are those required in a restricted appraisal report, absent the certification. How can these be applicable in developing an appraisal course or a seminar, for instance?

There is no need for a COMMUNICATION RULE. However, there is a need for a SCOPE OF REPORTING RULE with a structure that parallels the SCOPE OF WORK RULE.

Item 4 – Proposed Changes Related to Reporting – Revisions to STANDARDS 2 and 8

Report Options

We agree with reducing the number of report options. In fact, we suggest a single report option with content driven by a SCOPE OF REPORTING RULE parallel in structure to the current SCOPE OF WORK RULE that drives development. This would eliminate the need for report option labels.

As proposed, we still see a problem with terminology in this and related reporting standards. Common dictionary definitions confirm that “state,” “summarize,” and “describe” are essentially synonymous. Therefore using these terms does not serve to make distinctions among the report options.

We see three possible solutions for this continuing lack of clarity.

1. Develop USPAP definitions of “state” and “summarize,” that make clear distinctions between the terms as used in USPAP.
2. Adopt other terms that are distinct and more readily understood.
3. Develop a new SCOPE OF REPORTING RULE that is separate from the SCOPE OF WORK RULE but parallel in structure.

Given the difficulty of the first two options, we see No. 3 as the only viable course of action.

Hypothetical Conditions and Extraordinary Assumptions

Nothing is to be gained by the proposed requirement to label extraordinary assumptions or hypothetical conditions. Such requirement would cause a simple labeling error to rise in the enforcement process to the level of a USPAP violation, leading to unnecessary disciplinary actions based on non-substantive matters.

The proposed labeling requirement violates the most fundamental concept that USPAP gives us regarding reporting – namely that report content should be driven by intended users. Many clients for appraisal services do not use these terms and are confused by them. Appraisers should not be forced to use labels that intended users might not understand.

Exposure Time

We recommend eliminating the exposure time disclosure requirement. We believe that reporting exposure time is not necessary. In fact, we believe that the existing requirement in Standard 1 to develop an opinion of exposure time linked to the market value opinion should be removed. Exposure time is but one element of a market value definition, and there is no reason to emphasize it above the others. Moreover, this requirement addresses appraisal methodology, not standards. If the development of exposure time as currently required in Standard 1 is viewed to be in conflict with the lack of a similar requirement for reporting under Standard 2, a change should be made to Standard 1.

Information Sources

Requiring reporting of the source of information analyzed in 2-2(a)(viii) is redundant with the existing disclosure requirements under the SCOPE OF WORK RULE. Without more specificity, this is impossible to enforce. For example, what is meant by source? The Internet? MLS number? Broker’s name and license number?

Disclosure of prior assignments

The proposed language adds to the original language that was new just one edition of USPAP ago. This new requirement has proven to be unworkable in practice and should be removed entirely from USPAP. We could offer numerous examples of how this new requirement has caused problems. For instance, periodic construction inspections require disclosure of prior assignments which might have occurred a week or a day previously, often for the same client.

Residential appraisers, litigation appraisers, and others are encountering questions and problems with their clients relative to this requirement. This requirement does not enhance public trust; conversely it causes confusion in the market. Clients do not understand why this disclosure must be made especially when the prior service was recently provided for the same client. Furthermore, there is a tendency for clients to believe that since disclosure has been made, the fact that the appraiser provided prior services is inherently a problem. This flies in the face of the most fundamental tenet in USPAP: That the appraiser must remain independent, impartial and unbiased. If that is the case, why should prior services have anything to do with the current service?

Item No. 5 – Proposed Changes Related to Reporting – Consideration of applicability of Two Reporting Options in STANDARDS 3, 5, or 6

There is no need to limit use of Restricted Appraisal Reports to the client. We reiterate our position that only one report option is necessary. However, if the restricted appraisal report option is retained, there is no need to restrict it to situations in which the client is the only intended user. Providing a restricted appraisal report to multiple intended users does not place public trust at risk whatsoever.

We see no need to add additional reporting options to Standards 3, 5, and 6. The reporting requirements in these Standards already reflect minimum requirements.

Item No. 6 – Request for Comments on STANDARDS 4 and 5

We advise retirement of these standards (not renumbering later standards) since the concept is adequately addressed in the balance of USPAP.

We recommend issuance of an Advisory Opinion addressing what is now referred to as real property appraisal consulting assignments. Such an Advisory Opinion would address requirements for an appraisal within an assignment that has an overall objective other than a value opinion.

Item No. 7 – Proposed Removal of Record Keeping section of ETHICS RULE and Creation of New RECORD KEEPING RULE

We do not have a major concern with this proposed change but we believe that keeping records is an ethical obligation of appraisers and that the existing structure of USPAP ought to be preserved. USPAP instructors have been carefully educated in the structure of USPAP, and appraisers have been taught this structure in the USPAP classes for the last several years.

We understand and appreciate that this change is motivated by enforcement issues. It is unfortunate that this circumstance is leading to a proposed change in USPAP.

Comments on specific language in the Exposure Draft, by line number reference:

Lines 420-421: For enhanced clarity and specificity, change to read: A workfile must be in existence prior to the issuance of any written or oral report. (Retain written or oral as these words provide need emphasis.)

Line 423: Change to read: An appraiser's workfile for an assignment must include:

Lines 426-430: Move from . . .if multiple reports though line 430 to Comment.

Lines 439-440: Move to Comment.

Line 444: Retain his or her language.

Lines 449-453: Delete from . . .and retrieval. The balance of the language and the bullet list are redundant and lead to problems with business practice.

Item No. 8 – Proposed Relocation of PREAMBLE

We concur with proposed relocation of the PREAMBLE. However, while we understand the rationale for the change, we see little need for the move. This change is not necessary for public trust.

Additional Comments

In addition to responding to the exposure draft, we offer the following observation. It appears that a great deal of time has been spent by ASB addressing the issue of "drafts" in a tangential manner. We suggest a more direct approach. Rather than trying to make this term fit within current definitions, ASC believes "draft report" needs to be defined in USPAP. A definition of draft report should include the following elements:

A draft report is any communication transmitted to an intended user that clearly and conspicuously discloses that it is a preliminary report, that is, a work in progress. A draft report is not subject to the existing reporting standards of USPAP. The intended use of a draft report is different from that of a final report. When a draft report is properly identified, there is no harm to public trust.

We hope you will find the above comments helpful. Please do not hesitate to contact me if you have any questions concerning these comments.

Sincerely,



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