

ADVISORY OPINION 19

ADVISORY OPINION 19 (AO-19)

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Unacceptable Assignment Conditions in Real Property Appraisal Assignments

APPLICATION: Real Property

ISSUE:

All real property appraisal assignments involve conditions that affect the appraiser's scope of work and the type of report. What types of assignment conditions are unacceptable?

BACKGROUND:

Many residential property appraisers report requests for service where the caller includes statements or information in the request similar to the following:

1. We need comps for (property description) that will support a loan of \$ _____; can you provide them?
2. Sales Price: _____.
3. Approximate (or Minimum) value needed: _____.
4. Amount needed: _____.
5. Owner's estimate of value: _____.
6. If this property will not appraise for at least _____, stop and call us immediately.
7. Please call and notify if it is NOT possible to support a value at or above _____, BEFORE YOU PROCEED!!!!

Appraisers report that the caller usually makes it clear that they do not want the appraiser to do any fieldwork. Some callers refer to the service requested as a "comp check" while others refer to it as a "preliminary appraisal" or use some terms other than appraisal (such as preliminary evaluation, study, analysis, etc.). Some callers indicate that if the numbers will not work, the appraiser can send a bill for research services or a "preliminary" inspection. Other callers promise future assignments if the appraiser can make the present deal work.

Appraisers ask, "Can I respond to such requests without violating USPAP and, if so, how?"

ADVICE FROM THE ASB ON THE ISSUE:

Relevant USPAP & Advisory References

Appraisers receiving requests for services that include the kind of information and situations described in the Background section of this Advisory Opinion should carefully review:

- The Conduct and Management sections of the ETHICS RULE, particularly in regard to assignments offered under condition of "predetermined opinions or conclusions" or compensation conditioned on the reporting of a predetermined value result, a direction in assignment results that favors the cause of the client, the amount of a value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.
- The definitions of "Appraisal," "Appraisal Practice," "Assignment" and "Scope of Work" in the DEFINITIONS section of USPAP.

- 41 • Standards Rule 1-1(b), particularly as it relates to diligence in the level of research and analysis
42 necessary to develop credible opinions and conclusions.
- 43 • Standards Rules 1-2(f), (g), and (h), regarding identification of the scope of work necessary to
44 complete an assignment and any extraordinary assumptions or hypothetical conditions necessary
45 in an assignment.
- 46 • Standards Rules 1-5(a) and (b), regarding the analysis of current or historical market activity
47 regarding the property appraised.
- 48 • The SCOPE OF WORK RULE, with particular attention to the appraiser’s responsibility in
49 connection with the scope of work decision and disclosure obligations.
- 50 • As guidance, Advisory Opinions 11, 12, and 13.

51 **Unacceptable Conditions**

52 Certain types of conditions are unacceptable in any assignment because performing an assignment under such
53 conditions violates USPAP. Specifically, an assignment condition is unacceptable when it:

- 54 • precludes an appraiser’s impartiality, because such a condition destroys the objectivity and
55 independence required for the development and communication of credible results;
- 56 • limits the scope of work to such a degree that the assignment results are not credible, given the
57 intended use of the assignment; or
- 58 • limits the content of a report in a way that results in the report being misleading.

59 **Accepting Assignment Conditions**

60 The intended use of the assignment results affect whether assignment conditions are acceptable. Some
61 assignment conditions may be acceptable in one type of assignment but not in another. An appraiser should
62 carefully consider the information provided by the client in a prospective assignment before accepting or
63 declining the assignment. (See Statement on Appraisal Standards No. 9.)

64 In the highly competitive financial services market, cost versus benefit is always an issue. Residential
65 appraisers, particularly, have seen an increase in the use of sophisticated loan application screening tools by
66 their lender-clients. Many lenders believe an appraiser can enhance their screening efforts by doing
67 “preliminary work” that they do not view as an “appraisal.”

68 Other client groups also ask appraisers to provide services under conditions that limit the appraiser’s scope of
69 work. Investors, trust administrators, and portfolio account managers often require opinions and data from
70 appraisers in order to make decisions. Attorneys often rely on appraisers in counseling their clients and in
71 preparing for litigation.

72 When considering a request for service, appraisers should ascertain:

- 73 • whether the service involves an appraisal,
- 74 • what levels of risk are associated with the service, and
- 75 • whether there are any unacceptable conditions attached to the assignment.

76 Appraisers should take care to communicate with prospective clients to reach a common understanding about
77 assignment conditions. Further, the appraiser and client need to recognize that:

- 78 **1) the type of assignment in each request described in the Background section of this Advisory**
79 **Opinion is an appraisal.**

80 If an appraiser is asked whether a specific property has a value (a point, a range, or a relationship to some
81 benchmark), that request is for an opinion of value (an appraisal). Appraisers, obligated to comply with USPAP,

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82 must develop a real property appraisal in accordance with STANDARD 1. Communicating that value opinion
83 must be accomplished in accordance with STANDARD 2.

84 Appraisers, like other professionals, must ensure that those who use their services recognize the amount of work
85 required—and the expertise needed—to develop a credible value conclusion about a property.

86 However, this does not mean that the appraiser cannot provide an economic and competitive service. Indeed,
87 the *Uniform Standards of Professional Appraisal Practice* recognize the need for different kinds of appraisals.
88 A competent appraiser can vary the scope of work in an assignment, in accordance with the type and definition
89 of value and intended use of the appraiser’s opinions and conclusions in the assignment, and remain in
90 compliance with USPAP.

91 **2) assignment limitations affect the level of risk accepted by each party in an assignment;**

92 Appraisers and users of appraisals should recognize that assignment limitations affect the reliability of an
93 appraiser’s opinions and conclusions. In some assignments, an appraiser can reasonably apply extraordinary
94 assumptions to compensate for assignment limitations. In other situations, the use of the same assumptions may
95 not be acceptable.

96 When the intended use is to screen a potential business for feasibility, the use of assumptions or extraordinary
97 assumptions is more appropriate than when the intended use is for loan documentation or loan settlement.
98 Because intended users’ reliance on an appraisal may be affected by the scope of work, the report must enable
99 them to be properly informed and not misled.

100 **3) assignment conditions that compromise an appraiser’s impartiality and objectivity in an**
101 **assignment are unacceptable.**

102 While a client may feel that offering preference in current or future assignments on the basis of “making the
103 numbers work” in a specific assignment is appropriate, attaching such a condition to an assignment
104 compromises an appraiser’s impartiality and destroys the appraiser’s credibility.

105 The *Uniform Standards of Professional Appraisal Practice* is explicit about such matters. Accepting an
106 appraisal assignment under such a condition violates the Conduct section of the ETHICS RULE in USPAP,
107 which states:

108 *An appraiser must perform assignments ethically and competently, in accordance with USPAP.*

109 *An appraiser must not engage in criminal conduct. An appraiser must perform assignments with*
110 *impartiality, objectivity, and independence, and without accommodation of personal interests.*

111 *An appraiser must not accept an assignment that includes the reporting of predetermined opinions and*
112 *conclusions.*

113 Furthermore, accepting compensation for completing an appraisal assignment under such a condition violates
114 the Management section of the ETHICS RULE in USPAP, which states:

115 *It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an*
116 *assignment, that is contingent on any of the following:*

- 117 1. *the reporting of a predetermined result (e.g., opinion of value);*
- 118 2. *a direction in assignment results that favors the cause of the client;*
- 119 3. *the amount of a value opinion;*
- 120 4. *the attainment of a stipulated result; or*

121 5. *the occurrence of a subsequent event directly related to the appraiser's opinions and specific to*
 122 *the assignment's purpose* (Bold added for emphasis).

123 **Illustrations:**

124 Some of the requests shown in the Background section of this Advisory Opinion share common characteristics.
 125 Possible responses to each common group of requests could be:

126 1. *We need comps for (a specific property) that will support a loan of _____; can you provide*
 127 *them?*

128 “Maybe, but I’ll need to research the market to know whether the ‘comps’ will support a value range
 129 relative to the loan amount. In doing this, I will be deciding which sales are ‘comps’ and what those
 130 ‘comps’ mean. Those decisions will result in a range of value for your prospective borrower’s property,
 131 which is an appraisal.

132 You also need to recognize that there are risks in this kind of assignment. You should realize that my
 133 value conclusion could change if I subsequently perform an appraisal. Under the research and analysis
 134 limitations you suggest, I would not have verified some of the data and would have to use
 135 extraordinary assumptions about the market data and your borrower’s property information. I would
 136 not have performed some of the analyses steps I might complete in an appraisal assignment without
 137 those limitations. If all of that is agreeable to you, we can proceed.”

138 2. *Sales Price: _____.*

139 “As long as the amount is only to inform me of the pending contract [or of the sale price] and is not a
 140 condition for your placement of this assignment with me, we can proceed. However, if that amount is a
 141 condition of this assignment, accepting an assignment under that condition violates professional
 142 ethics.”

143 Note: A sale price (in a pending or a settled transaction) is part of the information an appraiser is
 144 required to ascertain in accordance with Standards Rules 1-5(a) and (b). Receiving this information
 145 with a request for service is appropriate, but accepting an assignment with the price in an agreement of
 146 sale, option, or listing or a sale price in a settled transaction as a predetermined value in the assignment
 147 violates USPAP.

148 3. *Approximate (or Minimum) value needed: _____.*

149 4. *Amount needed: _____.*

150 5. *Owner's estimate of value: _____.*

151 “As long as the amount is only to inform me of your objectives or someone else’s opinion and is not a
 152 condition for your placement of this assignment with me, we can proceed. However, if that amount is a
 153 condition of this assignment, accepting an assignment under that condition violates professional
 154 ethics.”

155 6. *If this property will not appraise for at least _____, stop and call us immediately.*

156 7. *Please call and notify if it is NOT possible to support a value at or above _____, BEFORE*
 157 *YOU PROCEED!!!*

158 “Your request is acknowledged, but it is important for you to be aware that I must develop an appraisal
 159 before I can tell you whether the property will support the value indicated. It is also important for you

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160 to be aware that your statement of that amount with this request for service does not, in my view,
161 establish a ‘condition’ for my performing the appraisal. If you intend it to be a condition for
162 performing the assignment, I cannot accept the assignment because it violates professional ethics.”

163 **Research Illustration:**

164 The foregoing illustrations all include an appraisal assignment. In some situations, a client will request a service
165 that is not an appraisal, appraisal review or appraisal consulting assignment as defined in USPAP. The service
166 to be performed by the appraiser in the following illustration is:

- 167 • not an appraisal assignment (the appraiser does not develop a value opinion);
- 168 • not a real property appraisal consulting assignment (a value opinion is not a component of the
169 analysis); and
- 170 • not a real property appraisal review (there is no appraisal to review).

171 The caller in this illustration is usually in the process of making a business decision and needs impartial and
172 objective information but has not yet decided whether to pursue the matter at hand. The caller knows there is the
173 potential for needing an appraisal, depending, in part, on what the sales data shows. The caller also believes
174 that, if the data indicates that an appraisal is worthwhile, having that work completed by the appraiser in that
175 subsequent assignment will lessen the time required to perform an appraisal. The prospective client may ask:

176 “We want you to check your data resources to see if there are sales within the past six months that are
177 within one mile of [address]. If you find some, we may order an appraisal from you.”

178 One possible response would be:

179 “If what you want is only the sales of properties shown in the databases available to me with the
180 criteria you specified, I can do that research and send you the result. Then you can decide what you
181 think your client’s property is worth. If I do only that, it is just research and is not an appraisal.

182 However, you need to recognize that there are risks if you decide to have the research done that way. If
183 you decide to limit my work to just gathering the sales data using the research criteria you set, you are
184 taking the risk that those criteria are both adequate and appropriate to find all of the market data
185 relevant to your client’s property. You also take the risk that any appraiser’s analysis of that data would
186 result in a value conclusion within the price range suggested by the sales data assembled using your
187 criteria. There is no assurance that such would be the case.”

188 **Staff or Multi-Appraiser Firm Context**

189 The foregoing illustrations reflect communications between a client and an appraiser in the context of the
190 appraiser as an independent contractor (fee appraiser).

191 In a staff context, such as where the appraisal function is established as a business or agency unit, the part of the
192 entity that uses the appraiser’s opinions and conclusions represents the “client” (intended user) and the part that
193 completes the assignment represents the “appraiser.”

194 In that context, the “assignment” originates from the “intended user” part of the entity. The appraisal unit’s
195 response to an “intended user” in situations like those in the foregoing illustrations reasonably could be similar
196 because imposing assignment conditions that compromise an appraiser’s impartiality and objectivity is
197 unacceptable, whatever the setting.

198 However, the example responses in the illustrations do not apply to the customary interaction and dialogue that
199 occurs between appraisers within organizations or peers in multi-appraiser firms. Such interaction and dialogue

200 within the unit or group that develops the opinions and conclusions in an assignment is not the same as
201 communicating opinions and conclusions to an intended user.