Volume 5, Issue 2, Fall 2021

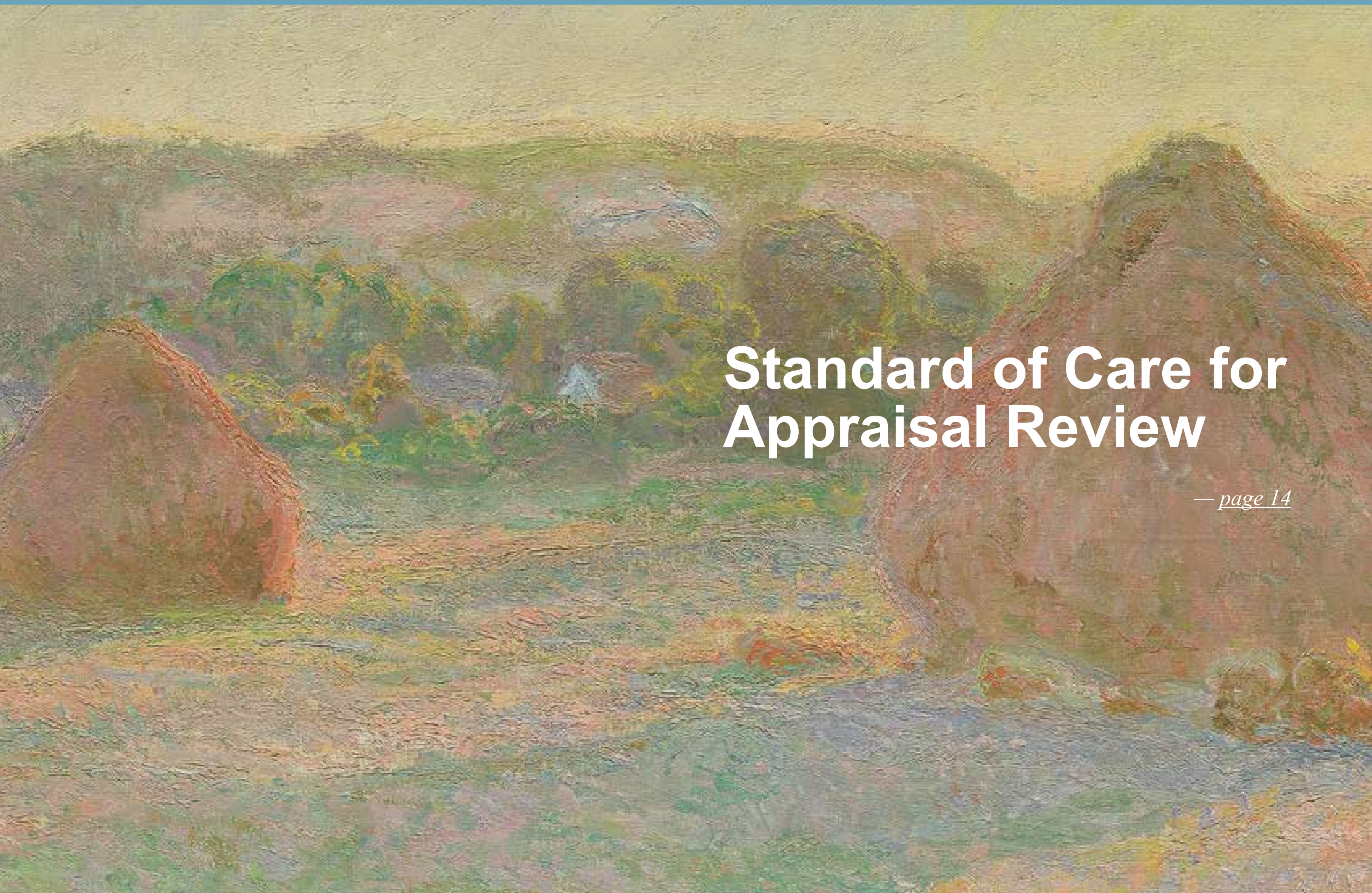
ARM E-Journal™

ASA Providing Value Worldwide™

OFFICIAL PUBLICATION

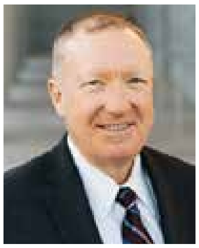
ASA Appraisal Review & Management Discipline

FEATURED ARTICLES



Standard of Care for Appraisal Review

Spotlighting Appraisal Review



This issue we have solid articles from well-known ASA members:

Raymond Rath, FASA, CEIV, IA, ARM
Enhancing the Appraisal Review Process
This article discusses similarities between financial auditing and appraisal review in the context of how reviewers can benefit from understanding, and in some cases applying, the underlying principles of the Mandatory Performance Framework (MPF) and insights from comments by the Public Company Accounting Oversight Board (PCAOB) on enhancements to the audit process.

Barry Shea, ASA, IFA, ARM
Professional Ethics in Appraisal Review
Professional ethics have an essential role in the appraisal profession. This article addresses how it is the public's expectation of adherence to core ethical principles that gives value to the work of appraisers. The article looks at a few scenarios where appraisers can be facing ethical decisions.

Ruka Jesinawu, ASA, ARM
ARM Connects IVS and USPAP
Outside the US, most countries carry out valuations and valuation reviews in compliance with the IVS. This article discusses IVS and its relationship to USPAP and how ARM classes can be a game changer for appraisers and reviewers who are IVS-compliant.

R. Lee Robinette, ASA
USPAP Requirements of Appraisal Review Practice (Part 1)
This is the first of two articles that will review the requirements set forth in the Uniform Standards of Professional Appraisal Practice (2020-2022) (USPAP) for appraisal reviews.

Robert Blau, Esq. & Chuck Blau, ASA, Esq., ASA, CRE
How Lawyers Determine Credibility
Experienced litigation attorneys review an appraisal differently than a review appraiser looking for USPAP compliance. This article discusses an appraisal's credibility from the viewpoint of attorneys.

Jack Young, ASA, ARM, CPA
Standard of Care for Appraisal Review
A critical responsibility of the reviewer is to ascertain what the standard of care should be for the valuation under review (WUR) and to assess how well the WUR reflects that necessary standard of care. The Reviewer's competency in understanding and applying the standard(s) of care relevant to the WUR is critical to the review process.

Jack Young

Jack Young, ASA, ARM, CPA, ARM Publication Chair, ASA 2021 Appraiser of the Year

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E-Journal™

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FEATURED ARTICLES

COLUMNS

Full Fleet

Greetings, ARM members! ARM now has a full fleet on POV classes that enable appraisers from other organizations to get their ASA in ARM. During the summer ARM has rolled out two new POV classes. This means that appraisers from outside the ASA can now get their ASA-ARM. I was pleased to co-present AR202 – *Appraisal Review and Management–Litigation Services*. AR203 – *Managing Multifaceted Assignments* – was offered on-line in September. We are also thrilled to have Barry Shea, ASA, IFA, ARM, now teaching AR201. Barry has been on the Appraisal Standards Board and is a great resource to those taking their first ARM class.

The opportunity to work with a group of seasoned professionals from all disciplines is one of the great benefits of ARM membership. Please encourage your ASA colleagues and your appraisal colleagues from other organizations to get a strong-ARM credential through the ASA! We want to see the ARM discipline numbers continue our recent growth trend!

ARM recently participated in two key events, the *2021 IAAO Annual Conference* and the *2021 ASA International Conference*.

At the IAAO event, Matt Kaufman, ARM Vice Chair, Mike Pratt, ASA and CEO Johnnie White represented ASA and showcased new ARM offerings, including a special ARM spotlight video featuring Mike Pratt and Melanie Modica, ASA ARM Education Chair.

Our annual meeting at the International Conference was a great success. Several ARM members were in attendance both live and online. We have a developed many working groups to address membership, marketing and education.

ARM Report Checklist

The ARM committee recently approved a major revision of the ARM report checklist which reflect recent changes in USPAP and provides a more clear explanation of the ASA appraisal review report writing criteria: https://bit.ly/32YOAHb.

ARM Member Awards

Along with Raymond Rath, FASA, CEIV, IA, ARM, I'm very honored to now be an accredited ARM member of the ASA College of Fellows. Congratulation also to ASA 2021-2022 Appraiser of the Year, Jack Young, ASA, CPA, our past ARM Chair.

J. Mark Penny

J. Mark Penny, FASA, IA, ARM, ARM Discipline Chair

Meet Your ARM Committee

1. J. Mark Penny, FASA, IA, ARM
Chair

2. Matt Kaufman, ASA, ARM
Vice Chair

3. Terri Lastovka, CPA, JD, ASA, ARM
Secretary/Treasurer
ASA Conference Committee

4. Jack Young ASA, ARM, CPA
Immediate Past Chair
ARM Publication Chair
ARM Board of Examiners Reviewer

5. Melanie Modica, ASA, ARM, CFLC
Member at Large
ARM Education Chair
ARM Board of Examiners Reviewer
ARM Publication Reviewer
2020 ASA Woman Appraiser of the Year

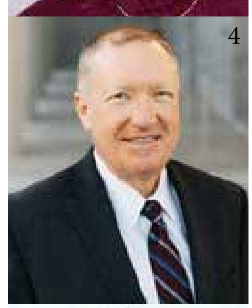
6. Raymond Rath, FASA, CEIV, IA, ARM
Member at Large
ARM Board of Examiners Vice Chair
ARM Publication Reviewer

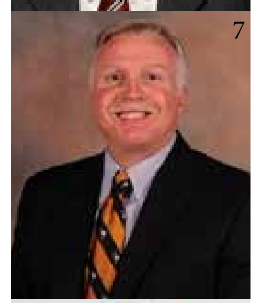
7. Travis Avant, ASA, ARM, IRWA
Member at Large

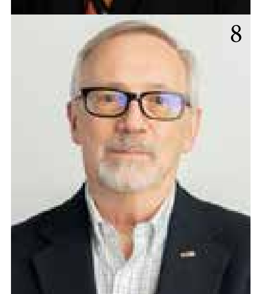
8. Barry Shea, ASA, IFA, ARM
Member at Large
Secretary, International Ethics Standards Coalition

9. Cameron R. Tipton, ASA, ARM
Member at Large

10. Charlie Dixon, ASA, ARM
ARM Board of Examiners Reviewer
ARM Publication Reviewer
AQB Certified *USPAP* Instructor







The Future of the Profession is Shaping

When advancing an appraisal career, continual professional development plays an important role. Education broadens the mindset, various skills, and opens doors to new opportunities. ASA understands this great importance, especially when offering Appraisal Review & Management (ARM) advancement opportunities.

As appraisers routinely face many challenges, recent global modifications have opened online doors and forced professionals, reluctant or willing, to walk though and take a seat at the online table. A generational shift in the workforce, along with the impact for on-demand services, shrinking talent pools, and increased competition from adjacent roles in allied professions—particularly for business valuers—was reported in the November ASA-BV Valuer.

Additionally, the spotlight on the work products of valuers has never been greater. Appraisers from all disciplines who offer litigation services will have their documentation, organization, calculations, logic, value opinions, and reports questioned or contested by a variety of people, especially opposing counselors.

Allied professionals, such as lawyers, bankers, CPAs, and more, who work closely with appraisers, are beginning to fully understand the growing importance of validating value conclusions reported to assist in mitigating risks.

Because of these challenges and risks, the future of the appraisal profession is now!

ASA acknowledges this growing demand for ARM education and the credentialing programs and is scheduling accordingly. Many Accredited Senior Appraisers from all disciplines and experience levels are looking to prepare for these challenges and risks by pursuing the ARM specialty designation programs.

ASA is also pursuing interests from non-member appraisers and non-appraiser allied professionals as stated above, in the recently unveiled ARM Certificate of Completion program.

In addition to the Certificate of Completion offering, the ARM Committee is beyond excited about ASA's new FourARM accreditation program that encompasses education in four POV courses. This new four course offering provides professionals with the most advanced training in appraisal review and appraisal management.

Please visit page 7 in this edition for a brief outline of available offerings: ASA ARM Specialty Designation, ASA Certificate of Completion and ASA FourARM Accreditation Program.

Melanie Modica

Melanie Modica, ASA, ARM, CFLC, ARM Education Subcommittee Chair

Quick Guide to ASA ARM Offerings

Appraisal Review & Management educational and credentialing programs for Accredited Senior Appraisers, non-member appraisers and non-appraiser allied professionals, like lawyers, bankers and CPAs.

AUDIENCE	OFFERING	CRITERIA
Accredited Senior Appraisers	ASA ARM Specialty Designation	This special credentialing program is for all active Accredited Senior Appraisers and involves taking AR201 and AR204 classes and submitting an appraisal review report to an examining committee.
Non-Member Appraisers and Non-Appraiser Allied Professionals (Lawyers, Bankers and CPAs)	ASA ARM Certificate of Completion	This program is for non-member appraisers and non-appraisers (lawyers, bankers, CPAs) and involves taking AR201 and AR204 classes only.
Anyone seeking to become a full time appraisal review professional	ASA FourARM Accreditation Program	This complete accreditation program is for anyone seeking to earn an ASA designation in appraisal review & management and involves taking AR201, AR202, AR203 and AR204 classes and submitting an appraisal review report to an examining committee.

For more information visit www.appraisers.org/ARM, or contact asainfo@appraisers.org or (800) 272-8258.

Earn Yours Today

ASA offers a special Certificate of Completion Program for non-member appraisers and non-appraisers (lawyers, bankers, CPAs) interested in learning more about appraisal review as they are exposed to review appraisals in their daily work. Get started on this two-course program today!

Get started today!
For more information visit www.appraisers.org/ARM,
or contact asainfo@appraisers.org or (800) 272-8258.

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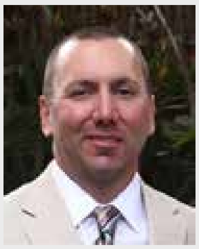
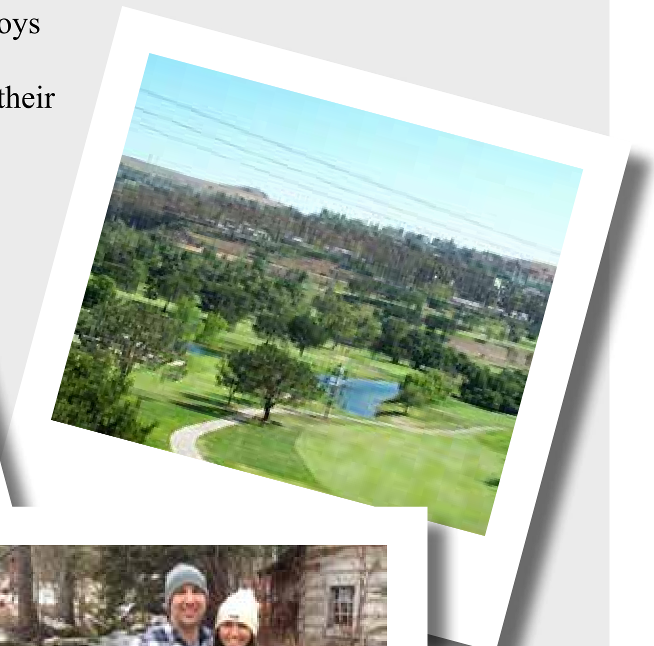
Michael R. Ostrom, ASA, ARM

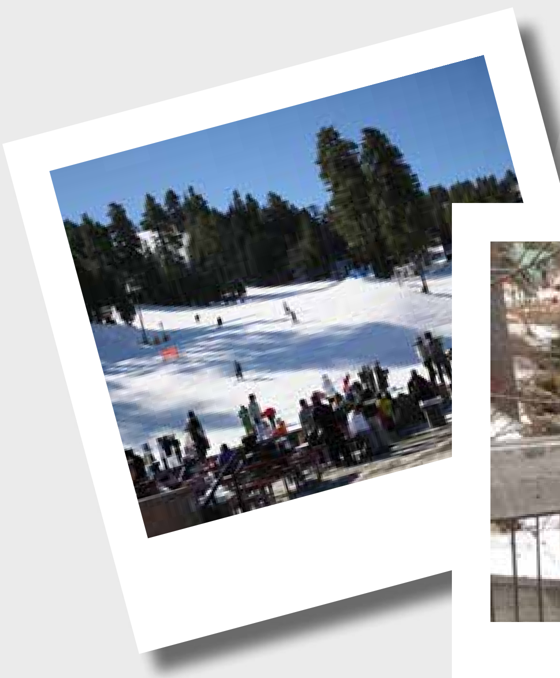


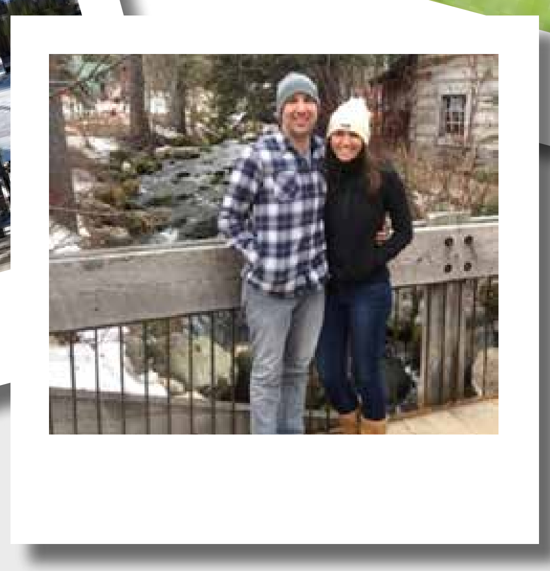
Welcome Our Latest ASA-ARM Member

Michael is Director of Valuations at Maynards Industries in Orange County, CA and is involved in machinery & equipment and inventory valuations for all industries throughout the world. He enjoys golfing, snowboarding and spending quality time with his wife Shaunna, their Boston Terrier Fenway and cat Bonesie.

Connect with Michael today!

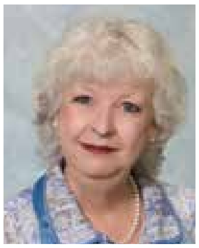






MEMBER SPOTLIGHT

Pamela Bensoussan, ASA, ARM



Pamela was born and raised in San Diego, CA. She is ASA accredited in the Personal Property discipline since 2003 and in 2018 earned a second ASA accreditation in Appraisal Review and Management. She is credentialed by ASA in Fine Art and in Oriental Carpets. She is a past president of ASA's San Diego Chapter and Houston Chapter and received ASA's "Member of the Year" award at the International Conference in 2019.

Pamela holds a Certified Forensic Litigation Consultant designation (CFLC) from the Forensic Expert Witness Association (FEWA) and is active on their National Education Committee.

A Decade in Paris

With over forty years' experience in decorative and fine arts, Pamela has owned and operated galleries in San Francisco, San Diego, and Paris, France. Her career includes a ten-year residence in Paris where she managed a gallery on the rue de L'Université in the celebrated Carré Rive Gauche. She also worked as consultant to a Parisian auction house and archivist for an international art investment firm based in Switzerland.

During her residence in Paris, Ms. Bensoussan served as French Editor for HALI, the London-based journal of antique rugs and textiles. In 1981 she guest curated an important exhibition which brought together from the Musée des Arts Décoratifs, the Louvre, and private French collections many rare and previously unknown early Oriental carpets from the 16th-18th centuries.

Community Recognition

In addition to her professional activity, Pamela was elected to the Chula Vista City Council (San Diego County) in 2008 and completed two four-year terms ending in 2016. In 2011 she was named "Woman of the Year" for the 79th California State Assembly District and received the Chula Vista Chamber of Commerce "Outstanding Business Advocate" award. In 2013 the Councilwoman was honored with a "Women in Leadership" award in arts and culture from the East County Chamber of Commerce.

Family Connections

To be close to family, Pamela moved her appraisal practice to Houston, TX in 2017. Pamela's favorite leisure activities revolve around her three grandchildren (4,6, and 8) with whom she enjoys youth theatre, piano lessons, and junior cooking projects. Other hobbies include wine tasting, cookbook writing and exploring Houston's incredible culinary offerings.

Connect with Pamela today!

Growing Global Interest in ARM

This quarter's ARM Education Spotlight by Melanie Modica, page 7, takes a look at how The Future of the Profession is Shaping and how appraisers and allied professionals like lawyers, bankers and CPAs are turning to ASA for appraisal review & management professional development and credentialing programs to meet growing challenges and mitigate risks.

I have witnessed this first hand in my conservations with members, and fellow leaders at compeer professional organizations, both here in the U.S. and around the world.

This past October, our ARM discipline leadership prepared and hosted an outstanding line up of educational sessions at the *2021 ASA International Conference* held in Las Vegas and online virtually.

Also earlier this Fall, myself and ARM Vice Chair, Matt Kaufman, along with Mike Pratt, ASA represented ASA at the *2021 International Association of Assessor Officers (IAAO) Annual Conference*. At the event we promoted new ARM offerings and displayed a special ARM spotlight video featuring Melanie Modica and Mike Pratt. See ARM Chair, Mark Penny's mention of this in his quarterly ARM Chair Notes on page 4.

ASA has partnered with IAAO to offer discounts on ASA ARM education and credentialing programs to their 8,000+ property assessment professionals worldwide.

Last, as part of ASA's global strategic partnership development program, we have seen interest from other valuation professional organizations for joint ARM educational opportunities, including one for the Saudi Authority for Accredited Valuers (TAQEEM), where ASA-ARM volunteer experts developed a region-specific ARM training manual for local appraisers.

We are currently following up on other additional international strategic partnership opportunities.

Overall we look forward to meeting this growing demand and will continually push to be the preeminent leader in the valuation profession. Our dedicated ARM volunteer leaders are to be commended for their foresight and hard work.

Johnnie White

Johnnie White, MBA, CAE, CMP, CEO/EVP

AR201: Appraisal Review and Management Overview

AR201 is an introductory course focused on providing an in depth understanding of the Uniform Standards of Professional Appraisal Practice (USPAP) that govern the profession of appraisal review. This course will compare, contrast and interpret real property, personal property and business valuation review practices, case illustrations and standards. The course covers narrative appraisal report writing as an argument (including a recommended review report paradigm) and will also generate discussion on review report examples. Participants will explore the scope of work for a review assignment to include credible assignment results and reviewer competency and ethics. Other accepted appraisal standards are also presented and discussed. The conclusion of this overview course and examination will prepare reviewers with the necessary content for moving to the next POV review class.

> Classes forming now, call (800) 272-8258 to reserve your space.

AR202: Litigation Services

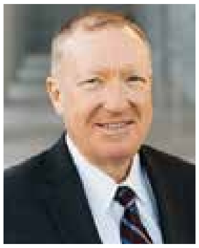
AR202 is written for appraisers, lending professionals, CPAs, auditors and tax assessors, appraisal review professionals in the insurance industry, the IRS, and everyone interested in learning more about litigation and review services. This course provides litigation support education for any kind of valuation work. Because appraisers are obligated to follow specific, ethical standards of USPAP and appraisal organizations, this class addresses how those considerations apply in the legal system. Regardless of the difference in valuation training and ethical regulations, or the specifics of a particular situation, the mechanics of being a litigation support professional remains generally the same. This curriculum assumes that all participants have a working knowledge of appraisal review practice and are experienced in report writing.

> Classes forming now, call (800) 272-8258 to reserve your space.

Standard of Care for Appraisal Review

By Jack Young, ASA, ARM, CPA

Abstract: A critical responsibility of the reviewer is to ascertain what the standard of care should be for the work under review (WUR) and to assess how well the WUR reflects that necessary standard of care. The Reviewer's competency in understanding and applying the standard(s) of care relevant to the WUR is critical to the review process. This standard of care is established in line with the research, methodology and analysis of an experienced and reasonable appraisal professionals in the community. (All USPAP citations from 2020-2021 Edition)



Origin of Standard of Care Concept

In 1837, the English tort law case *Vaughn v. Menlove* famously introduced the concept of Standard of Care in the question of whether the defendant had "proceed[ed] with such reasonable caution as a prudent man would have exercised under such circumstances."

The defendant in *Vaughn v. Menlove*, had been warned more than once that the haystack on his property appeared susceptible to spontaneous ignition. When it did ignite, the out-of-control fire consumed two cottages on an adjoining property. The haystack owner was held accountable not to the question of whether he had acted to the best of his own judgment, but in accordance with a "reasonable person's universal duty of care." The concept of standard of care supported by this legal case spread rapidly into the medical and legal fields and thence into other areas of professional practice, such as appraisal.

In appraisal standard of care, this "prudent man" is referenced as a "reasonable" appraisal professional, or, as USPAP references in the Acceptability section of the Scope of Work Rule, "the appraiser's peers:"

The scope of work must include the research and analyses that are necessary to develop credible assignment results.

Comment: The scope of work is acceptable when it meets or exceeds:

- *the expectations of parties who are regularly intended users for similar assignments; and*
- *what an appraiser's peers' actions would be in performing the same or a similar assignment.*

Determining the scope of work is an ongoing process in an assignment. Information or conditions discovered during the course of an assignment might cause the appraiser to reconsider the scope of work.

> *An appraiser must be prepared to support the decision to exclude any investigation, information, method, or technique that would appear relevant to the client, another intended user, or the appraiser's peers.*

Determining Reasonable Standard of Care

It is important to note that standard of care is not subject to a precise definition and is judged on a case-by-case basis.

A reviewer should use information from the WUR's scope of work to determine the purview of standard of care. If the WUR under review fails to meet that standard of care, it is most likely to be found invalid. By the same token, a WUR determined not to be credible is unlikely to meet the necessary standard of care.

USPAP Standards alone often do not provide a complete guide to either an appraiser or a reviewer in developing a full understanding of the purview of a specific assignment's standard of care. Instead, because the standard of care can only be met in the context of each assignment, the reviewer must consider a wide variety of inputs: the intended use for the appraisal, the user and/or client, the asset type, market, analytical procedures, or methodology being performed, and any special or specific assumptions referred to in the assignment agreement or final report. All of this information must then be considered in light of how a "reasonable" appraisal professional would perform the assignment, as discussed in the following *Application* section.

For example, if a machinery & equipment appraisal requires the calculation of an Inutility Discount which uses the cost to capacity formula, a reasonable valuer will perform that calculation and will follow the procedure set forth in the ASA manual *Valuing Machinery and Equipment (VME)*.[1] For appraisers of every discipline, following the guidance of appropriate definitive sources of information, procedures, methodology and analysis is imperative in fulfilling the expected and necessary appraisal standard of care. Similarly, consulting with another competent appraiser or other expert may also be a part of fulfilling standard of care requirements. In certain assignments, particular avenues of research may be necessary to fulfill the standard of care demanded.

In all review situations, the reviewer's responsibility is to determine the steps that a reasonable appraisal professional would perform in the production of the work under review and to ascertain that those steps were indeed performed in an appropriate, acceptable, accurate, logical, and complete manner. Measuring the work under review against the necessary and appropriate standard of care is as important as writing the review according to the necessary and appropriate standard of care set forth for appraisal review.

Application of Standard of Care for Reviewers

USPAP Standards 3 & 4, which govern appraisal review, can be used to review appraisal reports written under any standard: IVS, USPAP, IRS, or ASA manuals, such as *Valuing Machinery and Equipment (VME): The Fundamentals of Appraising Machinery and Technical Assets* – or no standard at all. USPAP Standards 3 & 4 function as "filters" – one of the 4 types of standards discussed early in S*tandards: Recipes for Reality*.[2]

> *The metaphor of the filter suggests the key aspect of this type of standard: some people or things can pass through the filter and thereby meet the standard, while others fail in this regard.*

In the case of appraisal reports, useful "filters" of appraisal review are found in USPAP Standards Rule 3.3: 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.

[1] *Valuing Machinery and Equipment*, American Society of Appraisers, Fourth Edition, p. 233-234

[2] Busch, Lawrence, Standards: Recipes for Reality, Massachusetts Institute of Technology, 2013, p. 35

Busch's book helped inform the section on standards in appraisal review POV classes and many of his ideas are pertinent to an understanding of how and why standards are important.

The Purpose of Standards

Busch begins by laying out the purpose of standards:

> *As the title of this book suggests, standards are means by which we construct realities. They are a means of partially ordering people and things so as to produce outcomes desired by someone.*[3]

In the case of USPAP, whose desired outcomes are being produced? We might immediately think that the desires of the appraisal profession drive practice standards and in one way that seems obvious. But USPAP was created by Congressional decree in the wake of a financial disaster to address the concerns of lenders and other financial institutions. From that perspective, USPAP addresses the need of the intended users for appraisal results that are objective, well-researched, and defensible. The other outcome of appraisal standards is to support the public's trust in the appraisal profession, a clearly stated desire of the appraisal profession that is also an important factor for many financial markets.

Are the Standards Principle-based or Rule-based?

Participants in the AR201 class spend some time dissecting the differences between principles and rules. While USPAP is a rules-based system, the American Institute of Certified Public Accountants' Statement on Standards for Valuation Services (SSVS) is principle-based, including the responsibility principle, the public interest principle, the integrity principle, the objectivity and independence principle, the due care principle, and the scope and nature of services principle. Reviewing that list of principals should remind appraisers of USPAP rule-based standards that support such principles.

The critical difference between the two approaches is that while principles are based on subjective concepts that require professional judgment and can be difficult to enforce, the objectivity of rules that provide a basis for comparability and consistency can be followed while the underlying principles are ignored – like the little boy who climbed out the upstairs window because his parents told him not to go out the door.

Sir David Tweety famously stated that "Europeans have no rules and the Americans have no principles" and yet the truth of the matter is that rules-based systems are inevitably based on principles. Appraisers and reviewers have a responsibility to understand and adhere to the bedrock principles USPAP rules are designed to concertize.

What is Appraisal Standard of Care?

Standard of care in appraisal practice refers to the degree of attentiveness, skill and judgment that a reasonable professional appraiser would exercise in completing an appraisal assignment. This standard of care is established in line with the research, methodology and analysis of an experienced and reasonable appraisal professionals in the community.

[3] Busch, p. 13

"Measuring the work under review against the necessary and appropriate standard of care is as important as writing the review...."

Degrees of Tolerance

While most reviewers would agree that an important part of developing a review report is focusing the reader's attention on the most significant issues – considering the intended users' requirements – discussions of appraisal review inevitably include debate regarding the significance of a ponderance of minor errors. When does the level of "minor" become a determent to credibility? This is what Busch might discuss as "degrees of tolerance," an important concern in appraisal review.

> *Yet another meaning of standards, and one closely related to the notion of average or normal, can be found in the notion of tolerance. ... tolerances are the maximum acceptable degree to which a thing or object may differ from some specified behavior without incurring some kind of negative sanction.*[4]

During appraisal review development, an appraisal is analyzed to gauge its alignment with the standard of care quantified in USPAP — or other related standards. The degree to which the work under review aligns with those standards determines its credibility. A report need not be perfect to be credible. Even machine parts manufactured for extremely exact specifications have a narrow range of tolerances within which the part is still viable. So, too, an appraisal might present with a number of imperfections and still meet the required credibility standards, including those of accuracy, reasonableness, relevance, adequacy and completeness. Staying within acceptable tolerances avoids sanctions such as rejection of an appraisal report or review in litigation proceedings or revocation of accreditation or credentialed status.

[4] Busch, p. 25

Commensurability of Appraisal Standards

One last idea is that of commensurability. Busch offers the examples of temperature measurement, where the formula F=9/5+32 calculates the commensurability of Celsius and Fahrenheit; money, which is made commensurate through the standards of currency exchange; and electrical current, which in some cases would be completely incommensurate without the use of specialized transformers and adapters.[5]

So what about appraisal standards? While most US appraisers follow USPAP standards, other appraisers may follow different standards such as International Valuation Standards. ASA's appraisal review classes discuss how these different standards compare and contrast. Are they fully commensurate, partially commensurate, or completely incommensurate, in the manner of American television standards (NTSC) and French television standards (PAL), the examples Busch cites on p35? How much does commensurability even matter?

Busch suggests – and it seems practical in the appraisal profession – that *commensurability of standards is important only when people and things come in contact with one another.*[6]

The most common way for appraisal standards to contact would probably be an appraisal review situation, when a reviewer who works under one standard accepts an assignment to review an appraisal created under different standards. Or when an appraiser who generally operates under USPAP is required to produce an IVS-compliant appraisal. In many cases the

[5] Busch, p. 34
[6] Busch, p. 38

intended use of the assignment causes multiple standard(s) of care to come into effect such as financial accounting standards. A machinery and equipment appraisal for purchase price allocation may likely need to refer to the standards of care found in USPAP, in the ASA's VME manual, and the relevant financial accounting standards for Fair Value. All these standards must be utilized when performing a credible review.

ASA offers the webinar Simple Keys to Bridging Standards, suggesting ways to understand the similarities and differences between USPAP and IVS, including steps to make a USPAP appraisal report compliant with IVS. The Appraisal Foundation's publication addressing the two standards states that "the two standards are already quite similar;" Busch uses the term "partially commensurable" when comparing meat butchered in the US and the UK:

> *Meat butchered according to British standards includes only some cuts that are similar to those produced by an American butcher; many cuts commonly available in the United States are simply unavailable in Britain, and vice versa.*[7]

Similarly, the Appraisal Foundation's A Bridge from USPAP to IVS 2018 reports on what is not covered in the guide:[8]

> *This guide does not focus on all the areas issues in which IVS and USPAP have effectively the same requirements, nor issues in which USPAP has an additional requirement.*

> *This guide does not discuss any topics that the IVS covers but are not currently addressed by USPAP.*

Standards and Appraisal Review

Appraisal reviewers using the "filter" of the appraisal review methods required by USPAP Standards 3 & 4, may review any appraisal report, beginning with identifying the problem to be solved and determining the scope of work necessary to solve the review problem. Appraisal reviewers "have broad flexibility and significant responsibility in determining the appropriate scope of work" and that scope of work must include whatever "is necessary to produce credible assignment results." When the assignment includes developing an opinion of the quality of the WUR, many reviewers will find it helpful to consider the filters USPAP provides of completeness, accuracy, adequacy, relevance, and reasonableness of the analysis[9] and/or the report.[10]

About the Author

Jack Young, ASA, ARM, CPA, is owner and primary appraiser at NorCal Valuation in northern California. He served as Chapter President of the ASA Northern California Chapter and as Chair of the Appraisal Review & Management (ARM) discipline committee. He currently serves ASA on the Board of Examiners and as editor of the *Appraisal Review e-journal* and locally as ARM Director on the ASA Northern California Chapter Board.

[7] Busch, p. 35

[8] *A Bridge from USPAP to IVS 2018*, The Appraisal Foundation and the International Valuations Standards Council, 2018, p. 2

[9] Standards Rule 3-3

[10] Standards Rule 3-4

AR203: Managing Multifaceted Assignments

AR203 focuses on managing a variety of multifaceted appraisal assignments, this course will apply methodology for coordinating, supervising and directing a group of professionals. Complex assignments require a lead professional for planning oversight, various directives, multiple perspectives and considerations. Course content includes ethics, competency, assessments, scopes of work, contracts, certifications, and case studies for organizing professionals in multiple appraisal disciplines, and multiple specialties within a discipline. This course will demonstrate common practices and standards of care when managing a team of appraisers, appraisal reviewers, or a combination of professionals in assignments of various capacities. Participants will conclude the class with information and tools for understanding the proper and professional coordination of a team on assignments that include multifaceted components.

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AR204: Appraisal Review and Management Application

AR204 focuses on application and review report writing and covers Applications and discussions on USPAP Standards Rules 3 and 4; Report compliance; Logical arguments; Credible results; Competency; Scope of work; Ethics; Review report writing; Management of multidiscipline appraisal assignments; Management of appraisers; and much more. The course will demonstrate the application of the appraisal review paradigm, methods of reviewing non-compliant reports, and record keeping requirements. Attendees will review the concepts learned in previous Appraisal Review Principles of Valuation (POV) courses and directly apply them to reports from various areas of practice. Attendees will conclude the class with a working understanding of what an appraisal review report should include as well as exclude.

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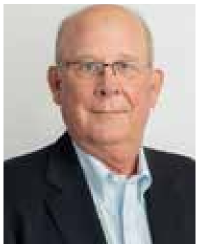
USPAP Requirements of Appraisal Review Practice (Part 1)

By R. Lee Robinette, ASA

Abstract: This is the first of two articles that will review the requirements set forth in the Uniform Standards of Professional Appraisal Practice (2020-2022) (USPAP) for appraisal reviews. The specific standards in USPAP for appraisal review are Standard 3: Appraisal Review, Development and Standard 4: Appraisal Review, Reporting. The appraisal review standards are not discipline specific and address appraisal reviews for all forms of property. This article does not contain the full text of Standard 3 and it is suggested that the reader have a copy of the Standard available to review while they are reading this article. Direct quotations from USPAP are in italics.



Appraisal Review in USPAP

Before addressing the specifics of Standard 3, a brief overview of appraisal review in the context of USPAP is warranted. Outside of appraisal review, all the other USPAP standards address either a particular appraisal discipline, such as real property, personal property, or intangible property (business valuation); or a particular type of appraisal such as Mass Appraisal that is addressed in Standards 5 and 6. Mass Appraisal is only applicable to real property and personal property.

Appraisal review is unique because, unlike an appraisal, the purpose of a review is not necessarily to arrive at an opinion of value. In many cases, an appraisal review focuses on something other than another appraiser's value opinion. An appraisal review, according to USPAP, *is the act or process of developing an opinion about the quality of another appraiser's work (i.e., a report, part of a report, a workfile, or some combination of these), that was performed as part of an appraisal or appraisal review assignment.*[1]

An appraisal review provides an opinion of the quality of the work of another appraiser that is the subject of the review assignment. The work under review could be reviewed for something specific, such as USPAP compliance or adherence to the client's requirements. The appraisal review assignment could focus solely on one aspect of an appraisal report or a portion of an appraiser's analyses. For example, the review could be specific to an approach to value performed by another appraiser in an appraisal assignment.

Unlike the other USPAP development standards (1, 5, 7, 9) which all involve the appraisal of a particular type of property, or in the case of Mass Appraisal, the use of a particular appraisal method, the developmental standards for Appraisal Review are applied to the process of review, not a particular type of property or appraisal method: *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.*[2] *Because of this, Standard 3 is the only development standard in USPAP that requires the appraiser to identity the purpose of the appraisal review.*

The appraisal review (by definition) does not include the reviewer's own value opinion; however, the review assignment might call for both a review opinion (i.e., the quality of another appraiser's work) and an appraisal (i.e., the reviewer's opinion of value). In cases where the appraisal review assignment includes a value opinion – which could include simply agreeing or disagreeing

[1] Uniform Standards of Professional Appraisal Practice (2020 - 2022), p. 3

[2] Uniform Standards of Professional Appraisal Practice (2020 - 2022), p. 26

with a value opinion in the work under review – the review is also an appraisal – defined by USPAP *as the act or process of developing an opinion of value.*[3] When the reviewer's own opinion of value is included in the assignment, parts of the applicable development and reporting standards come into play.

Standards Rule 3

There are only three Standards Rules in Standard 3. Standards Rule 3-1 addresses the general development requirements, Standards Rule 3-2 addresses problem identification, Standards Rule 3-3 addresses appraisal review methods. Standards Rules 3-1 and 3-2 are very similar to other development standards (i.e., Standards 1, 5, 7 and 9) and set forth the following requirements.

Rule 3-1: Competency

Standards Rule 3-1 requires that *the reviewer must be aware of, understand, and correctly employ those methods and techniques that are necessary to produce a credible appraisal review.* Additionally, *the appraiser must not commit a substantial error of omission or commission.* Additionally, the appraiser *must not render appraiser review services in a careless or negligent manner.* Making a series of errors that individually are not significant but aggregately affect the credibility of the appraisal review is not permitted. These general development requirements, again, are virtually identical to those set forth in the other development standards.

Standards Rule 3-1 addresses the competency of the reviewer. It is important to note that having appraisal competency for a particular property type, intended use, or other such criteria does not necessarily mean the appraiser would have competency as a reviewer of similar assignments. One way to obtain competency is through education. ASA's Appraisal Review & Management (ARM) courses, ARM 201 and 204 are resources for an appraiser looking to gain competency as a reviewer.

Rule 3-2: Problem Identification

Standards Rule 3-2, which addresses problem identification, is also similar in context to the other problem identification Standards Rules. This is the rule that requires the appraiser to identify the assignment elements, including the client, any other intended users, the intended use of the reviewer's opinions and conclusions, any extraordinary assumptions or hypothetical conditions, and ultimately the determination of a scope of work *necessary to produce credible assignment results.*

Additionally, in a review assignment, the reviewer must identify the purpose of the assignment. Appraisal review is the only type of assignment where the purpose must be identified. The equivalent identification in an appraisal assignment is the type and definition of value. The purpose of an appraisal review might be to opine one or more of many different factors including, but certainly not limited to, the issues stated in the Comment to Standards Rule 3-2(c).

The comment on Standards Rule 3-2(c) provides some examples of purposes for an appraisal review, which include i*f the results of the work under review are credible for the intended user's intended use, or to evaluate compliance or relevant USPAP requirements, client requirements, or application regulations.* This rule also

[3] Uniform Standards of Professional Appraisal Practice (2020 - 2022), p. 3

requires that the reviewer identify whether an opinion of value for the property in work under review is part of the assignment.

Standards Rule 3-2(d) specifies the requirements to identify *any ownership interest in the property that is the subject of the work under review.* The reviewer must also identify the date of the work under review, the effective date of the opinions or conclusions in the work under review, and the name of the appraiser who completed the work under review unless that identity has not been disclosed by the client.

Standards Rule 3-2(d)(iv) specifies that the reviewer must also identify the relevant characteristics of the property or properties appraised in the work under review. Other development standards also specifically identify those characteristics *as the physical, legal, and economic characteristics of the property.*

Rule 3-3: Methodology

Standards Rule 3-3, which addresses appraisal review methods, contains specific requirements regarding the methods employed in an appraisal review. The comments to Standards Rule 3-3(a) and 3-3(b) include the following phrase: 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….

This requirement is associated in Standards Rule 3-3(a) with the analysis in the work under review and in Standards Rule 3-3(b) with the report. Both Standards Rules conclude with the phrase *given law, regulations, or intended user requirements applicable to the work under review.*

A key point from Standards Rule 3-3 is that, as may be necessary for credible results, the appraiser must – when developing an opinion of the quality of the work under review – consider the completeness, accuracy, adequacy, relevance, and reasonableness of the work under review.

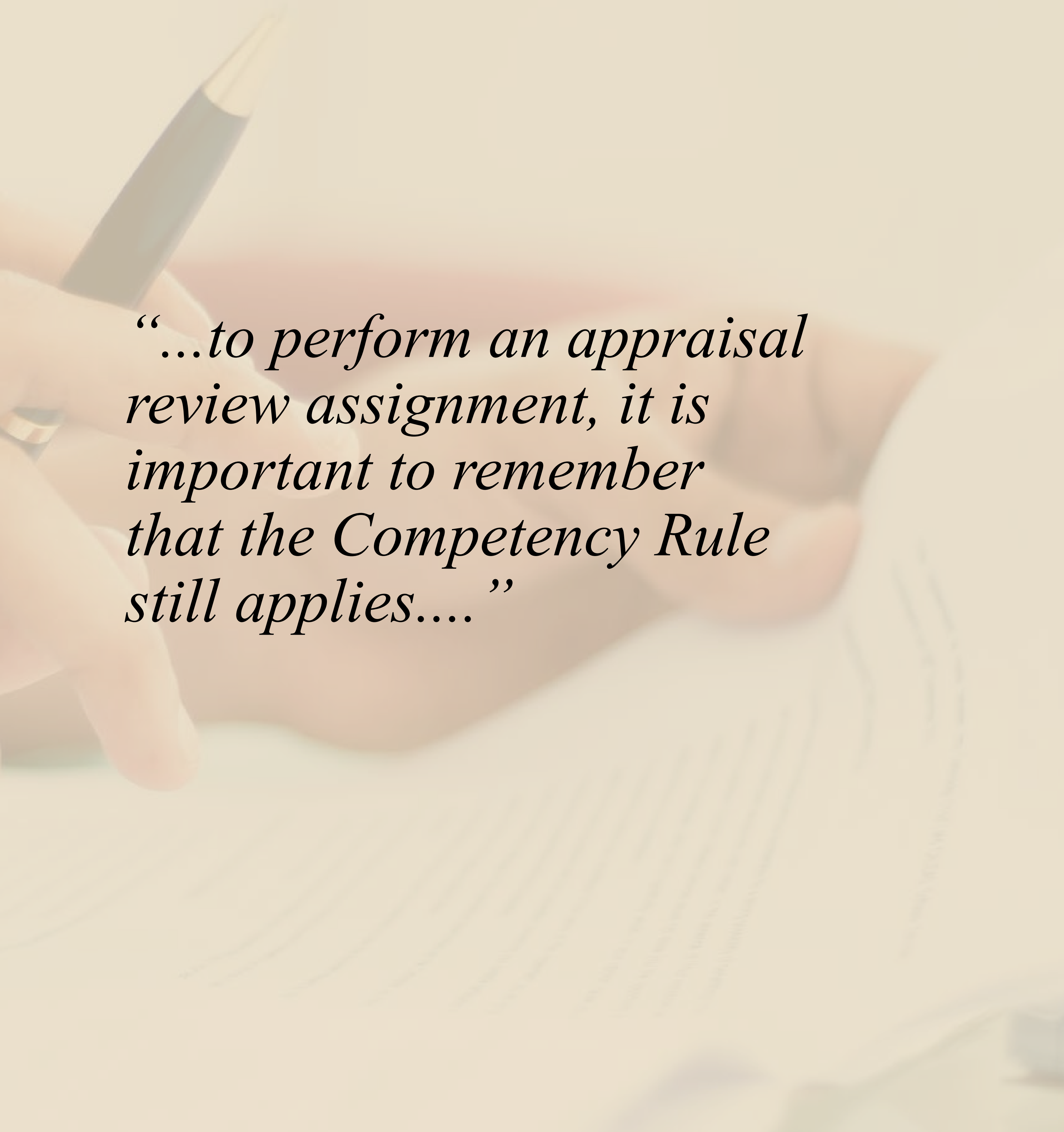
Standards Rules 3-3(a) and 3-3(b) also require that when a reviewer is developing an opinion *as to whether analyses are appropriate … whether the opinions and conclusions are credible … whether the report is appropriate and not misleading, that opinion must be formed within the context of the requirements applicable to that work [the WUR] and that the reviewer must then develop the reasons for any disagreement.*

Opinion of Value in a Review

Standards Rule 3-3(c) addresses assignments in which a reviewer is also providing his or her own opinion of value. The appraiser must develop those opinions within the appropriate development standard. This would be Standard 1 for Real Property, Standard 5 for a Mass Appraisal, Standard 7 for Personal Property and Standard 9 for Business Appraisal.

It is important to note that simply agreeing or disagreeing with a value opinion in the work under review (whether an appraisal or appraisal review) constitutes providing an opinion of value and the review assignment then falls within the requirements of 3-3(c).

The comment to Standards Rule 3-3(c) notes that the reviewer's scope of work for developing an opinion of value can be different from the scope of work that was part of the work under review. The effective date of the reviewer's value opinion can also differ from the effective date of the work under review. Additionally, *the reviewer is not required to replicate the steps completed by the original appraiser.* This means that



"...to perform an appraisal review assignment, it is important to remember that the Competency Rule still applies...."

the appraiser can incorporate credible portions of the work under review by using 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.*

Conclusion

In closing, if you are given the opportunity to perform an appraisal review assignment, it is important to remember that the Competency Rule still applies and that the general development requirements require you to *be aware of, understand, and correctly employ those methods and techniques that are necessary to produce a credible appraisal review.* A quick review of Standard 3 and Standard 4 prior to agreeing to perform a review assignment to assure your competency is suggested. You may use this link to review the ARM Committee's Competency Statement.
Using Standard 3 and 4 as a checklist for the development of your review opinions and the content of your review report is strongly recommended. The appraisal review checklist designed as a tool for ARM Candidate Report Review is available at this link and could also be helpful.

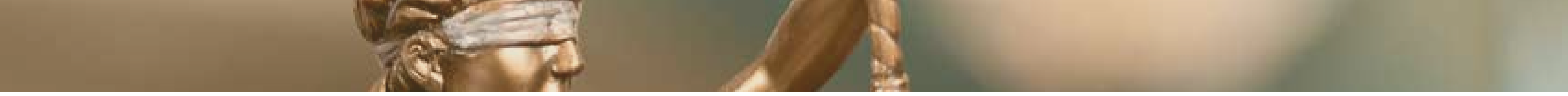
About the Author

R. Lee Robinette, ASA, is an Accredited Senior Appraiser (ASA) with over thirty years of machinery & equipment and inventory appraisal experience. He is also a course instructor and course developer for the Society's education curriculum and a contributing author to the textbook, *Valuing Machinery & Equipment* (2005). Mr. Robinette has served ASA as an officer and committee member at the local and national levels and was formerly the chairman of the Machinery & Technical Specialties Committee (2005 – 2007). Lee previously served on the Appraisal Standards Board (ASB) of The Appraisal Foundation. The ASB is one of two congressionally authorized Boards and is responsible for the maintenance, revision, and promulgation of the Uniform Standards of Professional Appraisal Practice. Mr. Robinette is the President of Collateral Evaluation Associates Inc. in Charlotte, NC.

Professional Ethics in Appraisal Review

By Barry J. Shea, ASA, IFA, ARM

Abstract: Professional ethics have an essential role in the appraisal profession. This article addresses how it is the public's expectation of adherence to core ethical principles that gives value to the work of appraisers. The article looks at a few scenarios where appraisers can be facing ethical decisions.



Importance of Ethics

Ethics are important in all professional, commercial, governmental and personal interactions. Free and open interactions on all levels require that the parties are acting in good faith. Without some level of confidence that parties will behave ethically, interactions and transactions will be guarded and less likely to produce positive outcomes for all of the parties involved.

This article will take a look at professional ethics in relation to appraisal practice and more specifically, appraisal review. Much of this will involve a linkage between ethics and professional standards. There are multiple sources of professional standards for appraisers, and each takes a different approach and uses somewhat different terminology. This article is written in the context of the Uniform Standards of Professional Appraisal Practice (USPAP) published by The Appraisal Foundation but much of it should translate well to other standards such as the International Valuation Standards which is a product of the International Valuation Standards Council (IVSC). USPAP includes an ETHICS RULE while the IVSC publishes a separate document called "Code of Ethical Principles for Professional Valuers."

Professional Ethics

In order to have a meaningful discussion of professional ethics it is necessary to understand the meaning of both terms - professional and ethics. Let's look first at the meaning of professional.

The term professional has several meanings. For the purposes of this article, a professional is one who provides a service which requires specialized knowledge. When used as an adjective (as in "professional ethics") it simply means related to such a service or service provider.

In the context of the appraisal profession, we recognize that professionalism is developed through education and experience. While anyone can opine on value, a professional appraiser has acquired expertise through education in valuation theory and practice as well as discipline and often specialty specific education. For example, a real property appraiser may have completed 200 to 300 hours of education covering basic appraisal principles, appraisal practices, approaches to value, etc. Interspersed among those education hours will be sections on various real estate specific topics including legal descriptions, forms of ownership, and many others. A machinery and equipment appraiser must have knowledge of the same basic valuation principles but must have specialized knowledge related the items to be appraised and the markets for those items. As with other professions, continuing education is also required for professional appraisers. In addition to qualifying and ongoing profession education, appraisers typically must attain and verify experience prior to receiving a professional credential or designation.

Ethics also has multiple meanings. As used in this article it means the principles that distinguish between right and wrong and guide one's actions accordingly.

It follows then that professional ethics are the principles that distinguish between right and wrong and guide one's actions when engaged in providing a service that requires specialized knowledge.

Business Ethics

Many appraisers, like other professionals, are also businesspeople. Many appraisers must manage the business side of things in addition to the professional service component of their practice. As an example, appraisers may engage in promoting their practices, setting fees, estimating turn times, hiring staff, bookkeeping, etc. When engaged in these business facets of practice, the appraiser must adhere to generally accepted business ethics.

One example of a business decision involving ethics would be establishing a projected completion date for an assignment. Suppose, based on appraiser's current workload, it seems reasonable to expect that a new assignment could be completed in 60 days. A potential new client tells the appraiser, "I really need it sooner than that, if I pay you extra, can I get it in 30 days?" If that would require the appraiser to work nights and weekends to get it done, the appraiser can handle that as a simple business decision. On the other hand, if the appraiser is already working as much as possible and accepting those terms will delay other assignments that other clients are waiting for, this becomes an ethical question. Would it be wrong to inconvenience other clients in order to earn a higher fee from this one? Most would see such an action as unethical.

A slight change to that scenario can make the decision a bit more difficult. Suppose that instead of a potential new client, it is one of the appraiser's best clients who is asking for the favor? In this case, it will be more difficult to for the appraiser not to agree to the quicker turn time even if it delays other assignments. However, the answer is still the same: the appraiser cannot let a potential new assignment interfere with the terms of agreements already made with others.
This type of decision is not specific to appraisal practice and similar scenarios could be presented to show the same type of decision-making situation in many different fields.

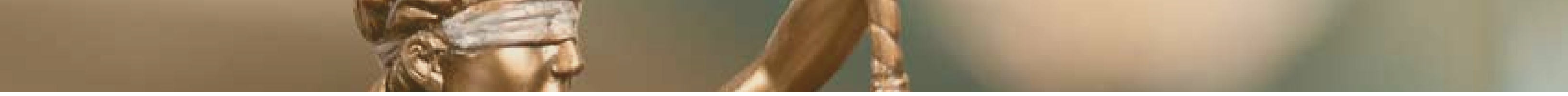
Why Are Ethics Important in Appraisal Practice?

The stated purpose of USPAP is "to promote and maintain a high level of public trust in appraisal practice …"[1] In order for the opinions of appraisers warrant that public trust, they must be developed in a manner that will yield results that are credible. Credible is defined in USPAP as:

> **CREDIBLE:** worthy of belief.
>
> *Comment:* Credible assignment results require support, by relevant evidence and logic, to the degree necessary for the intended use.[2]

One important aspect in which appraisal practice is different from other professions

[1] 2020-2021 Uniform Standards of Professional Appraisal Practice, The Appraisal Foundation, p. 1
[2] Ibid, p. 4



is in the expectation that practitioners must operate without bias or advocacy. USPAP defines appraiser as follows:

> **APPRAISER:** one who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.[3]

Competency is expected of any professional; it is the expectation of independence, impartiality and objectivity that sets appraisal practice apart from many other professions. Looking beyond the definition of appraiser, the Conduct section of the ETHICS RULE in USPAP sets forth the following requirement:

> An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.[4]

And it further requires that:

> An Appraiser:
> - must not perform an assignment with bias;
> - must not advocate the cause or interest of any party or issue;[5]

In many other professions, advocacy is not only allowed, but it is a major component of the professional service. For example, the attorney's role is usually to act as an advocate for a client. In other words, the attorney is generally engaged to advance the cause of a client. Brokers are another example of professionals employed to perform as advocates. Typically, brokers are expected to negotiate terms most favorable to their clients.

[3] Ibid, p. 3
[4] Ibid, p. 7
[5] Ibid

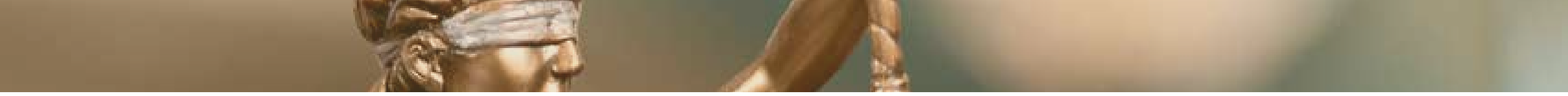
The role of the appraiser, however, must never involve advocacy. Appraisers, by definition and by rule, are not engaged to advance the cause of a client. In fact, the appraiser must avoid any actions that could be seen as advancing the cause of the client or any other party or interest. Some appraisers tell their clients, "Whether I perform this work for you or for your opposition, my results are going to be the same."

The value that an attorney or a broker provides comes through the effectiveness of their advocacy. The value that an appraiser brings to the table is in the credibility of assignment results. If the appraiser is acting as an advocate, the credibility of their results is lost. Why would a judge or jury put any faith in an appraiser's opinion if advancement of the client's cause is among the appraiser's objectives? This prohibition against advocacy and the need for competency, independence, impartiality, and objectivity are at the core of professional ethics for appraisers.

In most assignments in which appraisers are engaged, the client (or in some cases, another party) has a financial interest in the outcome of the appraisal. One example is an appraisal that is performed to be used by the client to establish the value of collateral for a loan. In this case, the borrower, and perhaps the lender, want the highest number possible in order to justify a higher loan amount. The objectives of the lender and borrower must not affect the appraiser's analyses and conclusions.

Another common use for appraisals and appraisal reviews is in litigation. An appraiser may be hired to value a property for a divorce proceeding in which one party in the divorce will buy out the other's interest in the property – one of the parties would benefit from a high value

"One important aspect in which appraisal practice is different from other professions is in the expectation that practitioners must operate without bias or advocacy."



opinion and the other would benefit from a low value opinion. The appraiser must avoid advocacy and remain independent, impartial, and objective. The value opinion must be unaffected by which party hired the appraiser. This same prohibition against advocacy applies to an appraiser performing an appraisal review.

Ethics and Professional Appraisal Standards

The ETHICS RULE in USPAP lays out specific obligations applicable to ethical appraisal practice. These obligations include requirements (i.e., what an appraiser must do) and prohibitions (what an appraiser must *not* do). While the ETHICS RULE does not necessarily cover all situations, it does address, in general terms, the common areas where an appraiser must make decisions based on ethics-related considerations.

The combination of competency, independence, impartiality and objectivity that is required of appraisers gives credibility to an appraiser's assignment results. USPAP is based on ethical principles laid out in the ETHICS RULE. Inherent in ethical practice are limitations based on competency. While the ETHICS RULE is primarily focused on doing the right things, the COMPETENCY RULE focuses on having the necessary knowledge and experience to do things right. The rest of USPAP can be looked at as extensions of these two Rules.

The *Management* section of the ETHICS RULE includes prohibitions against compensation arrangements that would incentivize the appraiser to violate the requirement to perform in an independent, impartial, and objective manner. This section of the Rule states in part:

> An appraiser must not agree to perform an assignment, or have a compensation arrangement for an assignment, that is contingent on any of the following:
>
> 1. the reporting of a predetermined result (e.g., opinion of value);
> 2. a direction in assignment results that favors the cause of the client;
> 3. the amount of a value opinion;
> 4. the attainment of a stipulated result (e.g., that the loan closes, or taxes are reduced); or
> 5. the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.[6]

Applying Ethics to Appraisal Review

USPAP defines appraisal review as follows:

> **APPRAISAL REVIEW:** (noun) the act or process of developing an opinion about the quality of another appraiser's work (i.e., a report, part of a report, a workfile, or some combination of these), that was performed as part of an appraisal or appraisal review assignment; (adjective) of or pertaining to an opinion about the quality of another appraiser's work that was performed as part of an appraisal or appraisal review assignment.[7]

Many people, including appraisers' clients, may review a report. Given the USPAP definition of appraisal review, only another appraiser can perform an appraisal review. When performing an appraisal review the appraiser must take care to perform in compliance with USPAP, including the ETHICS RULE. Appraisal review

[6] Ibid, p. 9

[7] Ibid, p. 3

assignments may have some of the same potential ethical pitfalls as appraisal assignments, but there are also a few wrinkles that are unique to appraisal review.

The reviewer is often engaged by a client who disagrees, and/or wants the reviewer to disagree, with the conclusions stated in the work to be reviewed. The review appraiser must resist any temptation to slant the appraisal review in the direction that will favor the client. On the other hand, the reviewer must also not perform with a bias that favors the work under review.

A not uncommon scenario would involve an appraisal review assignment for an attorney. The attorney wants the appraiser to review the report for deficiencies and be prepared to testify about any such deficiencies when the case goes to trial. The attorney instructs the review appraiser to "give me something that I can use to tear that work apart." Clearly, the attorney is acting in the role of advocate for a client. The appraiser must avoid becoming another advocate the client. The appraiser must maintain the position of being independent, impartial, and objective.

Another legal scenario involves an appraiser engaged to perform an appraisal review by an attorney who is representing another appraiser accused of professional malpractice. This attorney wants the reviewer the "give me what I need to get this appraiser off the hook." Again, the review appraiser must perform ethically – and for an appraiser that requires the reviewer to be independent, impartial, and objective.

Call for Articles

In both of these cases, the results of the appraisal review must not be influenced by the client's objectives. As stated earlier, other parts of USPAP are function as extensions of ETHICS RULE and the COMPETENCY RULE. An example of the is found in the SCOPE OF WORK RULE which includes the following sentence:

> An appraiser must not allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased.[8]

Appraisal review assignments can be complicated by the idea that an appraiser has been engaged to develop and report the quality of another appraiser's work when that other appraiser is the reviewer's competitor. Another issue that occasionally arises in appraiser review is when the reviewer is familiar with the appraiser or the reputation of the appraiser who performed the work under review. This can be a stimulus that leads to bias in an appraisal review assignment. In this case, the reviewer must remember that it is the work product that is being reviewed, not the appraiser.

Another possible scenario is the review appraiser who is hesitant to present any conclusions that might not reflect well on the appraiser who performed the work under review and that bias leads them to overlook deficiencies or to view the work under review in the best possible light. In this case, the review appraiser must be careful not to perform with bias and remain independent, impartial, and objective.

[8] Ibid, p. 14

Conclusion

Whether engaged to perform an appraisal, appraisal review, or any other service as an appraiser it is important for the individual to keep in mind the requirements of the USPAP, and in particular, the ETHICS RULE. It is only by performing competently and in a manner that is independent, impartial, and objective that appraisers can assure the public that their work should be trusted as credible. Without that credibility, appraisers' opinions are no more reliable or trustworthy than anyone else's. By adhering to these requirements and avoiding bias and advocacy, appraisers' opinions and conclusions provide a value benefit to their clients.

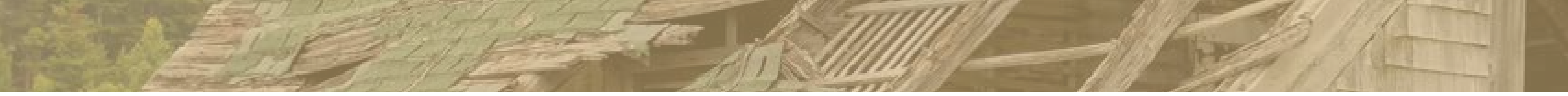
About the Author

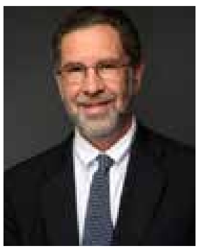
Barry J. Shea, ASA, IFA, ARM, has held the IFA designation from the former NAIFA (now part of ASA) since 1997. In 2018 he was awarded the Accredited Senior Appraiser designation and in 2020 the Appraisal Review and Management – Real Property (ARM-RP) designation. Actively involved in the appraisal profession, Mr. Shea currently serves as The Appraisal Foundation's trustee for the International Ethics Standards Coalition (IESC) is currently vice-chair of the Coalition. He has served as NAIFA's Regional Governor for the New England states, as president of its New Hampshire Chapter and as a National Director. He also served as the NAIFA representative to The Appraisal Foundation Advisory Council (TAFAC) from 2001 through 2008 and was the 2005 chair of that council. From 2009 through 2016 he served as a member of the Appraisal Standards Board of the Appraisal Foundation including three years as the Board's chair.

How Lawyers Determine Credibility

By Robert Blau, Esq. and Charles E. Blau, Esq., ASA, CRE

Abstract: This article explains that an experienced attorney reviews an appraisal report differently than a review appraiser looking for USPAP compliance. We are concerned only with credibility, which depends primarily on the appraiser's facts and reasoning. While this article focuses specifically on commercial real property, we believe that the concepts addressed can be applied to the appraisal of almost any property in any discipline.





Reviewing for Credibility

When experienced lawyers review an appraisal report, whether the appraisal is one that they commissioned or one that was provided by their adversary, what they want to know is whether the appraisal is credible. If you appraised the property for us, we want to make sure the answer is yes. If you appraised the property for the other side, we want to find out why the answer is no. With the understanding that an appraiser must apply judgement when developing an opinion of value, the credibility of an appraisal depends on two things: the facts on which it is based and the reasoning of the appraiser. Yet, when we review an appraisal report, we look beyond the appraiser's facts and reasoning. We look for what is missing.

This article assumes that the appraisal being reviewed was commissioned by a lawyer for litigation. One lawyer hopes to prove a higher value. The other lawyer hopes to prove a lower value. This article further assumes that you have been retained as an expert witness to assist one of the two lawyers. While the two lawyers' views on the value of the subject property may be diametrically opposed, they want the same thing from the appraisal they have commissioned. Both lawyers want their expert's opinion to be credible. A good lawyer will go to great lengths before trial to make sure that is true. The good lawyer will also review the other appraisal report carefully to find weaknesses that shed doubt on the credibility of the final value conclusion.

Facts

By far, the most important aspect of an appraisal are the facts upon which the appraiser's value opinion is based. When it comes to facts, detail is credibility. The more you know about a sale or lease, the more credible you are. We want to know if you know the grantor and grantee. We want to know whether you have a copy of the deed or a copy of the lease. We want to know whether you verified the sale or lease with a party to the transaction or with a party's broker or attorney.

Depending on the nature of the property, a detailed and accurate description of the subject property may be important. If you are using comparable transactions, you should know at least as much about the subject as you do your comparable transactions. If you are doing a leased fee analysis of an apartment complex, you may think that the building description isn't as important. Nevertheless, if you don't know the mix of studio, one- and two-bedroom apartments, you will lose credibility. If you are using expense comparables, it is very important to know such things as whether the landlord or tenant supplies the heat.

The quality of your data is crucially important. We are going to look to see how comparable your sales and leases are. How proximate, in time and location, are the transactions to the subject property? How similar in size are the improvements? How similar in size is the lot? If the property is a warehouse, what are the ceiling heights?

The quantity of your data is important too. As the saying goes, "One sale does not make a market." The courts that we practice in usually do not feel comfortable finding a value with less than three truly comparable transactions. But remember, an experienced valuation lawyer is going to try to knock out, or at least shed doubt on, as many transactions as possible. If you have four or five transactions and one or two get knocked out the court may still find your opinion to be credible. On the other hand, if you only have three transactions and even one is discredited, that might be enough for the court to disregard your entire opinion.

We want to know that you have factual support for all the components of your opinion. If you are doing an income approach, you have an opinion as to the proper allowance for vacancy and collection loss. We want to know the data on which it is based. Generally, the more data you have the more credible your opinion. Your opinion also depends on the reasoning that you apply to your data. We will discuss that later.

When you write your report, we want all these facts in your appraisal report. Why? Because if the facts are in the report, we can be reasonably confident that your "facts" are facts. But don't worry, we are going to check anyway. When the facts are not in the report, we are going to be suspicious. If you are on the other side, the cross examination is going to be tougher.

What's Missing?

This is a good opportunity to discuss what's not in your report. If you show the zoning for three of your four sales, it is clear that you don't know the zoning for the fourth. If you say who you verified most of your sales with, but are silent on some, there's a good chance you didn't verify all your sales. If your report says you verified a sale with the deed, we know you didn't talk to any of the market participants. If so, you don't know whether either of the parties were under duress to sell or compulsion to buy. You may not even know if the sale was arm's length. It is important to be consistent with the data you provide. If you are inconsistent, that tells us a lot.

Reasoning

Your reasoning is almost as important as your facts. Your reasoning should be clearly expressed in your appraisal report. If you adjust your sales or leases, the adjustments should be spelled out in an adjustment grid. Judges where we practice are notorious for rejecting appraisals because the appraisers fail to quantify their adjustments. While it is not always possible to prove the magnitude of your adjustments, if you can do so, you should. Even if you can't prove the quantity of your adjustment, you better be able to persuasively explain why an adjustment is necessary.

Your adjustments should be consistent with the adjustments you have made in other similar appraisals. If they aren't, you can be confident that one of the attorneys will point that out to you. You cannot be confident that the other attorney will not have access to your prior appraisal reports.

Pictures

We look at the pictures in your report, but we also consider what pictures aren't in the report but should be. If you have only aerial photos of your comparables, it implies that you didn't even drive by them and may not be familiar with their neighborhoods. It is even more obvious when you have three pictures taken from the street and the fourth one is an aerial. When you state that the property is in average condition, but you didn't drive by the comparable to take a photograph, be prepared to be presented with a photograph showing it is not in average condition.

For some reason, appraisers don't think it is important to take pictures of their land sales. There should be street views, so one knows you know about the location, what's across the street, etc. For some reason, many appraisers think pictures are important for sales but not for leases. They don't teach that in appraisal courses or literature. We don't know any lawyers or judges who would agree with that. Before we move off pictures, two pet peeves regarding presentation of photos in your report: lots of pictures on one page are too small to show anything; and commonly, all pictures are isolated in the addenda, instead of accompanying the discussion of the subject property or the comparable transactions.

Boilerplate

We look at your boilerplate carefully. Boilerplate is any written text that is included in your appraisal report that wasn't written specifically for your appraisal. You haven't looked at your boiler plate in months or maybe years. We read it yesterday. There is nothing wrong with boilerplate. It is necessary for efficiency. But everything in your report should be there for a reason. If there is no reason, get rid of it. The most important thing is that your appraisal is consistent with your boilerplate. If it isn't, we are going to let you know, either before we submit your appraisal report to the other side or when we cross examine you at trial.

Many appraisers use boilerplate to describe the scope of the appraisal although they don't always do all the steps described so authoritatively in the boilerplate. Appraisers often use boilerplate in reconciling the sales comparison approach or in reconciling the sales comparison and income approaches. You say you gave equal weight to each of the sales. Simple math shows that isn't true. You say you gave equal weight to both approaches when you didn't. It may not sound important, but these types of errors destroy credibility. You don't ever want to explain something by saying "It's just boilerplate."

Conclusion

Boilerplate, like the other aspects of an appraisal report that support or detract from your appraisal's credibility, are not particular to the area of commercial real property in which we wok. The concepts addressed here, from the placement of photos to the rational of adjustments, can be applied to the appraisal of almost any property in any discipline. When preparing an appraisal report for use in court, it serves an appraiser well to remember that while the credibility of an appraisal depends on two things – the facts on which it is based and the reasoning of the appraiser – attorneys reviewing an appraisal report for credibility look beyond the appraiser's facts and reasoning: We look for what is missing.

About the Authors

Robert Blau, Esq., has over 35 years of experience in real estate valuation law. One of his more significant cases is *Higg-A-Rella, Inc v. County of Essex* in which the New Jersey Supreme Court ruled unanimously to allow the plaintiff to acquire tax assessment and sales data from the County in an electronic format so that it could provide the data on the internet.

Charles E. Blau, Esq., ASA, CRE, has spent 40 years in the valuation field as both an appraiser, expert witness, and trial attorney. Mr. Blau is a past National President of the National Association of Independent Fee Appraisers and past member of the ASA Real Property Discipline Committee.

ARM Connects IVS and USPAP

By Ruka Jesinawu, ASA, ARM

Abstract: I was the only candidate in the 2020 ARM classes providing valuations and valuation reviews in compliance with International Valuation Standards (IVS). The rest of the candidates follow the USPAP. My first challenge was how to make the ARM program work for me and with the support, assurance and guidance from my instructors, it worked well. I have benefited immensely from appraisal review management courses in doing valuation reviews. This article discusses IVS and its relationship to USPAP and how appraisers following IVS can benefit from ARM classes. This article also references some information from The Saudi Valuation Review Manual, 2020 Edition, which is based on IVS.

ARM Classes Support IVS Reviewers

The ARM course content is applicable to valuers who comply with IVS, and the methodology is transferable to all non-USPAP complying valuation reviewers. Many reviewers outside the US produce their valuation reviews in compliance with Valuation Standards (IVS) instead of the USPAP, which is the guideline for most ASA classes. Like USPAP, IVS also sets standards for appraisal review. The IVS 2020 has a section describing the requirements of valuation review reports: A valuation review report is required to provide and convey the outcomes of a valuation review for the client to understand the valuation review clearly and properly. Valuation reviews are undertaken in order to check the compliance of the valuations under review with the requirements of IVS in general and the specific asset standards.

The ARM classes are structured in a way that an IVS reviewer understands how to carry out valuation reviews, prepare the valuation review reports, and proofread review reports before finalization and delivery to the clients. Section 40 of IVS 103 reporting provides for the minimum requirements of the valuation review reports. All these requirements are incorporated in the checklists provided in the ARM lessons as guidelines in the development and composition of review reports.

These checklists for review development process enable a reviewer to identify valuation components within a valuation under review, to establish IVS compliance and non-compliance of that valuation report, and to comply with IVS in preparing the review report. Worksheets developed during the classes assist the valuation reviewer to document and organize the issues identified in the valuation under review. The review worksheets contain the elements of valuation review which are used to determine the credibility of the valuation under review (VUR) results. The CAARR elements – completeness, accuracy, adequacy, relevance, and reasonableness – are useful in identifying whether some assignment conditions or scope of work issues are not compliant with IVS. The critical elements are drawn from the IVS general standard, IVS 101 to IVS 105.

Reviews with and without an opinion of value

IVS, like USPAP, differentiates between reviews with or without an opinion of value. In compliance with IVS 104, valuation review without opinion of value does not state the basis of value; if the valuation review will provide an opinion of value or if the reviewer is required to make comments on the basis of value used in the valuation under review, the basis of value must be stated in the review report.

ARM classes teach reviewers how to develop and analyze the review report.

In class, we were taught to organize our development and reporting using (respectively) modified models of the IRAC (Issue, Rule, Analysis, Conclusion) and CRAC (Conclusion, Rule, Analysis, Conclusion) formats used by US lawyers. While these models provide guidance for all reviewers, neither USPAP nor IVS prescribe format, form or style of a review report. For instance, since I am a Consultant at TAQEEM, Saudi Authority for Accredited Valuers in Saudi Arabia, I use the PSAC format (*Problem, Standard, Analysis, Correction*) as explained in The Saudi Valuation Review Manual.

Investigation

The investigation and compliance issue the IVS must always be considered in valuation review. IVS requires that an investigation be carried out that is appropriate for the purpose of the valuation review assignment. In case of limitations to the investigation, the valuer has to establish whether the limitations affect the compliance of valuation under review with the IVS. This could be compared to USPAP Standards Rule 3-2, on problem identification.

Gauging Compliance of Valuation under Review

In brief, ARM classes, although not focused on IVS, do help IVS reviewers on how they can gauge the compliance of valuation under review with any discipline standard set in the IVS. For example, machinery and equipment valuations are required to comply with IVS 2020 standard – IVS 300: Plant and equipment. The valuation review report will check whether the valuation under review complied with some or all of the requirements of the IVS 300.

Scope of Work

For IVS reviewers, the valuation under review is checked against the minimum requirements of the IVS 103 – Reporting.

Under USPAP Standard 3, reviewers are given “broad flexibility and significant responsibility” in determining the appropriate scope of work “necessary to produce credible assignment results.” Standards Rule 3.3 and 3.4 both state: “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 … given law, regulations, or intended user requirements applicable to the work under review.”

The ASA ARM classes reference these factors as CAARR. ARM classes give guidance in determining the scope of work and assessing when and how CAARR relates to the scope of work.

Both sets of standards agree that the major role of any report is to communicate the scope of the assignment to the client and other intended users.

Conclusion

The perceived challenge of how to make the ARM program work for me turned out to be not much of a difficulty at all. In my experience, these classes are a game changer for IVS-compliant valuation reviewers. The ARM classes provide knowledge and guidance on carrying out detailed, proper, and reliable valuation reviews across continents of the world. Reviewers can analyze the contents of valuation under review based on the checklists, methodologies, and models developed through the ARM classes. The ARM course content is applicable to valuers who comply with IVS and transferable to non-USPAP complying valuation reviewers.

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About the Author

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Enhancing the Appraisal Review Process

By Raymond Rath, FASA, CEIV, IA, ARM

Abstract: This article discusses similarities between financial auditing and appraisal review in the context of how reviewers can benefit from understanding, and in some cases applying, the underlying principles of the Mandatory Performance Framework (MPF) and insights from comments by the Public Company Accounting Oversight Board (PCAOB) on enhancements to the audit process. The appraiser stands to improve their work process and product by better understanding the MPF and PCAOB recommendations for process enhancements. After a brief background introduction on the MFP, this article focuses on several best practices for appraisal reviews based on insights from the MPF and AMPF and insights on the appraisal review process garnered from PCAOB inspection reports of public company auditors as presented on the PCAOB website. The article does not discuss technical BV issues or financial reporting valuation issues.

Fee Pressures

As appraisers, we all regularly deal with fee pressures associated with competitive bid projects. Many tax and financial reporting valuations are compliance-based projects and clients may place limited value on our services. Given this and other factors, there is often intense fee competition for these types of projects. Fee pressures have important implications for the sufficiency of work performed in the preparation of an initial value opinion. Fee pressures can also adversely impact the quality of appraisal review opinions. As importantly, appraisal reviews may suffer from the fact that many individuals or organizations with competency performing valuations may have a limited understanding of the appraisal review process.

Auditors and Review Challenges

Like appraisers, auditors face fee and other pressures with implications for their ability to adequately perform their work. Auditors may also not have a consistent view of what represents adequate audit documentation of their audit procedures, just as appraisers may not have a consistent view of what an appropriate scope of work involves. The role of the Public Company Accounting Oversight Board (PCAOB) – formed in 2002 after several prominent audit failures – is to essentially "audit the auditors," much as appraisal review is designed to asses appraisals.

Audit failures occur when the financial statements of a firm are discovered to be incorrect and substantially misstate the financial status of a firm – in most cases presenting a more optimistic picture of the financial performance and/or condition of the firm than is warranted. An audit can be described as a comprehensive review of financial statements – auditors remind us that financial statements are prepared by management of a firm – an auditor's role is to assess their reasonableness. This description of an audit suggests there are significant conceptual similarities between audits and appraisal reviews.

The PCAOB publishes the results of its inspections of audit firms and these inspection reports are available to the public. PCAOB findings from audit inspections include numerous deficiencies in the audit of fair value estimates incorporated in public company financial statements. Essentially, the PCAOB indicates that auditors failed to adequate perform appraisal reviews. Concerns about the quality of fair value estimates prepared for financial reporting purposes resulted in the release of importance resources for business appraisers including:

- Mandatory Performance Framework ("MPF")
- Application of Mandatory Performance Framework guide ("AMPF")
- Certified in Entity and Intangible Valuations ("CEIV") credential

SEC and PCAOB comments and MPF/AMPF/CEIV provide insights which can help us develop appraisal performance and documentation requirements for all appraisal disciplines. The following best practices for appraisal reviews are based on insights from the MPF and AMPF and insights on the appraisal review process garnered from PCAOB inspection reports of public company auditors as presented on the PCAOB website.

Background on the Mandatory Performance Framework

The MPF is a 31-page document issued in 2017 by Corporate and Intangibles Valuation Organization, LLC. The MPF and AMPF documents are available for free at ceiv-credential.org. The MFP is a document for valuation professionals that provides guidance on how much support, in terms of scope of work and documentation, should be prepared or obtained when designing, implementing, and conducting valuations of businesses, intangible assets and certain other items for financial reporting purposes. The focus of the MPF and AMPF is not on "How to" but on "How much" work to perform.

Elements of the Application of the Mandatory Performance Framework

The AMPF provides minimum performance requirements and documentation requirements for the preparation of fair value estimates. In addition to assisting in the preparation of appraisals, the AMPF can also serve as a review framework / document for financial reporting valuation reviews. In this context, the AMPF can essentially be viewed as a technical review framework to help appraisers and reviewers.

Best Practices for Appraisal Reviews

PCAOB statements and inspection reports have focused on efforts to help auditors more strongly document how they got comfortable with elements of a company's financial statements. PCAOB comments help us understand deficiencies in the audit process. The PCAOB's goal is to help auditors adequately document their audit procedures. In the worst cases, PCAOB inspections indicate that the auditor has not documented their audit procedures. Other audit shortcomings include procedures that do not include sufficient evidence to adequately (some might say robustly) demonstrate the basis and reasonableness of work performed to confirm that elements of management's financial statements are reasonable. Among audit procedures the PCAOB reviews, the PCAOB has published significant comments on its findings of shortfalls in our area of interest–the audit (review) of fair value estimates.

Key observations on best practices can best be structured using a framework that maps to the specific phases of the appraisal review timeline and process. These include agreement on the scope of review, performance of the review, and communication of the review findings (documenting the review). Each of these phases is discussed below.

Onset of Review – Development of Scope of Review Procedures

The MPF discusses mandatory elements of an engagement letter for valuation services. The Uniform Standards of Professional Appraisal Practice (USPAP) also provides detailed insights on engagement letter requirements. For appraisal reviews, a comprehensive engagement letter delineating the elements of appraisal reviews should be agreed to. Clients for appraisal reviews can be separate departments of the same firm (review group of a lending institution or valuation group of an accounting firm as examples). The PCAOB and audit firms often refer to internal agreements between a valuation group and audit engagement team of the same firm as a scoping memo. Clients can also be external to the valuation review firm. In this case, the more recognized term of engagement letter is appropriate.

For reviews requested by internal or related clients, a detailed scoping memo with the appraisal review client prior to beginning the review is a best practice. The scoping memo should provide specific elements of what is and what is not included in the appraisal review. Select elements of the scope of an appraisal review include:

- Which purported facts will require confirmation and by whom?
- Will source documents be reviewed?
- Will a math check be performed?
- Will an independent check for market data be performed?
- If projections of future financial performance are prepared, who will be responsible for assessing these?
- Numerous other as appropriate

These elements should also be agreed to in an engagement letter for an appraisal review.

Review Process

Once the scope of the review process has been agreed to and appropriately documented, the review actually starts. Many financial reporting valuations are extremely complex and often require questionnaires and responses in order to obtain additional information needed to fully document and complete the review. Questions to appraisers often fall into two areas:

- Documentation questions – Items where the reviewer does not have specific concerns but requires additional disclosure where items are not fully clear.
- Technical questions – Items where a reviewer may possibly disagree with an element of a valuation analysis

Questionnaires may also include comments where typographical errors or actual errors in the analysis have been identified.

Planning Meeting

One interesting note on financial reporting valuations that may not be observed in other valuation disciplines involves a planning meeting between the appraiser and the auditor's valuation specialist / reviewer. These planning meetings typically occur prior to the appraiser performing comprehensive valuation procedures. Valuations of intangible assets and many investments in entities with complex capital structures often involve wide degrees of divergence in practice – different appraisers would view different valuation methods and scopes of work as reasonable. Basic issues such as whether a market approach or income approach will be applied, and which method or methods would be used for an approach may be areas where reasonable appraisers may differ.

A planning meeting allows the independent appraiser and the auditor's valuation specialist to assess the best path forward. A planning meeting can avoid significant delays and potential excess costs and preparation time incurred for the appraiser. While planning meetings may not always be possible in the context of appraisal review practice, the reviewer may consider requesting contact with

"Fee pressures can adversely impact the quality of appraisal review opinions."

the author of a work under review (WUR) when possible or practical.

Communicating the Conclusion(s) of a Review

Assuming an appraisal report has been found to be reasonable, the next element of the review is properly communicating the conclusion(s) of the review. Suggested elements of the appraisal review report and possible additional documentation of a review include:

- Appraisal review report including:
- Purpose of the review
- Review guidance / standards adhered to
- Overall conclusion of the appraisal review
- Summary of work performed (explanation of scope of review and any scope exclusions)
- Opinion on appraiser's qualifications and competency to perform a valuation[1]
- Challenging technical issues, if any, and how resolved
- Supplemental information obtained in performing the review
- Qualifications of reviewer
- Robust review program with specific technical issues listed to demonstrate a review was actually performed. Review programs are frequently issued by many reviewers of financial reporting valuations. For larger firms, these review programs help to insure consistency of review practices across an often large, geographically diverse valuation practice.

In the audit world, if an audit file does not include specific documentation of audit procedures performed, the PCAOB (or other reviewer of the auditor's work) generally have to conclude that the work was not performed (even if the audit estimate (fair value conclusion for us appraisers) is reasonable). A conclusion of work not having been performed does not depend upon the auditor's determination of management's estimate (fair value estimate) as correct or incorrect; and it is not necessary for the review of the audit documentation to uncover any material errors or omissions in the audit process and the auditor's findings on management's accounting procedures and estimates. The lack of appropriate documentation indicates a lack of appropriate audit procedures.

This example reminds us that correct documentation of procedures performed can be an important element of the engagement process whether for an appraisal review or the completion of an appraisal.

The depth of a review program varies depending on type of project with review issues needed for a specific project. For financial reporting reviews, some key elements of the review may require an explanation to justify acceptance of issues –a simple check the box or yes is insufficient in some cases. In completing appraisal review programs during my Big 4 days, my sense was that I often wrote far more into the internal review program of the work of third-party appraisers relative to the amount actually written by the appraisers in their narrative appraisal report.

Reviews for Different Project Types and Different Disciplines

It is important to acknowledge that one size does not fit all. Reviews of fair value estimates prepared by or for publicly-traded firms often have very broad third-party reliance including shareholders,

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[1] The Uniform Standards of Professional Appraisal Practice (USPAP) indicate that competency is based upon how the work is done, not on the appraiser's qualifications. Many review appraisers have observed technically competent appraisers that for whatever reasons have prepared deficient valuations.

lenders, suppliers and even customers. An appraisal review associated with a small private transaction between two individuals involving a relatively immaterial amount obviously stands at the other end of the appraisal review continuum. Much like the challenges of facts and circumstances in developing a fair value estimate, facts and circumstances may impact the degree of appraisal review procedures performed in different situations.

Conclusion

Most (all?) appraisers have experienced situations where significant differences exist with other competing appraisers in the determination of a reasonable scope of work required to competently develop a valuation opinion and report. Appraisal reviews, by nature, involve procedures that are less in scope than a full appraisal, and different reviewers may develop significantly different scopes of appraisal report review procedures.

ASA continues its efforts to better educate appraisers and the users of appraisal reports on key elements of the appraisal review process. An enhanced knowledge of appraisal review practices will help increase the confidence of users of appraisal review services. This article describes some of the best practices observed for appraisal reviews as they relate to fair value estimates for financial reporting. These best practices can help appraisal reviewers enhance their valuation review practices.

About the Author

Raymond Rath, FASA, CEIV, IA, ARM, is a Managing Director of Globalview Advisors (Los Angeles office). He has over 30 years of financial valuation expertise and is a recognized leader in the valuation of businesses, securities interests, and intangible assets. Mr. Rath has performed valuation projects for financial (both U.S. GAAP and IFRS) and tax reporting, transactions, and litigation projects. He is committed to enhancing the quality of valuation practice both domestically and internationally. He has organized and moderated conferences for ASA on fair value issues including presentations by staff of the SEC, PCAOB, FASB and IASB and has led efforts resulting in an education and certification program for an Intangible Assets valuation specialty designation. Mr. Rath received his MBA from the University of Southern California and his BS in Business Administration, cum laude, from the University of Kansas. He is a Fellow (FASA) of the College of Fellows of ASA in the business and intangible assets valuation disciplines as well as Appraisal Review and Management. He holds the Certified in Entity and Intangible Valuations™ (CEIV) Credential designation and is also a Chartered Financial Analyst (CFA®) charterholder.