Volume 6, Issue 1, Summer 2022

ARM E-Journal™

ASA
Providing Value Worldwide™

OFFICIAL PUBLICATION

ASA Appraisal Review & Management Discipline

FEATURED ARTICLES

Reviewing Business Valuation Reports

— page 14

Spotlighting Report Writing & Management

This month we have articles from a broad range of well-known ASA members and a contributor from the legal community.

Rob Schlegel, FASA, MCBA; Carla Glass, CFA, FASA
Reviewing Business Valuation Reports
This article addresses important considerations in reviewing business valuation reports, including the professional standards the work under review is required to follow, whether ASA, USPAP, SSVS, NACVA and/or IBA; understanding the review assignment; and aspects of the review process as it pertains particularly to business valuation reports.

Attorney, Robert E. V. Kelley, Jr.
Towards a More Credible Appraisal: An Attorney's Perspective
This article examines the attributes of credible appraisals and provides examples of how to enhance credibility and, more importantly, what to avoid.

Pamela Bensoussan, ASA, ARM, CFLC
Surviving an Appraisal Review: Antique Oriental Carpet Appraisals
This article discusses important concepts in appraisal review. While it focuses specifically on Oriental carpet appraisals, the issues addressed are pertinent to appraisals of any asset and therefore to appraisal review of any report.

Joao Carlos Papaleo Mynarski, ASA, FRICS, IVSC
Managing the Valuation of Large Companies
This article addresses factors in the management of multidisciplinary appraisals of large companies and discusses some of the complexities that may add to the challenges of appraising certain industries.

Brian P. Brinig, JD, CPA, ASA
Ethics of Expert Witnessing
Expert witnesses have become critically important to the litigation process in recent years. This article discusses the ethical duties of experts as they are called upon to analyze and identify matters that are beyond the knowledge and experience of laypeople.

Jack Young, ASA, ARM, CPA
Reviewing the Appraisal Scope of Work: The Problem to be Solved
This article assumes a basic understanding of USPAP and explores how appraisal reviewers can use the scope of work and the seven elements of problem identification to determine credibility of a work under review. A similar article—discussing how the scope of work supports a compelling report—has recently been published in the ASA *MTS Journal*. Examples are provided to clarify the concepts discussed.

Jack Young

Jack Young, ASA, ARM, CPA, ARM
Publication Chair, ASA 2021-2022
Appraiser of the Year

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COLUMNS

ARM E-Journal™

Produced By:
ASA
2121 Cooperative Way
Suite 210
Herndon, VA 20171
(800) 272-8258
asainfo@appraisers.org

Full Fleet

Greetings, ARM members!

This is my last letter as the ARM Chair. The ARM committee has had a great two years and I am now at the end of my term. ARM membership is growing. We are currently at 81 members. We now have a full set of POV classes that enable people to join the ASA through ARM and it's working. The ARM designation is attracting members from outside the ASA.

The *ARM E-Journal* reaches over 42,000 people. About 10,000 of the 42,000 are ASA members and non-member prospects and nearly 32,000 are other non-ASA member appraisers and allied professionals. Overall, nearly 15% are opening the *ARM E-journal* e-mail.

ARM Committee Transition

It's election time again and I'm on my way to being the past chair of the ARM Committee. Stay tuned for the election results as many of us trade places and keep the ARM vision moving forward.

ARM Quarterly Meetings

All ARM members are invited to attend the Committee's quarterly meetings. We meet on the second Wednesday of the first month of each quarter. The meeting following this newsletter is scheduled for Wednesday, July 13, at 7:00 am PST (10:00 am EST). Members are welcome to listen in. For information on how to attend, please contact Joe Noselli at jnoselli@appraisers.org or (703) 733-2125.

2022 International Conference—Tampa

Terri Lastovka and Cameron Tipton have done a great job as the ARM conference committee co-chairs for the 2022 conference. Our program is full of great speakers you won't want to miss. Download the ARM Session Schedule at bit.ly/3OdR72N. Cameron Tipton will be the 2023 conference chair. Cameron is president of the Houston ASA chapter and co-founder of Flight Level Partners, specializing in aircraft appraisals.

J. Mark Penny

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

Meet Your ARM Committee

1. J. Mark Penny, FASA, IA, ARM
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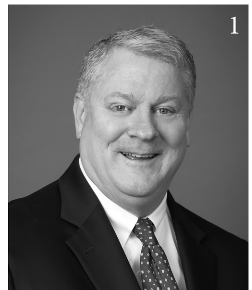
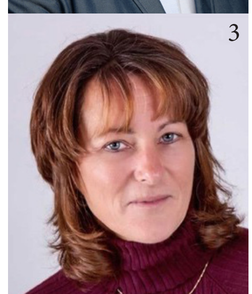
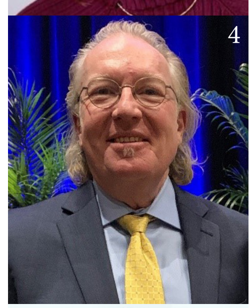
Secretary, International Ethics Standards Coalition

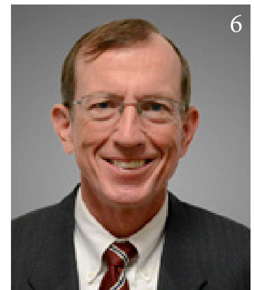
9. Cameron R. Tipton, ASA, ARM
Member at Large

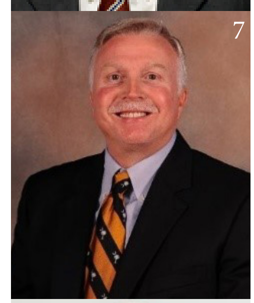
10. Charlie Dixon, ASA, ARM
ARM Board of Examiners Reviewer
ARM Publication Reviewer
AQB Certified *USPAP* Instructor











Grow a New ARM...Grow New Business!

The Appraisal Review & Management Committee is now offering two new courses to elevate your skills, knowledge, training, and education. Interested in offering litigation support or becoming an expert witness in your specialty?

Litigation Services

The AR202 Litigation Services course offers professionals the opportunity for gaining competency and confidence in becoming expert witnesses and litigation consultants.

This course encompasses the entire litigation process from engaging with a client, to testifying for the appraisal or appraisal review report. This class involves the anatomy of a case and the role of the expert witness. Course content includes getting hired with a retainer, testifying at depositions or in the witness stand, with techniques and tactics for testifying successfully. This comprehensive class includes mock testimony in a variety of assignment examples.

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.

Register today and find out if you can stand up to sitting in the hot seat!

Managing Multifaceted Assignments

The AR203 Managing Multifaceted Assignments course prepares professionals for overseeing multidiscipline and multispecialty assignments efficiently and appropriately. Be prepared when your client calls and asks you to serve as the point of contact for 6 appraisers encompassing 6 different disciplines or specialties. This class incorporates general management skills, specific appraisal management examples, effective communications and oversight, while properly navigating and writing scopes of work in often unfamiliar disciplines. Learn the methodology for coordinating, supervising, and successfully directing groups 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. Learn how to become the manager who directs the team of appraisers and gets the complicated assignment concluded appropriately, according to the scope of work necessary, and on time.

Register today and start taking those large jobs you currently refer out to others!

Share the News!

New ASA members are able to accredit in the ARM discipline by successfully completing all four POV courses. The FourARM program is achieved by completing AR201, AR202, AR203, and AR204, with exams, hours, and a review report submitted. See the ASA website for more details on accrediting in the ARM discipline!

The two-course accreditation is still fashionable and available to ASAs who would like to accomplish an additional accreditation in ARM by taking the AR201 and AR204 courses only (201 is the pre-requisite for 204), with exams and a review report submitted. Check out the ASA website and learn more—just two amazing classes and you're ready!

Non-ASA professionals are also invited to earn the famous ARM Certificate of Completion by successfully participating in the AR201 and AR204 courses, with exams and a draft review report. ASA has open ARMs for everyone! And…anyone wanting to complete reaccreditation hours in fun, interesting, and energetic courses can take any ARM Principles of Valuation classes any time!

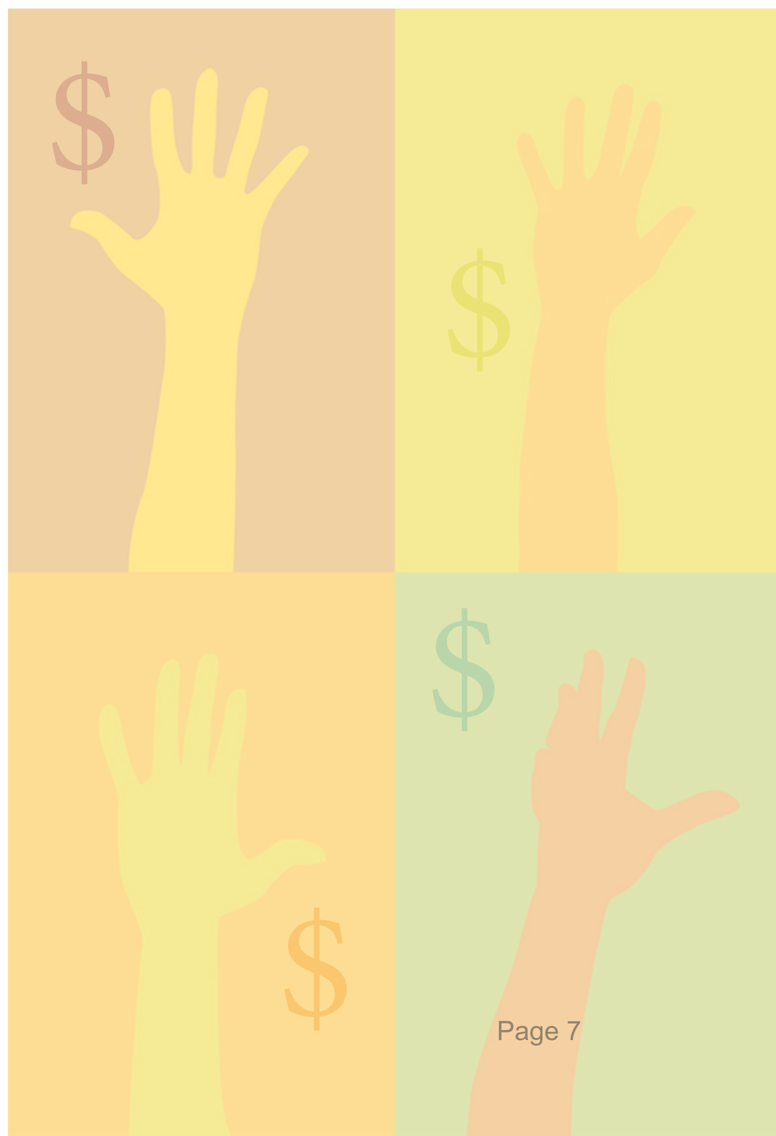
- AR201: Appraisal Review & Management—Overview & Development
- AR202: Appraisal Review & Management—Litigation Services
- AR203: Appraisal Review & Management—Managing Multifaceted Assignments
- AR204: Appraisal Review & Management—Application & Report Writing

ARM hosted webinars are always in development, so frequently visit the ASA website for appraisal review and appraisal management topics and presenters. I bet you didn't know you needed a new ARM! Still not sure?

Contact me at Melanie@ModicaFineArt.com or (713) 306-7966 and I'll be happy to share how the ARM designation is the best business decision you need to make—and the classes are FUN and ENJOYABLE—seriously!

Melani Modica

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



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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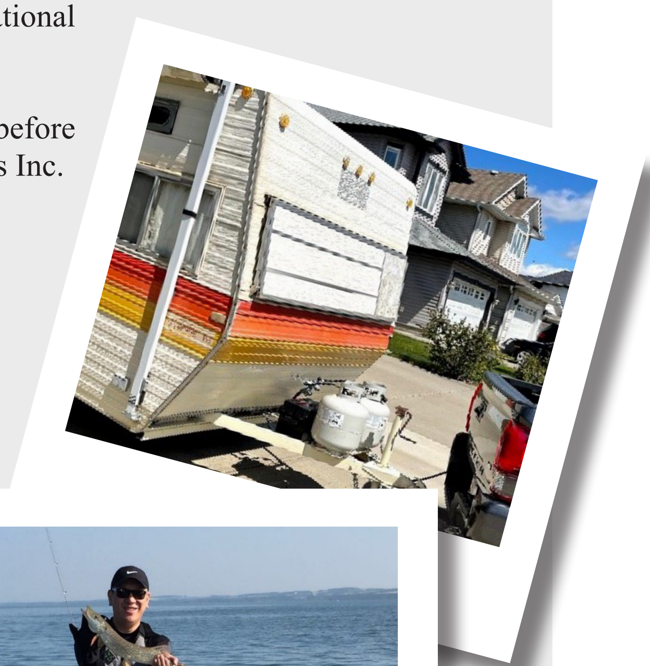
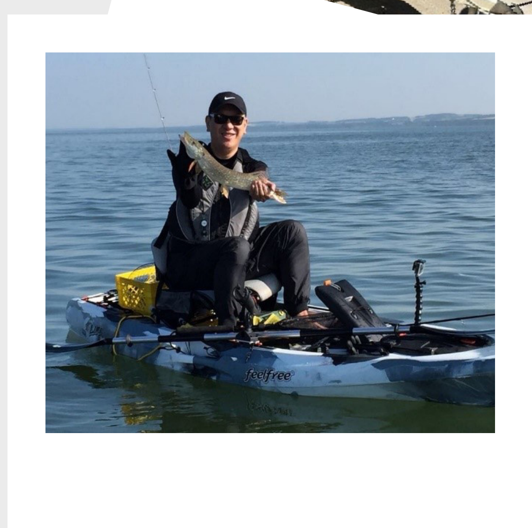
Paul Leung, ASA, ARM

An ASA specializing in Machinery & Technical Specialties (MTS) and Appraisal Review and Management (ARM), Paul Leung has been working in the appraisal industry for over 30 years in the property, plant, and equipment sector, providing valuation services for a broad range of tangible assets throughout North America and Asia.

Paul began his appraisal career in Asia, relocating to Canada in 1998, where he joined a national accounting firm's valuation team as their in-house appraiser. There, he focused mainly on fixed asset appraisal reviews for financial reporting purposes before opening the boutique appraisal firm CM Valuations Inc. in 2018.



An appraisal colleague and friend who works in Hong Kong suggested that Paul consider ARM as a way of expanding his new business. After exploring the possibility, Paul saw the opportunity and completed his training with the ASA ARM courses in New York and Houston. The course did more than provide expansion opportunities. Paul also made valuable connections with other appraisers/valuators in the ARM program.



Paul's favorite leisure activities are music, movies, scotch/bourbon tasting, 5k/10K running, and other hobbies, including kayak fishing, hiking and camping with his 1975 vintage 16 ft. camper (restoration project). Other activities he's interested in learning are cooking, piano, and water coloring.

Connect with Paul today!

Qualifications Matter

When it comes to valuing an asset, there is no room for error. Value matters, and so does the appraiser hired to make the value determination. An appraiser's education and experience are the factors that can make all the difference. Professional organizations like ASA understand the seriousness of the profession and have never wavered from their commitment of requiring excellence.

Education, integrity, credibility, and experience all factor into credentialing programs like the Accredited Senior Appraiser (ASA) designation. Consumer clients and users of appraisal services can rest assured that the ASA credentials after the name of an appraiser means they have been held to the highest standard in the profession.

Review appraisers who pursue credentialing programs and membership in professional organizations provide consumer clients and users of appraisal services with peace of mind that the appraiser being hired has completed stringent criteria in education, experience, and professional standards.

As an example, for the ASA designation, this means that individuals have done the following:

- Received over 100 hours of rigorous instruction;
- Passed 4 half-day exams;
- Completed Uniform Standards of Professional Appraisal Practice (USPAP) coursework and testing;
- Submitted a valuation report to a Board of Examiners;
- Fulfilled 10,000 hours of fulltime valuation experience;
- Committed to a strict Code of Ethics; and
- Continued to pursue required, on-going professional education.

Unfortunately, there is a general lack of awareness by consumer clients and users of appraisal services on why qualifications matter. Many only discover this after being involved in a costly legal dispute or prolonged engagement due to having to rehire experts to fix previous errors.
ASA is looking to change this. The society has launched a new international public relations campaign to create awareness for consumers, users of appraisal services, law makers, and the media that is designed to promote the differences and advantages of appraisers who have earned designations and belong to professional organizations like ASA.

A key part of the campaign will feature member-provided photos of them in the field or office appraising a client's asset in the background. The purpose behind this is to humanize experts and help differentiate them from a commoditized perception. Member photos will be posted to leading social media networks with informative captions and links for more information. The campaign will also feature tailored e-mails to select

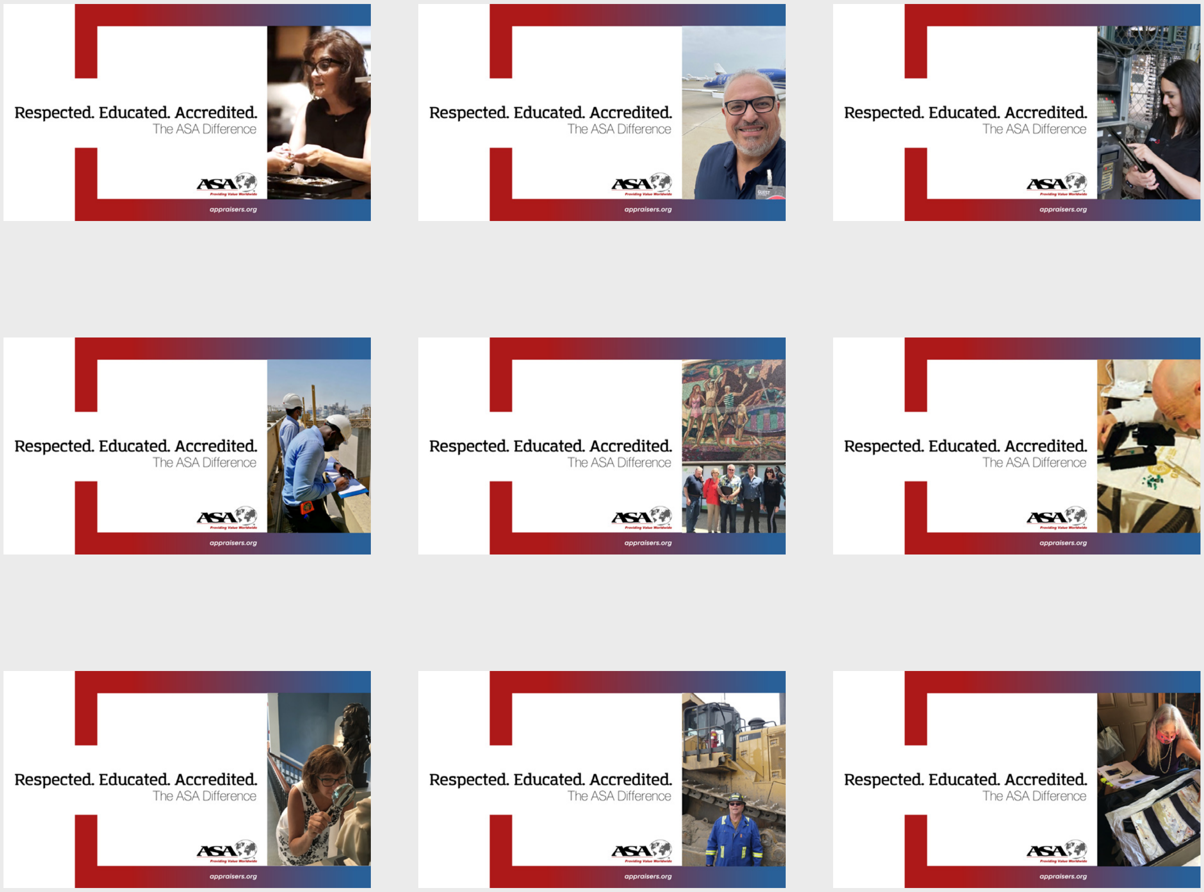


Figure 1: Samples of ASA awareness campaign social media posts featuring member-provided photos.

targeted audiences, as well as a series of informational articles.

Additionally, the campaign will feature a nationwide radio media tour with interviews of myself with leading outlets across the U.S. domestic market, promoting the trust, respect, and experience that credentialed professionals who belong to professional organizations like ASA provide. Through mid-May, 13 interviews have already been recorded and/or aired, reaching over 1 million listeners nationwide and in local Atlanta, Cleveland, Denver, Detroit, Houston, Las Vegas, and Raleigh markets. ASA's efforts to help create awareness that qualifications matter will not only benefit the intended targeted audiences, but also current appraisers and those looking to enter the profession who are considering the value of a professional organization's credentialing programs and membership.

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.

Better Manage Client's Risk Through Appraisal Review

Nobody understands the value and risks of your client's assets better than ASA. Which is why more appraisers, assessors, CPAs, bankers, attorneys, departments of governments or other users of appraisal services are turning to ASA for appraisal review support. ASA offers three pathways to mastering this critical differentiator. From a comprehensive credentialing or specialty designation program for practitioners to a certificate of completion program for allied professionals, ASA offers the advanced training, credentialing and membership opportunities you need now!

Get started today!

For more information visit www.appraisers.org/ARM,

or contact asainfo@appraisers.org or (800) 272-8258.

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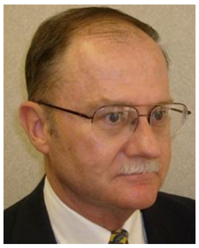
Reviewing Business Valuation Reports

Rob Schlegel, FASA, MCBA; Carla Glass, CFA, FASA

Abstract: This article – based on our presentation *Reviewing a Business Valuation Report* presented to the *2018 Joint American Society of Appraisers Advanced Business Valuation and International Conference*—addresses important considerations in reviewing business valuation reports, including the professional standards the work under review is required to follow, whether ASA, USPAP, SSVS, NACVA and/or IBA; understanding the review assignment; and aspects of the review process as it pertains particularly to business valuation reports.



Reviewing the Credibility of a Report

A review of a business valuation report can be requested in various settings, for various reasons. If the review is requested in a litigation context, the requesting attorney is seeking to identify errors or inadequacies in order to undermine the conclusion of the report. If the review is done for financial reporting, banking (such as SBA lending), or other decision-making context, the review is more focused on the adequacy of the procedures and the reasonableness of the conclusion. Notwithstanding the purpose, a review analysis should follow a recognized process in order to establish the credibility of the review. Just as they would in completing an appraisal, the reviewer is acting in an independent, impartial, and objective manner. Essentially, the reviewer may develop an opinion of the quality of appraisal methods and conclusions of the appraisal report, or work under review (WUR), may develop an alternative opinion of the subject business equity, and effectively communicates the opinions and conclusions to the client.

Fundamentally, a typical appraisal review is a critique of the development of the opinion and the reporting of the business value conclusion. Note that the word "critique" means a detailed analysis and assessment of something. The word "criticism" can have a similar definition such as the analysis and judgment of the merits and faults of something. However, in this context, we are not talking about "criticism" as depicted in its other definition, such as the expression of disapproval of someone or something based on perceived faults or mistakes. Said another way, under USPAP, the appraisal review process is an unbiased, independent, impartial, and objective analysis. It is not intended to solely point out problems or errors of the appraiser, nor disagreements as to style.

There are several professional business valuation organizations in the U.S. Each of these organizations has its own professional standards with which members of its organization must comply. One typical appraisal review request might be to simply determine if applicable standards were met. If this is the case, the first step is to understand the purpose for which the appraisal was prepared and the professional designation(s) of the author. These two facts indicate which professional standards are applicable. If the appraiser is designated by the American Society of Appraisers (ASA), then both the ASA Business Valuation Standards and the Uniform Standards of Professional Appraisal Practice (USPAP) must be followed.

If the appraiser is designated by the American Institute of Certified Public

Accountants (AICPA), the National Association of Certified Valuation Analysts (NACVA), or the Institute of Business Appraisers (IBA, which now is a part of NACVA), then compliance with business valuation standards issued by these professional organization is required. The AICPA Standards are the Statement on Standards for Valuation Services, Valuation of a Business, Business Ownership Interest, Security, or Intangible Asset (VS Section 100, or SSVS).[2] The professional standards of NACVA and IBA are similar to SSVS. Despite different terminology, limitations, and types of various reports, both ASA/ USPAP and SSVS standards do not contradict each other and require thorough analysis and an understandable, defensible business valuation report as prepared by the appraiser or the analyst.

It should be noted that SSVS has an exemption from complying with their business valuation reporting standards (not development standards) when the analyst's conclusion is to be used for litigation purposes. However, USPAP does not have this exception. Many business valuers have credentials from more than one of these organizations and the WUR should state any exceptions to applicable standards.

In general, a good appraisal review report will address questions such as the following:

- What is the type of work under review (WUR)? According to its label, is it supposed to be one of the more detailed ones, or one of the less detailed ones? Was it limited regarding which methods were to be used in the analysis? Under what set of professional standards was it conducted?
- Does the WUR include sufficient detail?
- Does the WUR follow a logically developed analysis that an informed reader can follow?
- Are key, unusual assumptions sufficiently identified and justified?
- Are there omissions of key factors that would affect the valuation?
- Are data inputs and calculations accurate?
- Are there internal inconsistencies in the applications of the valuation methods?
- Are judgments clearly identified and are they supported?
- Is the report misleading in any way?
- Can another competent appraiser replicate the calculations of value?
- Does the WUR state an Opinion or Conclusion of value that is reasonable and defensible, or do the weaknesses lead to the conclusion that the WUR is not credible?

Professional Standards for Reviewing a Business Valuation

USPAP is the only set of business valuation standards that include requirements (or any sort of guidance) regarding how to complete an appraisal review of another appraiser's work. Because this article is being written for an ASA publication, the remainder will reference the review requirements in USPAP and use USPAP terminology. However, we trust that most of the steps and subjects addressed would simply apply in any reasonably-prepared business valuation review engagement.

An Appraisal Review Under USPAP

The subject of an appraisal review assignment may be all or part of a report, work file, or a combination of these. Keep in mind the two definitions of a review:

[2] There are also evolving business valuation standards from the International Valuation Standards Council which include standards for other appraisal disciplines.

- (noun) the act or process of developing an opinion about the quality of another appraiser's work 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.

Note that the appraisal review assignment that USPAP addresses is one in which one appraiser is reviewing the work of another appraiser. If the initial work was not completed by someone meeting the USPAP definition of an appraiser, then the review does not technically come under the USPAP appraisal review requirements. In some Review assignments, the reviewer might be asked to only review small elements of the overall business valuation. However, in most review assignments, the reviewer is asked to look over all elements of the other appraiser's work. Unless indicated otherwise, the remainder of this article will assume that the review being completed is the more thorough type.

Members of the ASA undertaking an appraisal review must comply with the appraisal review standards of USPAP and will take into account the professional standards the author is required to follow, whether ASA, USPAP, SSVS, NACVA and/or IBA. If the work under review was completed by a member of the ASA, then the reviewer would consider whether compliance with ASA's Business Valuation Standards as well as USPAP's Scope of Work Rule, Standard 9 (Business Appraisal, Development), and Standard 10 (Business Appraisal, Reporting)[3] was met. For the reviewer, however, USPAP has additional guidance:

- Standard 3, Appraisal Review, Development
- Standard 4, Appraisal Review, Reporting
- Advisory Opinion 20 (AO-20), An Appraisal Review Assignment that includes the reviewer's Own Opinion of Value

Any review of a business valuation report should begin by recognizing the USPAP description of a review assignment in Standard 3, stating *"In developing an appraisal review, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible appraisal review."* In other words, we must first (a) understand the problem to be solved, which could generally be described as the factors our client wants addressed (what is our assignment), (b) from this understanding, identify the steps necessary to address these elements, or, in USPAP terms, determine our review scope of work, (c) correctly complete research and analyses necessary to produce a credible analyses and conclusions about those elements (or complete the review scope of work), and (d) delineate our findings of the strengths and weakness of the report in question (complete an appraisal review report). Reviewers have to maintain a workfile just like appraisers do in completing a valuation report. USPAP Standards allow our review opinion to be stated in an oral briefing or in a written report. But even an oral report requires our adherence to USPAP Standard 3 and Standard 4, and our workfile should contain sufficient written materials to defend our analysis and opinion, as well as a signed and dated certification.

USPAP Standards 3 and 4 have certain requirements to comply with for any appraisal review. If the reviewer is providing his/her own opinion of value, there are additional requirements. Reviewers are sometimes

[3] As well as other applicable parts of USPAP.

“A good review of a business valuation report is a thorough and impartial analysis.”

uncertain about what they are doing would be considered “providing their own opinion of value.” Advisory Opinion 20 (“AO-20”) in USPAP gives some extremely helpful advice on this. It provides some sample language that can be used when, in your view, you are NOT providing your own opinion of value. On the contrary, it also provides language that, if you use those words, you ARE providing your own opinion of value, whether you intend to or not.

AO-20 provides the following as sample language you can use when you ARE NOT providing your own opinion of value:

- The value opinion stated in the WUR is (or is not) adequately supported.
- The value conclusion is (or is not) appropriate and reasonable given the data and analyses presented.
- The value opinion stated in the WUR was (or was not) developed in compliance with applicable standards and requirements.
- I reject the value conclusion as lacking credibility due to the errors and/or inconsistencies found.
- The value conclusion is not appropriate due to math errors, but, if calculated properly the conclusion would change to $xxx; however, the reader is cautioned that this solely represents a recalculation and not a different opinion of value by the reviewer.
- I accept (or approve) the appraisal report for use by ABCD (bank or agency).
- AO-20 provides the following as sample language that indicates you ARE providing your own opinion of value:
- I concur (or do not concur) with the value
- I agree (or disagree) with the value.
- In my opinion, the value is (the same).
- In my opinion, the value is incorrect and should be $ SSS.
- In my opinion, the value is too high (or too low).

Understanding the Appraisal Review Assignment

The engagement authority commissioning your review assignment is your client. Commonly, these assignments to conduct a review of another business valuation report can generally fall into two categories. The categories and example of each are as follows:

Litigation

- Matrimonial dissolution
- Lost profits / Economic damage
- Corporate breakups (or “business divorces”)
- Shareholder disputes
- Virtually any other situation where a lawsuit requires a business appraisal

Other Decision-making Contexts

- Financial Reporting - Fair Value (assurance)
- Estate and gift (although with Internal Revenue Service review might lead to litigation)
- Employee stock ownership plans (with review by the Department of Labor in addition to the Internal Revenue Service, which might lead to litigation)
- Bank/SBA Lending
- Ownership planning, including future sale of the company
- Other situations where a business appraisal may be requested

Appraisal Review Credibility[4]

In litigation, an appraisal review that lacks credibility may result in the conclusion by the judge or jury (and certainly the opposing attorney) that we are operating in a biased fashion, and therefore, that the

[4] In some cases, the scope of the internal review will only be to ensure competency of the subject appraiser (banks, tax authorities).

conclusion of the review should be thrown out. It is often the case that the WUR has some strong parts (credible, appropriately supported by research and logical analysis) and some weaker parts. To complete the review objectively, the appraisal reviewer should comment on both the strengths and weaknesses. In the case of a review assignment to confirm acceptance (or denial) of the business valuation submitted, simple acknowledgement of the review points and an "Accept" or "Accept with conditions (these are noted)" or "Do Not Accept (with reasons)" memorandum may be sufficient. These latter decision-oriented assignments will likely have internal paperwork and procedures designated by the company requesting the review.

Your qualifications give you credibility to do review work based on how you document your ability and capacity to do a review assignment, such as:

- Competency in business valuation;
- Competency in intangible asset valuation (if that is the subject of the report under review);
- Competency in economic damages assessment (if that is the subject of the report under review);
- Background in subject industry; and,
- Training in the review process, such as ASA's ARM credential implying your coursework and submitted sample report.

Another issue arises when the reviewer provides his or her own opinion of value based upon facts stated in the original report and newly-developed facts. In this case, a reviewer must be careful to acknowledge the assignment as a review assignment, but follow USPAP Standard 9 in developing his/her own conclusion of value. Reporting his/her opinion of value can either be done as part of the review report (in compliance with Standard 4) or done separately as a business valuation report in compliance with Standard 10.

The first step of an appraisal review is to understand what it is you are being asked to do. As indicated above, the review might be of all or a portion of another appraiser's work. Although there are customary steps completed for reviews for certain purposes, such as a review of an analysis completed for financial reporting purposes, there are instances in which the request might be to review only one small part of a total analysis, or to complete only certain specific tasks. So, before you begin anything, make sure you understand what is being requested. Some examples of the wide variety of these requests include:

- Were the analysis and report completed in compliance with whatever professional standards apply to the engagement or the author?
- Does the selection of publicly traded companies to use in the guideline public company method make sense?
- Is the math correct in the analysis?
- Is there adequate support for judgments used in the valuation?
- Do you agree with judgments used in the valuation?
- Does the author have the basic competencies (designation, experience) to complete a credible valuation for the intended purpose?
- Does the report narrative support the analysis and conclusion?
- Do you agree with the value conclusion?
- If you appraised the subject equity yourself, would you likely reach a materially different conclusion of value?
- What is your opinion of value?

Reviewing and Opinion of Value

As mentioned earlier, guidance in A0-20

helps to distinguish the fine line between a straightforward review that concludes acceptable or not acceptable, and that the stated value is too high or too low or is an alternative value. If you venture beyond the acceptable/not acceptable language, your indication of "high" or "low" implies that you have made a valuation judgement. In other words, you have conducted an appraisal. There are a few things made clear from this sample language.

One observation is that there is a difference between correcting pure math and disagreeing with a judgment. If you simply correct math errors and indicate that the value conclusion would be with the correct math, then you have NOT provided your own opinion of value. However, if, for example, you disagree with the adjustments to the market multiples, and the specific company risk adjustment in the cost of equity, and the selected percentage discount for lack of marketability (which are professional appraisal judgments, not math) and you provide a value conclusion based on your different judgments, then you have provided your own opinion of value.

Guidance in Providing an Opinion of Value

If you are asked by your client to indicate whether or not you agree with the concluded value, then you are providing your own opinion of value. Additionally, simply stating that you believe the value is too high or too low (based on the specific points you have made in your appraisal review report), is considered by USPAP to be providing your own opinion of value.

AO-20 also provides significant other helpful guidance about completing an appraisal review; we highly recommend it! Standards Rule 3-3(c) addresses the additional points to be aware of during the development (not reporting) phase of your work when you are providing your own opinion of value as part of an appraisal review assignment.

It states that the requirements of Standard 9 apply to your opinion of value. The Comment to Standards Rule 3-3(c) also indicates that, in developing your opinion of value, your scope of work as well as the effective date of your opinion of value can differ from that of the work you are reviewing. This last point, that the date can differ, surprises some people. This allows for a situation in which you are asked to review someone else's work and, based on that, update the opinion of value – as one example. Additionally, the Comment states that, as the reviewer, you do not have to re-do everything. If there are parts of the analysis in the work under review with which you agree, you can simply accept those parts (by use of an extraordinary assumption) and re-do the parts with which you disagree. In completing these changes, you would need to complete your own research and analysis in compliance with Standard 9.

Aspects of the Reviewing Process

There are typically several elements addressed regarding whatever is being reviewed. These five aspects include the completeness, accuracy, adequacy, relevance, and reasonableness of the subject of the appraisal review, listed in the comment to Standards Rule 3-3(a) and identified as part of what is considered appraisal review methods.
As indicated previously, the first step is to determine *what* you are being asked to review. Then, for that subject of the review

—whether it is an entire analysis and report or only the selection of the guideline public companies (for two extreme examples)—the review process would generally address some or all of those five aspects of the subject. For example, was the search for guideline public companies thorough and complete; was it accurate (Were correct industry codes or business descriptions used?); was the analysis of the initial list of potential guideline companies adequate to identify those most appropriate and relevant in the current analysis, and, all things considered, was the selection reasonable.

Assuming that you are reviewing the other appraiser's entire analysis, it might be helpful to think through each of those five aspects of any key elements of the work under review. It might help provide significant clarity in your thinking. Additionally, use of those five terms can help clarify comments you make in your appraisal review report.

The appraisal review is a critique of the work product, not the person who authored the report. Although it might seem apparent at times, the other appraiser might have done things you consider incorrect out of ignorance (not knowing better) or out of bias (knowing better and doing it intentionally). In the wording of your review report, your language should be that you agree or disagree with "the report's conclusions of …." or "the report's method of analysis …" Points of critique should be about the report, not about the appraiser who signed the report. However, the appraisal review might also include addressing such things as the credentials or experience of the author(s) of the WUR. Clearly, for those statements you would be talking about the person, not the report. While doing the review, keep the following big-picture items in mind:

- Understand the standard of value used in WUR, like fair market, fair value, or at times, investment value.
- Understand the premise of value, commonly going-concern, but may be forced or orderly liquidation.
- Understand the use of the report by the intended users and other decision-makers.
- Be professional in your examination and your writing; be careful of inflammatory language.
- Establish with your client (e.g., the recipient of your review or "the engagement authority") the extent of your research, analysis, and reporting.
- Are you solely critiquing WUR or also developing your own opinion of value?
- If solely critiquing, is it:
    - Based solely on what's in another appraiser's report?
    - Based solely on another appraiser's report and work file? or
    - Based on what's in another appraiser's report (and maybe work file) you're your independent research?
- If developing your own opinion of value:
    - Can you use some data or analysis from the other appraiser's work?
- If you need additional background facts to develop your own opinion of value, what additional steps are necessary?
- Have you communicated the need to develop your own opinion of value and the likely fees associated with this additional work to your engagement authority?

Common Problems in Business Valuation Analyses and Reports

While every business valuation assignment is unique, there are some common problems. The basic question is "Is the WUR understandable to the reader?" This list is not all encompassing, but here are a few illustrations:

- The report states that it complies with XYZ professional standard, but it does not in some obvious ways.
- The standard and definition of value are provided but portions of the analysis do not comply with the definition. Or, in some cases, definitions of value provided in legal documents are not clear and the report does not indicate how the definition was interpreted.
- The report states that rapid growth of earnings, or unusual cash flow items, are expected in next few years, but this expectation is not reflected in the capitalized cash flow method as applied.
- Conclusions are presented based on unsupported methods of analysis.
- The guideline public company method is excluded without adequate reason (some people just don't like or are not comfortable with this method and fail to explain their reasoning).
- There is inadequate guideline public and private company analysis showing the similarities and differences between the subject company and the selected comparable companies.
- The use of the merger and acquisition method without capturing the differences between asset transactions and equity transactions.
- There are inconsistencies in assumptions or treatment of items in a sales comparison approach and an income approach (unless such differences are appropriate and explained).
- Extensive and irrelevant boilerplate is used, especially when it has out-of-date citations (such as citing Ibbotson Associates as the source of equity risk premiums).
- Evidence of bias in language that clearly shows a desired outcome which questions the independent judgement of the appraiser.[5]

[5] This is extremely difficult to sustain in a review report. The reviewer should not presume biased intent on the part of the appraiser.

- There is a failure to support critical assumptions, leading to leaps of faith in the value conclusion.
- Valuation terms that can have more than one meaning are used but are not defined, such as "cash flow."
- Undefined jargon from economics, accounting or finance theory are used that cloud the understandability of the value conclusion.
- Economic and/or industry conditions and outlook are not properly analyzed and/or are not tied to the outlook for the subject company and how that comparison relates to the valuation judgements. For example, the WUR documents a gloomy economic and industry picture but uses a rosy company forecast without explanation.
- The financial statement analysis and/or consideration of how it affects value is inadequate.
- There is no evidence that the appraiser read or understood the applicable legal documents that would influence the valuation judgements; the summary in the report is inadequate or misses key points.
- There is evidence of a failure to understand applicable state law.
- Inadequate, or no, support is provided for valuation judgments, such as:
  - Financial statement adjustments;
  - Specific company risk in the cost of equity;
  - The capital structure reflected in the weighted average cost of capital;
  - The forecast growth rate of revenue or changes in profit margins in a forecast;
  - Selection of guideline public companies or merger and acquisition transactions; or
  - Adjustments to market multiples.
- The report contains internal inconsistencies among the valuation methods about the level of value (control or not) reached by the end of the analysis.

- The treatment of financial statement adjustments and discounts/premiums is inconsistent. For example, the use of minority level cash flows combined with the application of a discount for lack of control.

Here are a couple of examples of report language that show poor descriptions and insufficient research and analysis. As reviewers, our comments must (a) point out the discrepancy and (b) lead the reader to our general conclusion of concurring or not concurring with the conclusion.

Example #1: Explanation of the "market" approach—that there was no exhibit that accompanied this narrative.

> *The first method of valuation we have used to estimate the fair market value of ABC is the "market-based approach" . . . We researched for relevant national and regional economic data, industry data, and for comparative business data from various sources, including publications from the U.S. Department of Labor, Pratt's Stats, Bizcomps, IBA Market Data, and various internet sites and other sources within the public domain. Using Pratt's Stats, we were able to identify sales over the years with similar revenues sales and services throughout the country. We were able to define a sales multiple of 1.5X.*
>
> **Reviewer's Comment:** The WUR did not include sufficient data to support the assertion of a 1.5x sales multiple, despite identifying a variety of sources for this data. This lack of detail does not allow confidence in the value indication reached in the report's "market approach."

Example #2: Basis for Discount for Lack of Control—there was no exhibit accompanying this narrative.

> *We examined data provided by Mergerstat Premiums and Discounts (Mergerstat) for 2017. Mergerstat is an online database that generates support for quantifying discount for lack of control. With over 10,700 transactions of public companies, the database includes mergers and acquisitions, controlling takeovers, managed buyouts, and private equity deals. The database also allows you to identify the control premium and implied minority discount by industry. Using the database, we have selected a minority interest discount of 26%.*
>
> **Reviewer's Comment:** The WUR concluded a 26% minority interest discount but did not support this conclusion with control premium data nor the calculation used to indicate the reciprocal discount. This lack of detail undermines confidence in the indicated minority interest value.

Use of a Checklist

Often reviewers use a checklist when reviewing a report. You could use the checklist that the business valuation Board of Examiners uses to review a report submitted for credentialing purposes. On the other hand, given the purpose of the review assignment, you may have a checklist already developed or design your own. Clearly, having a checklist helps the review to be thorough and organized.

There are several sources for helpful checklists that you may adopt or refine to develop your own procedures list:

- *Valuing a Business*, 2008, Shannon Pratt and Alina Niculita, 5th Edition, Chapter 22
- *Valuing a Business*, 2022, American Society of Appraisers, Business Valuation Committee, 6th Edition, Chapter 22, "Writing the Business Valuation Report"
- AICPA SSVS#1 Report Content Checklist (from AICPA)
- ASA Candidate Report Checklist (available on ASA website)
- ARM 204 Review Report Writing Guide

Drafting the Appraisal Review Report

While there is no standard format for a review report, appraisal review reports are addressed in USPAP Standard 4. It is important to indicate what you were asked to do, your qualifications, specific identification of the WUR, your substantive findings organized with primary observations with examples, corrections if appropriate, and conclusions.

For clarity, it is important to clearly indicate what was included as part of your review assignment and what was not. If there were steps you might have taken but did not because it was not part of what you were engaged to do, it might be important to disclose those steps not taken.

Remember that if an alternate value is concluded you must be qualified to provide that value and must use Standard 9 for analysis and Standard 4 or Standard 10 for reporting your opinion of value.

Elements to Include

- The purpose of the review and an appropriate standard of value and premise
- What you accept and do not accept about the work under review, including evidence and rationale for your disagreements with the parts you do not accept
- Identification of any inconsistencies that lead to non-credible conclusions
- Identified math errors
- Additional language citing added analysis, corrections, new information, and re-calculations that lead to a different opinion of value
- A certification. There are differences in a business valuation certification and a review certification (Std Rule 4-3). For example: *"property that is the subject of this report" becomes "property that is the subject of the work under review."*
- Statement of your conformity with review standards: *"My analysis, opinions, and conclusions were developed, and this review report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice."*

Things to Avoid

- Do not make your comments personal; cite the WUR not the appraiser who signed it.
- Do not use unnecessarily inflammatory language; apply a professional tone in your analysis.
- Do not imply—or outright state—opinions about the mind-set of the appraiser, such as intentional bias, unless there is clear evidence that should be known by the client.

Conclusion

A good review of a business valuation report is a thorough and impartial analysis. Appraisal reviews are requested for a variety of reasons. When conducting a review, be professional, and concentrate on the WUR. Keep in mind that the review report itself should meet applicable standards, such as following USPAP Standards 3 and 4, and Advisory Opinion 20. These elements will support the credibility of your appraisal review.

Undertaking a review assignment can be challenging work. Along with other challenges is that of producing a review report that effectively communicates the quality of the findings of the business valuation report provided to you. The reader of your review report should be able to see an unbiased assessment, realizing that you, as the reviewer, have qualifications to perform the review itself and that the findings conveyed properly summarize the strengths and weaknesses of the WUR.

About the Authors

Rob Schlegel, FASA, MCBA, is a Principal with Houlihan Valuation Advisors. Rob's professional background includes extensive work in business appraisal, marital and partnership dissolutions, estate planning, market studies, statistical analysis, and forensic accounting. He has testified as an expert in Federal and Indiana courts and has directed numerous studies of business value, economic damages and lost profits, and intellectual property matters for clients in a wide variety of professional services industries. He authored the course "Valuing Intangibles" for the Institute of Business Appraisers and contributed the chapter on Intangible Asset Appraisal in Understanding Business Valuation, 3rd edition. Rob regularly teaches valuation methods and report writing techniques to appraisal, legal, and accounting organizations, and is a Licensed or Certified Appraisal Instructor by the Real Estate Appraisal Boards in Indiana, Utah and Virginia.

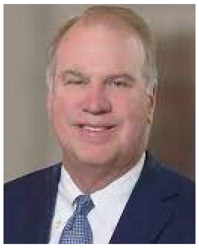
Carla Glass, CFA, FASA, is a managing director in the Valuation and Litigation Support Services group with Marcum Accountants and Advisors. Carla has created and taught Principles of Valuation courses for the American Society of Appraisers, has served ASA as Chair of the Education Committee and Chair of the Business Valuation Committee, and is a Fellow in the ASA College of Fellows (FASA). She was Chair of the Appraisal Standards Board of The Appraisal Foundation and one of eight valuation professionals who served on the Valuation Resource Group of the Financial Accounting Standards Board.

When Value Matters

Towards a More Credible Appraisal: An Attorney's Perspective

By Robert E. V. Kelley, Jr.

Abstract: A litigated valuation dispute is won or lost on the basis of the appraisal evidence presented. In order for an appraisal to be effective in this context, it follows that it must be credible. The credibility of an appraisal can be enhanced at every phase of the appraisal process. This article examines the attributes of credible appraisals and provides examples of how to enhance credibility and, more importantly, what to avoid. While some examples are specific to real property appraisals, experts in any appraisal discipline can benefit from this article.



Valuation disputes are frequently resolved through litigation, which is an adversarial process. Each party is trying to persuade the fact finder that their value estimate is more correct than their opponent's. Appraisers testify as expert witnesses and offer their opinions of value supported by written appraisal reports. It goes without saying that the more credible of two competing appraisals ends up being the one that carries the day.

Credible appraisals are not the result of an accident – to the contrary, they are the product of careful preparation and deliberate execution. Because the appraisal process necessarily involves judgment, it is not pure science—there is no single "right" answer. However, judgment supported by facts leads to credibility and, thus, persuasion.

A credible appraisal is best described as one that: (1) is made by a qualified appraiser (i.e., competency); (2) adheres to professionally accepted appraisal practices which are correctly employed; (3) is consistent with standards unique to the jurisdiction; (4) is devoid of factual errors; and (5) supported by well researched data and reasoned logic.

In litigation, every aspect of the appraisal process, from start to finish, will be under the microscope and subject to intense scrutiny. In addition to his or her appraisal expert, opposing counsel is likely to employ a review appraiser to evaluate your opinion/ report in preparation for trial. The focus of cross-examination ranges from the "knockout punch" to "death by 1,000 cuts." Regardless of the mode of attack, there are a number of things that can be done to minimize errors that detract from credibility.

The Engagement

The best place to start is usually at the beginning. For an appraisal assignment, this means the engagement. Typically, you will be contacted by an attorney representing a party in the case, seeking to employ you as an expert on behalf of the client. Even if you've worked with that attorney before, it's still a good idea to verify his or her expectations for this assignment. Do not underestimate the degree of thoroughness required by the assignment. Discuss the attorney's expectations up front and then charge accordingly. Hopefully, you will be expected to gather information (e.g., deeds, contracts, closing statements, etc.) for sales transactions beyond what is published on commercial data services. Also, determine whether you will be expected to verify each sale considered or used with a principal to the transaction. The same goes for inspecting and photographing comparable sales. You do not want to quote a fee until you understand exactly what is to be expected of you. Confirm the valuation date, the interest being appraised and the standard of value to be applied. There are several different value definitions for real estate and tangible personal property, including jurisdictional definitions. It is preferable to receive written instructions from the attorney on these points. Needless to say, your appraisal will be dead on arrival if you mistakenly use an incorrect standard of value for the assignment.

Jurisdictional Exceptions

We all know that the Uniform Standards of Professional Appraisal Practice (USPAP) recognizes jurisdictional exceptions to the appraisal process.[2] Ask your attorney whether any jurisdictional exception potentially applies to your assignment. If so, request the lawyer provide you with language to insert into the report, invoking the jurisdictional exception. Otherwise, you will be left to fend for yourself in deposition or at trial as to why you invoked a jurisdictional exception.

Prior Assignments or Testimony

It's also a good idea upfront to reveal prior assignments or testimony involving similar properties that could be used against you later at trial for impeachment. The internet is an amazing thing. It's conceivable that prior appraisal reports you have prepared are available on the net, particularly if you have made appraisals for governmental agencies. Attorneys appreciate candor and if you're not selected for this engagement, chances are they will be calling you for the next one.

Data Collection

Appraisals, like the subject of any expert testimony, must be predicated upon an underlying set of facts or data.[3] Not only are the underlying facts subject to discovery prior to trial, but production of the information at trial could be demanded by the opposing party. Always strive to obtain documentation for your work file, particularly where it concerns sales or leases. If you are differentiating a location between the subject and a sale property on the basis of traffic flow, then by all means obtain traffic counts from the appropriate governmental source to support your adjustment. Tangible and intangible personal property frequently transfer along with real estate. It is imperative that you document the value contribution of each, when appraising just the real estate itself.[4] This means gathering bills of sale, assignments of contracts, IRS Forms 8594, and so on.

Whenever possible, avoid the use of confidential data in your appraisal, as this leads to discovery disputes down the road. When in doubt, seek help and guidance from the attorney. Most jurisdictions have rules that prohibit a party from prosecuting or defending a claim on the basis of confidential data, which is not disclosed to the opponent in discovery. Understand that if you use confidential information as the basis for your opinion, it will in most cases be subject to disclosure.

Valuation Methodology

All three approaches—cost, income and sales comparison—have theoretical application to any given appraisal assignment. Moreover, there are variations within each approach to be considered. For example, the income approach may be developed using direct capitalization of income or a discounted cash flow analysis. Similarly, the cost approach

[2] Jurisdictional Exception Rule, USPAP

[3] Federal Rule of Evidence 705.

[4] *Walker v. Trump*, 549 So. 2d 1098, 1101 (Fla. 4th DCA 1989) (opinion lacking in credibility because appraiser had no documentation for the assignment of $3 million in value to furnishings, which sold along with the house, for a total price of $7 million).

could be based on either reproduction or replacement cost new. Determine up front with your attorney whether the jurisdiction in which the property is located legally prescribes or proscribes a particular methodology that you are considering using for the assignment. A Florida statute, for example, specifically states that the replacement cost, not reproduction cost, is to be considered for purposes of ad valorem assessments.[5] There is also case law characterizing the discounted sell out and discounted cash flow analyses as speculative.[6] It's better to understand those things up front than to have your appraisal later stricken at trial because you employed a prohibited methodology. Another aspect of the income approach, which ties back to the interest being appraised, is whether or not your jurisdiction is a market rent (fee simple) or contract rent (leased fee) state.

Sales Comparison Approach

The sales comparison approach necessarily involves the process of making adjustments to the sale properties in order to account for differences (e.g., physical, economic, and so on) between them and the property being appraised. The difference in price within a set of sales cannot be adequately reconciled by simply taking the mathematical average.[7] A preliminary culling of sales data is advisable for credibility purposes, because similar properties often trade at significantly different prices/units of value.[8]

[5] See, § 193.011(5), Fla. Stat.

[6] *Mastroianni v. Barnett Banks, Inc.,* 664 So. 2d 284 (Fla. 1st DCA 1995); Muckenfuss v. Miller, 421 So. 2d 170 (Fla. 5th DCA 1982).

[7] *Latham Holding Co. v. State*, 209 N.E. 2d 542 (NY Ct. App. 1965).

[8] See, *GTE Florida, Inc. v. Todora*, 854 So. 2d 731, 735 (Fla. 2nd DCA 2003) (telephone exchanges); and Florida East Coast Railway Co. v. Department of Revenue, 620 So. 2d 1051 (Fla. 1st DCA 1993) (operating railroads).

Generally, two techniques are recognized for adjustments to sales—quantitative adjustments and qualitative adjustments.[9]

Quantitative Adjustments

Quantitative adjustments are expressed either as a percentage or in a whole dollar amount. Quantitative adjustments are typically supported using a paired sales analysis, such as an adjustment for a change in market conditions. They are usually considered more persuasive due to their nature of being the product of a calculation, based on ascertainable facts. However, there are limits to quantitative adjustments. For example, where the percentage used (110%) cannot be explained, the opinion is worthy of no weight.[10] To be considered comparable, the properties need to have a degree of similarity from the standpoint of size, location, use and zoning.[11] Comparing properties with dissimilarities requiring substantial adjustments (50%) is not credible. As one court explained "apples may not be compared to oranges, even when an expert evaluates the botanical distinctions between them."[12]

Qualitative Adjustments

In contrast, qualitative adjustments are expressed as superior, inferior or similar. For qualitative adjustments to be persuasive, the appraiser must be able to articulate in detail those attributes or characteristics relied upon as a basis for the adjustment. Otherwise, the

[9] *The Appraisal of Real Estate*, 14th Ed., Appraisal Institute (2013), p. 398.

[10] *Walters v. State Road Department*, 239 So. 2d 878 (Fla. 1st DCA 1970).

[11] *Carabelle Properties Limited v. Pendleton*, 10 So. 3d 1118 (Fla. 1st DCA 2009) (different land use restrictions).

[12] *Division of Administration, State Department of Transportation v. Samter,* 393 So. 2d 1142, 1146 (Fla. 3rd DCA 1981).

"Credibility results from a clear understanding of the assignment parameters, thorough data collection and correct application of appraisal methodology."

credibility of the adjustment and the value conclusion, will be substantially weakened by an argument that the basis was in the appraiser's head. There must be a basis in fact, as opposed to a mere surmise on the part of the appraiser. In one Florida condemnation case, the state's appraiser made a downward adjustment to a comparable sale for condition, because the subject property, a former gas station, had once been contaminated, although subsequently remediated at the time of the expropriation. The appraiser's opinion was rejected because the adjustment was not based on any fact, such as a market transaction.[13]

Cost Approach

The cost approach is appropriately used where the property is relatively new, the market is in equilibrium, and all forms of depreciation can be accurately estimated. Where the property type and circumstances support the use of a cost approach in the assignment, the estimates of cost new and depreciation are critical. Many appraisers simply defer to published cost manuals for this information. Don't. Who developed the cost and depreciation estimates and when? What data was used in the process? How was the accuracy checked? Other than a claim that "everyone uses it," I have yet to meet an appraiser who can answer these questions convincingly. More problematic, however, is the fact that this information cannot be crossed-examined at trial and is hearsay, for which no exception to the hearsay rule exists.[14] An expert may not serve as a conduit for hearsay. When an expert adopts the opinion of someone as his or her own, then the expert is impermissibly acting as a conduit.

[13] *Finkelstein v. Department of Transportation*, 656 So. 2d 921 (Fla. 1995).
[14] Federal Rules of Evidence 803.

Instead of relying on a cost manual, consider employing a sub-consultant, like a building contractor, to provide an estimate of replacement cost new for building improvements. A predicate expert, who is available to testify at trial, will enable you to prepare a far more credible and persuasive value opinion under the cost approach than your opponent, who merely used a published manual. Use of the professionally accepted methodologies for estimating depreciation, such as age life, and determine your own depreciated value of the property. Something that you have developed yourself—and can explain and support with corroborating material (e.g., photographs, building inspection reports, repair estimates, and so on)—is more credible than the opinion of someone else that you have simply adopted as your own, yet cannot explain.

Income Approach

When the income approach is applicable, support your estimates of revenue and expenses with multiple years of actual operating statements, making sure you have investigated all anomalous changes to individual line items on a year over year basis. When extracting capitalization rates, strive to obtain evidence of actual net-operating income at the time the comparison property sold and avoid reliance on commercial data services. In addition, take care to ensure that your calculation of NOI includes all the same revenue and expense considerations as the sale property's NOI for which you are extracting a rate. This apples to apples analysis produces a more credible result.

Don't Make Unforced Errors

Knowing upfront that opposing counsel will go through your report with a fine—

toothed comb searching for errors, it is advisable to have another set of eyes proofread the narrative for grammatical, punctuation, spelling and other mistakes. This person should also use a calculator to check all mathematical computations within the report to ensure they're correct. Build the cost of hiring a proofreader into your appraisal quotation. There is nothing more embarrassing than being confronted with a mistake of this nature. The lawyer will argue to the fact finder that if you can't get the little things right, how can you be relied upon for the bigger things, such as the conclusion of value?

In this day and age of document production via computers, the reality is that a former narrative report template will almost always be used to write the current assignment report. Be aware, however, that this often leads to content error, which is why the proofreader is advisable. I recall one instance where an appraiser was valuing a golf resort on Florida's west coast and his appraisal report described the subject's location as being 6 miles from the Atlantic Ocean! The poor appraiser had carelessly used the template from his last appraisal of a Jacksonville golf course without carefully editing out the obviously irrelevant content. Again, when the focus is on credibility, these types of mistakes can be lethal.

Conclusion

Because appraisals made for litigation are subject to enhanced scrutiny, it is strongly advisable to undertake the assignment with sufficient resources necessary to produce a credible result that will persuade the fact finder. Credibility results from a clear understanding of the assignment parameters, thorough data collection and correct application of appraisal methodology. There are opportunities at every stage of the appraisal process—from engagement to data collection and development of value indications—for the appraiser to avoid pitfalls and develop an appraisal opinion with enhanced credibility.

About the Author

Rob Kelley's practice with Hill Ward Henderson is principally devoted to litigating the value of property throughout Florida. Rob has made professional presentations to members of the Appraisal Institute, the Institute for Professionals in Taxation, the American Society of Appraisers, the International Right-of-Way Association, The Annual Wichita Program on Taxation of Communication, Energy and Transportation Properties, Lorman Education Services and The Florida Bar. Rob has also served as a member of several legislative task forces on property tax issues.

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

Surviving an Appraisal Review: Antique Oriental Carpet Appraisals

By Pamela Bensoussan, ASA, ARM, CFLC

Abstract: This article discusses important concepts in appraisal review as related to the particular area of Oriental carpet appraisals. The issues addressed here, however, are pertinent to appraisals of any asset and therefore to appraisal review of any report: competency, asset description, justification of value conclusions, the state of the market on the effective date and finally the essential certification disclosing the absence of bias and conflicts.

When a Report Becomes a Work under Review

Not all appraisals are scrutinized by an appraisal reviewer. In fact, only a small number of reports ever become subject to review. However, one never knows when it will happen. As the Appraisal Review & Management discipline grows, the chances of reports being reviewed are increasing, especially those written for litigation services. An ARM designation is an essential tool when reviewing the work product of other appraisers. But it's also good insurance for surviving a review of your own appraisals. I have never taken POV courses that are so intense and persistent on best practices in report writing than those for Appraisal Review & Management.

I focused this article on a narrow area of appraising but chose problems that overlap into other specialty areas. Many of these issues explained are common to all personal property appraisals and may seem obvious or redundant, but the overarching message is – don't get too comfortable! Revisit the standards of our profession and be prepared for an appraisal review of your report.

Reviews of personal property appraisals happen most often in the legal realm—an insurance claim gone bad, an estate or divorce disputed—where opposing experts are on full display. The best protection against a hostile deposition attorney is an air-tight, thoroughly researched, and well-explained report. That report may or may not be entered into the trial record but, regardless, going through the proper methodology will hone your skills and provide a good comfort level during testimony. Thus prepared, you will ace that deposition!

My work as an appraisal reviewer is quite easy when the work under review includes content that is not relevant, not accurate, not complete, not adequate, and then not reasonable and therefore not credible.

To summarize the problem issues in Oriental carpet appraisals, I begin with competency and the all-important description of the subject carpets supplemented with good visuals, and then move on to justification of value conclusions, the state of the market on the effective date and finally the essential certification disclosing the absence (hopefully) of bias and conflicts.

Competency

Appraisers must be competent in their field and that competence must be evident in the appraisal report. Appraisal reviewers must also be competent in the subject matter of the work under review. The appraisal review may be conducted with or without an opinion of value, depending on the assignment.

Maybe it's because of the dearth of ASA accredited Oriental carpet appraisers, or perhaps the inherent over-confidence among

Karapinar Rug Fragment
Central Anatolia, Konya Province
7′ 6″ x 3′ 7″
Est: £40,000 - £60,000
Sold: £309,000 ($405,172)
November 7, 2017
Sotheby's London

Note: This fragment is from a very early rare Turkish rug. Its extensive exhibition and publication record was noted in the auction catalogue. It is missing most of its borders and there are large holes throughout the field. Photo text: Identifying information is from sales catalogs; notes are from the author.

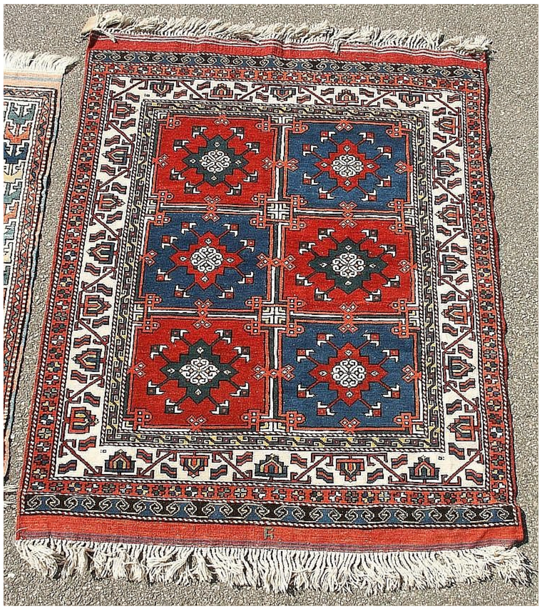
Figure 1: Karapinar rug fragment

Salor Chuval
Turkestan, ca. 1800
4′ 6″ x 3′ 1″
Est: $30,000 - $50,000
Sold: $60,000
January 31, 2021
Grogan & Co. Boston, MA

Chuval, Salor gul
Turkistan (sic)
20th century
2′ 8″ x 4′ 9″
595 BP **($805)**
The Oriental Rug Merchant, UK

Note: This fragment is from a very early rare Turkish rug. Its extensive exhibition and publication record was noted in the auction catalogue. It is missing most of its borders and there are large holes throughout the field.

Figure 2: Salor gul Chuval rugs



Turkish Dobag Rugs
ca 1980
(One pictured of two offered)
5' 4" x 4' 4" and 4'4" x 3' 2"
Est: $800 - $1,200 Passed
(failed to sell)
May 5, 2008
Grogan & Co. Boston

Bergama Rug
West Anatolia
circa 2nd half 19th century
7' 3" x 5' 4"
(some repairs)
Est: $2,500 - $3,500
Sold: $6,250
May 18, 2009
Freeman's Auction, Philadelphia

Note: These Bergama type rugs—one antique, one modern—turned up at auction around the same period, 2008-2009.

Figure 3: Bergama type rugs

carpet experts (many non-ASAs write appraisals), but I have found Oriental carpet appraisals to be fraught with errors.

These errors are documented in appraisal reviews as issues, such as those of USPAP non-compliance, which includes the Competency Rule. The appraisal reviewer doesn't judge the competency of the appraiser but determines whether competency is evidenced in the appraisal report. Accurate descriptions of the subject carpets and thorough reporting of the relevant marketplace are indications of competency in an appraisal report.

Identification: Accurate Descriptions & Detailed Photographs of Subject Property

The field of antique Oriental carpets is baffling to the uninitiated, and potentially to jury members. Unfortunately, many residential contents appraisers approach them as they would household decorations. I have seen valuable collector rugs misidentified as ordinary and vice versa. ARM discipline course AR203 covers the art of managing teams of appraisers within one assignment, each focusing on their particular specialty. The lead appraiser must consider: when is it advisable to seek assistance from a subject expert? Who do we ask when questions arise that cannot be easily answered? Is that old rug full of holes a valuable historical museum piece? Are those dyes synthetic or natural? These answers are very important.

A common problem is the lack of adequate descriptions and photographs of the subject property. Even though each hand-knotted carpet is a unique work, one sees an enormous repetition of pattern and design. It is our role to assist intended users with understanding the subject property by identifying it accurately. Visual aids can explain how an antique carpet differs from a 20th century copy.

A 19th century Turkmen rug can closely resemble a 20th century hand-knotted copy from Pakistan or Afghanistan. A Turkish Bergama from the 18th or 19th century may have the same design as a modern hand-knotted copy from India. This is further complicated by revival cottage industries of the late 20th century, such as Dobag weavers in Turkey, who eschewed the use of chemical dyes and returned to their local historical designs and techniques. Their carpets may closely resemble antiques.

Antique rugs are valued by collectors. Copies, albeit handmade, are often considered tantamount to used furniture. The difference is evidenced when detailed photos and descriptions reveal technical characteristics such as materials, end and side finishes, dyes, knot type, and knot count. Quality photos provide valuable information for the identification process. Inclusion of detail photos of the back of a rug, and any damage or wear, further illustrate value characteristics. They can also be great visual exhibits when used by a good attorney at trial.

Names for antique carpets should reflect current nomenclature. Rug scholarship has changed dramatically over the last several decades. Today a "Samarkand" carpet may be more accurately described as "Tarim Basin". Do your homework. Keep up with Oriental carpet publications, exhibitions, and collector market venues, such as rug fairs and high-end specialized auction sales. Doing so lends credibility to the expert and speaks to competency.

Limit jargon to a minimum when testifying and when writing an appraisal report. Include a short glossary of basic terms. Only

"...thorough and thoughtful presentation of the facts and proper methodology will lead to reasonable, credible, well supported value conclusions..."

include terms used in the report. This is not the place for an exhaustive A-Z on rug terminology. The goal is to communicate complex subject matter in a way that is easy for the intended user to understand. The glossary should only include terms the intended user needs defined.

When a work under review misidentifies the subject property, does not include condition notations that affect value, or excludes photographs that convey details, it is the responsibility of the appraisal reviewer to explain how the intended user may be confused or misled. The credibility of the work under review is dependent upon accurate information, and Oriental carpet appraisals are expected to provide clear and understandable information.

Relevant Market Information: Research and Analyses to Develop Credible Results

Another frequent problem is, not surprisingly, an appraiser's use of ipse dixit statements rather than providing actual evidence to support value conclusions. The appraiser may indeed know the subject matter very well, but facts and evidential support are required when reports become a deciding factor in disputes involving financial interests. Likewise, one would not expect the IRS to take an appraiser's word without any market support. Appraisal methodology provides time-tested tools to develop values and demonstrate them in a report. As more attorneys become aware of USPAP and the ARM accreditation, these best practices and appraisal standards of care are increasingly taking center stage in the courtroom.

Personal Property appraisers typically use the sales comparison approach to value. Properly written appraisals communicate a solid market analysis based on comparable sales examples that are included in the report. This, of course, takes time and there are no short cuts. But consider how the tools we use today make this task so much easier than it was before the preponderance of online sales and price databases. A report that skimps on relevant market examples raises questions about the actual research conducted. On the other hand, too much market data can be seen as fodder and confusing to the intended user. Comparable examples should be curated to give an accurate snapshot of the relevant market for the effective date of value.

Let's dive in a little deeper.

Research Resources

Invaluable.com is a great database for comps but should not be used exclusively when researching collector-level rugs. Christie's, for example, has their own archival search function that can uncover rare items from past sales that may not appear elsewhere. Both Sotheby's and Christies frequently have long catalog descriptions detailing provenance, applicable scholarship, and publications. These do not always show up in the Invaluable.com entries. Also, prices listed by Invaluable.com are not methodically updated, and sometimes incorrectly report as "passed" for an item that sold. This is especially true for high-end sales. Check with the specific auction's website to verify accurate sales results.

Condition

Also pay close attention to condition, which is not always noted but is very important to value. Depending on the quality provided, auction photos may be greatly enlarged on a computer screen to see wear that is not stated in the entry. I have also found

Persian Tabriz
Iran
8'4" x 11'4"
Pile: Worn down, Hand knotted, Wool
Overdyed & Vintage, cotton foundation
Est: $1,133 - $2,266
Sold: $1,133
April 30, 2018
Shahbanu Rugs, Carlstadt, NJ

Note: The "overdyed" process takes an existing Oriental carpet (of any style or age, usually worn or distressed) and re-dyes it with a single color following a chemical bath, which lightens the colors, and sometimes further corrodes the already worn pile. Overdyeing is a fairly recent practice that allows dealers to "resurrect" or remarket older Oriental rugs. Some (ill-advised) dealers and interior designers have embraced this process and engage in heavy marketing of these carpets. The trend may be short-lived, not unlike that of "shabby chic" furniture, where dealers took plentiful thrift store quality used furniture and applied white or crème paint and subjected it to artificial distressing.

Figure 4: Persian Tabriz rug

Persian Nain Carpet
Iran, ca. 1950-1959
82″ x 120″
Signed Habibian; excellent condition
Sold: $9,000
Ref. No. Seller: 4192
New York, NY
1stDibs: LU96415677373

Note: This Nain was sold recently by a retailer; it's a fine vintage Habibian Persian carpet, a type that sold in a higher price range in the eighties and nineties. Today, there is a market saturation of look-alike Persian rugs from other countries. Finely woven Persian carpets have long been luxury market items rather than appealing to the collector market; a preponderance of copies has had a somewhat "cooling" effect on that luxury market.

Figure 5: Persian Nain carpet

that when a catalogue entry on Invaluable.com shows a small fuzzy photo, checking the auction house's own website catalogue may turn up better quality photos. This is especially true with Christie's and Sotheby's. This process is time consuming and only worthwhile when values are particularly high or seem inexplicable. If riddles and market anomalies can't be explained by the appraiser, then the intended user may be confused or misled.

Relevant Market

Know the most relevant market to research that best matches the subject carpets. To understand a broader picture, particularly when using replacement value, do not ignore dealer platforms like RugRabbit.com and 1stDibs.com. Other well-known auction houses in addition to Sotheby's and Christie's are worth exploring, such as Bonham's, Philips, Nagel, Skinner's, Grogan in Boston (which identifies as a "boutique auction house") and Rippon Boswell. Most hold specialized rug sales frequented largely by collectors and high-end dealers. Sometimes rare antique rugs and carpets are folded into Islamic Art sales.

If you are researching comparables for more ordinary antique or vintage carpets with chemical dyes and wear, you will likely not be looking at Sotheby's and Christie's, but smaller regional estate and consignment auctions. While they also sell high-end rare collector rugs, Material Culture (materialculture.com) is a great place to find sales results in the low-end market. Search their website page of past auctions or use Invaluable.com to limit a search to that specific auction house. Material Culture also provides very good photos and condition reports on high value items.

When the subject property includes mundane, mass-produced newer carpets, do not expect them to be well represented at auction. Instead, conduct broad searches on the internet. When you have uncovered a critical mass of offerings for the same type of carpet in a similar price range, then that is probably representative of the supply and demand. Disregard businesses asking astronomically high prices with huge discounts as outliers. Dealers with brick-and-mortar shops and carpet importers may be more reliable sources. Again, when the research provides a somewhat consistent range of prices for similar items, then the information is more likely accurate.

Triaging Research

Comprehensive research may reveal hundreds of examples from many sources, so a triage is obviously necessary. Explaining that triage process in an appraisal report is crucial to understanding the relevance of the comps selected for inclusion. The triage process should not include "cherry picking." Also, do not exclude sales that may not support the client's hoped-for result, as they inform the market. Provide context with examples that at first glance seem skewed. If a rug sold at Sotheby's London for $10,000 and a seemingly similar one sold at a small regional estate auction house for $2,500 that difference might be explained when market exposure is considered. Or, it could have been a condition problem or a difference in aesthetic quality or age, where an appraiser's command of rug scholarship and connoisseurship is essential. The field of antique Oriental carpets can be complex and fraught with nuances. That is why specialized appraisers are most apt to "get it right."

Explaining Research Process and Results

In short, all of this takes time and should be explained in the scope of work. If the assignment does not warrant the time to perform comprehensive research, then research might be capped. This is a discussion to have with the client or client's attorney. In some insurance fraud cases, you may be asked by a hiring defense attorney to spend whatever time is necessary on researching items of low value. This may seem counter intuitive, but could be a good strategy for the case. In a divorce assignment, however, there might be a desire to keep costs down by limiting the extent of research. In any case, it is important to disclose the steps taken (or not taken) to develop your opinions of value. Those steps, however, must be at a minimum sufficient to arrive at a credible, unbiased, value conclusion.

For instance, explaining the process and vendor motivations of overdyed carpets in the appraisal report, may allow the intended user to better understand why auction results are very low and retail asking prices are much higher for this product. The owner of an overdyed carpet may have paid high retail, although the assignment dictates the use of fair market value.

Context: State of the Market

A market analysis is more meaningful when placed in the context of the state of the economy, discretionary purchasing power, and broad patterns of collecting. Brief observations in a report about general economic conditions on the effective date are good, but a drill-down to specific market trends is essential.

Like French armoires, Sterling tea sets, and Chippendale furniture, antique Oriental carpets are, as a group, considerably less popular than they were in the 1980s and 1990s. This statement, of course, applies to the bulk of items changing hands rather than the exceptional rarest of the rare. The buying public has become far more informed and selective by shopping the internet and following auction sales online.

It is a fact that certain categories of Oriental carpets reflect a depressed market because of limited demand and abundant supply. For example, twentieth century Chinese carpets from the Art Deco period and later are a glut on the market. With their density of heavy wool, they are expensive to ship and even more so to clean. Finely woven Persian rugs from the second half of the twentieth century may go begging; Persian silk rugs even more so. What impact has the off and on 40-year embargo (on again since 2018) of rugs from Iran had on the market? How has a saturation of imports from other carpet producing countries such as China, India, and Turkey affected the market? What about the effects on the market of collecting trends, scholarship, and exhibitions? Why do some centuries-old rug fragments sell for tens of thousands of dollars and others do not? What about new trends such as "overdyed" carpets? Depending on and tailored to the subject carpets, a thorough explanation of the relevant market gives context to the analysis. Particularly in a field as difficult to understand as Oriental carpets, the appraisal's intended user should not be confused or misled by under-reporting of relevant market conditions.

Adequate market information in the appraisal report provides relevant context so the intended user has a clear understanding. For example, luxury markets have trended differently than collector markets. For generations Persian carpets in Iran were considered as stored wealth and often kept in bank vaults. Prior to the 20th century toppling of the Pahlavi Dynasty, Empress Farah's agents traveled the world in search of antique Persian carpets for a new carpet museum she founded in Tehran. This intense focus spilled over into the international luxury market, where Persian carpets became a symbol of wealth. While still highly regarded, they do not have the same appeal in today's marketplace that has been flooded with finely woven, mass-produced, Persian look-alike carpets from China. Depending on the subject carpets, all this market history may not be necessary to include in every appraisal report however, detailing market information can assist the intended user in understanding the concluded values.

Certification: Conflicts & Bias

It would not be a stretch to assume that all ASA accredited appraisers understand the importance of including a signed certification in a report. However, there are instances where it is carelessly omitted—and many cases where non-ASA accredited appraisers fail to include one. ASA and USPAP personal property instructors encourage use of the sample certification provided in USPAP and course materials. Not a bad idea, but only if it is reviewed and fine-tuned to match the specific assignment. Otherwise, the certification will be viewed as boiler plate.

In my opinion, the most important feature of a certification is the disclosure of bias, non-bias, and possible conflicts. Oriental carpet dealers often write appraisal reports, as do many art dealers and gallery owners. This is ok if disclosed. But as a dealer, did you or will you transact business with a party to the litigation? Failure to disclose this, or any possible bias or conflict, can be considered a fatal flaw by appraisal reviewers. When revealed by an appraisal reviewer, it may result in the disqualification of an expert's testimony. This situation may also cause an entire appraisal report to be dismissed by a judge even if the expert's testimony is allowed. An appraiser should be an unbiased finder of fact and go where the research leads. The certification contains necessary disclosures so that the intended user may rely upon it in good faith.

Boilerplate: Must be Readable and Relevant

One could provide an entire webinar or lecture on the use of boilerplate. If boilerplate is included in an appraisal report, it should be written in easy to read, and assignment-specific, narrative form. Most boiler plate is superfluous and some of it can more appropriately be placed in the engagement contract with the client.

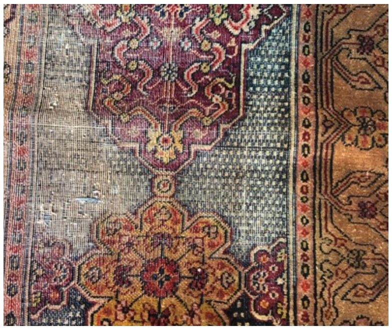
Inspecting Oriental Rugs

If as a lead appraiser managing an assignment you need to engage a specialist, ASA has a short list of Oriental rug accredited appraisers. Most will travel, or work from photos if the quality is adequate.

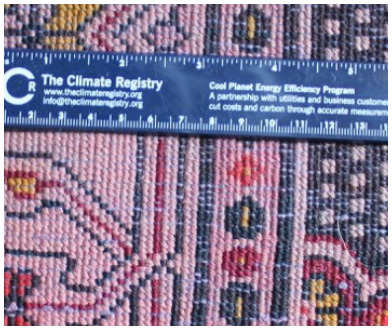
For inspection photography, I recommend using a recent smart phone. My expensive Cannon sits in the closet these days, or I take it on assignments as a backup. It is hard to surpass the image quality of an iPhone 13. Take photos with and without flash and magnify the image setting for closeups. Detail photographs should include side selvedges, ends, and the reverse of the rug with a measuring tape placed both horizontally and vertically. Damage and wear should be photographed extensively. An abundance of photos allows a selection from which to choose when preparing the report. It's usually impractical if not impossible to return to the site to retake a photo.

Learn how to count knots and make notations about the foundation and pile materials, which could include wool, silk, cotton, goat,

A.



B.



C.

Dry erosion, Losses and Bleeding Examples

Images A & B: Show details of dye erosion in border and losses in foundation.

Image C: Shows detail of carpet back with knot density and red dye migration (bleeding).

Figure 6: Dry erosion, losses and bleeding examples

or camel hair, etc. These facts help provide a complete and accurate description of the subject Oriental carpets. Together with a comprehensive market analysis and proper certification, you just might survive the appraisal reviewer's scrutiny.

Conclusion

I've delved into some specific and historical market information to convey the nuances of the field and the challenges involved, but not all Oriental carpet appraisal reports need have this level of specificity. The subject carpets and the market comparables will dictate the level of information required to provide a meaningful analysis.

While Oriental carpets may be a difficult field to understand, thorough and thoughtful presentation of the facts and proper methodology will lead to reasonable, credible, well supported value conclusions that the intended user will understand.

About the Author

Pamela Bensoussan is an ARM and Personal Property ASA (since 2003) with credentials in Fine Arts and Oriental Carpets. Her areas of expertise also include European, Asian and American furniture, decorative arts, textiles, and tapestries. She is a two-term past president of the San Diego ASA Chapter and past president of the Houston ASA Chapter. Pamela is a professional member of the Forensic Expert Witness Association (FEWA) with a Certified Forensic Litigation Consultant designation. She received ASA Member of the Year award for 2018-2019.

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Managing the Valuation of Large Companies

By Joao Carlos Papaleo Mynarski , ASA, FRICS, IVSC

Abstract: This article addresses factors in the management of multidisciplinary appraisals of large companies and discusses some of the complexities that may add to the challenges of appraising certain industries.

Multifaceted Appraisals

Large companies—those with the largest operating structures and highest revenues in the global market—often hold many different types of assets, which means a wide range of appraisal specialists is required to determine their values.

While this article focuses on appraisals of large companies, it is important to mention that the specialist appraisal areas (real estate, machinery, biological assets, financial instruments, and so on) do not distinguish between sectors of the economy, only between assets within those sectors.

Effectively coordinating the various activities of such a range of appraisal experts is key to the successful delivery of valuation projects. Successful delivery is defined as delivering the best technical solution on time and within budget. Choosing the best technical solution for each case requires identifying and applying the most suitable methodologies and processes for the task, while meeting time and budget limits demands excellent planning and the best use of the available resources. Moreover, all this must be done to the satisfaction of all those involved (International Journal of Project Management).

> *Quality is never an accident, it is always the result of an intelligent effort. —John Ruskin*

Planning, executing, and managing projects involves developing scope of work and assigning activities to all the professionals involved, documenting work in process while monitoring risks and opportunities, and always being prepared to adjust strategies according to any new scenarios and variables that may arise.
Above all, when undertaking such projects, the code of ethics and conduct must be rigorously enforced, especially among those working in the most sensitive areas in the appraisal process, namely analysis, research, and calculation.

Important Qualities of Appraisal Professionals

> *Excellence is not a gift, but a skill that must be practiced. We do not act correctly because we are excellent, in fact, we achieve excellence because we act correctly. —Plato*

Becoming an appraisal specialist who can work within the multifaceted environment requires great experience, involving both failure and success. Making the most of ongoing projects to improve and develop one's professional skills and knowledge is the greatest profit. Such experience can be leveraged to create the largest possible knowledge database for the professional and for the company.

Having the correct professional and ethical attitude, respect for society, and for oneself ensures long-term professional benefits.

Making the most of ongoing projects to improve and develop one's professional skills and knowledge is the greatest profit.
To eliminate or reduce any threat to the project, the professionals involved must feel they have the support of the appraisal management; when such support is not possible, appraisers must be removed from the relationship.

Managerial Considerations

Ensuring high quality management requires following well-defined steps and processes and conducting repeated quality control audits.

Audits must be carried out to check the key points in the process to avoid any failures that can generate errors in appraisals. Management must demand total quality and reliability to strengthen the appraisal profession.

Importantly, due to the complexity of the managerial challenges and the volume of ongoing appraisals, there is a need to use specialized software to manage processes and services as well as the appraisers and their professional development.

The care taken with these processes is designed to ensure the quality and usefulness of the appraisals, the professional independence and appreciation of the appraisal profession, reliability of the appraisal reports and trustworthiness in relation to market information.

Constantly improving managerial processes by applying the lessons learned in challenging projects, and the knowledge acquired through training and at congresses and seminars keeps professionals motivated, updated and better able to deliver high quality services.

This management approach will be successful in any region of the globe, as it is people who make global companies and the greatest capital of a company is the people working with it and their knowledge.

Challenges of Certain Industries

The greater the variety of asset types to be appraised, the greater the number of specialized appraisal experts required and, consequently, the greater the managerial challenge.

For instance, companies that have non-traditional assets—such as natural resources, biological assets, financial instruments, and intangibles—in addition to the traditional assets of land, buildings, industrial facilities, machinery and equipment—may be more challenging to appraise. Non-traditional assets are commonly found in companies in the mining, chemical, oil and gas industries. These industries may also prove complex due to the specialized equipment involved, while other industries are complex not because of non-traditional assets but only because of the specific nature of the assets involved, such as softwares, technologies, formulas, specialized machinery, specialized aircraft, and some kinds of real estate.

The management of appraisals with specialized or non-traditional assets of any kind will require special attention and specialized knowledge. Good communication with the appraisal team experienced in such specialties will be of great benefit to the appraisal management in creating a scope of work.

Conclusion

Effectively managing the activities of such a multifaceted project with a range of appraisal experts requires high quality committed management, whether the assignment is for large companies within a complex and specialized industry or more standard, less complex assignments, in which the companies hold predominantly traditional and non-specialized assets. While experience is an important aspect of appraisal management, education offered through ASA can provide critical support in helping appraisal managers provide successful delivery of valuation projects.

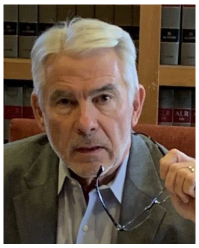
About the Author

Joao Mynarski is the principal of Mynarski International Valuation in Latin America and is dedicated to advancing the appraisal profession to meet the needs of national and international companies operating in Latin America. Joao earned a degree in civil engineering in 1983 from Pontificia Universidade Católica do Rio Grande do Sul. He went on to specialize in appraisal at UFRGS - Federal College of Economics, UCLA - Berkeley Extension and IBEF - Institute of Finance Executives. He started Mynarski International Valuation in 1991 offering the full range of appraisal and valuation services, asset management, business combination and software development in all business sectors for corporations, investors and funds.

Ethics of Expert Witnessing

By Brian Peter Brinig, JD, CPA, ASA

Abstract: Expert witnesses have become critically important to the litigation process in recent years. This article discusses the ethical duties of experts as they are called upon to analyze and identify matters that are beyond the knowledge and experience of laypeople. (California Evidence Code Sec. 801 and Federal Rules of Evidence Sec. 702.)



Attorneys are increasingly using appraisers and other financial professionals in valuation, accounting, financial, and economic matters in a variety of litigation cases. While much is written about experts from an attorney's perspective, little is directed to expert witnesses regarding their ethical duties and responsibilities. Appraisers, of course, must adhere to a rigorous code of ethics for all engagements, including the requirement to be objective. As a result, it may be easier for appraisers to adhere to the ethical requirements of being an expert.

What are the ethical duties of expert witnesses? In a nutshell, experts have a duty to competently analyze facts within their area of expertise and derive supportable conclusions based on those facts. Frequently, facts can be interpreted or weighted differently. These differences often fall within the range of reason and can result in differing conclusions by experts.

Experts also make judgments about the issues they are analyzing. If those issues are within the expert's substantive area of expertise, these judgments can be relevant. If, on the other hand, experts are working with issues (or opinions of others) that are outside their area of expertise, it's usually not within the expert's province to pass judgments on those issues or opinions.

Expert witnesses also have legal and ethical obligations to testify truthfully about the analysis they have performed. Upon questioning, experts must disclose the facts, assumptions and substantive rationale on which they base their opinions. In my opinion, it is improper to misrepresent or withhold underlying facts, assumptions or substantive rationale that has been applied in a case.

The most common discovery procedures that apply to expert witnesses are depositions and subpoenas compelling the production of documents. An expert has the responsibility to respond properly to these discovery procedures. Appraisal experts should read Federal Rule of Civil Procedure 26 (and relevant state statutes) relating to expert witnesses.

In a deposition, the expert witness is sworn "to tell the truth, the whole truth, and nothing but the truth." The expert's duty is to respond to the deposing attorney's questions truthfully.

If non-privileged documents are called for in a properly issued subpoena, the expert must produce those documents. May the expert alter or destroy the documents demanded in the subpoena? I believe that would be wrong to do so. May experts continue to work on their files and develop the analysis? The answer is "yes," but the file should be maintained intact from the time it is subpoenaed. From that point forward, changes should be labeled "amended."

Bluntly stated, it is not proper to change or destroy notes, files, or work papers after they are subpoenaed. Those are the files of the expert; the opposing attorney has a right to see them and review them if they are properly subpoenaed.

Conclusion

Some experts view their job as advancing the client's argument. They fail to understand that it's the attorney's role to advocate their clients' positions. For the most part, attorneys want, and need, honest assessments from their experts, not advocacy.

Experts have an ethical duty to tell what they did, how they did it, why they did it and the present the results in a forthright manner. It's not ethical to hide or conceal facts, assumptions or "damaging" documents. Experts should perform honest, objective analyses and truthfully testify about their conclusions. Those are the fundamental ethics of expert witnessing.

About the Author

Brian P. Brinig, JD, CPA, ASA, is a CPA and attorney (non-practicing) who limits his practice to economic damages analysis, forensic accounting, and business valuation analysis. He is an Adjunct Professor at the University of San Diego School of Law and the managing principal of Brinig & Company Inc., San Diego, California.

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Reviewing the Appraisal Scope of Work: The Problem to be Solved

By Jack Young, ASA, CPA

Abstract: As all appraisers should know, the Scope of Work Rule addresses problem identification (which is necessary to determine the appropriate scope of work), the analytical procedures performed, and the relevant disclosure obligations. This article discusses how appraisal reviewers can use the scope of work and the seven elements of problem identification to determine credibility of a work under review. A similar article – discussing how the scope of work supports a compelling report – has recently been published in the ASA MTS e-journal. This article assumes a basic understanding of USPAP and is based upon USPAP standards. It does not address important differences between USPAP and IVS, which are addressed in the document A Bridge from USPAP to IVS,[2] *available from ASA.*

[2] IVSC USPAP 2020 Bridge_Final.pdf, The Appraisal Foundation, updated 1/26/2021

Who, What, Where, When, and Why

Appraisers are bound to a host of technical standards. We are also called upon to communicate our analysis in a manner that is clear and understandable. In the end we are charged with preparing reports that are credible and worthy of belief: accurate and persuasive. A useful review will address both of these concerns.

For an appraisal to be understandable, the intended user needs relevant context about the appraisal problem and how that problem is to be solved. Therefore, any credible report must contain a complete and clear statement of the scope of work: *the who, the what, the where, the when, and the why*[2] *of the appraisal.*

The phrase "scope of work" appears in the USPAP manual nearly 600 times. This is a clue that scope of work is critical and relevant to the entire document. USPAP defines the scope of work as "the type and extent of research and analyses in an appraisal or appraisal review assignment.[3]" If you think about that definition and look at its elements, you'll quickly realize that discussion of the scope of work should flow throughout an entire report. Since the scope of work is pervasive throughout, having a section labeled "scope of work" within a report is redundant. One section with a few paragraphs cannot by any means contain all the necessary information regarding the appraisal problem, the procedures performed, and the needed disclosure. At best it provides a summary of the important elements, providing the intended user a foundational understanding of the report as a whole.

The word "understand" appears in USPAP over 130 times, often in context of the intended user. This overarching principal clearly directs appraisers in communicating with the intended users (users) of their reports.

> STANDARDS RULE 8-1, GENERAL REPORTING REQUIREMENTS
> Each written or oral personal property appraisal report must … contain sufficient information to enable the intended user(s) of the appraisal to understand the report properly.

Understanding requires clear writing. A critical step towards an understandable appraisal is a complete and clear statement of t*he who, the what, the where, the when, and the why* of the appraisal. Reports lacking such a statement may also lack credibility.

Is the Appraisal Problem Defined?

> *"If I had only one hour to save the world, I would spend fifty-*

---

[2] Commonly referred to as the 5 W's of journalisim.
[3] Uniform Standards of Professional Appraisal Practice (USPAP), 2020-2021 Edition, Definitions

five minutes defining the problem, and only five minutes finding the solution." –Albert Einstein

The importance of properly defining the appraisal problem can't be over-emphasized: it's so important that USPAP addresses it in three critical places: Scope of Work Rule, Competency Rule, and the standards relevant to the property type.

In fact, not defining the appraisal problem is such a common and prolific problem that in the ARM classes we suggest that reviewers begin their review by investigating the appraisal problem. A vague or ambiguous, imprecise presentation of the appraisal problem is a clear warning sign that the credibility of the whole report could be at risk. By failing to adequately identify the problem, a report fails those three critical thresholds of USPAP compliance. In fact, if you really want to have the credibility of your report called into question, it's hard to find an easier way than vaguely identifying the appraisal problem ... or leaving it out altogether. I recently reviewed a report prepared by an ASA/MTS appraiser that included no mention of the intended use. This became a pivotal point in the legal case, calling into question the definition of value used in the report and undermining the opinion of value.

Are all Seven Assignment Elements Addressed?

Reviewers understand that appraisers don't value things: they value property within the context of the seven elements that constitute the appraisal problem. Appraisers arrive at value conclusions based on the defined problem—an amalgamation of the seven elements.[4]

Because correctly identifying the appraisal problem is critical to the scope of work, reviewers often begin by investigating the report's presentation of the appraisal problem: Is the appraisal problem complete, adequate, accurate, relevant, and reasonable given the needs of the appraiser's client? Thus, the appraisal review process typically starts by reviewing the scope of work in the work under review.

It's important that the seven elements are clearly stated and defined within any appraisal report. If any element turns out to be inaccurately represented, the credibility of the entire report is at risk; in correction, the values and the entire report might change. In a review situation, a reviewer's first task might be to verify that the report addresses each of the assignment elements. It's critical that the report precisely and efficiently defines the appraisal problem, displaying a credible understanding of the assignment elements.

When reviewing the scope of work, it might be helpful to consider how the elements of the appraisal problem correspond with the 5Ws of journalism, a handy check list of what a new article needs to be useful and complete:

- Who = client plus other intended user(s)
- What = subject, relevant characteristics, and possibly assignment conditions
- Where = location: geographical and in the appropriate market, which may include relevant characteristic and assignment conditions
- When = effective date of value
- Why = intended use and definition of value

Case Study: Wannabe Winery & Vineyard

AR 201 provides students with the Wannabe Winery & Vineyard case study

[4] The SoW graph used is based on the 6 bullet points of USPAP's Scope of Work Rule; the two elements "client and any other intended users" share a bullet point.

to illustrate and investigate how these assignment elements influence different appraisal scenarios. Two siblings, Pat and Jamie, are currently operating the second-generation Wannabe Winery & Vineyard. The basic appraisal assignment includes the tasting room, wine-making equipment, and farming equipment. This article will use it as an example throughout, changing the intended use—bank loan, property tax appeal, divorce, estate and gift tax, litigation support, and others—and other factors.

Understanding Elements of the Appraisal Problem

Let's take a closer look at each one of these elements—*the who, the what, the where, the when, and the why* of the appraisal problem … and see how each element contributes to the credibility of an appraisal report.

The Why: Intended Use

From a practical standpoint, the concept of intended use is the hub around which a lot of USPAP revolves.

Why is the Report Needed?

Intended use is defined as *"the use(s) of an appraiser's reported appraisal or appraisal review assignment results, as identified by the appraiser based on communication with the client at the time of the assignment.[5]"*

Intended use is the "why" of the appraisal. Of all the seven elements, intended use may have the greatest weight in directing the credibility of the appraisal report and the conclusion of value. In fact, the USPAP definition of credible specifies that credibility requires support "to the degree necessary for the intended use." It is potentially the most dynamic area of an appraisal problem and has been the subject of many articles.[6] A report that ignores, glosses over, or fails to precisely and efficiently define the WHY of an appraisal has already failed its intended use.

Differences in intended use can have a significant impact on other elements of the appraisal problem, including the definition of value. The reviewer must be keenly aware that an appraisal for collateral borrowing, for example, shouldn't be used for a family law situation. Appraisals for family law, property tax appeals, collateral borrowing, or estate and gift are likely to need different definitions of value and levels of reporting based on their specific intended use. An appraisal for an insurance fire loss (one intended use) that will not include an inspection will have a different scope of work than an appraisal of that same asset for a different Intended Use (i.e., lending, allocation of purchase price, and so on). Using the Wannabe Winery Case Study, AR201 focuses student discussion on how report content would change with changes in intended use.

Note that the intended use is not the same as the "purpose" of an appraisal. See the section below discussing "purpose" in the context of appraisal review.

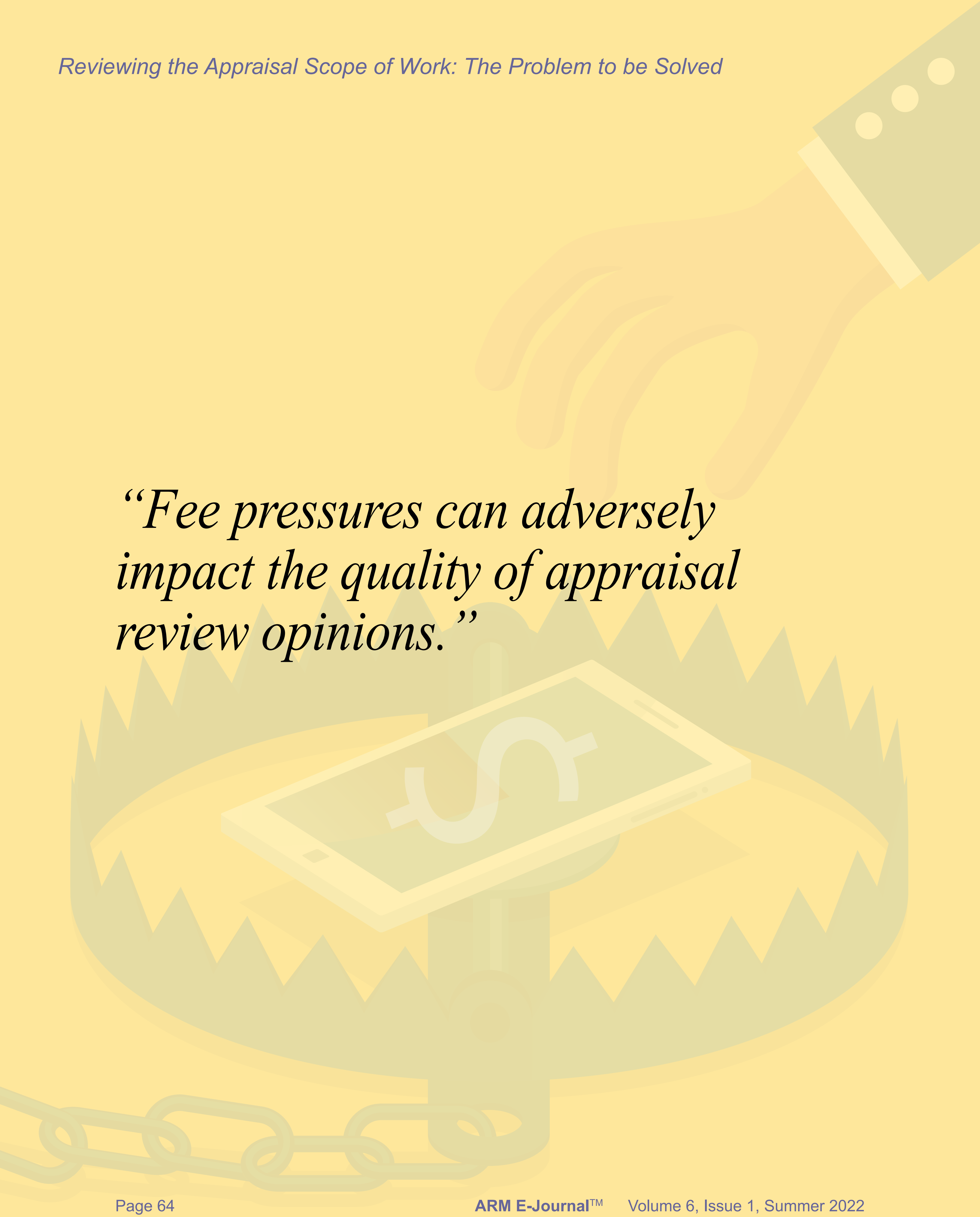
Wannabe Winery Example

To illustrate how intended use shapes an appraisal, AR201 presents two scenarios for a Wannabe Winery appraisal:
In the first situation, Pat and Jamie have been working at the winery all their lives and are 50/50 owners. Pat is 70 years old and wants to retire and sell out to Jamie.

[5] USPAP 2021-21, Definitions (See USPAP AO-36)

[6] Sharon Desfor, ASA, "Intended Use: How Could You Get This So Wrong?" ASA ARM E-Journal, Vol 4, Issue 3

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



An appraisal is needed to determine the 50% value of the winery for this buy/sell situation. No others will be using the appraisal. A reviewer should feel comfortable with validating a restricted appraisal report, right?

Now let's adjust the problem. In this situation, Jamie was the general manager of the winery and in charge of finances. Pat was the general manager of the vineyard and farming operations. Two years ago, Pat sold out to Jamie with the sale proceeds to be paid to Pat over the next 10 years. They did not obtain an appraisal for the sale. Now Pat is suing Jamie claiming that Jamie intentionally understated the value of the Subject Assets. The case is going to a jury trial. While only the intended use has changed, a reviewer would now be expecting to see a completely different report.

The Why often leads to the Definition of Value

On any one day, any one item could be sold in several different markets (levels of trade) within the same geographic area leading to, in some cases, materially different selling prices. This leads to the multitude of definitions of value that we find in Valuing Machinery and Equipment[7] and other publications such as IRS code, state code, and so on. While machinery and equipment appraisals have perhaps more possible definitions of value than any other appraisal area, reviewers of any discipline must be aware of this particular element of the scope of work problem:

> *...state the type and definition of value and cite the source of the definition;*
>
> <u>*Comment*</u>*:* ***Stating the definition of value also requires any comments needed to clearly indicate to the intended users how the definition is being applied.***
>
> *When reporting an opinion of value, state whether the opinion is:*
>
> - *in terms of cash or of financing terms equivalent to cash; or*
> - *based on non-market financing or financing with unusual conditions or incentives.*
>
> *When an opinion of value is based on non-market financing terms or financing with unusual conditions or incentives, summarize the terms of such financing and any influences on value.*
>
> *When an opinion of reasonable exposure time has been developed in compliance with Standards Rule 7-2(c), the opinion must be stated in the report. [See Advisory Opinion 35, Reasonable Exposure Time in Real and Personal Property Opinions of Value.]*[8]

This USPAP comment presents a lot of information, all of it aimed toward helping the intended user understand what can be a very dynamic marketplace for the Subject Assets and clearly explaining to them how the appraisal relates to that market.

What are some of the factors that the intended user might need to have explained in the report? Will the user need to understand how value is influenced by factors such as sales tax, buyer's premium, shipping, installation, start-up costs, indirect overhead costs, assemblage,[9] and absorption in marketplace? Does the report explain why and how such things are considered in the appraisal process?

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

[8] USPAP, Standards Rule 8-2 (a) (vi)

[9] USPAP, Standards Rule 7-4 (f)

A report lacking appropriate and complete information regarding the market for the subject assets has hoisted a red flag for the reviewer.

And of course, the appropriate definition of value needs to be included and cited. It's amazing how often reports botch the definition of value, which is *required* by USPAP. Some reports neglect to include a definition of value completely, while others might include vague definitions of value that aren't referenced and/or don't correlate to the intended use. For instance, an appraisal report submitted in a California family law case included this definition for market value (no source cited):

> *The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably, and assuming that the price is not affected by undue stimulus….*

The report followed with:

> *It is assumed that the value shown in this report is to be used to assist in a marriage dissolution. This report does not reflect market value as defined by law but does reflect research gained by an analysis of market values of like items.*

In this case, the appraisal report specifically and clearly states that the relevant case law was not considered. The appraiser didn't seem to be aware, or concerned, that California case law provides a specific definition of value for family law cases. Reports that ignore case law or USPAP Standards Situations create a straightforward option for a reviewer, and your client may be in good position to subject the work under review to a Daubert or Fry challenge.

The Who (Users)

Successful authors are critically aware of *who* their audience is. Horror writer Steven King is writing to a very different audience than noted UC Berkley sociology professor Ronald Takaki. Attorney activist writer Michelle Alexander has a very different audience than adventure writer Jon Krakauer. To review effectively, the reviewer must have a practical understanding of who the appraiser's audience is and how those readers/users process and remember information.

Who is the Client?

Per assignment contracts, appraisers have certain duties and obligations to their client and therefore the client should be clearly identified early in the report. The client is defined as

> *the party or parties (i.e., individual, group, or entity) who engage an appraiser by employment or contract in a specific assignment, whether directly or through an agent.*[10]"

USPAP goes on to state that the appraiser must identify the client by name or type. A common error that reviewers must be alert to is the assumption that addressing the letter of transmittal to Pat Jones, VP, ABC Bank, is enough to indicate Pat Jones is the client. USPAP states that this is not enough. Somewhere early in the report, Pat Jones must be clearly identified as the client. Identifying the client is even more important when appraisers work as shared experts and have both sides of a dispute as their clients. This is not uncommon in family law, insurance loss claims, and shareholder disputes.[11]

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[10] USPAP 2021-21, Definitions (See USPAP AO-36)
[11] When working as a shared expert, appraisers are advised to periodically investigate unconscious biases to ensure independent results, uninfluenced by either side.

For example, in the first scenario with Wannabe Winery above, Pat and Jamie may both be a client or the winery may be the client. In the second scenario it's possible that only one of the parties would be the client. Note that all clients are considered intended users and that intended users must also be identified in the report.

Reviewers must take care that all clients and intended users are clearly identified within the work under review.

Who are the other Intended Users?

An appraiser's duty to intended users that they "understand" the report. The word "understand" is in the USPAP document over 130 times and it's used almost exclusively in relation to the intended user. USPAP defines intended users as

> *The client[12] and any other party as identified, by name or type, as users of the appraisal or appraisal review report by the appraiser, based on communication with the client at the time of the assignment.[13]*

While readers of this article probably have an understanding of how the intended user concept works, many reports exhibit confusion in this area. It's a reviewer's responsibility to note any such confusion. In some cases, it may prove appropriate for the reviewer to request a copy of the assignment agreement in order to verify clients and intended users.

Notice that intended users can be defined by name or type. Defining the intended user as the tax preparer or even tax preparation team assigned to the XYZ estate at ABC CPA firm could be considered appropriate. However, defaulting to a law firm, CPA firm, or the IRS is imprecise and would mean that every employee in the intended user organization should be able to understand the appraisal. That is not likely to be the appraiser's—or the client's—intent.

Back to Wannabe Winery, assume Jamie's spouse, the out-spouse, has filed for divorce. When you are hired by Jamie's spouse's legal counsel, who is the intended user? Would it be appropriate to talk directly to the out-spouse and determine their level of understanding of the business operations and the related subject assets?

Another problem is specifying "and assigns" as an intended user. How can the appraiser know if the "assigned" person can understand what was written? It may be more useful to clearly state that others who read the report are NOT considered intended users as defined by USPAP.

> *Comment: A party receiving a copy of an Appraisal Report in order to satisfy disclosure requirements does not become an intended user of the appraisal unless the appraiser identifies such party as an intended user as part of the assignment.[14]*

Who are the Unintended Users?

On a practical note, reviewers should consider that an unintended user could be the most important person reading the report and that an appraiser might want to keep that reader in mind when composing the report narrative. For example, in the case between Pat and Jamie, the decision maker in the litigation case—the judge or jury—will be regarding the information presented in the report. An equally important unintended user would be an auditor who is reviewing an appraisal for financial reporting or property tax appeals boards.

[12] Clients are always intended users
[13] USPAP 2021-21, Definitions
[14] USPAP Standards Rule 8-2 (a) (ii)

A narrative that considers these unintended users—and provides the additional information they might need—can solidify the appraisal for the intended user while providing unintended users with a better understanding of the appraisal scope of work, methodology, and analysis.

The When (Effective Date)

It's shocking that the simple requirement of providing the effective date of value is often missing from an appraisal report.

A reviewer must remember not to assume that the report date (if there is one) is by default the effective date.[15] It's a common misconception that's not in accordance with USPAP requirements:

> *the date to which an appraiser's analyses, opinions, and conclusions apply; also referred to as date of value.*[16]

Clearly stating the effective date of an opinion of value is useful on several levels. It fixes the value in chronological space: retrospective, prospective, or current. It eliminates speculation that other dates: such as date of transaction, tax reporting date, date of separation or death (some of which may be referenced in the report) can bring to bear on value. As mentioned earlier, a common misunderstanding is that the date of value corresponds to the date of the report. In addition, stating the effective date of an opinion of value provides a timeframe of value conclusion reliability.[17]

[15] Some intended, and unintended, users of appraisals may be confused by "effective date;" expanding it to "effective date of value" may be clearer.
[16] USPAP Standards Rule 8-2 (a) (vi)
[17] Regarding the effective dates, my reports state: "I make no claim regarding the increase or decrease in value of the subject property at any other date."

Reviewers working on appraisals with retrospective dates should review Advisory Opinion 34, Retrospective and Prospective Value Opinions.

The What and the Where

A casual observer might assume that the where of the appraisal is simply the inspection site. To the contrary, reviewers understand that the where is an essential component of the what. The where is an important component of adequately identifying the subject assets. Along with the obvious what (asset type, for example, as well as any identification such as year, make, and model information for equipment; artist, medium, and provenance of fine art; location, size, condition for real property) the report should discuss where the equipment fits in the appropriate market and its geographical location as appropriate. Such identification, which should be thoroughly reviewed, might include addressing relevant characteristics of the subject assets and recognizing and acknowledging any assignment conditions, many of which are directly applicable to the assets.

Subject Description (What)

Logically, a report must discuss the subject assets of an appraisal. Depending upon the intended user(s) and intended use, that description can go from summary in nature to quite detailed. MTS appraisers are usually precise about getting detailed information about the items being valued, year, make, model, serial number, meter readings options, measurements, maintenance, conditions, records, etc., but what about the operating conditions and maintenance of that equipment? For equipment that is part of a complex process, or processes, it may be necessary to explain how each process works, how the machines interact with each other, and how product(s) flow through the process(es). Again, this depends upon the intended users and intended use. A restricted appraisal report for the partners in Wannabe Winery may need only summary asset descriptions while a report for the same assets to be entered as evidence in a legal matter may warrant a precise description of the equipment and an in-depth discussion about how the wine-making process works, what tanks are installed inside versus outside, which ones are made by manufacturers that are out of business and if that matters. How is maintenance of vineyard equipment tracked and documented? What is the efficient level of information given the intended use and users? Clearly, appraisals of other subject assets would include pertinent discussion of their relevant characteristics.

Relevant Characteristics (Where)

Relevant characteristics of the subject is another area where the appraiser should really think through how much and what kind of information needs to be included in the report. Again, this determination is dependent upon the intended user(s) and intended use. One consideration that may be overlooked is that relevant characteristics can have a lot to do with where the assets are located. Although we often think of "where" only as geographical, it might be useful to notice "where" the subject assets are in relationship to the market for the asset itself, the markets for the output the assets produce, the state of the industry as a whole (either globally, nationally, or locally) or, in a legal, economic, or physical context. USPAP defines relevant characteristics as

> *features that <u>may affect</u> a property's value or marketability such as legal, economic, or physical characteristics.*[18]
>
> What features, in short, does an appraiser consider when determining the property's value, and which of these will the reviewer determine should be disclosed to the intended user? The mantra that college accounting majors often hear could be relevant: "When in doubt, disclose."

Determining which features determine property value is one reason that reviewers should be working within their own disciplines. An equipment appraiser— no matter how experienced in appraisal review— is unlikely to be competent in determining the degree to which a business valuer, a gems and jewelry or real property appraiser has adequately addressed the What and Where of the assets under review.

Wannabe Winery Example

Let's take another look at Wannabe Winery. At the time this article is being written, the wine industry faces many challenges, especially in California. Here is a summary of some of the issues:

- Shortage of labor supply increasing expense of maintaining and harvesting vineyards and staffing wineries
- Wine grape glut significantly reducing the selling price of wine
- Trade war with China reducing wine exports
- California fires 2017, 2019, and 2020 affecting the quality of wine for those years
- Gallo / Constellation merger adding to surplus equipment on the market
- Record breaking drought increasing water scarcity
- Rapidly changing preferences in the adult beverage industry (craft whiskey, hard cider, hard seltzer, cannabis, and so on) thwarting long-term planning and projections

Could these factors affect the marketability

[18] USPAP Definitions

of the assets in a winery? Do they relate to the appraisal problem? Would it be appropriate to prominently discuss these issues in an appraisal of the subject? Can these issues be discussed efficiently without writing a term paper? If paramount to the intended user's understanding, it be appropriate to discuss these issues early in the report. Reviewers are encouraged to consider such questions in scrutinizing the work under review.

Location of Subject Assets (Where)

Geographical location may or may not be a factor in value. Again, much depends upon the assets appraised. For real property, this matters greatly. For gems and jewelry, perhaps less so. In the case of Wannabe Winery, equipment value may be much greater if located in a wine growing region where there is an active market and demand for such goods, rather than an area a thousand miles from the nearest winery. If appropriate, does the work under review discuss how the ease and convenience of relocation may have a significant impact on value compared to the same items a thousand miles away from the active market? The appraiser may need to address this and the reviewer made aware of it.

Assignment Conditions (What/Where)

USPAP defines assignment conditions as

> *Assumptions, extraordinary assumptions, hypothetical conditions, laws and regulations, jurisdictional exceptions, and other conditions that affect the scope of work.*[19]

In general, assignment conditions are often related to the *what* of the appraisal problem. Those not directly related to *what* may be related to *where*. As a reviewer, you may become aware of how assignment conditions might correlate to other elements.

As an example of how important the disclosure of assignment conditions can be for the *what* of an appraisal scope of work, imagine you're reviewing an appraisal for Wannabe Winery. The report states the vague intended use of "insurance purposes." Towards the end, you notice a mention that the winery and many of the vines were destroyed in a wildfire and could not be inspected to determine the condition before the fire loss. At this point, do you have some questions? Would you go back through the report to determine how this condition might have influenced the analysis?

Reviewers will immediately understand that a relevant characteristic of this magnitude reveals that a lot of extraordinary assumptions are being made regarding the assets, calling into question any conclusions based on assumptions that are not clearly stated. Clearly, this information—or any other conditions that affect the scope of work—should be mentioned earlier in the report and must be clearly stated as an extraordinary assumption. Without such, this report cannot be considered credible.

The Where of Property Inspection

The next scope of work article will include discussion of the review process regarding "the extent to which the property was inspected."

[19] USPAP Definitions

Confused about Purpose vs. Intended Use vs. Definition of Value?

Perhaps you've noticed that appraisers tend to combine the "purpose" of an appraisal with the "Intended Use" and "Definition of Value." I noticed this in a recent official ASA publication and contacted Barry Shea, ASA, to double check my understanding. Barry is a Real Property appraiser in New England and a former Appraisal Standards Board member. With permission, I'm including his thorough response:

> *This is a common question. I will start with the long answer—a short answer is at the end.*
>
> *Back in the pre-USPAP olden days, appraisers identified and reported the "purpose and function" in an appraisal or appraisal review assignment. There was always some concern that in plain English those two terms were similar and could be confusing. Sometime in the early days of USPAP, the term "purpose" was replaced by "type and definition of value" (in appraisal assignments) and "function" became intended use (both appraisal and appraisal review). To further clarify, a definition of Intended Use was added to USPAP.*
>
> *The intended use is what the appraiser understands to be the client's reason for getting an appraisal; i.e., it answers the question, "Why do you need an appraisal?" Once that question is answered, the appraiser can determine the appropriate type and definition of value, or in an appraisal review assignment, the purpose of the review.*
>
> *Since the purpose of an appraisal is always an opinion of value, substituting type and definition of value for purpose was fairly simple. However, in an appraisal review assignment, the purpose is an opinion of the quality of another appraiser's work (although in some cases, the purpose might also include a value opinion).[20] The focus of the review opinion can vary greatly depending on the intended use.*
>
> *The <u>Comment</u> to Standards Rule 3-2(c) states, in part:*
>
> *<u>Comment</u>: The purpose of an appraisal review assignment relates to the reviewer's objective; examples include, without limitation, to determine if the results of the work under review are credible for the intended user's intended use, or to evaluate compliance with relevant USPAP requirements, client requirements, or applicable regulations.*
>
> *Some appraisers seem to think it is a violation of USPAP to use the term "purpose" in relation to an appraisal assignment, but USPAP does not require appraisers to use specific terminology. If a report states, "The purpose of the appraisal is to develop an opinion of fair market value" and goes on to include the definition and cites the source of the definition, that is fine.*

So, the short answer:

1. *Intended Use is the client's reason for getting an appraisal (estate planning, divorce, mortgage lending, etc.).*
2. *The purpose (which in an appraisal*

[20] Discussion of "purpose" as used in USPAP Standards 3 and 4 is beyond the scope of this article.

> *assignment is now called the type and definition of value) is the problem that the appraiser is solving (fair market value, orderly liquidation value, etc. in an appraisal; or USPAP compliance, credibility of assignment results, review, compliance with banking regulations, etc. in an appraisal review).*

For IVS appraisers, the issue gets a little more complicated because IVS does define and use “purpose,” as spelled out in section 20.19. The definition shows that the IVS “purpose” is synonymous with the USPAP “intended use”:

> *Purpose: The word “purpose” refers to the reason(s) a valuation is performed. Common purposes include (but are not limited to) financial reporting, tax reporting, litigation support, transaction support, and to support secured lending decisions*

My personal perspective on this is that all professions—such as medicine, architecture, law, and accounting—all employ words or phrases that have precise, specialized meaning within a particular field or profession. These terms enable us to have efficient discussions. Using these terms of art (jargon) in the relevant context matters a lot. Imagine an operating room where the medical staff used different names for the various surgical tools (scalpel vs clamp), or an architect marking building plans with their personal terminology for various building materials or an accountant interchanging the terms depreciation and amortization. Using the correct standardized terms is what enables professionals to deliver consistent and meaningful results that are comparable and usable.

Perhaps the clearest and simplest way to handle the terminology of “purpose” is to not use it for any USPAP appraisals, reserving it for USPAP reviews and any IVS reports.

About the Author

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

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Date: June 2022
To: ASA ARM Members
From: ASA ARM Discipline Committee Leadership
Re: ARM Designation Suffix Change & Competency Statement

Dear ASA ARM Members,

This past January ASA announced an update to its Appraisal Review & Management (ARM) designation.

Per the recommendation of ARM Discipline Committee, the previous designation suffix (i.e., ARM-BV, ARM-MTS, ARM-GJ, ARM-PP, ARM-RP) will no longer be used.

Effective immediately the new format will include only the ARM acronym (i.e., John Doe, ASA, ARM). This update will alleviate any confusion in the profession and public about the ARM designation.

Along with the suffix change, ARM members will need to rely upon the ARM competency statement, which essentially mirrors the USPAP competency statement, to guide them when providing appraisal review services.

The committee has also issued an ARM Competency Statement.

ARM members are continually advised to understand and determine competency limitations and individual responsibilities for each appraisal review and/or appraisal management assignment. Members are required to comply with the standard of care set by ASA and the USPAP Competency Rule.

Prior to accepting each appraisal review assignment, ARM members are to determine if they possess the required technical skills, experience, and knowledge to complete each assignment competently. If they are not competent, they must determine if they are able to acquire the technical skills, experience, and knowledge to possess the necessary competency by the completion of the assignment.

Disclosure and explanations of such actions and acquisitions are required by USPAP. When unable to gain competency, members are to decline assignments. To develop credible assignment results, ARM members are responsible for complying with the Competency Rule and must determine competency for each assignment.

For questions or more information, please contact an ASA credentialing specialist at credentials@appraisers.org or call (800) 272-8258.

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