

Appraisal Standards Board ADVISORY OPINION AO-9

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

SUBJECT: Responsibility of Appraisers Concerning Toxic or Hazardous Substance Contamination

THE ISSUE:

Federal and state legislation has been enacted to control environmentally toxic or hazardous substances and assign responsibility for any resulting contamination. How do the Uniform Standards of Professional Appraisal Practice (USPAP) apply to the appraisal of property considering:

- (1) recognition of contamination;
- (2) remediation and compliance cost estimation; and,
- (3) value estimates of interests in impacted real estate?

ADVICE FROM THE ASB ON THE ISSUE:

Honesty and professional competency are common threads throughout USPAP. The professional competency of an appraiser should not be presumed to include the knowledge or experience of a professional surveyor, architect, engineer, title lawyer, or other specialist. An appraiser that professes or implies such expertise but lacks the requisite qualifications is misleading the client, users of the appraisal report, and the public. Such misleading conduct is prohibited by the ETHICS PROVISION of USPAP. However, an appraiser may reasonably rely on the findings and opinions of a properly qualified specialist and may work in concert with other professionals in multi-disciplinary groups assembled to address a contaminated parcel of real estate.

Recognition of Contamination

An appraiser is a trained and experienced observer of real estate, but recognizing, detecting or measuring contamination is often beyond the scope of the appraiser's expertise. The appraiser becomes aware of contamination through disclosure by the client and known facts prior to the acceptance of an appraisal assignment, or through the normal observation and research conducted during an appraisal assignment. If an appraiser is requested to complete a checklist as part of the process for recognizing contamination, the appraiser should only respond to those questions that can be answered competently by the appraiser within the limits of his or her particular expertise in this area. In each situation, the COMPETENCY PROVISION of USPAP outlines the responsibilities of the appraiser.

Remediation and Compliance Cost Estimation

Remediation and compliance cost estimation involves knowledge and experience beyond that of most appraisers. These estimates are typically provided by environmental consulting specialists that are properly versed in federal and state environmental requirements and are qualified to assess and measure the materials and/or methods appropriate for remediation or compliance. Other professionals that deal with legal liabilities and business operations may also be involved in the cost estimate process. An appraiser may reasonably rely on the findings and opinions of qualified specialists in environmental remediation and compliance cost estimation.

Value Estimates of Interests in Impacted Real Estate

Many clients employ experts in various disciplines separately and simultaneously, and make business decisions based on comparing the results of findings from the various experts. These clients may request an appraiser to appraise real estate that is or may be contaminated under the hypothetical condition that the real estate is free of contamination. An appraiser may appraise interests in real estate that is or is believed to be contaminated based on the hypothetical condition that the real estate is free of contamination when (1) the resulting appraisal is not misleading, (2) the client has been advised of the limitation, and (3) the ETHICS PROVISION of the USPAP is satisfied. To avoid confusion in the marketplace, the ETHICS PROVISION requires a deep and accurate disclosure of the factual contamination problem as well as a statement of the validity of and useful purpose for the extraordinary assumption that the real estate is not affected.

When qualified specialists have documented the existence of contamination and estimated the costs of remediation or compliance, an appraiser may be in a position to estimate as is value and should be aware of, understand, and correctly employ those recognized methods and techniques necessary to produce a credible appraisal. The value of an interest in impacted or contaminated real estate may not be measurable by simply deducting the remediation or compliance cost estimate from the estimated value as if unaffected. Other factors may influence value, including any positive or negative impact on marketability (stigma) and the possibility of change in highest and best use.

Multi-Disciplinary Solutions

Some appraisers have already developed a specialization in the valuation of interests in contaminated real estate through association with environmental engineers, environmental lawyers, and related professionals in a multidisciplinary group. This type of association is commendable, provided that each of the professionals involved remains within the limits of the expertise associated with his or her profession and acknowledges the contributions of the other professionals in any specific reports that rely in part on the work of others.

This Advisory Opinion is based on presumed conditions without investigation or verification of actual circumstances. There is no assurance that this Advisory Opinion represents the only possible solution to the problems discussed or that it applies equally to seemingly similar situations.