

# 7.

## PROPERTY VALUATION

*Uniform Act, Section 101(13)*  
*49 CFR 24.102(b)*  
*49 CFR 24.102(c)*  
*49 CFR 24.103(a)*  
*23 CFR 710.309*

The U. S. Constitution, as well as most State constitutions, requires that just compensation be paid to the owner of private property taken for public use. The federal Constitutional requirement is reflected in law (P.L. 91-646, the Uniform Act) and regulations (49 CFR 24).

### REFERENCES

### 7.1.THE APPRAISAL REQUIREMENT

The yardstick or measure of just compensation to be offered the owner is cited in 49 CFR 24.201(d):

***"Before the initiation of negotiations, the Agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value of the property..."***

The approved appraised fair market value is the basis for the just compensation to be offer to the owner for the property to be acquired. In most instances, fair market value will be the measure of just compensation.

An appraisal is defined in the Uniform Act, Section 101(13), as:

***"... a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information."***

The format and level of documentation for the appraisal report depend on the complexity of the appraisal problem. Federal regulations even allow for waiver of appraisal valuations if the Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the fair market value of the acquisition is estimated at \$2500 or less [49 CFR 24.102(c)(2)]. Also, the FHWA has used the authority of 49 CFR 24.7 to waive the \$2500 limit, to a maximum of \$10,000 as of this writing.

*The estimation of value of real property is the basis for the just compensation that is required by the U. S. Constitution to be paid to property owners. This Section discusses the valuation process.*

### SUMMARY

## **7.2. APPRAISAL REPORT FORMATS**

Acquiring agencies must develop and use, as appropriate, at least two appraisal formats - detailed and minimum standards. Even though two formats are required, agencies can, and are encouraged to, develop additional formats to meet their needs. Attachment 7 is an example of one state highway department's system of appraisal formats.

Detailed appraisals must be prepared for all acquisitions except those, which by virtue of their low value or simplicity, do not require in depth analysis and presentation of relevant market information.

### **7.2.1. DETAILED APPRAISAL**

The detailed appraisal report format must be used for all valuations that are neither low value or simple, whether they are whole or partial acquisitions. A detailed report must reflect nationally recognized professional appraisal standards [49 CFR 24.103(a)].

A detailed appraisal must address all relevant appraisal problem issues to the depth necessary to resolve each issue to the user of the appraisal. It must consider issues such as highest and best use (especially when highest and best use is in transition or there will be a change in the highest and best use following the acquisition), severance damages, special benefits, and special purpose properties.

An appraiser need not apply each of the three traditional approaches to value. If one(or more) approach is not needed to address the appraisal problem, either the appraiser or the acquisition agency may determine it is not required. The appraiser should state in the appraisal report the reason(s) for not using one or more approach. As with all appraisals, the goal is to properly address the crucial appraisal problem valuation issues and eliminate unnecessary verbiage.

A detailed appraisal may include the findings of a **specialty report**. A **specialty report** is a valuation of some aspect of the property which is unique, such as machinery or equipment, mineral rights or forestation; items which may not fall within the expertise of the real property appraiser assigned.

The detailed appraisal report must contain complete documentation of the data within the report, or referenced data book, and the value conclusion must be adequately supported. Minimum detailed report requirements are found in 49 CFR 24.103(a)(1-6). As with all appraisals, the specific, individual report requirements are also dictated by the appraisal problem.

### **7.2.2. MINIMUM STANDARDS APPRAISALS**

Acquiring agencies are required by 49 CFR 24.103(a) to:

***"... develop minimum standards for appraisals consistent with established and commonly accepted appraisal practice for those***

***acquisitions which, by virtue of their low value or simplicity, do not require the in-depth analysis and presentation necessary in a detailed appraisal."***

The requirement to have minimum standards for "low value and simple acquisitions" allows development and use of formats to meet many needs. It also allows appropriate responses for several degrees of low value and simplicity.

1. *A written statement*
2. *Independently and impartially prepared*
3. *Prepared by a qualified appraiser*
4. *State the appraiser's opinion of value*
5. *Appraised value defined (i.e.:fair market value)*
6. *Adequately describe the appraised property ("Adequately" means illustrate and define the appraisal problem to the reader/user.)*
7. *Specifically stated date of value*
8. *Opinion of value supported by presentation of sufficient, relevant market information, including valuation data, and the appraiser's analysis of that information.*

**MINIMUM STANDARDS  
APPRAISAL PARAMETERS**

By definition, a minimum standards appraisal must meet "appraisal standards" i.e., be an appraisal. According to 49 CFR 24.103(a),

***"An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support his or her opinion of value."***

This statement along with the definition of an appraisal (see 7.1. above) sets the parameters for minimum standards appraisals, which are summarized in the accompanying sidebar.

Most acquiring agencies use more than one minimum standards format. Minimum standards formats are

typically based on one of several needs. One need may be to appraise a certain type of property, such as single family residences. Another need may be to appraise lower value properties. Also, adequate market data may preclude the need for using the cost and income data approaches. Attachment 7-1 is an example format "system" used by one STD.

Appraisals may be prepared either by staff or fee (contract) appraisers. (See Section 7.8 for appraiser qualifications.) Paralleling appraisal standards, a properly qualified appraiser must be matched to the appraisal assignment. Just as an adequately qualified appraiser is required, there is no need to engage an over-qualified appraiser (or valuer, in the case of appraisal waiver).

All appraisal reports must be in permanent form (ink, typewritten or computer printed) and should be retained in official agency files.

### **7.3. APPRAISER'S CERTIFICATE**

Each appraisal, whether performed by a fee or staff appraiser, must contain a certificate of the appraiser. The suggested form for the certificate is shown as Figure 7-1.

Other statements, required by the appraiser's professional organization or state appraisal board, or by circumstances connected with the appraisal assignment or the preparation of the report, may be inserted as appropriate.

The suggested Appraiser's Certificate as shown in Figure 7-1 includes statements covering the provisions of Title III of the Uniform Act cited below. If those provisions have been determined to not be practicable under State law, they may be omitted.

SEC. 301(1):

***"...the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property..."***

SEC. 301(2):

***"Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property."***

#### **7.4. OWNER ACCOMPANIMENT**

The Uniform Act requires that the property owner, or the owner's designated representative be given an opportunity to accompany the appraiser during the appraiser's inspection of the property. The purpose of this requirement is to ensure that the owner has the opportunity to advise the appraiser of any features of the property which might affect the valuation of the property as well as indicate any elements of the property which might not be obvious to the appraiser, such as the location of a septic system.

Federal Project No. \_\_\_\_\_

Parcel No. \_\_\_\_\_

## CERTIFICATE OF APPRAISER

I hereby certify:

*That I have personally inspected the property herein appraised and that I have also made a personal field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were as represented in said appraisal or in the data book or report which supplements said appraisal.*

*That to the best of my knowledge and belief the statements contained in the appraisal herein set forth are true, and the information upon which the opinions expressed therein are based is correct; subject to the limiting conditions therein set forth.*

*That I understand that such appraisal may be used in connection with the acquisition of right-of-way for a project to be constructed by \_\_\_\_\_ with the assistance of Federal-aid highway funds, or other Federal funds.*

*That such appraisal has been made in conformity with the appropriate State laws, regulations, and policies and procedures applicable to appraisal of right-of-way for such purposes: and that to the best of my knowledge no portion of the value assigned to such property consists of items which are noncompensable under the established State law.*

*That neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the values reported herein.*

*That any increase or decrease in the fair market value of the real property appraised caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than physical deterioration within the reasonable control of the owner, was disregarded in this appraisal.*

*That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised.*

*That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the acquiring agency of said State or officials of the Federal Highway Administration and that my opinion of just compensation for the acquisition as of the \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_, is \$ \_\_\_\_\_ based upon my independent appraisal and the exercise of my professional judgment.*

*On \_\_\_\_\_ the owner(s) were offered the opportunity to accompany the appraiser on the property inspection, which was held on \_\_\_\_\_.*

DATE: \_\_\_\_\_ APPRAISER: \_\_\_\_\_

### FIGURE 7-1

The invitation to the property owner may be given either by the acquiring agency or by the appraiser. Although not required, it is preferable that the invitation be made in writing, with sufficient lead time for the owner to arrange to be present or to request an alternative time. If the owner declines the invitation to accompany the appraiser, the declination should also be in writing and, together with the invitation, be retained in the agency's parcel file. A form letter may be used for this purpose.

The appraiser should include in the appraisal report the date of the inspection and the name(s) of the person(s) who participated in the inspection of the property. The Certificate of the Appraiser may include a statement that the owner was offered the opportunity to participate in the inspection.

If a reasonable effort is made by the acquiring agency to meet this requirement and the owner declines or fails to respond and the file is so documented, the appraiser may inspect the property without owner accompaniment.

## **7.5. APPRAISAL WAIVER**

Section 24.102(c) of 49 CFR allows the agency to waive an appraisal under certain circumstances:

***"An appraisal is not required if...the agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the fair market value is estimated at \$2500 or less based on a review of available data."***

The waiver of appraisal is typically handled by appraisal management in the appraisal assignment process. As part of determining the extent of the appraisal problem(s), the individual charged with that responsibility also determines if the appraisal problem is uncomplicated and the fair market value of the acquisition is estimated to be \$2500 or less. At that point, appraisal waiver procedures may be either recommended to the determining official or directly implemented.

Even though the appraisal is waived, the Agency must establish and offer an amount it believes represents just compensation for the property to be acquired. The criteria for appraisals do not apply. However, agencies should provide support for the amount to be offered, which may include sales and/or other market information in the project area. We suggest that a written report be included in the parcel file.

Agencies have broad latitude in developing appraisal waiver procedures.

### **7.5.1. MINIMUM PAYMENT**

Some jurisdictions have adopted a "minimum payment" policy, which simply means all nominal acquisitions are offered at least a minimum acquisition amount. Agencies using this procedure typically offer a fixed minimum amount between \$100 and \$500 (\$500 is the upper limit of federal-aid participation).

This policy may be administered in conjunction with the appraisal waiver process.

#### **7.6. FAIR MARKET VALUE AND JUST COMPENSATION**

The acquiring agency must offer the property owner an amount which it believes to be just compensation, and that amount is to be based on, and no less than, the fair market value of the property as determined by a professionally prepared, reviewed and approved appraisal.

There are times when the fair market of the property is not necessarily the just compensation. These situations may occur when the property is unique in nature, when the appraisal, although properly prepared, does not estimate just compensation with certainty, or when the appraised fair market value does not adequately measure just compensation.

If the approved appraisal does not adequately reflect just compensation for the property to be acquired, then the acquiring agency, using the appraised fair market value as a basis, may establish an amount which it believes does represent just compensation. Agency files must contain documentation and justification for the amount of just compensation so established.

#### **7.7 ACQUIRING AGENCY VALUATION APPROVAL**

The Uniform Act requires that before negotiations with the property owner are initiated, the acquiring agency shall establish an amount which it believes to be just compensation for the real property to be acquired. Most highway agencies do this as part of the appraisal review process. However, the just compensation offer may also be developed outside the appraisal review process.

Note that the acquiring agency must establish an amount which it believes to be just compensation for the real property to be acquired. This means that an agency employee, as opposed to a contractor (such as a fee review appraiser,) must determine the just compensation offer.

#### **7.8. APPRAISER QUALIFICATIONS**

It is the responsibility of the Agency to establish criteria for determining minimum qualifications of appraisers. Qualifications must be consistent with the level of difficulty of the appraisal assignment(s). Although qualifications are not prescribed, the appraisal standards indicate the level of competence needed.

Although not required, an Agency may wish to contract with only appraisers whose professional credibility is reflected in a professional designation or state certification or license.

It is also the Agency's responsibility to evaluate the qualifications and performance of both fee and staff appraisers. This information is useful in appraiser assignment/contracting and to determine training needs.

## **7.9. APPRAISAL TECHNIQUES**

### **Uncomplicated, low-value (under \$2,500) acquisitions**

A high percentage of acquisitions are uncomplicated and low value. Appraisal waiver provisions were developed to meet this need. In practice, this option can be very successful. For instance, an STD may have a knowledgeable staff person in a remote district perform a compensation estimate, phone a review appraiser in the central office for concurrence, then make the offer to the property owner. Or, a central office appraiser who is familiar with a project area and land values may complete a compensation estimate without even visiting the distant and remote location, have the value approved, and send it to the local district office for acquisition. For LPAs, these procedures allow them to operate with knowledgeable staff and avoid the expense of hiring contract appraisers for minor acquisitions. These procedures can save an acquiring agency considerable time and operating costs.

### **Number of appraisals**

In the past, many agencies have used dollar thresholds to determine if two appraisals are needed on an acquisition. We encourage a more realistic approach. The number of appraisals should be dictated by the appraisal problem. Generally, the more complex and sophisticated the appraisal problem, the greater the need for two appraisals. This operating procedure can save time and money by eliminating unnecessary appraisals.

### **Minimum standards appraisals**

The recent direction of Federal laws and regulations is to simplify low value acquisition valuations, and emphasize quality for more complicated, higher value ones. This is sometimes called "resource management" or "risk management". Agencies are encouraged to adopt this perspective and maximize their resources.

If an appraisal problem is such that it can be adequately and reliably addressed without resorting to a traditional three approach appraisal, then, in the interest of economy, the reliable and relevant valuation technique(s) should be used. Often the appraisal problem can be fully addressed with the sales comparison approach, and the agency should instruct the appraiser to use only that approach and not unnecessarily pay for cost and/or income approaches. Agencies should also consider developing project (sales) data (but not analysis) books for larger projects and furnishing them to the appraisers, saving the time and expense of duplicate individual data searches. Individuals concerned about potential appraiser ethics conflicts between the USPAP and the minimum standards appraisal policy should note that the Appraisal Standards Board has determined the provisions of 49 CFR 24.103



and 104 are consistent with the USPAP.<sup>1</sup> And, in any situation where an appraiser believes agency requirements are in conflict with USPAP, the appraiser should consider invoking the USPAP Jurisdictional Exception Provision.

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<sup>1</sup>*By letter of October 25, 1990 from Mr. John T. Leary, Chairman of the Appraisal Standards Board, to Mr. G.B. Saunders.*