



TO: All Interested Parties

FROM: Sandra Guilfoil, Chair
Appraisal Standards Board

RE: **Second Exposure Draft of proposed changes for the 2012-13 edition of the
Uniform Standards of Professional Appraisal Practice and Request for Public
Comment**

DATE: May 27, 2010

The goal of the Uniform Standards of Professional Appraisal Practice (USPAP) is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers. With this goal in mind, the Appraisal Standards Board (ASB) regularly solicits and receives comments and suggestions for improving USPAP. Proposed changes are intended to improve USPAP understanding and enforcement, and thereby achieve the goal of promoting and maintaining public trust in appraisal practice.

The ASB is currently considering changes for the 2012-2013 edition of USPAP. **All interested parties are encouraged to comment in writing to the ASB before the deadline of July 20, 2010.** Respondents should be assured that each member of the ASB will thoroughly read and consider all comments. Comments are also invited at the ASB public meeting on July 30, 2010, in Indianapolis, Indiana.

Written comments on this exposure draft can be submitted by mail, email and facsimile.

Mail: Appraisal Standards Board
The Appraisal Foundation
1155 15th Street, NW, Suite 1111
Washington, DC 20005

Email: comments@appraisalfoundation.org

Facsimile: (202) 347-7727

IMPORTANT NOTE: All written comments will be posted for public viewing, exactly as submitted, on the website of The Appraisal Foundation. Names may be redacted upon request.

The Appraisal Foundation reserves the right not to post written comments that contain offensive or inappropriate statements.

If you have any questions regarding the attached exposure draft, please contact Carrie Composto, Standards Administrator at The Appraisal Foundation, via e-mail at carrie@appraisalfoundation.org or by calling (202) 624-3058.

Background

The ASB's goal for the 2012-2013 edition of USPAP is to review and revise as needed specific identified areas of USPAP. These include reporting requirements, report options and a review of STANDARDS 7 and 8, which are the development and reporting standards for the appraisal of personal property. The Board is also considering other revisions and additions that may be necessary to ensure clarity and relevance.

First Exposure Draft of proposed changes to the 2012-2013 edition of USPAP:

In January, the ASB issued the *First Exposure Draft of proposed changes for the 2012-13 edition of the Uniform Standards of Professional Appraisal Practice and Request for Public Comment*. That exposure draft introduced a proposed new rule, the COMMUNICATION RULE, which addressed an appraiser's communication responsibilities. Broader than the reporting Standards, the draft included two distinct versions of the proposed new Rule with different positions.

All the written comments that were received on the First Exposure Draft are available for public viewing on The Appraisal Foundation's website at www.appraisalfoundation.org. The ASB also heard oral remarks at public meetings in Las Vegas on February 5, 2010, and in San Diego on April 30, 2010.

The Board received numerous and widely divergent written comments concerning the proposed COMMUNICATION RULE, both as a concept and regarding the different options. Opinions varied on the question of allowing draft, interim or preliminary communications. There were challenges to whether the COMMUNICATION RULE was necessary. There were suggestions on alternative ways to approach the issue, and most importantly, there were numerous comments that relayed how these proposed changes may impact current practice.

Comments ranged from those that were very strongly opposed to any provision that would allow for draft reports, in any form, to those who believed that there should be an unrestricted allowance for drafts with no record keeping requirements for those drafts.

The comments the Board received also showed a considerable diversity of opinions among appraisers, users of appraisal services and other interested parties in what the terms "draft," "interim" and "preliminary" mean. The most obvious related to the meaning of draft report.

There were many comments that addressed drafts and what constituted a draft report. To some, a draft was submitted to the client for acceptance in the appraiser's assumed final form. If the client approved, the appraiser removed "draft" from the report label and resubmitted it. In other cases, the draft was an excerpt from a report that was sent as an interim submission. The comments indicated that some clients require drafts, while others consider any report a draft until it has their acceptance.

The First Exposure Draft also included a proposed revision to the definition of *report*. That revised definition was proposed to eliminate the linkage with "completion of an assignment" and to eliminate the limitation on how a report is communicated ("written or oral"). These edits also elicited many comments.

One issue related to the definition of *report* that became apparent after the First Exposure Draft was a common lack of understanding of the current definition of *assignment results*. The current definition is very broad and includes any opinion developed specific to an assignment. Assignment results are not, per USPAP, just the final opinion, recommendation or conclusion that is the ultimate objective of the assignment. Yet there seems to be a common misconception that *assignment results* are only the final opinion.

The Board's underlying concern is always public trust. Looking at the issue of draft reports while giving highest priority to public trust, the ASB believes that USPAP should address preliminary communication of opinions and conclusions in appraisal practice. The Board also believes that appraisers must be accountable for their work. This Second Exposure Draft includes changes that attempt to achieve both of these objectives.

Introduction to the Second Exposure Draft:

In this *Second Exposure Draft of proposed changes for the 2012-2013 edition of USPAP*, the ASB has expanded and changed many of the concepts that were originally exposed. This new exposure draft also extends into new issues such as reporting options.

The proposed COMMUNICATION RULE has been retained but significantly revised.

The ASB is proposing changes to reporting requirements. STANDARD 2 has been addressed specifically in this exposure draft. Those proposed changes that are considered appropriate will then be made to other reporting Standards as applicable. This includes possible revisions to STANDARDS 3, 5, 6, 8 and 10. These changes will be exposed in subsequent exposure drafts.

To aid the ASB in considering revisions to STANDARD 7 and STANDARD 8, a Personal Property Work Group has been created. The work group's role is to provide discipline-specific recommendations on how to improve and clarify the requirements of these two personal property related standards. Changes related to this process will be exposed later in the year.

The ASB also has other questions regarding additional components of USPAP. Public comment is being requested on whether STANDARDS 4 and 5 should continue to be included in USPAP, or the concept of appraisal consulting expanded beyond real property to other appraisal disciplines. Since this question is outstanding, the exposure draft proposals assume that these two Standards remain in the 2012-2013 edition of USPAP. Depending on the action taken by the

ASB, revisions may be necessary in several areas to reflect the retirement or revision of STANDARDS 4 and 5.

**Second Exposure Draft of
Proposed Changes for the
2012-13 edition of the *Uniform Standards of Professional Appraisal Practice***

**Issued: May 27, 2010
Comment Deadline: July 20, 2010**

Each section of this exposure draft begins with a rationale for the proposed changes to USPAP. The rationale is identified as such and does not have line numbering. Where proposed changes to USPAP are noted, the exposure draft contains line numbers. This difference is intended to distinguish for the reader those parts that explain the changes to USPAP from the proposed changes themselves.

When commenting on various aspects of the exposure draft, it is very helpful to reference the line numbers, fully explain the reasons for concern or support, provide examples or illustrations, and suggest any alternatives or additional issues that the ASB should consider.

Please note that where text is to be deleted from USPAP, that text is shown as ~~strikeout~~. For example: ~~This is strikeout text proposed for deletion.~~ Text that will be added to existing portions of USPAP is underlined. For example: This is text proposed for insertion.

Where proposed changes represent totally new language or sections, the text ~~strikeout~~ and insertion method mentioned above is not used.

For ease in identifying the various issues being addressed, the exposure draft is presented in sections.

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Section 1: Proposed Revisions to DEFINITIONS

RATIONALE

The Board proposes the following four changes to the DEFINITIONS in USPAP:

1. Revising the current definition of “Report”
2. Revising the current definition of “Scope of Work”
3. Revising the current definition of “Assignment Results”
4. Creating a new definition of “Appraiser’s Other Opinions”

Revising the definition of “Report”

The proposed revised definition of *report* removes the linking of a report to the completion of an assignment. There have been many requests for the ASB to provide guidance on when an assignment is complete. As the ASB studied the overall concept of reporting, it appeared more important to address all communication of assignment results regardless of where an appraiser is in the process.

The words “written or oral” have been proposed for removal. All communications that include assignment results are included in the proposed definition of report. The Comment to the definition of *report* is proposed for deletion. The current Comment merely states that oral report requirements are included and why. This does not appear to add anything meaningful to the definition.

The ASB also added “any other intended user, at any time,” in addition to the client, as part of the definition of a report. The flexibility that is being proposed for reporting options makes it important for an appraiser to consider an intended user, as well as a client, in determining an appropriate scope of work.

Revising the definition of “Scope of Work”

The current definition of *scope of work* is “the type and extent of research and analyses in an assignment.” Logically, the scope of work applies to some assignment elements that are inextricably linked to determining the appropriate report format and content.

Therefore, this exposure draft includes a proposal to incorporate the communication of assignment results into the scope of work. This change would require revisions to both the definition of *scope of work* and the SCOPE OF WORK RULE.

The change to the definition adds “communication of assignment results” to the list of components included in the scope of work.

Revising the definition of “Assignment Results” and creating a new definition of “Appraiser’s Other Opinions”

The ASB is proposing to differentiate between those opinions and conclusions that would require a report that complies with applicable Standards Rules when transmitted to a client versus other communication that would be subject only to lesser requirements. This concept is presented later as part of the COMMUNICATION RULE.

This proposal makes it necessary to have two different, defined types of opinions and conclusions. This has been accomplished by redefining “assignment results” (which would require a report) and adding a new definition of “appraiser’s other opinions,” which, if conveyed to a client without assignment results, must meet the requirements set forth in the proposed COMMUNICATION RULE.

It is common practice, particularly in real property appraisals, for appraisers to make a distinction between the value produced by one methodology or approach and their final, reconciled value. For example, some appraisers identify the value of a single approach within their report, as “the indicated value or estimated value by the Cost, Income or Sales Comparison Approach.” Then, the final, reconciled value is noted as the “Opinion of Value.” The ASB, in this exposure draft, wants to be clear that the revisions proposed will require an appraisal report, regardless of the qualifier placed in front or behind the statement of value.

Opinions of value and indications of value, using the example above, are two types of assignment results that are developed specific to an assignment. Their differences are addressed as a proposed new Comment in the definition of assignment results.

An opinion is identified as the conclusion developed by the appraiser, answering the question identified in a specific assignment. Examples of common terms in the valuation of real and personal property are “concluded value,” “reconciled value” or “final value.” In appraisal review the terms might be “opinion of compliance with USPAP” or “opinion of reasonableness.” In appraisal consulting the term might be “recommendation” or “analysis.”

An indication is a broader category that includes the results of any of the individual analyses and opinions that may be developed by an appraiser in the process of determining the “final” opinion. For example, if three approaches to value are utilized in developing an opinion of value, each of these approaches provides an indication of value.

Examples of opinions and indications related to an assignment that would require communication in a report compliant with a reporting standard include, but are not limited to:

- An estimate of market rent.
- A preliminary discounted cash flow analysis with a value conclusion.
- An estimated land or site value as a component of an improved property appraisal assignment.
- A preliminary assignment conclusion in an appraisal, mass appraisal, appraisal consulting, business valuation or appraisal review assignment.
- An indication of value based on a single approach when multiple approaches will eventually be developed and reconciled in the assignment.
- A five-year forecast of market rent.

Appraiser’s other opinions are those opinions developed by an appraiser specific to an appraisal, appraisal review, or appraisal consulting assignment that do *not* meet the proposed revised definition of assignment results.

Examples of “appraiser’s other opinions” include, but are not limited to:

- An opinion of the condition of the subject property.
- A determination of whether comparables used in the report being reviewed will need to be re-verified.
- A five-year forecast of income and expenses using contract rent.
- A reconstruction of historical income and expense data on the subject property or business enterprise, which will be used in the appraisal.
- Confirming the accuracy of a fixed asset list for a business.
- Providing a marketing time estimate.
- Providing recommendations on the disposition of personal property.
- An opinion of the market prospects for a business.
- Determining the class of property applicable to a subject property.

1 **REPORT:** any communication, ~~written or oral~~, of assignment results for an appraisal, appraisal
2 review, or appraisal consulting service that is transmitted to the client or any other intended user,
3 at any time. upon completion of an assignment.

4 ~~Comment: Most reports are written and most clients mandate written reports. Oral~~
5 ~~report requirements (see the Record Keeping section of the ETHICS RULE) are included~~
6 ~~to cover court testimony and other oral communications of an appraisal, appraisal review,~~
7 ~~or appraisal consulting service.~~

8 **APPRAISER'S OTHER OPINIONS:** opinions, other than assignment results, developed by an
9 appraiser specific to an appraisal, appraisal review, or appraisal consulting assignment.

10 **ASSIGNMENT RESULTS:** an appraiser's; ~~opinions and conclusions developed specific to an~~
11 ~~assignment.~~

12 ~~Comment: Assignment results include an appraiser's:~~

- 13 • ~~Opinions or conclusions developed in an appraisal assignment, such as value;~~
14 • Opinion of value or other indication of value developed specific to an appraisal
15 assignment;
16 • Opinions of adequacy, relevancy, or reasonableness ~~developed~~ regarding another
17 appraiser's work developed in an appraisal review assignment; or
18 • Consulting ~~Opinions~~, conclusions, or recommendations developed in an appraisal
19 consulting assignment.

20 ~~Comment: An opinion is the judgment or conclusion that is developed by the appraiser~~
21 ~~in response to the specific question asked by the client.~~

22 An indication is a broader category that includes the results of any of the individual
23 analyses and opinions that can developed by an appraiser in the process of determining
24 the 'final' opinion. For example, if three approaches to value are used in developing an
25 opinion of value, each of these approaches provides an indication of value.

26 **SCOPE OF WORK:** the type and extent of research ~~and~~, analyses and communication of
27 assignment results.

Section 2: Proposed Changes Related to Reporting – Revisions to SCOPE OF WORK RULE to Include Reporting Elements

RATIONALE

The ASB has received numerous comments suggesting that, in practice, an appraiser’s scope of work in an assignment consists of developing an opinion *and also communicating* that opinion to the client and any other intended users.

The proposed additions to the SCOPE OF WORK RULE are simple, but important. The requirement to “determine and produce a report that is appropriate given the intended use and intended user of the assignment” is proposed. The only other proposed change to the Rule is to the Comment that lists what is included in the scope of work. This proposed additional language is “the type and level of information to be included in the report.”

The ASB does not believe that the SCOPE OF WORK RULE revisions should require any substantive changes to appraisers’ practice. The intent is to revise USPAP to more accurately reflect current practice.

29 **SCOPE OF WORK RULE**

30 **For each appraisal, appraisal review, and appraisal consulting assignment, an appraiser**
31 **must:**

- 32 **1. identify the problem to be solved;**
33 **2. determine and perform the scope of work necessary to develop credible assignment**
34 **results; ~~and~~**
35 **3. determine and produce a report that is appropriate given the intended use and**
36 **intended users of the assignment; and**
37 **4. disclose the scope of work in the report.**

38 **An appraiser must properly identify the problem to be solved in order to determine the**
39 **appropriate scope of work. The appraiser must be prepared to demonstrate that the scope**
40 **of work is sufficient to produce credible assignment results.**

41 Comment: Scope of work includes, but is not limited to:

- 42 • the extent to which the property is identified;
43 • the extent to which tangible property is inspected;
44 • the type and extent of data researched; ~~and~~
45 • the type and extent of analyses applied to arrive at opinions or conclusions; and
46 • the type and level of information to be included in the report.

47 Appraisers have broad flexibility and significant responsibility in determining the appropriate
48 scope of work for an appraisal, appraisal review, and appraisal consulting assignment.

49 Credible assignment results require support by relevant evidence and logic. The credibility of
50 assignment results is always measured in the context of the intended use.

51 **Problem Identification**

52 **An appraiser must gather and analyze information about those assignment elements that**
53 **are necessary to properly identify the appraisal, appraisal review or appraisal consulting**
54 **problem to be solved.**

55 Comment: The assignment elements necessary for problem identification are addressed in
56 the applicable Standards Rules (i.e., SR 1-2, SR 3-1, SR 4-2, SR 6-2, SR 7-2 and SR 9-2).
57 In an appraisal assignment, for example, identification of the problem to be solved
58 requires the appraiser to identify the following assignment elements:

- 59 • client and any other intended users;
60 • intended use of the appraiser's opinions and conclusions;
61 • type and definition of value;
62 • effective date of the appraiser's opinions and conclusions;
63 • subject of the assignment and its relevant characteristics; and
64 • assignment conditions.

65 This information provides the appraiser with the basis for determining the type and extent
66 of research and analyses to include in the development of an appraisal. Similar
67 information is necessary for problem identification in appraisal review and appraisal
68 consulting assignments.

69 Communication with the client is required to establish most of the information necessary
70 for problem identification. However, the identification of relevant characteristics is a
71 judgment made by the appraiser that requires competency in that type of assignment.

72 Assignment conditions include assumptions, extraordinary assumptions, hypothetical
73 conditions, laws and regulations, jurisdictional exceptions, and other conditions that
74 affect the scope of work. Laws include constitutions, legislative and court-made law,
75 administrative rules, and ordinances. Regulations include rules or orders, having legal
76 force, issued by an administrative agency.

77 **Scope of Work Acceptability**⁴

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

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

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

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

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

91 **An appraiser must not allow assignment conditions to limit the scope of work to such a**
92 **degree that the assignment results are not credible in the context of the intended use.**

93 Comment: If relevant information is not available because of assignment conditions that
94 limit research opportunities (such as conditions that place limitations on inspection or
95 information gathering), an appraiser must withdraw from the assignment unless the
96 appraiser can:

- 97 • modify the assignment conditions to expand the scope of work to include gathering
98 the information; or
- 99 • use an extraordinary assumption about such information, if credible assignment
100 results can still be developed.

101 **An appraiser must not allow the intended use of an assignment or a client's objectives to**
102 **cause the assignment results to be biased.**

103 **Disclosure Obligations**

⁴ See Advisory Opinion 29, *An Acceptable Scope of Work*.

104 **The report must contain sufficient information to allow intended users to understand the**
105 **scope of work performed.**

106 Comment: Proper disclosure is required because clients and other intended users rely on
107 the assignment results. Sufficient information includes disclosure of research and
108 analyses performed and might also include disclosure of research and analyses not
109 performed.

Section 3: Proposed Changes Related to Reporting – Addition of COMMUNICATION RULE

RATIONALE

An important issue that has been identified in recent years is the need for a clearer understanding of an appraiser's responsibilities when communicating within appraisal practice.

The first paragraph in the PREAMBLE states:

“The purpose of the *Uniform Standards of Professional Appraisal Practice* (USPAP) is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers. It is essential that appraisers develop and communicate their analyses, opinions, and conclusions to intended users of their services in a manner that is meaningful and not misleading.”

The COMMUNICATION RULE is proposed for placement following the SCOPE OF WORK RULE. It begins with recognition of the primary expectation of the PREAMBLE that “it is essential that appraisers...communicate...to intended users of their services in a manner that is meaningful and not misleading.” It also states responsibilities of appraisers to serve the public trust during communications *at all stages of any service provided as part of appraisal practice*.

The Rule covers appraisers' responsibilities in activity related to appraisal practice from initial contact with potential clients through communication with a client, intended users or other relevant parties that may follow completion of an assignment. The Rule does not, however, include or address business-related communication such as completion dates, the timeframe for inspection of the property, or similar activities that are more appropriately classified separately as general business practices. Nor is this Rule intended to regulate internal communication among appraisers and others who are working together in an assignment.

The First Exposure Draft put forth two alternative COMMUNICATION RULE proposals. The most significant difference between the two was the treatment of preliminary (for example draft or interim) communication of assignment results. As anticipated, this First Exposure Draft generated many responses with varying opinions.

The issue of preliminary communications is a problem, especially in terms of public trust and enforcement. However, while many view draft communications as a potential avenue for abuse, such as an opportunity for the client to attempt to influence the assignment results, others have made it clear that there are appropriate situations which require the use of some form of draft report.

Presently, to meet client needs and requests for these draft or preliminary communications, appraisers and clients must reconcile or rationalize their actions within the framework of the current definition of *report* in USPAP. Some appraisers have claimed that communication of opinions and conclusions transmitted prior to the completion of an assignment does not require compliance with USPAP because it is not, by definition, a report. In worst case scenarios, appraisers have attempted to avoid responsibility for communications of all or part of the

assignment results by claiming that the communication is a draft and should not be subject to enforcement. Such avoidance of responsibility is clearly contrary to public trust.

The ASB's basic premise is that in the interest of public trust, communication related to appraisal practice should be addressed in USPAP. The ASB does not believe that the current business activity of providing draft, interim or preliminary communications of assignment results outside of USPAP reporting Standards should be ignored.

The question that must be resolved is whether it is better to require communication of all or part of assignment results to include core elements, such as those that are currently required in the reporting Standards, or to recognize and establish lesser requirements for preliminary or draft reports.

In order to reconcile the needs of the various constituencies without compromising its duty to protect the public trust, the ASB is proposing a COMMUNICATION RULE that includes requirements for communications of an appraiser's opinions and conclusions in an appraisal, appraisal review, or appraisal consulting assignment.

As currently defined, assignment results include any "opinions or conclusions developed specific to an assignment." This current definition lists examples of assignment results, but does not limit assignment results to the listed items. In an appraisal assignment, an appraiser may develop numerous opinions. These may include, but are not limited to:

- A single indication of value (i.e. sales comparison approach);
- A component of a valuation approach or appraisal technique (e.g. the sale comparables selected for a specific subject property);
- The selection of guideline public companies for business valuation;
- A reconciled opinion of value (which may represent several indications of value);
- A conclusion of highest and best use; or
- The condition of the subject property.

Under the current definition, all of these are examples of assignment results.

Adoption of the COMMUNICATION RULE would coincide with changes to the definition of *Report* and *Assignment Results*; plus the creation of a new definition, *Appraiser's Other Opinions*.

In the COMMUNICATION RULE in this Second Exposure Draft, any communication to a client or any other intended user of any assignment results (the revised definition) requires a report and compliance with STANDARD 2, 3, 5, 6, 8 or 10 would be required.

When communicating *appraiser's other opinions* (new definition) in an appraisal assignment, an appraisal report would not be necessary. However, when communicating these other opinions, it would be necessary to address some basic items so that the client understands the context in which the opinions were developed.

A requirement of the proposed COMMUNICATION RULE will be that any communication of assignment results, as the term is defined in this exposure draft, will be a report regardless of the timeframe relative to completion of the assignment. The use of a label such as “draft,” “interim,” “preliminary,” “revised,” “follow-up,” or “subsequent” would not relieve the appraiser from the requirement to comply with applicable reporting Standards and Standards Rules. When communicating appraiser’s other opinions in an appraisal, appraisal review or appraisal consulting assignment, the appraiser will be subject to the communication requirements included in the COMMUNICATION RULE. In addition, any communication related to appraisal practice must be conducted in a manner that is meaningful and not misleading.

NOTE: Because the COMMUNICATION RULE appearing on the following pages does not currently exist in USPAP, it is *not* shown in underscore text.

110

111 **COMMUNICATION RULE**

112 **When communicating with clients, other intended users, or any other party or entity**
113 **related to appraisal practice, an appraiser must do so in a manner that is meaningful and**
114 **not misleading. This COMMUNICATION RULE applies to communication by an**
115 **appraiser throughout all stages of a service provided as part of an assignment, including:**

- 116 • **Disclosures required to comply with all other obligations of the ETHICS RULE**
117 **and the COMPETENCY RULE;**
- 118 • **Information necessary to establish assignment elements and identify the problem**
119 **to be solved;**
- 120 • **Assignment results; and**
- 121 • **Appraiser's other opinions.**

122 **There are communications by an appraiser related to appraisal practice that do not have**
123 **specific reporting rules. However, these communications are also subject to the ETHICS**
124 **RULE and the COMPETENCY RULE. Examples include, but are not limited to:**

- 125 • **Representation of the appraiser's qualifications.**
- 126 • **Teaching an appraisal course or seminar.**
- 127 • **Developing an appraisal course or seminar.**
- 128 • **Developing a marketability or feasibility study where no value opinion is**
129 **included.**
- 130 • **Providing a property inspection report where no value opinion or indication of**
131 **value is included.**
- 132 • **Developing a property cash flow analysis based upon the contract rent.**

133 **The COMMUNICATION RULE does not apply to communications regarding business or**
134 **administrative issues outside of appraisal practice, such as fees for services provided,**
135 **expected completion dates, the timeframe for inspection of the property, or the delivery**
136 **method by which reports are to be submitted.**

137 **An appraiser must comply with applicable Standards and Standards Rules for the**
138 **communication of all appraisal, appraisal review, or appraisal consulting assignment**
139 **results.**

140 **Communication of analyses, opinions and conclusions, not including assignment results**
141 **specific to an assignment, must, at a minimum:**

- 142 **i. state the identity of the client and any other intended user(s) by name or type;**
- 143 **ii. state the intended use of the assignment;**
- 144 **iii. state the intended use of the communication;**
- 145 **iv. state the identity of the subject property or the work under review;**

- 146 v. state the interest being appraised or, in the case of an appraisal review
147 assignment, the purpose of the assignment;
- 148 vi. state the effective date of the opinion(s) being communicated, and the date of
149 communication;
- 150 vii. state the scope of work performed to develop the opinions being communicated;
- 151 viii. state the opinion(s) in a manner that is not misleading; and
- 152 ix. include a clear and conspicuous statement, similar in content to the following:

153 *“This communication is a portion of my analyses and opinions in the*
154 *development of an (appraisal, appraisal review, or appraisal consulting)*
155 *assignment and should not be considered an (appraisal, appraisal review or*
156 *appraisal consulting) report. No assignment result is included because the*
157 *assignment is still in progress. This communication was requested by you to*
158 *assist (state reason) prior to completion of the assignment. No other users are*
159 *intended.”*

160 **Comment:** The minimum communication requirements stated above may not be
161 used if assignment results are included in the communication.

162
163 The communication of assignment results, whether it is a portion of the analysis or
164 the reconciled opinion, requires a report that complies with the applicable
165 Standards Rules.

Section 4: Proposed Changes Related to Reporting – Revisions to STANDARDS 2 and 8

RATIONALE

Over the past several years, the Appraisal Standards Board has reached out to all categories of stakeholders regarding problems with and improvements needed in reporting an appraiser's analyses, opinions and conclusions of assignment results.

Some of the most significant and common issues are listed below:

1. A common concern in STANDARDS 2 and 8 is the difficulty in adequately distinguishing between language that “summarizes” or “describes” as the terms are used in differentiating between two of the three reporting options.

For example, when does a summary become a description? Appraisers ask the question when trying to comply with USPAP. State appraiser regulators ask the question when trying to appropriately enforce USPAP.

2. Many appraisers and users of appraisal services have commented that creating a “Self-Contained” report, as implied by the name, is neither feasible nor demanded by clients. Others say that “Self-Contained Report” is not an accurate definition of what this report option means.
3. The ASB has been asked why a Restricted Use Appraisal Report is restricted to “use” when the restriction is really on the “user.”
4. Why, if STANDARD 10, Business Appraisal Reporting, only offers two options, does STANDARD 2, Real Property Appraisal Reporting and STANDARD 8, Personal Property Appraisal Reporting offer three?

The ASB is proposing the following changes:

1. Eliminate the *Self-Contained Report* and *Summary Appraisal Report* options, and replace them with an *Appraisal Report* option with requirements very similar to the current 2-2(b) Summary Appraisal Report.
2. Rename the *Restricted Use Appraisal Report* to *Restricted Appraisal Report* and clarify that the restriction is not on the use of the report but on the user, who can only be the client.

These re-named report formats would prescribe a minimum level of reporting and would hold the appraiser accountable to judge whether an expansion in the level of information provided in specific areas is necessary to ensure the report is sufficient, given the intended use.

Additional Revisions to STANDARDS 2 and 8:

1. Require labeling of *Extraordinary Assumptions and Hypothetical Conditions*: In USPAP all *extraordinary assumptions* and *hypothetical conditions* must be clearly and conspicuously stated. However, USPAP does not currently require specifically using the labels *extraordinary assumption* or *hypothetical condition*. The ASB believes it is important that these specific labels be used in identification within the report, so as to not be misleading.

2. Add Requirement to Include Exposure Time in Reporting: The Comment to Standards Rules 1-2 (c) states, “When developing an opinion of market value, the appraiser must also develop an opinion of reasonable exposure time linked to the value opinion.” There is a similar Comment to Standards Rule 7-2 (c) which states, “When developing an opinion of value in a specified market or at a specified market level based on the potential sale of the property, the appraiser must also develop an opinion of reasonable exposure time linked to the value opinion.”

The reporting requirements in STANDARDS 2, 6, 8 and 10 include the following Comment: “Stating the definition of value also requires any comments needed to clearly indicate to intended users how the definition is being applied.” Some have taken this to mean that when an opinion of exposure time is developed, that opinion must be reported. Others have taken this to mean that when there are atypical conditions requiring explanation, those conditions, which might include exposure time, must be addressed. Still others see this Comment as ambiguous.

Reasonable exposure time is only one of several criteria that are assumed in determining a market value opinion, particularly for real and personal property. Because there are no requirements to address these other criteria in the report, it was formerly considered unnecessary to address exposure time in the report. However, unlike the other criteria, reasonable exposure time is an opinion developed by an appraiser based on analysis of market data. Reasonable exposure time is specific to the subject property, and is a function of both property characteristics and market conditions.

While USPAP requires an opinion of reasonable exposure time in some cases, the reporting of such an opinion is not clearly specified in the current reporting requirements of STANDARDS 2 and 8.

In order to assure intended users understand the context in which the opinion of value is developed, the Board is proposing to make it a clear requirement that reasonable exposure time must be reported in all assignments in which an opinion of reasonable exposure time must be developed.

3. Add Requirement to Report the Source of Information Analyzed in 2-2(a)(viii): The appraiser has the burden of proof to support the scope of work decision and the level of information included in a report. Disclosure of the sources of information analyzed and relied upon by the appraiser will allow clients and intended users to know the extent of the information reviewed by the appraiser so as to be properly informed as to the extent of the appraiser’s analysis and not be misled by the scope of work.

Disclosure will also allow clients and intended users to know the extent to which information has been made available, and whether any gaps in that information resulted in either extraordinary assumptions or hypothetical conditions, due to those informational limitations.

4. Add Disclosure Statement to Certification Associated with ETHICS RULE requirement on Lines 231-241: The Appraisal Standards Board is proposing a disclosure statement in the Certification as to whether or not the appraiser has provided any services regarding the subject property in the three (3) years preceding acceptance of the assignment. The proposed addition is:

I have performed no (or the specified) other services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of the assignment.

NOTE: Due to the extensive nature of the changes in STANDARD 2 appearing on the following pages, the proposed changes are *not* shown in underscore text.

It is also expected that changes to the reporting Standards may require review and revisions of impacted Statements and Advisory Opinions.

For example, a new requirement is being proposed in Standards Rule 2-2(a)(v): When reporting an opinion of market value, the appraiser must also report an opinion of reasonable exposure time linked to the value opinion.⁵ If this were adopted, revisions to STATEMENT ON APPRAISAL STANDARDS NO. 6 might be necessary for the 2012-2013 edition of USPAP.

Also, the changes to STANDARD 2 may also be applicable to other reporting Standards.

166

⁵ See Statement on Appraisal Standards No. 6, *Reasonable Time in Real Property and Personal Property Market Value Opinions*.

167 **STANDARD 2: REAL PROPERTY APPRAISAL, REPORTING**

168 **An appraiser must communicate real property appraisal assignment results in a manner**
169 **that is meaningful and not misleading.**

170 Comment: STANDARD 2 addresses the content and level of information required
171 in a report that communicates the results of a real property appraisal.

172 STANDARD 2 does not dictate the form, format, or style of real property
173 appraisal reports. The form, format, and style of a report are functions of the
174 needs of intended use and intended user. The substantive content of a report
175 determines its compliance.

176 **Standards Rule 2-1**

177 **Each written or oral real property appraisal report must:**

- 178 (a) **clearly and accurately set forth the appraisal in a manner that is meaningful and not**
179 **misleading;**
- 180 (b) **contain sufficient information to enable the intended users of the appraisal to**
181 **understand the report properly; and**
- 182 (c) **clearly and accurately disclose all assumptions, extraordinary assumptions,**
183 **hypothetical conditions, and limiting conditions used in the assignment.**

184 **Standards Rule 2-2**

185 **Each written real property appraisal report must be prepared in accordance with one of**
186 **the following options and prominently state which option is used: Appraisal Report or**
187 **Restricted Appraisal Report.⁶**

188 **The essential difference between these two options is in the level of information provided.**
189 **The minimum requirements for each type of report are set forth in this Standard. The**
190 **appropriate reporting option and the minimum level of information necessary in the report**
191 **are each dependent on the intended use and the intended user.**

192 Comment: When the intended users include parties other than the client(s), an
193 Appraisal Report must be provided. When the intended users do not include
194 parties other than the client, a Restricted Appraisal Report may be provided.

195 An appraiser must supplement a report form, when necessary, to ensure that any
196 intended user of the appraisal is not misled.

197 An appraiser may use any other label in addition to, but not in place of, the labels
198 set forth in this Standard for the type of report provided.

199 A party receiving a copy of a report in order to satisfy disclosure requirements
200 does not become an intended user of the appraisal unless the appraiser identifies
201 such party as an intended user as part of the assignment.

⁶ See Advisory Opinion 11, *Content of the Appraisal Report Options of Standards Rules 2-2 and 8-2*, and Advisory Opinion 12, *Use of the Appraisal Report Options of Standards Rules 2-2 and 8-2*.

202 (a) **The content of an Appraisal Report must be consistent with the intended use of the**
203 **appraisal and, at a minimum must:**

204 (i) **state the identity of the client and any intended users, by name or type;**⁷

205 Comment: An appraiser must use care when identifying the client to
206 ensure a clear understanding and to avoid violations of the Confidentiality
207 section of the ETHICS RULE. In those rare instances when the client
208 wishes to remain anonymous, an appraiser must still document the identity
209 of the client in the workfile but may omit the client's identity in the report.

210 Intended users of the report might include parties such as lenders,
211 government agencies, partners of a client, and a client's attorney and
212 accountant.

213 (ii) **state the intended use of the appraisal;**⁸

214 (iii) **summarize information sufficient to identify the real estate involved in the**
215 **appraisal, including the physical and economic property characteristics**
216 **relevant to the assignment;**

217 Comment: The real estate involved in the appraisal can be specified, for
218 example, by a legal description, address, map reference, copy of a survey
219 or map, property sketch, and/or photographs or the like. The summarized
220 information can include a property sketch and photographs in addition to
221 written comments about the legal, physical, and economic attributes of the
222 real estate relevant to the type and definition of value and intended use of
223 the appraisal.

224 (iv) **state the real property interest appraised;**

225 Comment: The statement of the real property rights being appraised must
226 be substantiated, as needed, by copies or summaries of title descriptions or
227 other documents that set forth any known encumbrances.

228 (v) **state the type and definition of value and cite the source of the definition;**

229 Comment: Stating the definition of value also requires any comments
230 needed to clearly indicate to the intended users how the definition is being
231 applied.¹⁰

232 When reporting an opinion of market value, state whether the opinion of
233 value is:

- 234 • in terms of cash or of financing terms equivalent to cash; or
- 235 • based on non-market financing or financing with unusual conditions
- 236 or incentives.

⁷ See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

⁸ See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

⁹ See Advisory Opinion 2, *Inspection of Subject Property*, and Advisory Opinion 23, *Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment*.

¹⁰ See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions*. See also Advisory Opinion 7, *Marketing Time Opinions*, and Advisory Opinion 22, *Scope of Work in Market Value Appraisal Assignments, Real Property*.

237 When an opinion of market value is not in terms of cash or based on
238 financing terms equivalent to cash, summarize the terms of such financing
239 and explain their contributions to or negative influence on value.

240 When reporting an opinion of market value, the appraiser must also report
241 an opinion of reasonable exposure time linked to the value opinion.¹¹

242 **(vi) state the effective date of the appraisal and the date of the report;**¹²

243 Comment: The effective date of the appraisal establishes the context for
244 the value opinion, while the date of the report indicates whether the
245 perspective of the appraiser on the market and property as of the effective
246 date of the appraisal was prospective, current, or retrospective.

247 **(vii) summarize the scope of work used to develop the appraisal;**¹³

248 Comment: Because an intended user's reliance on an appraisal may be
249 affected by the scope of work, the report must enable intended users to be
250 properly informed and not misled. Sufficient information includes
251 disclosure of research and analyses performed and might also include
252 disclosure of research and analyses not performed.

253 When any portion of the work involves significant real property appraisal
254 assistance, the appraiser must summarize the extent of that assistance. The
255 signing appraiser must also state the name(s) of those providing the
256 significant real property appraisal assistance in the certification, in
257 accordance with Standards Rule 2-3.¹⁴

258 **(viii) summarize the information analyzed, the source(s) of that information, the**
259 **appraisal methods and techniques employed, and the reasoning that supports**
260 **the analyses, opinions, and conclusions; exclusion of the sales comparison**
261 **approach, cost approach, or income approach must be explained;**

262 Comment: An Appraisal Report must include sufficient information to
263 indicate that the appraiser complied with the requirements of STANDARD
264 1. The amount of detail required will vary with the significance of the
265 information to the appraisal.

266 The report must include sufficient information to enable the client and
267 intended users to understand the analyses, opinions and conclusions,
268 including reconciliation of the data and approaches, in accordance with
269 Standards Rule 1-6.

270 When reporting an opinion of market value, a summary of the results of
271 analyzing the subject sales, agreements of sale, options, and listings in
272 accordance with Standards Rule 1-5 is required.¹⁵ If such information is

¹¹ See Statement on Appraisal Standards No. 6, *Reasonable Time in Real Property and Personal Property Market Value Opinions*.

¹² See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*.

¹³ See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure*, and Advisory Opinion 29, *An Acceptable Scope of Work*.

¹⁴ See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

¹⁵ See Advisory Opinion 1, *Sales History*

273 not obtainable, a statement on the efforts undertaken by the appraiser to
274 obtain the information is required. If such information is irrelevant, a
275 statement acknowledging the existence of the information and citing its
276 lack of relevance is required.

277 **(ix) state the use of the real estate existing as of the date of value and the use of**
278 **the real estate reflected in the appraisal; and, when an opinion of highest and**
279 **best use was developed by the appraiser, summarize the support and**
280 **rationale for that opinion;**

281 **(x) clearly and conspicuously:**

282 • **state all extraordinary assumptions and hypothetical conditions**
283 **and label them as such; and**

284 • **state that their use might have affected the assignment results;**
285 **and**

286 **(xi) include a signed certification in accordance with Standards Rule 2-3.**

287 **(b) The content of a Restricted Appraisal Report must be consistent with the intended**
288 **use of the appraisal and, at a minimum must:**

289 **(i) state the identity of the client, by name or type;¹⁶ and state a prominent use**
290 **restriction that limits use of the report to the client; and warns that the**
291 **appraiser's opinions and conclusions set forth in the report may not be**
292 **understood properly without additional information that is in the appraiser's**
293 **workfile;**

294 Comment: An appraiser must use care when identifying the client to
295 ensure a clear understanding and to avoid violations of the Confidentiality
296 section of the ETHICS RULE. In those rare instances when the client
297 wishes to remain anonymous, an appraiser must still document the identity
298 of the client in the workfile but may omit the client's identity in the report.

299 The Restricted Appraisal Report is for client(s) use only. Before entering
300 into an agreement, the appraiser should establish with the client(s) the
301 situations where this type of report is to be used and should ensure that the
302 client(s) understands the restricted utility of the Restricted Appraisal
303 Report.

304 **(ii) state the intended use of the appraisal;¹⁷**

305 Comment: The intended use of the appraisal must be consistent with the
306 limitation on use of the Restricted Appraisal Report option in this
307 Standards Rule (i.e., client(s) use only).

308 **(iii) state information sufficient to identify the real estate involved in the**
309 **appraisal;¹⁸**

¹⁶ See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

¹⁷ See Statement on Appraisal Standards No. 9, *Identification of Intended Use and Intended Users*.

¹⁸ See Advisory Opinion 2, *Inspection of Subject Property*. References to Advisory Opinions are for guidance only and do not incorporate Advisory Opinions into USPAP.

310 Comment: The real estate involved in the appraisal can be specified, for
311 example, by a legal description, address, map reference, copy of a survey
312 or map, property sketch, and/or photographs or the like.

313 **(iv) state the real property interest appraised;**

314 **(v) state the type of value, and cite the source of its definition;¹⁹**

315 **(vi) state the effective date of the appraisal and the date of the report;²⁰**

316 Comment: The effective date of the appraisal establishes the context for
317 the value opinion, while the date of the report indicates whether the
318 perspective of the appraiser on the market and property as of the effective
319 date of the appraisal was prospective, current, or retrospective.

320 **(vii) state the scope of work used to develop the appraisal;²¹**

321 Comment: Because the client's reliance on an appraisal may be affected by
322 the scope of work, the report must enable the client to be properly
323 informed and not misled. Sufficient information includes disclosure of
324 research and analyses performed and might also include disclosure of
325 research and analyses not performed.

326 When any portion of the work involves significant real property appraisal
327 assistance, the appraiser must state the extent of that assistance. The
328 signing appraiser must also state the name(s) of those providing the
329 significant real property appraisal assistance in the certification, in
330 accordance with Standards Rule 2-3.²²

331 **(viii) state the appraisal methods and techniques employed, state the opinion of**
332 **value and indications of value, and reference the workfile; exclusion of the**
333 **sales comparison approach, cost approach, or income approach must be**
334 **explained;**

335 Comment: An appraiser must maintain a specific, coherent workfile in
336 support of a Restricted Appraisal Report. The contents of the workfile
337 must include sufficient information to indicate that the appraiser complied
338 with the requirements of STANDARD 1 and for the appraiser to produce
339 an Appraisal Report.

340 When reporting an opinion of market value, a summary of the results of
341 analyzing the subject sales, agreements of sale, options, and listings in
342 accordance with Standards Rule 1-5 is required. If such information is not
343 obtainable, a statement on the efforts undertaken by the appraiser to obtain
344 the information is required. If such information is irrelevant, a statement

¹⁹ See Statement on Appraisal Standards No. 6, *Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions*. See also Advisory Opinion 7, *Marketing Time Opinions*, and Advisory Opinion 22, *Scope of Work in Market Value Appraisal Assignments, Real Property*.

²⁰ See Statement on Appraisal Standards No. 3, *Retrospective Value Opinions*, and Statement on Appraisal Standards No. 4, *Prospective Value Opinions*.

²¹ See Advisory Opinions 28, *Scope of Work Decision, Performance, and Disclosure*, and Advisory Opinion 29, *An Acceptable Scope of Work*.

²² See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

345 acknowledging the existence of the information and citing its lack of
346 relevance is required.

347 (ix) state the use of the real estate existing as of the date of value and the use of
348 the real estate reflected in the appraisal; and, when an opinion of highest and
349 best use was developed by the appraiser, state that opinion;

350 (x) clearly and conspicuously:

351 • state all extraordinary assumptions and hypothetical conditions
352 and label them as such; and

353 • state that their use might have affected the assignment results; and

354 (xi) include a signed certification in accordance with Standards Rule 2-3.

355 **Standards Rule 2-3**

356 Each written real property appraisal report must contain a signed certification that is
357 similar in content to the following form:

358 I certify that, to the best of my knowledge and belief:

- 359 — the statements of fact contained in this report are true and correct.
360 — the reported analyses, opinions, and conclusions are limited only by the
361 reported assumptions and limiting conditions and are my personal,
362 impartial, and unbiased professional analyses, opinions, and conclusions.
363 — I have no (or the specified) present or prospective interest in the property
364 that is the subject of this report and no (or the specified) personal interest
365 with respect to the parties involved.
366 — I have performed no (or the specified) other services, as an appraiser or in
367 any other capacity, regarding the property that is the subject of this report
368 within the three-year period immediately preceding acceptance of the
369 assignment.
370 — I have no bias with respect to the property that is the subject of this report
371 or to the parties involved with this assignment.
372 — my engagement in this assignment was not contingent upon developing or
373 reporting predetermined results.
374 — my compensation for completing this assignment is not contingent upon the
375 development or reporting of a predetermined value or direction in value
376 that favors the cause of the client, the amount of the value opinion, the
377 attainment of a stipulated result, or the occurrence of a subsequent event
378 directly related to the intended use of this appraisal.
379 — my analyses, opinions, and conclusions were developed, and this report has
380 been prepared, in conformity with the *Uniform Standards of Professional*
381 *Appraisal Practice*.
382 — I have (or have not) made a personal inspection of the property that is the
383 subject of this report. (If more than one person signs this certification, the
384 certification must clearly specify which individuals did and which
385 individuals did not make a personal inspection of the appraised property.)²³
386 — no one provided significant real property appraisal assistance to the person
387 signing this certification. (If there are exceptions, the name of each

²³ See Advisory Opinion 2, *Inspection of Subject Property*.

388 **individual providing significant real property appraisal assistance must be**
389 **stated.)**

390 Comment: A signed certification is an integral part of the appraisal report. An
391 appraiser who signs any part of the appraisal report, including a letter of
392 transmittal, must also sign this certification.

393 In an assignment that includes only assignment results developed by the real
394 property appraiser(s), any appraiser(s) who signs a certification accepts full
395 responsibility for all elements of the certification, for the assignment results, and
396 for the contents of the appraisal report. In an assignment that includes personal
397 property, business or intangible asset assignment results not developed by the real
398 property appraiser(s), any real property appraiser(s) who signs a certification
399 accepts full responsibility for the real property elements of the certification, for
400 the real property assignment results, and for the real property contents of the
401 appraisal report.

402 When a signing appraiser(s) has relied on work done by appraisers and others
403 who do not sign the certification, the signing appraiser is responsible for the
404 decision to rely on their work. The signing appraiser(s) is required to have a
405 reasonable basis for believing that those individuals performing the work are
406 competent. The signing appraiser(s) also must have no reason to doubt that the
407 work of those individuals is credible.

408 The names of individuals providing significant real property appraisal assistance
409 who do not sign a certification must be stated in the certification. It is not required
410 that the description of their assistance be contained in the certification, but
411 disclosure of their assistance is required in accordance with Standards Rule 2-2(a)
412 or (b), as applicable.²⁴

413 **Standards Rule 2-4**

414 **To the extent that it is both possible and appropriate, an oral real property appraisal**
415 **report must address the substantive matters set forth in Standards Rule 2-2(a).**

416 Comment: See the RECORD KEEPING RULE for corresponding requirements.

²⁴ See Advisory Opinion 31, *Assignments Involving More than One Appraiser*.

Section 5: Proposed Changes Related to Reporting – Consideration of Applicability of Two Reporting Options in STANDARDS 3, 5 or 6

The concept of providing a restricted report is not available in STANDARD 3, *Appraisal Review, Development and Reporting*; STANDARD 5, *Real Property Appraisal Consulting, Reporting*; or STANDARD 6, *Mass Appraisal, Development and Reporting*.

The Appraisal Standards Board would like input from users and providers of these types of services as to whether a restricted report option, as proposed in this exposure draft, is appropriate for STANDARDS 3, 5, or 6.

Section 6: Request for Comments on STANDARDS 4 and 5

In the spirit of enhancing the clarity, understandability, and enforceability of USPAP, respondents have offered a wide array of areas for examination, one of which includes STANDARDS 4 and 5. These two Standards address Real Property Appraisal Consulting Development and Reporting. The purpose of an assignment under STANDARDS 4 and 5 is to develop, without advocacy, an analysis, recommendation, or opinion where at least one opinion of value is a component of the analysis leading to the assignment results.

In this exposure draft, the ASB wishes to gather information on STANDARDS 4 and 5 from appraisers, clients and intended users, state appraisal regulatory officials, and any other interested parties. The questions address two sets of issues that have been raised.

- 1.a. Within the confines of Real Property Appraisal Consulting, should STANDARDS 4 and 5 be deleted, retained as is, or revised? Please explain why this is your opinion.
- 1.b. If they are to be revised, what changes should be made?
- 2.a. If STANDARDS 4 and 5 are to be retained in their current format or revised, should the appraisal disciplines be expanded to include Personal Property, Business Valuation, and Mass Appraisal? Please explain why this is your opinion.
- 2.b. If they are to be expanded to other appraisal disciplines, what specific application examples should be considered to assure STANDARDS 4 and 5 provide effective minimum standards?

The Comment to Standards Rule 4-2 (h) states:

Comment: An appraiser must ensure that any opinion of value used in an appraisal consulting assignment was developed in compliance with STANDARD 1.

If an opinion of value used in a real property appraisal consulting assignment is from a source other than the consulting appraiser, the assignment may include a review, prepared in compliance with STANDARD 3, of that appraisal. Alternatively, the appraiser may accept an appraisal from another source using an extraordinary assumption in the appraisal consulting assignment, provided that all conditions necessary to use such an extraordinary assumption are fulfilled.

If the opinion of value is from an appraisal developed by the appraiser performing the real property appraisal consulting assignment, the appraiser must complete the steps set forth in STANDARD 1.

The Comment to Standards Rule 5-2 (g) states:

Comment: If the value opinion used in the appraisal consulting assignment was not performed by the consulting appraiser, the appraisal consulting report must include:

- the information required in Standards Rule 3-5, or
- a statement of the appraisal review results, and a reference to the appraisal review documentation retained in the appraisal consultant's appraisal consulting assignment workfile, or
- a statement supporting the use of that appraisal as an extraordinary assumption in the appraisal consulting assignment.

If an opinion of value was developed by the consulting appraiser, the appraisal consulting report must include the information required to comply with Standards Rule 2-2(a) or (b)(ii) through(x). Standards Rule 2-2(c)(ii) through (x) is also permitted if the client is the only intended user of the assignment results.

If STANDARDS 4 and 5 are retired, the individual performing what is currently defined as appraisal consulting will still be operating under appraisal practice. If an appraiser is using a value opinion that he or she developed, compliance with the applicable development and reporting standards will still be required. If the consulting assignment results are based on another appraiser's work the consulting appraiser has reviewed, the review portion of the assignment will still fall under STANDARD 3.

The impact of retiring STANDARDS 4 and 5 will be that the appraisal consulting report will not have a certification, but a certification will still be required for any appraisal or appraisal review report. The parts of the assignment other than appraisal or appraisal review will still be subject to the ETHICS, COMPETENCY and COMMUNICATION RULES. Effectively, most appraisal consulting assignments would become either appraisal or appraisal review assignments with additional components. Those additional components remain a part of appraisal practice.

Finally, if comments support the continued recognition of appraisal consulting as a separate field of practice requiring its own standards, how can this be the case for real property, but not appropriate and necessary for the personal property or intangible asset disciplines?

Section 7: Proposed Removal of Record Keeping section of ETHICS RULE and Creation of New RECORD KEEPING RULE (with revisions)

RATIONALE

The appropriateness of record keeping requirements being located within the ETHICS RULE has been brought into question.

The Board has been advised that because the section is part of the ETHICS RULE, even a minor clerical issue may be viewed as an ethical violation by some. While record keeping is important, minor infractions should not rise to the level of an ethical violation. This is clearly not the Board's intent.

Record keeping does not correspond to any of the other rules in USPAP, so the ASB is proposing the addition of a new RECORD KEEPING RULE to resolve the issue. This creation of a new rule will provide a place for current record keeping requirements.

In addition, the ASB is proposing revisions to record keeping requirements in conjunction with the new COMMUNICATION RULE and changes to reporting Standards.

As proposed, the RECORD KEEPING RULE includes a new requirement that the workfile include true copies of all written reports and summaries of all oral reports issued in appraisal, appraisal review or appraisal consulting assignments. The Board recognizes this may generate concerns for appraisers engaged in litigation-related appraisal assignments. However, the Board believes that the need to protect public trust outweighs any individual agenda of an appraiser or an appraiser's client. To not require that an appraiser retain relevant work product (copies of reports) would appear to violate that public trust.

Finally, edits are made to correspond with proposed revisions to the reporting Standards.

NOTE: Although the RECORD KEEPING RULE appearing on the following pages does not currently exist in USPAP, a Record Keeping section in the ETHICS RULE does. Therefore, the proposed text is shown in both underscore and strikethrough text, where appropriate.

417

418 **RECORD KEEPING RULE**

419 An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal
420 consulting assignment. A workfile must be in existence prior to the issuance of a ~~written or~~
421 ~~oral~~ **any** report. A written summary of an oral report must be added to the workfile within
422 a reasonable time after the issuance of the oral report.

423 The workfile must include:

- 424 • the name of the client and the identity, by name or type, of any other intended
425 users;
- 426 • true copies of ~~any~~ **all** written reports, documented on any type of media. **If multiple**
427 **reports are provided to the client, the workfile must include a true copy of each**
428 **report** (A true copy is a replica of the report transmitted to the client. A photocopy
429 or an electronic copy of the entire report transmitted to the client satisfies the
430 requirement of a true copy);
- 431 • **all revisions to a report submitted to a client subsequent to communication of**
432 **assignment results must be included in the workfile. This includes the true copy,**
433 **the rationale for the change and date of the change;**
- 434 • summaries of ~~any~~ **all** oral reports or testimony, or a transcript of testimony,
435 including the appraiser's signed and dated certification; ~~and~~
- 436 • all other data, information, and documentation necessary to support the appraiser's
437 opinions and conclusions and to show compliance with USPAP, or references to the
438 location(s) of such other documentation; and
- 439 • **a workfile in support of a Restricted Appraisal Report must be sufficient for the**
440 **appraiser to produce an Appraisal Report.**

441 An appraiser must retain the workfile for a period of at least five years after preparation
442 or at least two years after final disposition of any judicial proceeding in which the
443 appraiser provided testimony related to the assignment, whichever period expires last.

444 An appraiser must have custody of ~~his or her~~ the workfile, or make appropriate workfile
445 retention, access, and retrieval arrangements with the party having custody of the workfile.
446 **This includes ensuring that a workfile is stored in a medium that is retrievable by the**
447 **appraiser throughout the prescribed record retention period.**

448 An appraiser having custody of a workfile must allow other appraisers with workfile
449 obligations related to an assignment appropriate access and retrieval for the purpose of:

- 450 • submission to state appraiser regulatory agencies;
- 451 • compliance with due process of law;
- 452 • submission to a duly authorized professional peer review committee; or
- 453 • compliance with retrieval arrangements.

454 **Comment: Care should be exercised in the selection of the form, style, and type of**
455 **medium for records to ensure that they are retrievable by the appraiser throughout**
456 **the prescribed record retention period.**

457 **A workfile must be made available by the appraiser when required by a state**
458 **appraiser regulatory agency or due process of law.**

459 **~~A workfile in the support of a Restricted Use Appraisal Report must be sufficient~~**
460 **~~for the appraiser to produce a Summary Appraisal Report (for assignments under~~**
461 **~~STANDARDS 2 and 8) or an Appraisal Report (for assignments under STANDARD~~**
462 **~~10).~~**

Section 8: Proposed Relocation of PREAMBLE (with revisions)

RATIONALE

The PREAMBLE to USPAP introduces a reader to the document and explains USPAP's purpose and format. However, the PREAMBLE currently follows the DEFINITIONS section.

Based on comments received publicly, and internal discussion among the members of the ASB, the PREAMBLE is proposed to be shown as the opening page of the USPAP portion of the 2012-2013 edition of the document.

One definition of the word Preamble is "a section at the beginning of a formal document that introduces what follows." This is exactly the purpose of the PREAMBLE in USPAP. In fact, the PREAMBLE currently states "the DEFINITIONS establish the application of certain terminology in USPAP." However, this concept is actually stated subsequent to presentation of the DEFINITIONS section.

In addition, the ASB believes the ideals expressed in the PREAMBLE deserve more emphasis, especially to readers new to USPAP. Therefore, the PREAMBLE should be placed in the most prominent location available.

Of course, such a relocation of the PREAMBLE requires movement of the DEFINITIONS section, which is proposed to be placed following the PREAMBLE but prior to the Rules, because it contains terms with a unique meaning in USPAP. An appropriate notation will be added so readers are notified of this fact.

Of additional importance are PREAMBLE revisions resulting from the addition of the COMMUNICATION RULE, and movement of the Record Keeping section out of the ETHICS RULE into its own RECORD KEEPING RULE. The rationale and wording for both of these proposed Rules is addressed previously in this exposure draft

In addition, STANDARDS 4 and 5 may be either retired from USPAP, or revised to reflect the other asset types (personal property and business) addressed in USPAP. The PREAMBLE illustrated in this exposure draft reflects the current inclusion and labeling of STANDARDS 4 and 5. Depending on the action taken by the ASB, the PREAMBLE would require further revision if STANDARDS 4 and 5 are retired or relabeled.

464 **PREAMBLE**

465 The purpose of the *Uniform Standards of Professional Appraisal Practice* (USPAP) is to
466 promote and maintain a high level of public trust in appraisal practice by establishing
467 requirements for appraisers. It is essential that appraisers develop and communicate their
468 analyses, opinions, and conclusions to intended users of their services in a manner that is
469 meaningful and not misleading.

470 The Appraisal Standards Board promulgates USPAP for both appraisers and users of appraisal
471 services. The appraiser's responsibility is to protect the overall public trust and it is the
472 importance of the role of the appraiser that places ethical obligations on those who serve in this
473 capacity. USPAP reflects the current standards of the appraisal profession.

474 USPAP does not establish who or which assignments must comply. Neither The Appraisal
475 Foundation nor its Appraisal Standards Board is a government entity with the power to make,
476 judge, or enforce law. Compliance with USPAP is required when either the service or the
477 appraiser is obligated to comply by law or regulation, or by agreement with the client or intended
478 users. When not obligated, individuals may still choose to comply.

479 USPAP addresses the ethical and performance obligations of appraisers through DEFINITIONS,
480 Rules, Standards, Standards Rules, and Statements.

- 481 • The DEFINITIONS establish the application of certain terminology in USPAP.
- 482 • The ETHICS RULE sets forth the requirements for integrity, impartiality, objectivity,
483 independent judgment, and ethical conduct.
- 484 • The COMPETENCY RULE presents pre-assignment and assignment conditions for
485 knowledge and experience.
- 486 • The SCOPE OF WORK RULE presents obligations related to problem identification,
487 research and analyses.
- 488 • The COMMUNICATION RULE outlines an appraiser's responsibilities to
489 communicate assignment results at any stage of the assignment in a manner that is
490 meaningful and not misleading.
- 491 • The JURISDICTIONAL EXCEPTION RULE preserves the balance of USPAP if law
492 or regulation of a jurisdiction precludes compliance with any part of USPAP.
- 493 • The RECORD KEEPING RULE establishes the record keeping requirements which
494 every appraiser must follow for appraisal, appraisal review, and consulting
495 assignments.
- 496 • The ten Standards establish the requirements for appraisal and appraisal review, and
497 the manner in which each is communicated.
 - 498 – STANDARDS 1 and 2 establish requirements for the development and
499 communication of a real property appraisal.
 - 500 – STANDARD 3 establishes requirements for the development and communication
501 of an appraisal review.

- 502 – STANDARDS 4 and 5 establish requirements for the development and
503 communication of a real property appraisal consulting assignment.
- 504 – STANDARD 6 establishes requirements for the development and communication
505 of a mass appraisal.
- 506 – STANDARDS 7 and 8 establish requirements for the development and
507 communication of a personal property appraisal.
- 508 – STANDARDS 9 and 10 establish requirements for the development and
509 communication of a business or intangible asset appraisal.
- 510 • Statements on Appraisal Standards clarify, interpret, explain, or elaborate on a Rule
511 or Standards Rule.
- 512 • Comments are an integral part of USPAP and have the same weight as the component
513 they address. These extensions of the DEFINITIONS, Rules, and Standards Rules
514 provide interpretation and establish the context and conditions for application.

515 Readers of this PREAMBLE should note that it contains terms which have a meaning specific to
516 their use in USPAP. Those terms are found in the DEFINITIONS section which follows.