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The Run-Down on Depreciation: Market Extraction

by Nikole Urban, Administrative Director

hen does an improvement begin depreciating? Does an improvement begin depreciating as soon as construction ends or even before construction is completed? Can an improvement depreciate before construction begins? What about the site; when does a site suffer depreciation? The most straight forward answer to when depreciation begins is when the market begins to react with a loss in value. But how is depreciation estimated by an appraiser?

Depreciation is simply a loss in value from any cause. Appraiser's estimate three main categories of depreciation; physical, functional, and external. Physical depreciation is the loss in value from wear and tear, principally applied to the improvements. It is a function of time, maintenance, and destructive elements. Functional obsolescence is loss in value due to negative reaction by market participants to an element, or elements, of the improvements or site. For example, in a particular market, participants may be paying less for homes with small closets than they would for a home with closets that meet market expectations for size and utility. The house may have been built with closets that conformed to market demands at the time of construction, but demands of market participants' can change over time. Functional depreciation can even occur before an improvement is constructed if it is not being built to the demands of typical market participants or the property's highest and best use. External obsolescence is a loss in value due to reaction to something outside the subject property.

There are four techniques appraisers use to estimate depreciate; market extraction, economic age-life, modified economic age-life, and the breakdown technique. Each of these methods has its advantages and limitations. Market extraction is a method or technique of estimating depreciation that relies on cost and sales data to extract the loss in value from market information.

To begin the process of utilizing the market extraction technique on an improved property in the cost approach, an appraiser first needs three or four pieces of information; the cost new of the improvement, the current value of the improvement (which can be obtained by subtracting the site value from the verified sale of the property), and either the actual age or the effective age of the improvement. If the property is of typical or average condition for the neighborhood the actual age may be most appropriate. If the property has had significant updating or remodeling, or has suffered more physical and functional depreciation than is typical of the neighborhood then the effective age may be most appropriate.

Begin by developing an opinion of the current value of the improvement for the comparable sale or subject, if available. This can be done by estimating the site value of the property and subtracting it from the sales price.

\$220,000 Sale Price \$65,000 Site Value \$155,000 Current Value of the Improvement

Next, estimate the cost new of the improvements using reliable cost data. The difference between the cost new of the improvements and the improvements current value will be the depreciation or dollar loss.

\$235,000 Cost New \$155,000 Current Value of the Improvements \$80,000 Dollar loss (Depreciation)

To determine a percentage loss of depreciation since new, an appraiser would divide the dollar loss by the cost new of the improvements.

\$80,000/\$235,000= 34% Depreciation to the improvements since new.

To determine how much the improvements are depreciating, on average, each year an appraiser would divide the percent depreciated by the actual age or effective age, depending on which was most appropriate*.

0.34/20 years (age*) = 0.017 or 1.7% average annual rate of depreciation

If an appraiser wanted to know the total economic life expectancy for an improvement continuing at this rate of depreciation, the number 1 could be divided by that average annual rate of depreciation.

1/0.017= 58.8 or approximately 59 years of total economic life expected.

The market extraction technique is a valuable tool for appraisers in estimating the depreciation to a property. Depreciation estimates from comparables can be applied to a subject property, in a specific market area, that is similar in terms of depreciation types and levels as part of the cost approach to value. Maintenance of depreciation data for the market area(s) an appraiser works in is critical information to members of the appraisal profession.

Letter from the Chair by Marc Headden

I hope all Tennessee appraisers have adjusted to the new scope of work requirements. This was a good change in USPAP, as were some of the other updates implemented in July.

There have been several inquiries about education requirements regarding the USPAP 15-hour course and the USPAP 7-hour course. The Appraisal Foundation has implemented new requirements stating that the 15-hour course is for qualifying education only. The 7-hour course is for continuing education only. If you have taken the 15-hour course, you can take it again, but no continuing education credit will be given. This is for all trainees, licensees, and certified appraisers. The 7-hour course will yield continuing education credit. This was determined at the national level, not the state level.

The Appraisal Foundation sponsored a Valuation Fraud Symposium in October that several Tennessee appraisers attended. This symposium had several panelists representing different organizations including appraisers, National Association of Mortgage Brokers, United State Department of Justice, Morgan Stanley, National Association of Realtors, attorneys, Office of Thrift Supervision, Fannie Mae, FBI, Countrywide, and the Appraisal Standards Board.

There were several interesting topics discussed at the symposium. In the past 14-16 years there was \$42.1 million stolen from financial institutions by robbery. There was \$2.7 billion in financial institution fraud in just an 18-24 month period. Needless to say, this amount of fraud has gotten much attention and will continue to do so into the future. Most fraud concerning the appraiser is from the residential market. In many residential mortgages, it appears the appraiser overvalued the property. The majority of appraisers convicted of mortgage fraud did not receive compensation other than the amount of the appraisal fee (\$300-\$400) and the

Some types of valuation fraud include the intentional misrepresentation of the value of the property, including but not limited to 1) inflation of value, 2) compression of value, 3) condition of property, 4) existence of property, 5) ownership of property, and 6) previous transactions regarding the property.

With these items said, you must consider...why are appraisers targeted? The reason is because accurate valuations are the cornerstone of the United States lending market. We must all strive to be ethical competent appraisers. Appraisers must refuse to accept assignments that require value to be pushed. "An appraisal always provides value...but sometimes there is no value in an appraisal." Anonymous. Sad but true.

I hope all Tennessee appraisers have a good 2007.

Marc Headden

APPRAISING FOR EMINENT DOMAIN ACQUISITIONS

— by Sam Pipkin —

frequently overlooked client base by many appraisers are the various Federal, State, Municipal, and other agencies that acquire property by eminent domain. These agencies can provide a significant increase in the appraisal volume for many appraisers throughout the State of Tennessee. Although similar in many respects there are significant differences in the appraisal procedure for properties acquired in Federal eminent domain cases in the Federal courts, as opposed to cases in which property is acquired under Tennessee state law. Federal law differs in some important aspects from the law of the State of Tennessee. In appraising for clients with eminent domain authority it is encumbant on the appraiser to make certain that he or she understands the applicable state or federal law as they affect the appraisal process in the determination of just compensation to be paid for the property rights acquired. The purpose of this article is to explore basic differences in federal and state law as it affects eminent domain or condemnation appraising in the State of Tennessee.

The primary source for determining appraisal standards and procedures for properties acquired under federal law is the *Uniform Appraisal Standards for Federal Land Acquisition* published by the Interagency Land Acquisition Conference of 1992 or the so-called Yellow Book. An important source of information for eminent domain appraisals under state jurisdiction is *Eminent Domain in Tennessee*, *An Attorneys Guide* by Mr. James L. Murphy, III published by the University of Tennessee County Technical Assistance Services and Municipal Technical Advisory Service. An additional source used is *Guidelines for Appraisals* by the State of Tennessee, Department of Transportation. I have relied extensively on these sources for this article.

Both state and federal standards provide that private property shall not be taken for public use without just compensation. "This is an inherent power of a solvent, which is without limitations or restrictions, except for the constitutional limitation that private property must be taken for a public use, and the owner of such property must be paid just compensation for the property. The power of eminent domain has been delegated to the counties and various other agencies.

The criteria for just compensation is the fair market value of the property at the date of the taking. "Under federal law fair market value is defined as the amount in cash, or on terms reasonably equivalent to cash, for which in

all probability the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy. In ascertaining that figure, consideration should be given to all matters that might be brought forward and reasonably be given substantial weight in bargaining by persons of ordinary prudence, but no consideration whatsoever should be given to matters not affecting market value. The cash, or on terms reasonably equivalent to cash requirement, is important and numerous courts have noted this factor. It is important to note that the value to be established is the value of the property as of the date of acquisition or taking." Under federal law the value of the property before the acquisition is estimated and then the value of the property after the acquisition assuming completion of the project as of the date of taking. The difference between the value before and the value after is the amount due the property owner. In some instances such as a drainage project in which unusable land is usable after completion of the project, or in a situation where the property owner is left with considerable lake frontage the after value of the property may well exceed the before value even though a significant portion of the property was acquired. In this situation the property owner would be entitled to no payment.

Under state law the appraiser would first estimate the value of the property rights to be acquired as of the date of acquisition. The appraiser would then estimate the value of the remainder of the property as of the date of acquisition without regard to the proposed construction. The appraiser then estimates the value of the remainder of the property assuming completion of the proposed project as of the date of taking. The difference, if any, between the estimates of the value of the remainder of the property before and after acquisition plus the value of the taking is the amount due the property owner. The appraiser's estimate of the after value of the remainder must assume the project is complete per plans and specifications as of the date of taking.

Another important distinction between federal and state law is in the appraiser's consideration of highest and best use of the property. Under federal law fair market value is to be determined with reference to the property's "highest and best use" – that is the highest and most probable use for which the property is adaptable or likely to be needed in the near future. Ordinarily, the highest and best use of property

Expanding Your Client Base...cont.

is the use for which it has been subjected at the date of taking. However if the property is clearly adapted to a use other than the existing use, its marketable potential for such use should be considered in determining the property's fair market value. However, just compensation cannot be predicated upon potential uses that are "speculative and conjecture."

State law provides that the particular use for which the land is most valuable or to which it is presently adapted may be considered in determining the fair market value of the property, but it may not be the sole basis for that determination. Thus an appraiser may not base his or her estimate of the value of the property on its value for a single use such as the highest and best use. An appraiser may testify that the property has a fair market value of a certain amount and may explain on direct and cross examination the particular qualities of the property and the specific uses to which the property may be adapted, but the witness cannot testify that the property has a value of a certain amount for "building lot purposes" or "for the best use".

The power to acquire private property for a public use or eminent domain must be distinguished from the police power, which is the power to adopt regulations to promote the public health, safety, and welfare of a community, even though the exercise of either power may impair the fair market value of private property. Where the diminution of value results from the exercise of the police power, courts have traditionally found that such taking are not subject to the just compensation requirements of the United States and the Tennessee constitution. Generally the imposition of zoning regulations, the imposition of utility rate regulations, the change in streets abutting property from two way streets to one way streets, or inconvenience, noise and dirt from construction of a public improvement which interferes with the use of property are examples of police power that are not compensable under the eminent domain statutes. However in cases where police power regulations impair the value or use of private properties to such an extent that no beneficial use of the property remain the right to compensation becomes blurred. Under Tennessee law the following items are items for which typically no compensation is provided. The list is not all inclusive, but covers most of the situations encountered in the typical eminent domain appraisal.

- 1. Decrease in traffic volume in front of the premises.
- Security of travel to achieve access to main travel lanes or roads.

- Personal annoyance due to interference with peaceful living conditions caused by traffic noise, fumes and vibrations.
- 4. The conversion of a two way street to a one way traffic street and any other modifications within the highway in which the property in question is adjacent to which may come about by regulations pursuant to exercise of police power.
- 5. Loss of business, goodwill or the interruption of business.
- Anticipated losses from intended uses or purposes which the owner has in mind and all other speculative losses.
- 7. The removal of the parking privileges on the existing right of way in front of premises a portion of which is being acquired.
- Any value or necessity which is peculiar to the owner of the property involved.
- Any element which is classified as remote or speculative.

Although many of these changes may in fact impact on the property's after value they generally are items that are non compensable and for which the owner is not entitled to compensation under Tennessee law.

The final comments pertain to instances in which the remainder of the property may be more valuable after construction of the project. In many cases there may be an increase in the value of the remainder after construction of the project. Increases in the after value of the remainder may be used to offset damages up to and equal to the amount of the damages but may not exceed the damages since the value of the portion taken cannot be offset with benefits. Specific examples of circumstances which may constitute benefits are increased accessibility to the owner's property, greater convenience in the approach of vehicles, the advantages generally of a front on a more desirable roadway. These are examples of cases in which benefits result from the construction of the project.

The above comments are offered based on my experience in appraising property acquired for eminent domain in the state of Tennessee. These comments are not to be considered as legal advice and in all cases you as the appraiser should consult with your attorney and rely on their advice in any questions you may have in the appraisal of such properties.



USPAP Q&A

Vol. 8, No. 12 December 2006

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. The ASB USPAP Q&As issued to inform appraisers, regulators, and users of appraisal services of the ASB responses to questions raised by regulators and individuals; to illustrate the applicability of the Uniform Standards of Professional Appraisal Practice (USPAP) in specific situations; and tooffer advice from the ASB for the resolution of appraisal issues and problems.

The Q&A's shown below appear in our 2006Frequently Asked Questionspublication. They have been reprinted here because they are quasons which continue to be asked on a regular basis. Additional questions may be reprinted in future months. The 2006Frequently Asked Questions publication is available for purchase from The Appraisal Foundation at a cost of \$20.00 for a hard copy or \$14.95 for an electronic PDF file.

1. <u>CONFLICTS OF INTEREST</u>

Question:

The principals of a local mortgage company propose to acquire an appraisal firm and have the appraisal firm complete assignments for the mortgage company. Is this a conflict of in terest for the appraisers completing assignments for the mortgage company?

Response:

An appraiser should review the ETHICSRULE and Standards Rule 2-3 when completing appraisal assignments in situations where the appraisal company that engages (by employment or contract) the appraiser is owned by the client.

It is important to note that USPAPdoes not prohibit the acceptance of an assignment in this specific situation. Imm appraisal assignment developed under STANDARD 1 and reported under STANDARD 2, an appraiser must specify the particulars in a situation where he or shhas any present or prospective interest with respect to the parties involved in the property that is the subject of the report.

The engagement of an appraiser by an appraisal company that is owned by the client or by owners of the client does not, in and of itself, mean that the appraiser has an interest or bias with respect to the property or properties involved. If the appraiser has an interest but could provide the service in an ethical, unbiased manner then the appraiser could accept the assignment as long as the appraiser

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2005

Respondent: Jess Pritchard, Humboldt, TN **Violation:** Violated USPAP Standards.

Action: Sixty (60) day suspension and \$1,000 Civil Penalty

Respondent: Thomas Gray, Nashville, TN **Violation:** Violation of Commission Order.

Action: \$6,000 Civil Penalty and downgrade to Licensed Appraiser

Respondent: Richard D. Hyatt, Pulaski, TN

Violation: USPAP violations.

Action: Complete a course in Advanced Sales Comparison Approach

Respondent: Beverly McNutt, Murfreesboro, TN

Violation: USPAP violations.

Action: Completion of a course in Advanced Sales Comparison Approach

Respondent: Billy Miracle, Hendersonville, TN

Violation: USPAP violations 1-1(a), (b), and (c), 1-2 (b), 1-2 (f) and 1-5 (a) and (b) by failing to identify

the client, failing to adequately disclose the scope of work, failing to disclose that the subject was listed at the time that the appraisal was prepared, failing to analyze the prior sales history of the subject, disclosing contradictory prior sales history information about the comparables, making measurement errors of the subject in the report leading to size miscalculation of 1000 feet and failing to disclose that the subject is located in a PUD and

has mandatory HOA dues.

Action: \$1,000 civil penalty

Respondent: Donald Ellis, Knoxville, TN

Violation: USPAP violations 1-1 (a), (b), (c) and 1-5 (a) by failing to use complete zoning information in

the appraisal, drafting an illegible building sketch that conflicts with the gross living area reported in the appraisal, failing to analyze the current sales contract by failing to disclose that there was a current sales contract and failing to disclose that the current sales contract

was not made available to the Respondent.

Action: \$500 civil penalty

Respondent: Douglas Matthew Smith, Nashville, TN

Violation: USPAP violations 1-1 (b), (c), 1-4 (a), 2-1 (a). (b) by failing to use sales that were

comparable to the subject in terms of lot prices, values, proximity to the subject and age, inaccurately reporting the comparable properties' age, inaccurately reporting the size of a comparable, making improper adjustments, and using incorrect photos for a comparable. 1-1 (a), (b), (c), 1-2 (h), 1-4 (a), (i), 1-5 (a) and 2-1 (a), (b), (c) by using comparables that were not comparable to the subject property in terms of condition, site, and view, failing to

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make adequate adjustments to comparables, failed to accurately state the condition of the subject property, and failure to explain the hypothetical condition in the appraisal report. USPAP violations 1-1 (a), (b), (c), 1-4 (a) and 2-1 (a), (b), (c) by failing to disclose reasons for adjustments and failure to make needed adjustments to a comparable. USPAP violation 1-1 (a), (b), (c), 1-4 (a) and 2-1 (a), (b) and Ethic violations by failing to state the correct sales prices of comparables and failure to accurately state the street address of a comparable. USPAP violations 1-1 (a), (b), (c), 2-1 (a) and (b) by not using sales that were comparable to the subject and were superior in terms of age, square footage, and location, and failure to explain adjustments made to comparables. USPAP violations for 1-1 (a), (b), (c), 1-5 (a), 2-1 (a) and (b) by failing to report the accurate size and property characteristics of comparables, failure to make appropriate adjustments, failure to analyze the current sales contract for the subject, and failure to make adjustments for sales or financing concessions.

Action:

\$10,750 civil penalty and Suspension until completion of a 15 hour USPAP class and a class

in single family residential appraisal.

Respondent:

Channing C. Waits, Knoxville, TN

Violation:

USPAP violations which included inflated value opinion, failure to report property

characteristics, failure to accurately report the sales price of a comparable, failure to disclose

the prior sale and two listings of the subject property.

Action:

\$1,000 civil penalty and completion of a course in Real Estate Appraisal Methods

2006

Respondent: Donald W. Ellis, Knoxville, TN Violation: Violated USPAP Standards.

Action: \$500 Civil Penalty

Respondent

Billy Miracle, Hendersonville, TN

Violation:

Failure to identify scope of work, intended use, analyze sales history, and produce a credible

appraisal.

Action:

\$1,000 Civil Penalty

Respondent:

James C. Davenport, Chatsworth, GA

Violation:

Failure to calculate gross living area correctly, included carports and utility rooms as part of

the GLA.

Action:

\$1,000 Civil Penalty

Respondent:

Rex McCasland, Memphis, TN

Violation:

Failure to analyze the sales contract, accurately describe the subject, and appraising the

subject "as is" when it should have been "subject to".

Action:

\$1,000 Civil Penalty

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Respondent: William W. Boykin, Lebanon, TN

Violation: Failure to indicate the subject property is a manufactured home; failure to list adverse

factors that would affect the marketability of the subject property; and, failure to properly

analyze the sales contract.

Action: \$1,500 Civil Penalty

Respondent: Jayme Burns, Franklin, TN

Violation: Failure to clearly and accurately set forth information in the appraisal; failure to state the

intended use of the appraisal; failure to include sufficient information to disclose the scope of work used to develop the appraisal; and, failure to properly analyze the sales history and the

sales contract of the subject property.

Action: \$300 Civil Penalty

Respondent: Brian Lee Estes, Memphis, TN

Violation: Failure to describe both subject properties; failure to accurately describe the market

conditions of the subject's immediate neighborhood, failure to disclose that a comparable

used was a foreclosure sale.

Action: Proof of completion of a course in Single Family Residential Property Appraisal.

Respondent: Harry M. Shelton, Knoxville, TN

Violation: Failure to indicated the scope of work, failure to state the appraisal procedures that were

followed, failure to disclose that the subject was under a current sales agreement; failure to

choose proper comparables, failure to use the proper price per square foot.

Action: \$1000 Civil Penalty

Respondent: William M. Wilson, Franklin, TN

Violation: Failure to analyze prior sale(s) of the subject property that occurred within the three (3) years

prior to the effective date of the appraisal.

Action: \$250 Civil Penalty

Respondent: Loyal Broomfield, Cleveland, TN

Violation: Failure to make separate summary analyses of highest and best use "as vacant" and "as

improved", failure to use cost figures from the source reported in the appraisal, failure to support land value within the appraisal, failure to include or support adjustments made within the appraisal report, failure to support estimated rental rate or occupancy rate, failure

to report comparables in superior locations, failure to reconcile sale prices of the

comparables with the value opinion given for the subject, failure to report the condition and utility of the comparables, failure to reconcile the price per square foot for the subject with

the included sales.

Action: \$2000 Civil Penalty

Respondent: Thomas E Davidson, Nashville, TN

Violation: Failure to complete required continuing education that was a condition of renewal.

Action: Signed consent order for revocation of registered trainee license.

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Respondent: Wesley W. Milstead, Knoxville, TN

Violation: Failure to disclose and analyze a prior sale of the subject property.

Action: \$500 Civil Penalty

Respondent: Colin Wakefield, Fayetteville, TN

Violation: Failure to identify the owner of public record on the appraisal report. Failure to describe

property characteristics and omitted relevant appraisal information.

Action: \$500 civil penalty.

Respondent: George C. Furman, II, Cookeville, TN

Violation: Failure to identify the property being appraised and misleading property description. Failure

to properly perform the cost approach to value.

Action: \$2000 Civil Penalty

Respondent: Christopher Ray Uphold, Pueblo, CO

Violation: Failure to identify property characteristics. Communicated assignment results in a misleading

or fraudulent manner and committed a substantial error of omission or commission that significantly affects the appraisal. Failure to identify persons who provided significant

appraisal assistance.

Action: \$1,640 civil penalty.

TENNESSEE REAL ESTATE COMMISSION MEMBERS

COMMISSION MEMBERS

Mr. Jason West is a public member representing Middle Tennessee. Mr. West is the Presidential and member of



PrimeTrust Bank. He has over 19 years banking experience in Middle Tennessee. **Mr. Marc Headden** is a certified general appraiser representing Middle Tennessee. Mr. Headden is our current Chairman of the Real Estate



Appraiser Commission. He is an affiliate real estate broker and has owned, developed, and managed property in the Middle and West Tennessee areas.

Mr. Lou Bratton is a certified residential appraiser representing Middle Tennessee.



Mr. John Bullington is a certified general appraiser representing East Tennessee. Mr. Bullington has served the Real



Estate Appraiser Commission since 2002. He is the Commission's current Vice Chair and served as Chairman from 2004-2005. He is a member of the State Regulatory Advisory Group to the Appraisal Foundation and is a member of the Appraisal Foundation and is also a member of the Appraisal Institute.

representing West Tennessee. Mr. Flowers has 28 years experience in real estate, which includes eight years

Mr. William R. Flowers, Jr. is a certified general appraiser



in real estate, which includes eight years as a broker, appraiser, builder and developer. The past twenty years Mr. Flowers has been involved in market studies, feasibility studies and appraisals. Mr. Flowers is a member of the Appraisal Institute and International Right of Way Association and has a SRWA designation.

Dr. Richard Evans is our educator member representing West Tennessee. Dr. Evans is a professor at the University of



Memphis, teaching real estate and economics courses. He is director of real estate research for the University's center for real estate research and director of forecasting for the University's Sparks Bureau of Business and Economics Research.

Mr. James Wade, Jr. is a certified general appraiser representing West Tennessee. Mr. Wade has been a licensed real



estate broker since 1973. He is a designated SRWA member of the International Right-of-Way Association, a designated RAA/GAA member of the National Association of Realtors, an associate member of the Appraisal Institute, and a broker member of the Central West Tennessee Association of Realtors

STAFF MEMBERS



Nikole Urban is the new Administrative Director for the Real Estate Appraiser Commission. She is a certified residential appraiser, has instructed appraisal courses, and is an AQB approved USPAP instructor. Please feel free to contact her with any appraisal questions or licensing concerns.



Pat Carr-Berry is the new administrative assistant for the Real Estate Appraiser Commission, replacing Edith Johnson's vacancy. She has worked with the Contractors Board, Accountancy, Funeral Board, Cosmetology, Personnel Recruiting, Consumer Affairs, Real Estate Commission, and the State Fire Marshall's office. Her experience working with the State of Tennessee will be a valuable asset to our Commission.