

Before and After—The Documentation of Severance Damages

by David M. Champagne

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STANDARDS FOR THE SUPPORT OF SEVERANCE DAMAGES ARE GENERALLY POORLY DEFINED AND LACKING SPECIFIC REGULATION

With the advent of the Uniform Standards of Professional Appraisal Practice (USPAP) and various formalized appraisal requirements at the state level, the basic requirements for appraisals of entire properties have been well outlined. Such is not necessarily the case, however, for the documentation of severance damages. Standards for the support of severance damages are generally poorly defined and lacking specific regulation.

In theory, severance damages are usually based on the difference in the value of a property before a taking action, and the value of the remaining property after the taking has occurred, although application of this data may vary among different jurisdictions. In

situations where the takings are fairly severe, the sources and measurement of severance damages are often reasonably straightforward. If the highest and best use changes, for instance, different sets of comparables will be used in the before, versus the after, and the appraiser's thinking will be documented.

However, in many typical taking situations, particularly those involving strip takings from the side or front of a property, standard before and after appraisal techniques often fail to provide practical, realistic solutions. These are situations where the takings are not severe enough to change the highest and best use of the remaining property, or otherwise facilitate the use of different sets of comparables in the after

appraisal, as compared to the before appraisal. Instead, the same comparables are typically utilized in both the before and after sections of the appraisal, and the measurement of severance damage amounts are often vague and without clear derivation from market data.

For instance, in highway work, the acquiring agency, in widening an existing improvement, may reduce residential setback from the right of way line. Or, to use a typical commercial example, a taking for highway widening may eliminate some parking area, or other ancillary usage, even though not directly affecting the main improvements. The problem in such cases is to find a reasonable means to document and calculate the contributory value of the area taken to the entire property, which will in turn provide a basis for fair compensation.

This paper describes a technique, which, in many instances will provide the framework for a logical analysis, while staying within the levels of effort and resource commitment associated with typical agency appraisal assignments. This is not meant to dismiss the use of more sophisticated methods where appropriate, but rather to suggest a minimum level of documentation, which will, at least, facilitate internal consistency among the comparables and the subject, and develop a relationship among the subject and the comparables for the factor(s) under consideration. The importance of developing such a framework for severance damage estimates cannot be understated, if the goal is to produce credible severance damage appraisals.

It should be emphasized that the primary concern of this paper is with those situations where moderate or marginal amounts of potential severance damage are being examined, rather than those cases where major impacts lead to clear and obvious changes in highest

Figure 1a: Before Grid with No Analysis of Severance Damage

	Sale #1	Sale #2	Sale #3
Subject	Residence \$100,000	Residence \$100,000	Residence \$110,000
Lot size	-\$5,000	+\$5,000	0
Improvements size & cond.	+\$10,000	+\$2,000	-\$5,000
Net Adj	+5,000	+\$ 7,000	-\$5,000
Indicated Value	\$105,000	+\$107,000	\$105,000

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regarding the amount and adequacy of parking for the comparables (either sales or rentals).

As noted in discussing the setback example, the critical factor, say parking, is not compared to the sales or rentals. Instead, the factor is unaddressed in the before section as a specific value factor, and then in the "after" section, the after subject is compared to the "before" subject. Thus the appraisal contains no market evidence relating to the contributory value of parking, and that element of proposed compensation is unsupported by the appraisal document, just as the setback damage was unsupported in the discussion above.

Without displaying actual sample grids, a system similar to that shown for the setback damage determination can be developed. The factor relating to potential damages (parking) should be investigated thoroughly for both the subject and the comparables. Neighborhood standards, industry standards, and zoning requirements, would help with general guidance. Thorough inspections of comparables, and interviews with owners/operators of comparables can provide information regarding the adequacy and desirability of the comparables with regard to the factor under scrutiny. Then the factor can be systematically compared and adjusted for each sale and/or rental in both the before and after situations.

Again, as noted for the setback case, a level of information similar to that considered reasonable for other significant adjustments should represent the minimum documentation provided as support for severance damage estimates. Amounts of adjustments should be related to identified and described characteristics of the comparables, and the directions of adjustments should be internally consistent. Just as it would not be argued proper to make "adjustments" for trends or locations, without noting the transaction dates or locations of the comparables, it is also inappropriate to base severance damages on factors that are not documented and analyzed.

CONSEQUENCES OF POOR SEVERANCE DOCUMENTATION

The production of appraisals with severance damage estimates, which are not clearly derived from market data or related to market data, has consequences. First, it brings the credibility of appraisers into question.

When third parties or clients routinely note wide divergences, which are apparently based purely on opinion or speculation, it is difficult to indefinitely regard those opinions as unbiased. For instance, many appraisals normally seen in the court systems are there because the parties do not agree on values. When judges commonly see widely disparate conclusions, with-

out credible support, it is likely that appraisers in general will be viewed primarily as advocates of their client's position, not as objective analysts. This is not only bad for the professional image of appraisers, but also bad for at least some of the clients who depend on the appraiser's product for fair and reasonable decisions.

For instance, it is quite likely that many decisions considered unfavorable by some agencies are a direct result of poorly documented severance damage estimates. It is generally conceded that when there is a large area of doubt in the evidence, the decision will go against the "deep pockets" party. There are examples in the state of New York of businesses receiving court-ordered awards basically reflecting a near total devaluation, consisting mostly of "severance" damage, only to be found prospering shortly after. Typically, neither side had a value presentation especially well documented in regard to severance damage, and when such a situation arises, the court's sympathy appears to normally favor the individual or business over a large agency. The agency loses economically, and the appraisers lose as far as professional credibility is concerned.

Consider a hypothetical example. A judge has two appraisals upon which to base a decision. One appraisal recommends, say, \$10,000 in direct damages, and \$30,000 in severance, for a take from a business property valued at \$400,000 in the before section of the appraisal. The other appraisal recommends \$12,000 in direct damages and \$100,000 in severance, having concluded that the before property value was \$450,000. The only evidence offered in either appraisal to support the severance damage is a line in the "after" grid with the amount, and a brief statement to the effect that the subject property has lost desirability because of inferior parking and landscaping—meaning inferior to before the take.

This is not an unusual scenario. While the basic property appraisals ("before"

Figure 2a: Before Grid with Severance Factor Analyzed

	Sale #1	Sale #2	Sale #3
	Residence	Residence	Residence
Subject	\$100,000	\$100,000	\$110,000
Lot size	-\$5,000	+\$5,000	0
Improvements size & cond.	+\$10,000	+\$2,000	-\$5,000
Setback	0	+\$5,000	\$2,000
(subject=60 ft)	(sale= 60ft)	(sale=30ft)	(sale=70ft)
Net Adj	+\$5,000	+\$12,000	-\$7,000
Indicated Value	\$105,000	+\$112,000	\$103,000

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appraisals) are within a credible range, the divergence on the recommended compensation is extreme, and essentially undocumented. The decision will probably have a major impact on that property owner's future, especially if the case involves a small business or a residence, representing a major portion of an individual's resources. The decision, taken in conjunction with other decisions on similar cases, will affect the agency's long range strategy not only in dealing with potential litigants, but perhaps in the very design of projects. It may also impact the relationship of the agency with other claimants in the same area.

Another potential consequence of undocumented severance damage could be a violation of the Appraisal Standards. For instance, Standard 1 requires a "credible" appraisal (1-1-a), which does "not commit a substantial error of omission..." (1-1-b).

Consider an example where a before and after appraisal has been prepared, and the before value is estimated in the \$1,000,000 range. If the before value was all that was required (as in a "total" take), the appraisal would be clearly acceptable. However, in this instance, involving a partial taking, the direct take is valued at \$10,000, and "severance" is estimated at \$200,000, via an "adjustment" in the after grid, which is not developed from the comparables or any other readily discernible source. The most important value conclusion in the appraisal report is arguably the \$210,000, which will be the basis for compensation. Yet it's difficult to see how the compensation conclusion meets the appraisal standards noted above or Standard 2-2-h, wherein the comment accompanying the Standard specifies that "each item must be addressed in the depth and detail required by its significance to the appraisal."

Clearly, there would seem to be a Standards problem with before and after appraisals, wherein the differences between the before and after value conclusions are not related to tangible



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market evidence, even though the primary reason for performing the appraisal is the estimation of that difference. Even if the severance determination is not a large amount, the rationale for that determination is typically a very significant element of a before and after appraisal, and often the "most" significant determination.

ADVOCATES VERSUS INTERPRETERS

Improving the quality and general standards for severance damage appraisals will require both the individual appraisers and the clients who hire them to recognize the importance of allocating resources for the production of credible, professional estimates. For appraisers, such effort could mean the

Figure 2b: After Grid with Severance Factor Analyzed

	Sale #1 Residence	Sale #2 Residence	Sale #3 Residence
Subject	\$100,000	\$100,000	\$110,000
Lot size	-\$5,500	+\$4,500	-\$500
Improvements size & cond.	+\$10,000	+\$2,000	-\$5,000
Setback (subject=60 ft)	0 (sale= 60ft)	+\$5,000 (sale=30ft)	-\$7,000 (sale=70ft)
Net Adj	-500	+\$6,500	\$12,500
Indicated Value	\$99,500	+\$106,500	\$97,500

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difference between being perceived as advocates rather than as unbiased interpreters of the market. For clients, particularly agencies, which routinely require before and after appraisals, an effort toward well-documented appraisals will result in a clearer definition of "just compensation" in economic terms. It should also lead to a better record in litigated cases and eventually less litigation, as the courts find they have realistic and substantial evidence upon which to base findings.

In addition to these points, there would also seem to be advantages to appraisers and users of appraisals, if improved standards could evolve from within the profession, rather than from the imposition of external regulation. Perhaps this would be an appropriate time for professional organizations to consider specific guidelines for severance damage documentation. Further, professional organizations involved in appraisal training might consider implementing special training programs for appraisers, reviewers, and others involved in the estimation of severance damages.