Agents, Appraisers, and Waivers, Oh My!
Who’s Who and What’s What in Waiver Valuation Today

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The Past - History

Waiver valuations (also referred to as value finds or value findings) originated with ***The Uniform Act of 1970, as amended, outlined an option for agencies to estimate price for compensation on properties with rights that were***

- ***1) Uncomplicated***
- ***2) Under $2,500***

Not intended to be done by appraisers

The Past - History

- Appraisers were to be freed up for more complex assignments
- Agents and employees were to be involved (needed to be sufficiently familiar with the market)
- Compensation anticipated to be low; acquisition to be straightforward

History, cont.

- *In 2005, the Uniform Act was amended to allow:*
  - *1) Uncomplicated*
  - *2) Under $10,000, or*
  - *3) Under $25,000, with conditions*

The Present - What’s a Waiver Valuation?

- A valuation process . . . .
- A product produced. . . .
- WHEN
- Agency determines
  - Appraisal is not required;
  - Pursuant to 49 CFR §24.102(c)(2) appraisal waiver provisions.

Where is it found?

- **49CFR24.10c(c)*Appraisal, waiver thereof, and invitation to owner.***
  - **(1)** Before the initiation of negotiations the real property to be acquired shall be appraised, except as provided in § 24.102 (c)(2), and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

Where is it found?

- **49CFR24.102(c)** ***Appraisal, waiver thereof, and invitation to owner.***
  - **(2)** An appraisal is not required if:
    - **(i)** The owner is donating the property and releases the Agency from its obligation to appraise the property; or
    - **(ii)** The Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at $10,000 or less, based on a review of available data.

Where is it found?

- **49CFR24.102(c) *Appraisal, waiver thereof, and invitation to owner.***
  - **(A)** When an appraisal is determined to be unnecessary, the Agency shall prepare a waiver valuation.
  - **(B)** The person performing the waiver valuation must have sufficient understanding of the local real estate market to be qualified to make the waiver valuation.

Where is it found?

- (c)***Appraisal, waiver thereof, and invitation to owner.***
  - (C) The Federal Agency funding the project may approve exceeding the $10,000 threshold, up to a maximum of $25,000, if the Agency acquiring the real property offers the property owner the option of having the Agency appraise the property. If the property owner elects to have the Agency appraise the property, the Agency shall obtain an appraisal and not use procedures described in this paragraph. (See appendix A, § 24.102(c)(2).)

And, it’s not just Federal:

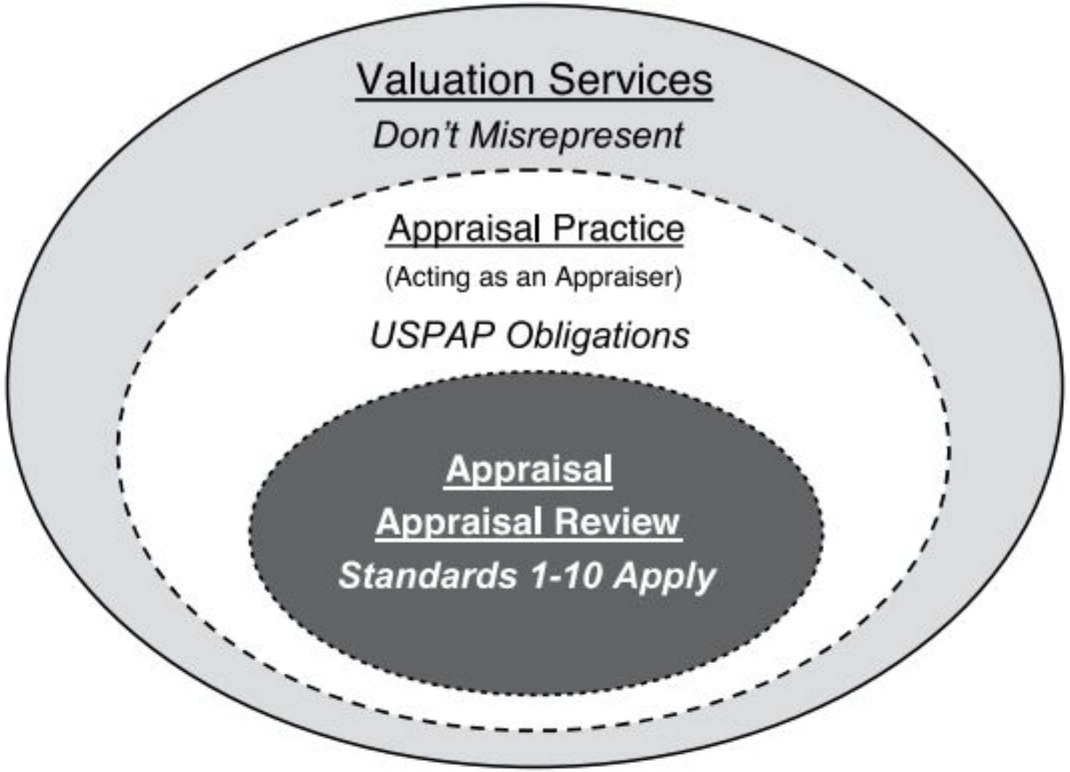
VIRTUALLY EVERY STATE HAS SOME SORT OF WAIVER VALUATION ALLOWANCE FOR LOWER DOLLAR ACQUISITIONS

So, what’s the problem?

THROUGH TIME, IF THE PERSON PERFORMING THE WAIVER VALUATION WAS NOT AN APPRAISER, THERE WAS CONCERN THAT THE AGENTS AND EMPLOYEES WERE UNFAMILIAR WITH AND UNCOMFORTABLE WITH MARKET VALUE – NOT CONFIDENT IN DOING WAIVERS.

APPRAISERS RECEIVED CALLS FOR MARKET DATA. SOME REFUSED. JUST PROVIDING RAW UNVERIFIED DATA (FILTERING) CONSTITUTED "DOING AN APPRAISAL."

WHAT KIND OF SERVICE IS THIS ANYWAY?



Valuation Services (large light-shaded oval): When providing valuation services, the obligation for an individual recognized in some circumstances as an appraiser is not to misrepresent his or her role.

Appraisal Practice (dotted-line oval): Within valuation services is appraisal practice (i.e., valuation services provided by an individual acting as an appraiser). All services performed as part of appraisal practice must comply with USPAP. The portions of USPAP that apply generally to appraisal practice include the PREAMBLE, the DEFINITIONS, the ETHICS RULE, the COMPETENCY RULE, and the JURISDICTIONAL EXCEPTION RULE.

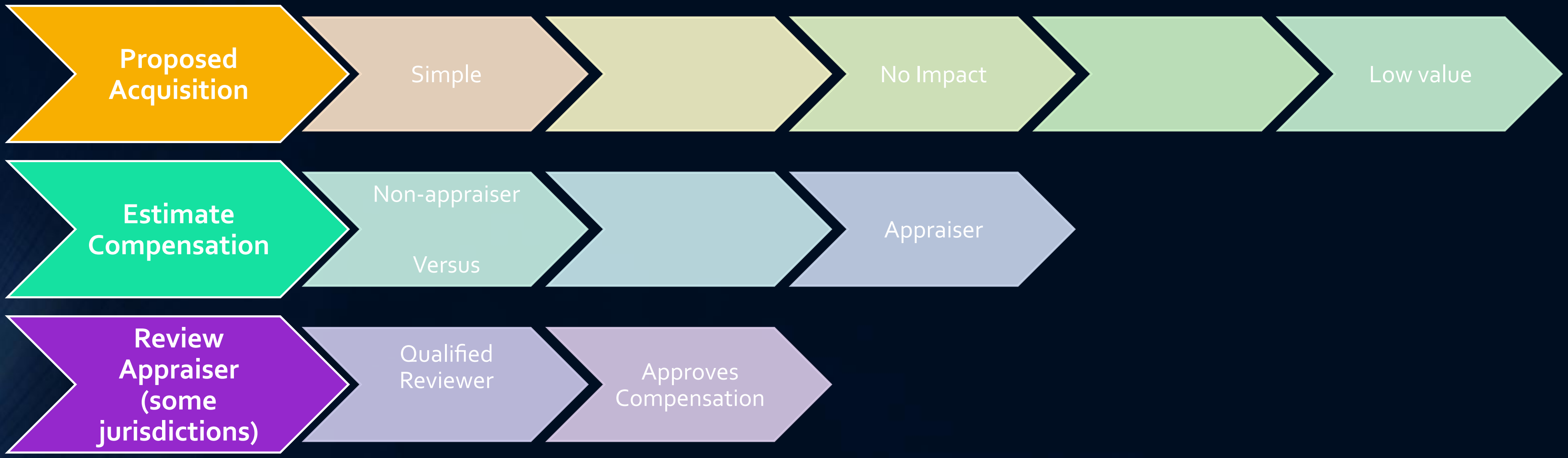
Appraisal and Appraisal Review (dark-shaded oval within Appraisal Practice oval): Within appraisal practice, there are requirements that apply to developing and reporting appraisal or appraisal review assignments in addition to those that apply to all appraisal practice. These requirements are described by the Standards, the SCOPE OF WORK RULE, and the RECORD KEEPING RULE.

Concept of Waiver Valuations – Original Intended Use

In many cases, simple acquisitions of low value property could be handled

- More quickly
- More efficiently

The Present - Current Practices



Under Study by FHWA

Federal Highway Administration
[Docket No. FHWA–2019–0014]

Title: An Analysis of the Use of Waiver Valuations by Federal, State and Local Public Agencies (LPAs):
Identifying and Measuring Outcomes That Could Further Streamline Project Delivery.

Recent Legislative Activity Re: Waivers
Two new state laws

Colorado – When you're an appraiser doing a waiver valuation, you're not an appraiser. Huh?

North Carolina

Waivers defined as “not an appraisal” except if done by an appraiser.

Except for these two recent state actions, we haven’t seen much in the way of legislation or regulation on this topic in the last two years.

The Appraiser's Role

Qualifications required by the Uniform Act

§ 24.103 Criteria for appraisals.

(a)*Appraisal requirements.* This section sets forth the requirements for real property acquisition appraisals for Federal and federally-assisted programs. Appraisals are to be prepared according to these requirements, which are intended to be consistent with the Uniform Standards of Professional Appraisal Practice (USPAP). 1(*See* appendix A, § 24.103(a).) The Agency may have appraisal requirements that supplement these requirements, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA).

The Appraiser's Role

and

§ 24.103 (d) Qualifications of appraisers and review appraisers.

(d)(2) If the Agency uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be State licensed or certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331*et seq.*).

But wait . . .

Land is only PART of the story

to determine if a waiver is appropriate. . .

Not just land . . .

Total compensation may also include

- Owner or tenant affected improvements
- Permanent easements
- Damages

Which may exceed waiver valuation levels

The Future of Waivers

The Appraiser's Role

Like evaluations for banks

Role is being clarified by the states through legislation

And FHWA is reworking the Uniform Act

What may happen?

A statement that state licensed or certified appraisers may be allowed to perform waiver valuations,

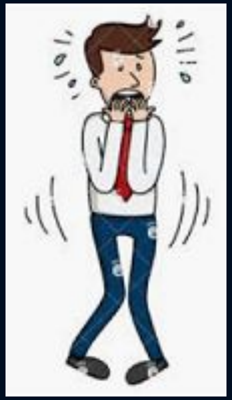
or. . .

Appraisers may be **prohibited** by regulation from complying with USPAP . . .

What may happen?

Now let's talk. . . is this another one of the dreaded

JURISDICTIONAL EXCEPTIONS????



ReCap

Waivers - were intended to save time and money

Waivers - not typically done by appraisers (pre license law & USPAP)

Waivers - each state varies, but the future may encourage or exclude appraisers from doing this work

ReCap

But now, smaller staffs

More budget concerns

Increasing property values

Opportunity to be of service

You can

Read your state law

Talk with folks at state agencies

Get involved in legislation

THE END

Thank you for your attendance
and
your participation!