



CUSPAP 2016 – GET TO KNOW IT

A COLLABORATION BY THE VOLUNTEER MEMBERS OF THE APPEAL SUB-COMMITTEE:

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"ULTIMATELY, IT IS UP TO YOU, THE MEMBER, TO FAMILIARIZE YOURSELF WITH THE CURRENT MANDATORY/BINDING REQUIREMENTS."

This article furthers the discussion on the *Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP)*

2016 started by Darrell Thorvaldson, AACI, P.App, Chair of the Standards Sub-Committee in Book 3 2016 of *Canadian Property Valuation* magazine.

Members are reminded that it is their responsibility to be up to date with changes to *CUSPAP*. While this is not new, there are never enough opportunities to remind Members of this obligation. The Appraisal Institute of Canada (AIC) has developed a number of strategies to keep Members up to date on *CUSPAP* and changes from edition to edition. The one-day and two-day versions of the Professional Practice Seminar (PPS) are the most visible of these strategies, and the most comprehensive overview of changes. However, many Members wait until the last few months of a continuing professional development (CPD) cycle before attending, and thus run the risk of applying past practices that are no longer compliant or no longer have professional liability insurance coverage.

Other opportunities include:

- articles by the Professional Practice Sub-Committees and the Director-Counsellor, Professional Practice that appear regularly in this magazine;
- a robust section of the website¹ that includes a number of resources

dealing with the application of the standards;

- a summary of the changes from the previous version to the current *CUSPAP* version (Appendix B in *CUSPAP 2016*); and
- new for 2016: three online, two-hour sessions highlighting changes – which was well received by Members.

All to say, a Member cannot use the “I didn’t know” defense when it comes to the application of the current standard.

What follows are additional reminders of the *CUSPAP* requirements – some new to *CUSPAP 2016*, and some that warrant repeating from prior editions, namely in those areas where Members continue to struggle with in terms of compliance.

Over the past number of years, the AIC has actively pursued a strategic direction to expand the areas of practice for Members. *CUSPAP 2016* saw the addition of the Machinery and Equipment Appraisal Standard,² which followed the addition of the Reserve Fund Study Standard³ in 2014.

1.0 The Ethics Standard

The introduction of new professional services (e.g., machinery and equipment, reserve fund planning) amplifies the relevance of the Competency Rule for Members that choose to practice in new or specialized areas. The definition of Competency was modified slightly in *CUSPAP 2016*. The changes are



intended to clarify the description of this important requirement, but the core of the Competency provision remains intact. To fully understand the requirements, Members are referred to Sections 2.14, 4.3.7, 5.11 and 16.8. *CUSPAP* creates a ‘fabric’ of requirements to ensure Members provide these services in a manner that is consistent with our professional obligations to the public.

This should also serve as a reminder to Members in a more general sense; the competency provisions of the Ethics Standard is one of the most frequent Rules under which Members are disciplined when in contravention of *CUSPAP*.

The top five most common Ethics Standard Rules (ESR) breaches are:

- ESR 4.3.1 – To knowingly fail to comply with the Bylaws, Regulations and Standards and the Professional Liability Insurance Program of the Institute
- ESR 4.3.2 – To knowingly engage in conduct that would prejudice his/her professional status, the reputation of the Institute, the appraisal profession, or any other Member
- ESR 4.3.3 – To knowingly act in a manner that is misleading
- ESR 4.3.5 – To knowingly complete an assignment that a reasonable appraiser could not support
- ESR 4.3.9 – To fail to create a work-file for each assignment

While the wording changes in *CUSPAP 2016* of the above requirements are not significant (with the exception of ESR 4.3.9, further described below), there a number of corollary changes that could affect how a Member’s actions might be judged. This is particularly the case for ESR 4.3.2 and ESR 4.3.3.

The obligations for Members to conduct themselves in a professional manner and to produce assignment results that are not capable of misleading a reader sometimes overlap with the requirements to comply with both ESR 4.3.1 and the Reasonable

Appraiser test in Ethics Standard Comment (ESC) 5.3.5.

What follows is an examination of old and new requirements that govern Members’ ‘conduct’ and ‘misleading’ reports. However, Members should be mindful that when their performance in these areas falls well outside the expectations, both breaches to ESR 4.3.1 and ESR 4.3.5 might ensue.

1.1 Conduct

With respect to conduct, Members are subject to the following passage:

“... pledge to conduct themselves in a manner that is not detrimental to the public, the Institute, or the real property appraisal profession. Members’ relationships with other Members and the Institute shall portray courtesy and good faith and show respect for the Institute and its procedures.”⁴

A number of *CUSPAP 2016* changes should be noted and are found primarily in the Definitions section. Of importance to this discussion are the following Definitions:

- 2.5 – Appraisal Practice
- 2.10 – Bias
- 2.42 – Jurisdictional Exception
- 2.64 – Scope of Work

The Definition of Appraisal Practice (see 2.5) is expanded and clarified, reinforcing the long held concept that it does not matter what nomenclature a Member might use to describe assignments, they are not exempt from the application of the Standard when acting in a professional capacity covered by *CUSPAP*.

The Definition of Bias (2.10) was expanded by replacing the word ‘used’ with ‘not reasonably supported’ in discussing assignment conditions that preclude a Member’s impartiality. It also further expands the wording from referring only to impartiality, to also include ‘or favoring or promoting the cause or interest of the client, the Member or another party.’

The Definition of Jurisdictional Exception (2.42) now incorporates wording previously included in the ‘How to Use This Document’ section (and elsewhere) so that the Definition is more complete and compulsory. For 2016, it also clarifies that the legal authority that to set aside a Standards Rule, the Member must invoke an exception.

The Definition of Scope of Work (2.64) is clarified to include the type of inspection and other limitations. It also identifies the importance of the client’s terms of reference that should be cited if and when they affect the scope of work employed in an assignment.

While these changes are important, the requirements of the Ethics Standard that remain in place are also worth a mention, since they too are often found to be a source of complaint. The Conduct section includes guidance for Members and their advertising practices. This section also reinforces that Members should show courtesy and good faith in their dealings with the public, other Members and the Institute, while conducting their assignments ethically, objectively and competently.

1.2 Misleading Report(s)

Turning to misleading reports, Members are subject to the following:

“... must develop and communicate his/her analysis, opinions and advice in a manner that is meaningful to the client, not be misleading in the marketplace and in compliance with these Standards.”⁵

Two important provisions of the Ethics Standard tied to the interpretation of misleading reports are ‘Omission or Commission’ and what can be referred to as ‘Single or Cumulative Error.’ Omission or commission means that a misleading report can be judged so by including things in a report (or making errors) or by leaving important things out. Single or cumulative error means that a misleading report could occur due to a single large



error or by a number of small errors that in aggregate lead to a misleading report.

What follows is by no means a complete list of changes or concepts, since this is such a wide-reaching topic but they are worthy of a discussion:

- 2.23 – Effective Date
- 2.26 – Extraordinary Assumption
- 6.2.11 – *RPASR*⁶ on Land Use Controls (Also see 7.11)
- 6.2.12 – *RPASR* on Use (Also see 7.12)
- 6.2.13 – *RPASR* on Highest and Best Use (Also see 16.23)

The Definition of Effective Date (2.23) was expanded to more clearly identify that the effective date can be different from both the inspection and report date.

The Definition of Extraordinary Assumption (2.26) was modified slightly by adding the word ‘materially’ alter the Member’s opinions or conclusions.

The Real Property Appraisal Standard Rules (*RPASR*) on Land Use Controls (6.2.11) was expanded to include the requirement to ‘analyze’ in addition to ‘identify’ land use controls.

The Appraisal Standard Comment 7.11 was also expanded to require a discussion and ‘reasonable support’ for the imminence or probability of a change in land use, in cases where the Highest and Best Use is for a change in use.

The *RPASR* on Use (6.2.12) did not change but the Comment at 7.12 was expanded requiring a discussion on and analysis of the implications of a legal non-conforming use.

The *RPASR* on Highest and Best Use (6.2.13) was expanded by adding ‘analyze’ to the requirement to ‘define and resolve’ this concept. This implies that a more in-depth discussion is required, in appropriate assignment conditions, since ‘define and resolve’ led some Member to include only a definition and conclusion without any (or sufficient) discussion as to the thought process behind the conclusion.

The Practice Notes section related to the Highest and Best Use discussion was greatly expanded in the 2014 edition, and is worth taking a moment to review.

2.0 The Practice Standards

Turning the attention to the five Practice Standards, the most prominent change is the addition of the *Machinery and Equipment Appraisal Standard*. This opens a whole new area of practice to Members.

One change that was a direct result of this addition, to make the distinction between real property and personal property, was that the former Appraisal Standard Rules have been re-named to Real Property Appraisal Standard Rules.

As Members begin to expand in machinery and equipment appraisal, and continue to expand in the reserve fund planning, they are not immune to the competence and performance requirements, the same as appraisal, review or consulting services. While these changes to the traditional areas of practice are minimal, it is worth examining the historical pattern of most common *CUSPAP* breaches that has emerged.

It should first be noted that all five practice standards include language that is similar with regard to the thoroughness of the collection of relevant data and producing work that has sufficient detail for the reader to understand the rationale supporting the Members opinions and conclusions. It is a cornerstone of good practice and a hallmark for the AIC when done in accordance with Standards. However, it is also among the more challenging aspects of what we do.

The top five most common practice breaches are as follows:

- *RPASR* 6.2.18 detail the reasoning supporting the analyses, opinions and conclusions of each valuation approach
- *RPASR* 6.2.15 describe and analyze all data relevant to the assignment

- *RPASR* 6.2.6 provide an analysis of reasonable exposure time linked to a market value opinion
- *RPASR* 6.2.10 identify all assumptions and limiting conditions
- *RPASR* 6.2.9 identify the location and characteristics of the property and the interest appraised;

Discussion on the Ethics Standard already touched on changes related to *RPASR* 6.2.10 with respect to Extraordinary Assumptions, therefore it is not repeated but it cannot be overlooked as a common breach, closely tied to 6.2.10.

RPASR 6.2.18 and 6.2.15 are somewhat inter-related. The reasoning supporting the analyses opinions and conclusions ‘for each valuation approach’ is more closely related to the reasoning, sound technical approach and accuracy within the valuation techniques applied, as well as to the process of reconciling which information is the most reliable. This is where Members are encouraged to ‘tell the story’ of how a logical progression through connecting the data with the final opinions or conclusions that hopefully lead the reader to a similar conclusion as the practitioner.

The requirement to describe and analyze all data relevant to the assignment demands that the appropriate facts are correctly reported and molded into a rational framework of information within which the opinions and conclusions can be drawn.

Where Members often fall short is in one of three areas:

- Insufficient reasoning in supporting adjustments and/or convincing rational for moving from the data to the conclusions;
- Incorrect or insufficient description of key information related to the subject or the comparable data set;
- Insufficient descriptions and/or inappropriate assumptions that unduly affect the analysis, opinions and conclusions.



Although *RPASR* 6.2.6 applies to real property only, the Standard on the appraisal of machinery and equipment also requires a discussion on exposure time. Members continue to struggle with compliance either by its omission or its content, where they often neglect to discuss the basis for the conclusion(s).

For *CUSPAP 2016*, Exposure Time was added to the Definitions section (2.24) and incorporates wording similar to past editions, but now appears in a more prominent, and mandatory, section. Members should take note of the following:

“The opinion of the time period for reasonable exposure is not intended to be a prediction of a date of sale or a **one-line statement**. Instead, it is an integral part of the analyses conducted during the appraisal assignment.”⁷ (emphasis added)

Clearly, the exposure time estimate is not intended to state only an estimate without providing some context and rationale. Clients pay attention to the exposure time in order to make business decisions.

Finally, *RPASR* 6.2.9 relates to a description of the location and characteristics of the property. This affects a broad range of information related to the subject property, including its legal and civic address, legal attributes such as details on title related issues, surrounding properties, tax and assessment data, as some examples. Member performance is often lacking in either reporting this information accurately or overlooking information on a property that could be important to a complete analysis.

3.0 Conclusion

This summary is intended to highlight some of the changes to *CUSPAP 2016*, but, ultimately, it is up to you, the Member, to familiarize yourself with the current mandatory/binding requirements.

While some of the above content relates to non-binding requirements of

CUSPAP, demonstrating that you are up to date in your knowledge of your professional obligations is an important aspect of professionalism. The new one-day PPS has now been launched and Members are encouraged to enroll sooner rather than later in the current CPD cycle. That said, Members should not depend on the seminar to get current with Standards, particularly those that are mandatory in their application.

For any questions on *CUSPAP*, its application or interpretation, Members can contact Nathalie Roy-Patenaude, AIC Director-Counsellor, Professional Practice at nathalier@aicanada.ca.

End notes

¹ See the Professional Practice (www.aicanada.ca/professional-practice) in the Member’s section of the AIC website.

² Machinery and Equipment Valuation Standard Rules appear in *CUSPAP 2016* edition at Section 14, with Comments in Section 15 and related practice notes in Section 16.

³ Reserve Fund Planning Standard Rules appear in *CUSPAP 2016* edition at Section 12 with Comments in Section 13 and related practice notes in Section 16.

⁴ *CUSPAP 2016*, ESR 4.1.1 ‘Preamble’

⁵ *CUSPAP 2016* Edition, Ethics Standards Rules 4.2.2 ‘Requirements of Members’

⁶ *CUSPAP 2016* Edition now contains both *Real Property Appraisal Standard Rules (RPASR)* and *Machinery and Equipment Appraisal Standard Rules (MEASR)*

⁷ *CUSPAP 2016* Edition, Practice Notes 16.18.1, ‘Exposure Time’ 