

I'll See You in Court:

A Primer on Litigation Appraisals

Presented by:
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Expectations vs. Reality



Courtroom experience!

Witness Prep!



What is the Issue?

- **Types of report**
 - What does the client need?
- **Approaches to Value**
 - What is the problem being solved?
- **Additional Support for Conclusions**
 - Is there specialized knowledge required?

Report Types

- **Written**
 - Appraisal Report
 - Restricted Report

- **Oral Report**
 - Deposition
 - Live Testimony

- **Both?**

Uniform Residential Appraisal Report File #

The purpose of this summary appraisal report is to provide the lender/client with an accurate, and adequately supported, opinion of the market value of the subject property.

Property Address	City	State	Zip Code
Borrower	Owner of Public Record	County	
Legal Description			
Assessor's Parcel #	Tax Year	R.E. Taxes \$	
Neighborhood Name	Map Reference	Census Tract	
Occupant <input type="checkbox"/> Owner <input type="checkbox"/> Tenant <input type="checkbox"/> Vacant	Special Assessments \$	<input type="checkbox"/> PUD	HOA \$ <input type="checkbox"/> per year <input type="checkbox"/> per month
Property Rights Appraised <input type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold <input type="checkbox"/> Other (describe)			
Assignment Type <input type="checkbox"/> Purchase Transaction <input type="checkbox"/> Refinance Transaction <input type="checkbox"/> Other (describe)			
Lender/Client Address			
Is the subject property currently offered for sale or has it been offered for sale in the twelve months prior to the effective date of this appraisal? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Report data source(s) used, offering price(s), and date(s).			
I <input type="checkbox"/> did <input type="checkbox"/> did not analyze the contract for sale for the subject purchase transaction. Explain the results of the analysis of the contract for sale or why the analysis was not performed.			
Contract Price \$ Date of Contract Is the property seller the owner of public record? <input type="checkbox"/> Yes <input type="checkbox"/> No Data Source(s)			
Is there any financial assistance (loan charges, sale concessions, gift or downpayment assistance, etc.) to be paid by any party on behalf of the borrower? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, report the total dollar amount and describe the items to be paid.			
Note: Race and the racial composition of the neighborhood are not appraisal factors.			
Neighborhood Characteristics		One-Unit Housing Trends	
Location <input type="checkbox"/> Urban <input type="checkbox"/> Suburban <input type="checkbox"/> Rural	Property Values <input type="checkbox"/> Increasing <input type="checkbox"/> Stable <input type="checkbox"/> Declining	PRICE	AGE
Built-Up <input type="checkbox"/> Over 75% <input type="checkbox"/> 25-75% <input type="checkbox"/> Under 25%	Demand/Supply <input type="checkbox"/> Shortage <input type="checkbox"/> In Balance <input type="checkbox"/> Over Supply	\$ (000)	(yrs)
Growth <input type="checkbox"/> Rapid <input type="checkbox"/> Stable <input type="checkbox"/> Slow	Marketing Time <input type="checkbox"/> Under 3 mths <input type="checkbox"/> 3-6 mths <input type="checkbox"/> Over 6 mths	Low	Multi-Family
Neighborhood Boundaries		High	Commercial

Approaches

- **Sales Comparison Approach**
 - Most probable value in market
- **Cost Approach**
 - Cost to replace/reproduce
- **Income Approach**
 - Yes
 - But don't misrepresent your role...

Additional Support



- **Business Valuation**
 - Accounting and personal property?
- **Tax Valuation**
 - Engineering report?
- **Loss valuation/mitigation**
 - Architect?
 - Developer?

Know Your Role

- **An appraiser must inform the attorney/client:**
 - What the appraiser can/cannot do;
 - What the attorney needs to consider about value;
 - What are strengths/weakness of the client's position;
 - What are strengths/weaknesses of opposing position; and
 - Be prepared to be challenged on every assertion.

Research

- **Subject Parcel**
 - Typical appraisal methodology
 - Must meet or exceed standards of practice
- **Venue/Jurisdiction**
 - State/Federal statute
 - Local Rules
 - Ordinance/Code
- **Judge/Panel quirks**
 - Prior Decisions
 - Standing Orders

WORKFILE!!!

- **Maintain meticulous notes**
- **Keep contemporaneous records of communications**
- **Preserve each document/data source in real time**
- **It is both sword and shield**



Bio-Contact Information

Craig Capilla is a trial lawyer, concentrating his practice in a wide range of civil litigation, including professional liability and commercial claims. He has successfully defended residential and commercial appraisers and appraisal firms accused of negligence or improper activity in their valuation services. Craig has also represented numerous licensed professionals in state licensing matters including real estate brokers, real estate appraisers, and medical doctors, process servers, mortgage loan originators and brokers. He has represented clients in both state and federal lawsuits and has appeared in various judicial circuits across Illinois and in Wisconsin. He has also assisted professionals with licensing proceedings in Wisconsin, Iowa, and Missouri.

Craig earned a B.A. from the University of Michigan in 2004, majoring in History and Political Science. He then earned a Juris Doctor from the DePaul University College of Law in 2007. Craig is authorized to practice law in Illinois, Wisconsin, and is a member of the trial bar of the United States District Court for the Northern District of Illinois.

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