

ADVISORY OPINION 27

1 **ADVISORY OPINION 27 (AO-27)**

2 *This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret*
3 *existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific*
4 *situations and to offer advice from the ASB for the resolution of appraisal issues and problems.*

5 **SUBJECT: Appraising the Same Property for a New Client**

6 **APPLICATION: Real Property, Personal Property, and Intangible Property**

7 **THE ISSUE:**

8 **Situations often arise in which appraisers who have previously appraised a property are asked by a different**
9 **party to appraise the same property.** In some instances this request arises very soon after the first appraisal; in
10 others, it may be months or years later. Under what circumstances can an appraiser accept an assignment to
11 appraise a property for a prospective client when that appraiser has previously completed an appraisal of the
12 same property for another client?

13 **ADVICE FROM THE ASB ON THE ISSUE:**

14 **Relevant USPAP & Advisory References:**

- 15 • Confidentiality section of the ETHICS RULE.
- 16 • Statement on Appraisal Standards No. 9, which addresses intended use and intended users in an
17 assignment.
- 18 • Advisory Opinion 25 which covers clarification of the client in a federally related transaction.
- 19 • Advisory Opinion 26 which addresses reappraising/transferring a report to another party.

20 **Comments:**

21 Accepting the assignment from the second potential client is not prohibited by USPAP, assuming any existing
22 confidential information is handled properly.

23 Several parts of the Confidentiality section of the ETHICS RULE are pertinent to this matter.

24 *An appraiser must not disclose . . . assignment results prepared for a client to anyone other than the*
25 *client and persons specifically authorized by the client . . .*

26 An appraiser cannot disclose the results of a particular assignment, performed for a particular client, to anyone
27 other than those designated by that client. However, an understanding of the definitions of *assignment*,
28 *assignment results*, and *client* are key to a complete understanding of this requirement.

29 *Assignment – a valuation service provided as a consequence of an agreement between an appraiser*
30 *and a client*

31 *Client – the party or parties who engage an appraiser (by employment or contract) in a specific*
32 *assignment*

33 *Assignment Results – an appraiser’s opinions and conclusions developed specific to an assignment*

34 As can be seen in the definitions, both the client and the assignment results are specific to an assignment. **If**
35 **there is a new potential client, valuation services performed for that new client would constitute a new**
36 **assignment and the assignment results would be specific to that new assignment. Therefore, acceptance and**
37 **performance of the new assignment to appraise the same property would not be considered revealing the first**

38 client's assignment results to the second client, even if the value conclusions were the same. It should be noted
39 that the value conclusion could easily be different if the effective date or the scope of work changed in any
40 manner. It should also be noted that USPAP requires the appraiser to provide an unbiased opinion of value to
41 each client.

42 **Obtaining a Release:**

43 As a matter of business practice, some appraisers request a release from a prior client before accepting an
44 assignment to appraise the same property for a new client or to disclose the assignment for the second client to
45 the first client. However, USPAP does not require this. Also, appraisers should be aware that, in some cases,
46 informing a client about the existence of another client and the fact that the property was appraised for that
47 other client may not be compliant with the portion of the Confidentiality section of the ETHICS RULE, which
48 states:

49 *An appraiser must protect the confidential nature of the appraiser-client relationship.*

50 **Confidential Information:**

51 In all assignments the appraiser must comply with the Confidentiality section of the ETHICS RULE with
52 respect to the handling of confidential information. Confidential information is defined in USPAP as:

53 *information that is either*

- 54 • *identified by the client as confidential when providing it to an appraiser and that is not available*
- 55 *from any other source; or*
- 56 • *classified as confidential or private by applicable law or regulation*

57 The Confidentiality section of the ETHICS RULE states:

58 *An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations*
59 *applicable in an assignment.*

60 *An appraiser must not disclose confidential information . . . to anyone other than the client and*
61 *persons specifically authorized by the client . . .*

62 If a prior assignment included any confidential information, its disclosure to a different client or intended user
63 would violate the ETHICS RULE if the information were still classified as confidential information. This
64 includes the requirement to comply with all confidentiality and privacy laws and regulations.

65 **Client Expectations:**

66 At times, an appraiser's client may believe that his or her legitimate business intent could be harmed by that
67 appraiser providing an appraisal of the subject property of that assignment to another client. In such cases, the
68 client and the appraiser may stipulate in their service agreement the conditions under which the appraiser may
69 or may not appraise the same subject property. A client involved in litigation may stipulate that the appraiser
70 cannot appraise a subject property for the opposing party in that litigation. As another example, if an appraiser
71 is providing the value of a property to a client who is planning to sell that property in an auction, the appraiser
72 and client may agree that the appraiser will not appraise the same property for a party planning to participate in
73 the bidding process.

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74 **Illustrations:**

75 **Example A – Litigation**

76 An appraiser performs an appraisal for a client involved in litigation and then is requested to appraise the same
77 property for the opposing party. Is accepting the assignment for the second client prohibited by USPAP?

78 No, assuming confidential information is handled correctly. However, there are common business
79 practices in such circumstances. Often, the opposing parties each hire an appraiser to appraise the
80 subject property. If the opposing parties do not plan to hire one appraiser jointly, each party could
81 make it a part of the agreement between the appraiser and the client (the engagement letter or contract)
82 that the appraiser is not to appraise the property for anyone representing the opposing side of the legal
83 action.

84 In the absence of such an agreement between the client and the appraiser, the appraiser should
85 consider the presence of confidential information. The knowledge of confidential information may
86 prevent the appraiser from accepting the second assignment. The appraiser must decline the second
87 assignment if:

- 88 1) the appraiser used confidential information in performing the first assignment;
89 2) that information would not be available from any other source; and
90 3) credible results cannot be derived without the use of this confidential information.

91 However, the appraiser may accept the second assignment, making sure to not disclose any
92 confidential information from the original assignment to the second client, if

- 93 1) the information is available from another source (meaning it is not *confidential information*, as
94 defined); or
95 2) the *confidential information* is not material to deriving credible assignment results.

96 However, the appraiser must ensure that confidential information is not disclosed, even if it has no
97 impact on the assignment results (such as the litigation strategy of attorneys representing the first
98 client).

99 **Example B – Competing Banks**

100 If an appraiser has appraised a property for Bank A and then is approached by Bank B to appraise the same
101 property, does USPAP prohibit acceptance of the second assignment?

102 No, assuming confidential information is handled correctly. This constitutes a second assignment, a
103 new client and a new agreement between a client and an appraiser.