

NATIONAL ASSOCIATION OF APPRAISERS

appraiser focus magazine

THE APPRAISAL INDUSTRY'S CONUNDRUM

HOW TO ADOPT
A UNIFORM
MEASURING
TECHNIQUE THAT
ALLOWS FOR
MARKET-SPECIFIC
VARIATIONS

BRYAN MERIDETH

MNAA

INSIDE THIS ISSUE:

Takeaways from the latest OCC Hearing PG. 10
Gaining Competency in Eminent Domain PG. 14
From a Trainee's Perspective PG. 23



FOCUS ON USPAP

Christian Torgimson
Attorney at Parker Poe



Appraising property in a condemnation can expand your breadth and experience

Why Appraisers Should Gain Competency in Eminent Domain

Assist with a constitutional duty and tap into a new market for your services



APPRAISERS PLAY A CRITICAL ROLE in one of the foundational elements of our Constitution: private property rights. When a government body exercises its Fifth Amendment authority to condemn property for public use, it must pay just compensation. Appraisers determine the threshold question for this duty: What is the fair market value of the subject property to be taken? They also serve as expert witnesses before a judge, jury, or other type of body working to determine just compensation owed for the property taken. By explaining an opinion of value, the appraiser helps bring the market into the courtroom for the trier of fact.

Along with assisting in the constitutional procedure, appraising property in a condemnation can expand an appraiser's breadth and experience. A condemnation appraisal often requires a before and after market determination with varying highest and best uses, hypothetical or future conditions, and construction elements. Testifying in court and defending an appraisal under cross-examination provides advantageous training, helping the ap-

praiser discover different views of the market he or she may not otherwise be exposed to.

Serving as an expert witness can also lead to increased – and consistent – business growth. As public improvement projects are on the rise, the need for appraisers in eminent domain proceedings continues to increase across the country, but as that need is growing, the pool of appraisers is shrinking by comparison. As a result, new and experienced appraisers today can tap into a new market for their services.

There are a variety of resources available to help appraisers develop competency in eminent domain. Those include the American Law Institute's Eminent Domain and Land Valuation Litigation annual conference, which also includes online attendance options. Additional resources include the Appraisal Institute's book "Real Property Valuation in Condemnation" and its online seminar "Eminent Domain and Condemnation." The seminar is open to general and residential appraisers and does not require

prior litigation appraisal experience.

For those interested in this market, here are a few best practices based on our experience working closely with appraisers in the condemnation field over the past 20-plus years:

- **Gain experience** on both sides of the eminent domain process. Serving as an expert witness for property owners and condemning authorities provides a healthy understanding of each perspective. It is an in-depth process that involves appraising the property before the condemnation and analyzing the impacts of the taking on the property after the project is finished. Ultimately, it is a constitutional process – while the government has the authority to condemn, the owner has the right to be fairly compensated for what it has lost based on all the applicable market factors.

- **Practice explaining** in detail how you arrived at a value before

testifying. The best appraisers go far beyond saying in general terms that they arrived at a value based on their experience. It can be advantageous to show reliance on the input of engineers, real estate developers, and other key players to inform your opinion. Also, consider a backup method for deriving an opinion, such as a paired sales analysis to see how your opinion compares to other similar situations. The more support you provide for your opinion, the stronger it will be and the more informed the trier of fact will be in making the determination of compensation.

- **Acknowledge when** a new fact could change your opinion. As noted above, the eminent domain process involves assessing a property in different conditions and stages. It can be complicated with new facts emerging as it plays out. Instead of getting defensive, the best apprais-

ers acknowledge new facts and explain how they impact their previous valuation, if at all.

- **Remember your role** is also to educate, whether it's the property owner, condemning authority, attorneys, judge, or jury. The process naturally involves a challenge at some point to your opinions. Appraisers are hired because of their industry knowledge and experience. The more you can explain and simplify the basis for your opinions, the better the decision-maker will understand and make an educated determination.

By following those best practices, appraisers fill in an important piece to the puzzle of just compensation in a taking. The exercise of eminent domain authority under the Constitution cannot happen without appraisers. ■

FOCUS ON USPAP

One Stop. One Source.
All things appraising!



Providing customized **Errors & Omissions** insurance that is customized to fit *your* needs & budget.

- ▶ **AMCs**
- ▶ **Individual Appraisers**
- ▶ **Appraisal Firms**



Talk to Susan about how to best protect your AMCs, appraisers and your panel appraisers.

Susan Lomeli
susanlomeli@norman-spencer.com
805-331-6981
norman-spencer.com

