

**Department of General Services Appraisal Specifications (dated 01/04/16)
For Eminent Domain Assignments**

All appraisals/appraisal reports prepared for the Maryland Department of General Services (DGS), under these appraisal specifications, must be fully compliant with the Uniform Standards of Professional Appraisal Practice (USPAP) and Maryland eminent domain laws and regulations (unless otherwise specified). Each appraisal reports must be, at a minimum an Appraisal Report, as defined by USPAP.

The client and only intended user is the Department of General Services, Office of Real Estate.

The intended use is to serve as a basis for the negotiation for and possible acquisition of the subject property by the State of Maryland (unless otherwise stated in the appraisal specifications page of the contract).

The Definition of Fair Market Value to be used is:

Fair Market Value - The fair market value of property in a condemnation proceeding is the price as of the valuation date for the highest and best use of the property which a vendor, willing but not obligated to sell, would accept for the property, and which a purchaser, willing but not obligated to buy, would pay, excluding any increment in value proximately caused by the public project for which the property condemned is needed. In addition, fair market value includes any amount by which the price reflects a diminution in value occurring between the effective date of legislative authority for the acquisition of the property and the date of actual taking if the trier of facts finds that the diminution in value was proximately caused by the public project for which the property condemned is needed, or by announcements or acts of the plaintiff or its officials concerning the public project, and was beyond the reasonable control of the property owner.

Source: Annotated Code of Maryland, Real Property Article, § 12-105(b)

A. The description of the subject property must include, at a minimum;

- 1) a thorough description of and rationale for the larger parcel
- 2) the size of the subject parcel and the source for the area. If the area is different from that supplied by DGS, the source and rationale for changing the area must be provided (and/or contact DGS).
- 3) the location, including the County, town/zip code, street location (street address or North side, East side, both sides, etc)

4) the approximate amount of road frontage (on each road that the subject property fronts), If there is no direct road frontage, how is the property accessed? Is the frontage/access sufficient for development? Is the subject property accessible from the road frontage?;

5) the zoning of the subject including primary permitted uses and **the base development density and the number of potential development rights**. Special exceptions and/or conditional uses must be addressed, if applicable. It is **not** sufficient to simply place a copy of a portion of the zoning ordinance in the body or addenda of the report;

6) a description of the topography including the amount of tillable, pasture, woodland, marshland/wetlands, etc, in both acres and percentage of the total property acreage; Only having a statement similar to “The sale is mostly tillable” is not acceptable;

7) identification of amount of water frontage (including linear frontage and depth of water) and acreage of critical areas, if applicable;

8) what utilities are available as of the date of value and what utilities would be required for future development; if septic system(s) would be required, a thorough discussion of the soil types and their suitability for septic systems must be included;

9) the tax map, grid, and parcel(s) reference;

10) the deed reference with a **minimum five year sales/transfer history**, which must include grantor, grantee, sale date, sale price and whether the appraiser considers the transaction to be arms length for each prior sale. If the most recent transfer predates 5 years prior to the date of value, then the appraiser must provide this data for that most recent transfer;

11) a portion of a tax map which includes **all** of the boundaries of the subject property with the boundaries of the subject property highlighted. Tax maps from the Maryland Department of Assessments and Taxation website, which do not show all of the boundaries of the properties will not be accepted;

12) If improved, a complete description of each improvement including building area, style, materials, quality of construction, overall condition, and any other details that are pertinent to value;

13) any other pertinent information/characteristic concerning the subject property that the appraiser relied upon, especially if the appraiser is to make an adjustment for the characteristic.

B. Highest and best use analysis must:

1) address each of the tests of highest and best use in a specific, not generic, manner;

2) provide a specific conclusion of highest and best use and a specific rationale for the conclusion of highest and best use. Statements such as, "...The highest and best use of the subject property is development in conformity with existing zoning..." are not acceptable.

C. For each comparable sale, the appraiser must, at a minimum identify/provide:

- 1) the grantor and the grantee;
- 2) the date of the deed and the date of recordation;
- 3) the sale price and price per acre or square foot (clearly indicating whether the per acre/square foot price is inclusive or exclusive of the contributory value of any improvements). When deducting/adjusting for the contributory value of improvements, the improvements must be described and the basis for the magnitude of the adjustment must be explained. Simply stating the contributory value is based on the appraiser's judgement will not be acceptable;
- 4) the location, including the County, town/zip code, street location, and **the distance from the subject property**;
- 5) the tax map, grid, and parcel(s) reference;
- 6) the deed reference;
- 7) the zoning including principal permitted uses, the base development density, and the number of potential development rights;
- 8) the area of the property;
- 9) the approximate amount of road frontage (on each road that the sale property fronts). If there is no direct road frontage, how is the property accessed? Is the frontage/access sufficient for development?;
- 10) a description of the topography including the amount of tillable, pasture, woodland, marshland/wetlands etc. in both (approximate) acres and (approximate) percentage of the total property acreage. Only having a statement similar to "...The sale is mostly tillable..." is not acceptable;
- 11) identification of amount of water frontage (including linear frontage and depth of water) and acreage of critical areas, if applicable;
- 12) the highest and best use of the comparable sale property, including the motivation behind the sale;

13) discuss the specifics, including development rights remaining, of any preservation/conservation type easements that encumber the sale. Only including statements such as, “The sale was encumbered by an easement to the benefit of MALPF at the time of transfer” are not acceptable.

14) both the data source and verification source (and contact information) for the sale, verification should be with the buyer, seller, broker or other party having knowledge of the sale;

15) any other pertinent information/characteristic concerning the sale property that the appraiser relied upon, especially if the appraiser is to make an adjustment for the characteristic;

16) a portion of a tax map which includes **all** of the boundaries of the comparable sale with the boundaries of the comparable sale highlighted. Tax maps from the Maryland Department of Assessments and Taxation website, which do not show all of the boundaries of the properties will not be accepted.

D. A sales comparison grid must be included.

1) For each sale, the grid must include the grantor/grantee, date of sale, the location of the sale (town and county) the distance of the sale from the subject property, the nominal sale price, the unit sale price, the zoning of the sale, and the highest and best use of the sale including the development potential of the sale.

2) In the analysis of each sale, the appraiser must make quantitative adjustments (percentage or dollar adjustments), not qualitative adjustments (simply making + or - adjustments). The appraiser must provide specific rationale/support for each adjustment. Quantitative adjustments supported by qualitative reasoning is acceptable, but the rationale must be specific. Vague reasons such as ‘market is appreciating’, “the sale is a better location” or “the sale has inferior topography are not acceptable. Absence of market condition adjustments must also be supported.

3) Summation appraisals without support are prohibited in keeping with USPAP Rule 1-4(e) which states; “When analyzing the assemblage of the various estates or component parts of a property, an appraiser must analyze the effect on value, if any, of the assemblage. An appraiser must refrain from valuing the whole by solely adding together the individual values of the various estates or component parts.”

E. Reconciliation must provide specific reasons for the conclusion(s) with specific rationale for the final conclusion of value provided. Boilerplate discussions alone will not be acceptable.

F. In addition to the USPAP requirements for the appraiser’s certification:

1) The appraiser’s certification must state that “the appraiser has visually inspected the subject

property and that the appraiser has afforded the property owner(s) or their representative, the opportunity to accompany the appraiser on the inspection of the subject property;

2) The appraiser's certification must state that "all of the comparable sales used in this report have been inspected from at least the public street."

G. Any extraordinary assumptions used, must be based on rationale that is fully explained within the report and which is reasonable.

H. At a minimum, the appraisal reports must contain the following exhibits, etc.

1) photographs of the subject property;

2) photographs of the comparable sales;

3) sales location map, showing the relative location of the subject property and the comparable sales. This map (and/or the combination of this map and the required tax maps) must be of sufficient detail to allow the client to locate the subject property and the comparable sales in the field;

4) a copy of the appraisal specification page from the DGS contract;

5) any other pertinent exhibits.

I. The appraiser must provide one (1) hard (paper) copy and three (3) CD copies of each appraisal report for each subject property. Each CD should contain a copy of a single appraisal report, which should be in a "pdf" file. The cover of the hard copy must clearly identify the property owner(s)' name, the DGS file number, the date of value and the appraiser's name, without having to open the cover. Each cd must bear the same information.

J. Before and After appraisals must:

1) have separate sections in the appraisal report for the before valuation and the after valuation;

2) include all of the items in Section A through F of these appraisal specifications for both the before and the after value;

3) If the acquisition is of real property rights (rather than physical real estate) the after sales must have a similar bundle of rights as the subject property in the after situation or a thorough explanation of the comparability of the after sales must be provided;

4) include a final reconciliation which indicates the Fair Market Value of the proposed

acquisition;

5) The Maryland Real Property Article § 12-104 (b) states, “Where part of tract taken - the damages to be awarded where land, or any part of it, is taken is the fair market value of the part taken, but not less than the actual value of the part taken plus severance or resulting damages to the remaining land by reason of the taking and of future use by the plaintiff of the part taken. The severance or resulting damages shall be diminished to the extent of the value of the special (particular) benefits to the remainder arising from the plaintiff's future use of the part taken.”

Maryland Case Law in *State Roads Commission v. Adams*, 238 Md. 371, 209 A.2d 247 (1965) states that the measure of damages when part of a tract is taken, “The measure of the defendant's damages was the difference between the fair market value of the whole property immediately before the taking and its fair market value immediately after the taking.”

The purpose of a “Before and After Appraisal” is to identify and measure possible damages and/or benefits, using a set of appraisal rules that are acceptable to eminent domain appraising.

Two rules have been applied to damage situations involving condemnation of real property by public authorities: the Federal Rule (or Before and After Rule) and the State Rule (or Value of the Take Plus Damages Rule) which has various versions among the different States. Currently, the Federal Rule is employed by the Federal Government and 26 of the States. Variations of the State Rule are used by Maryland and the remaining 23 States.

Therefore, when we request a “before and after” appraisal we are requiring you to follow the State Rule below.

The State Rule, under Maryland law, allows special benefits to offset severance damages, but not the value of the take. This concept of having to pay at least for the taking is sometimes referred to as the “irreducible minimum”. Therefore, it requires the appraiser to provide a before and after valuation that specifically addresses special benefits and severance damages, rather than a strict before and after valuation.

Although benefits and damages may not exist in all instance, the same format should be used to demonstrate the presence or absence of such benefits or damages.

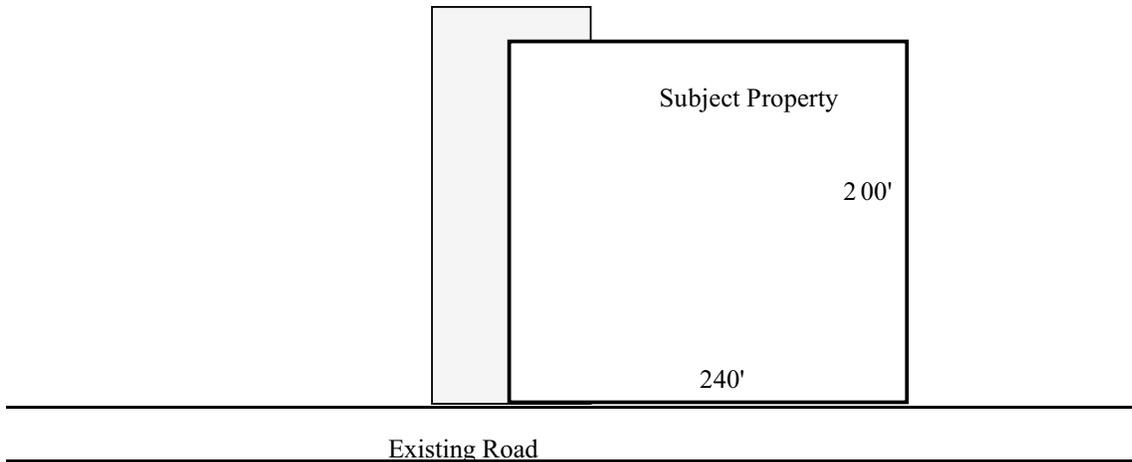
Below is a suggested format to assure that the appraiser appropriately applies Maryland eminent domain law as it applies to an appraisal.

MARYLAND STATE RULE

- Step 1) Value of whole property before taking
\$AAAA
- Step 2) Less value of part taken, as part of whole (irreducible minimum)
\$BBBB
- Step 3) Equals value of remainder (before taking) as part of whole (A - B)
\$CCCC
- Step 4) Less value of remainder after taking as part of whole
\$DDDD
- Step 5) Equals indicated severance damages
\$EEEE
- Step 6) Less special benefits
\$FFFF
- Step 7) Equals net damages (E - F)
\$GGGG
- Step 8) Plus value of part taken (from “B” above)
\$HHHH
- Step 9) Equals just compensation (B + H)
\$KKKK

An illustration of this procedure is presented below as an example.

EXAMPLE OF STATE RULE VS. FEDERAL RULE VALUATION



The subject property is a vacant, rectangular parcel of land which has 240 feet of frontage on a County road and a depth of 200 feet. The property is zoned C - Commercial, a County zoning classification which permits a wide variety of commercial uses and requires a minimum lot size of one (1) acre. The County zoning ordinance provides that a parcel that is still at least 75% of the minimum size required by the zoning ordinance will be considered to be a legal nonconforming parcel.

The taking is a strip 40 feet wide by the 200 foot depth of the subject property (as shown in the shaded area above). The taking is for the construction of a new County road, which will make the subject property a corner lot.

You have determined that the subject property has a highest and best use of commercial development, both before and after the taking. Market data indicates that interior commercial lots sell for \$25.00 per square foot while corner lots sell for \$27/square foot. Any legal nonconforming lots of a size below the minimum required by zoning suffer a \$5.00 per square foot loss in value.

Federal Rule (Before and After)		
Value Before the Taking	240 ft x 200 ft = 48,000 sf x \$25/sf =	\$1,200,000
less: Value after the Taking	200 ft x 200 ft = 40,000 sf x (\$27/sf - \$5/sf) =	\$880,000
equals: Just Compensation		\$320,000
Maryland State Rule (Taking plus Damages)		
Value before the Taking	240 ft x 200 ft = 48,000 sf x \$25/sf =	\$1,200,000
less: Value of the part taken, as part of the whole	less: 40 ft x 200 ft = 40,000 sf x \$25/sf =	\$200,000
equals: Remainder value before the taking	200 ft x 200 ft = 40,000 sf x \$25/sf =	\$1,000,000
less: Remainder value after the taking (considering damages but not benefits)	200 ft x 200 ft = 40,000 sf x (\$25/sf - \$5/sf) =	\$800,000
equals: Damages to the remainder		\$200,000
less: Special benefits to the remainder	40,000 sf x (\$27/sf - \$25/sf) =	\$80,000
equals: Net damages to the remainder		\$120,000
plus: Value of the part taken, as part of the whole		\$200,000
equals: Just Compensation		\$320,000