



Appraisers are under the radar - by John Rynne

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As I'm writing this article, the Trump Organization civil case is in the midst of being tried in New York State Supreme Court in Manhattan. Much of the discussion happens to be about over valuation or under valuation of real estate. Real estate valuation typically does not get the attention of the public. It's generally an "under the radar" issue. I am not familiar with the properties or any appraisals of them other than what I read in the media. Thus, the examples are purely hypothetical which I have observed over time. Most real estate appraisals are confidential and not privy to the public. One of the reasons is that appraisers must adhere to Standards of Professional Practice and the Code of Ethics. Thus, any report distribution is controlled by the client who many times is the only intended user. The client generally has firm control of the appraisal when it's completed and many times can disclose it to anyone. This is one example of an exception: "Disclosure of the contents of this report is governed by the by-laws and regulations of the Appraisal Institute. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which he is connected) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the appraiser". This is a common example of a general assumption and limiting condition used in the appraisal process.

Of course the courts have special powers which can penetrate the appraiser client protective shield through subpoenas. In the Trump Organization case there must have been independent or bank appraisals completed in many of the alleged overvaluation or undervaluation charges. Thus, those appraisals could deflect responsibility away from the Trump Organization. If the appraisers followed Standards of Professional Practice and the Code of Ethics the appraisal could hold up to scrutiny. In the Trump Organization case, there could be many hidden issues in appraisals that the untrained eye may misinterpret. As an example, real estate assessments completed by government is a way to equitably estimate property taxes. In New York State typically the assessment divided by 1,000 and multiplied by the tax rate determines property taxes. As a hypothetical example, a property with an assessment of \$18 million would have real estate taxes of \$720,000 assuming the tax rate is \$40 per \$1,000 of assessed value ($\$18,000 \times \40). However, the equalization rate may be less than 100%. This is common in New York State because many times assessments need to be updated. If the equalization rate is 50%, the full market value would be \$36 million or \$18 million divided by 50%. So the assessment can substantially be below the actual market value. Appraisers can have large differences in valuing the same property if there is a differing opinion in highest and best use. Market value is essentially the most probable price that a property will sell for if there is an informed buyer and seller with no undo stimulus. Decades ago in condemnation cases the definition of market value in certain courts used instead of "most probable price"; the "highest price" which could be a substantial difference. Value in Use sometimes is used instead of market value. In short, Value in Use is the value to a specific user which may not be general market value. Value in Use is used in corporate expansion decisions or in insurance disputes when the Broad Evidence Rule is applied. Investment value many times is different than market value. Investment value is the value to a specific investor usually with unique financial resources. Plottage value is normally higher than market value. This is the enhanced value that a single parcel can have in the case of an assemblage with contiguous properties which many times is greater than market value of that single

parcel if it sold without the assemblage. Leased fee interest value can be much greater than general market value if a long term above market lease to AAA credit far exceeds the market value of the property with a market lease.

In summary, I don't know the many specifics of the Trump Organization's case but I wouldn't be surprised that some of these scenarios could apply. Because appraisals are generally "under the radar" any untrained observers could be susceptible to misinterpretation of the nuances of the appraisal process.

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