

Intellectual dishonesty from an appraisal perspective

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Intellectual dishonesty under the guise of professionalism is of growing concern in Canada. There are signs that the fiduciary bond between professional and the public (the ultimate client) has been breached. Numerous financial institutions have sustained substantial losses through reliance on appraisals prepared at the request of borrowers, whose self interest has been accommodated and promoted.

Financial institutions are countering by refusing to accept appraisals from certain appraisers, establishing in-house appraisal review mechanisms, and, in some instances, seeking civil remedies for the recovery of monetary losses. Some expropriating authorities have overpaid on land compensation claims and various taxing authorities have failed to receive their fair share of tax revenues as a result of inappropriate valuations prepared on behalf of property owners and taxpayers, and the appraisers involved have been able to continue to practice without any apparent repercussions.

Hampered by privacy and secrecy laws, expropriating and taxing authorities are reluctant to disclose and report the identities of these appraisers to the appropriate governing appraisal bodies. The Courts and quasi-judicial tribunals are plagued by flawed precedent-setting case law as a result of having been methodically misdirected into reaching decisions founded on inappropriate theories and postulates. Should these trends continue, it may be only a matter of time before the Courts and quasi-judicial tribunals impose tougher screening measures on appraisers posing as expert witnesses.

Intellectual dishonesty may be described as a self-imposed refusal to reason (think) the relevance and appropriateness of misleading conduct knowingly perpetrated with an intentional orientation to achieve a predetermined objective while avoiding and disregarding all information that may fail to support the predetermined objective. The tunnel vision that channels a predetermined objective to its inevitable conclusion facilitates the exclusion of influences that might otherwise conflict with the unreasoned objective.

The perpetration of intellectual dishonesty may be accommodated by a course of action or inaction; it may be subtle or overt; and it may be undertaken with or without the client's knowledge. In whatever form it manifests itself, the practice of intellectual dishonesty is rationalized by the individual as a way of justifying or legitimizing unprofessional behaviour, usually for the sole purpose of financial gain. Intellectual dishonesty is not only unethical, but may also be cause for an actionable offense when financial losses have been incurred.

Regrettably, the conduct of intellectually dishonest appraisers can cast aspersions on those appraisers who are committed to the highest standards of true professionalism. Whenever intellectual dishonesty is supplanted for professional integrity, the credibility of the appraisal profession is undermined and brought into disrepute, and the public, which the appraisal profession aims to serve, is unjustly harmed.

An intellectually dishonest appraiser who holds no firm conviction

of character gives plausibility to the implausible and credibility to the incredible embraced as pseudo-intellectual posturing, while remaining indifferent to any test of reasonableness. As intellectual dishonesty is self-imposed and deliberately goal-oriented with a biased one-dimensional perspective, it may not be possible to reason an appraiser out of a position that he or she has not allowed him or herself to have been reasoned into. Once the commitment to an intellectually dishonest position becomes entrenched through the use of ego-saving (restoration of self-image) defense mechanisms, no amount of persuasion is likely to be effective in altering the drive toward a predetermined and unreasoned appraisal conclusion.

Unfortunately, a professional designation can sometimes serve to legitimize an individual's intellectual dishonesty against an unsuspecting and trusting public. Often, the buyers and users of appraisal services and those dependent on appraisal expertise have little or no understanding of the appraisal process, and readily acknowledge possession of an appraisal designation as assurance of competency and ethical conduct. Betrayal of public confidence through intellectual dishonesty will foster cynicism of the appraisal profession and diminish the significance of an appraisal designation.

Eradicating intellectual dishonesty from the appraisal profession is no easy task, but if the practice continues and escapes peer review within the umbrella organizations that govern real estate appraisers, the collective efforts of the appraisal community to achieve universal and unequivocal public acceptance and recognition as a profession will have been severely undermined. These organizations will simply come to be regarded as trade associations pursuing appraisal as a business activity on behalf of its members.

PROFESSIONALISM

True professions are characterized by extensive intellectual training (academic and practical) and the provision

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of trusted services which are important to the organized functioning of society. Professional appraisers profess to possess a distinct body of knowledge and high standards of competence in the specialized field of real estate appraisal acquired through vigorous academic and practical training, and be committed to high standards of ethical conduct for the protection of the public. Professionalism in the field of real estate appraisal in Canada is thought to be denoted by the CRA and AACI designations. Both professional designations are intended to assure the public of appraisal competency and a commitment to ethical conduct. By claiming to possess specialized knowledge, purportedly evidenced by a designation, the professional appraiser in essence is asking of society that he or she be trusted and that his or her appraisal conclusions be accepted at face value.

Other professional groups that have breached the public trust have fallen into disfavour and have been publicly discredited. To avoid a similar fate, professional appraisers should examine and learn from the shortcomings and failings of other professional groups to ensure that our conduct is beyond reproach. Where there is no commitment to ethical conduct there can be no claim of professionalism.

EGO-SAVING

DEFENSE MECHANISMS

All forms of intellectual dishonesty

are rationalized (justification of false motives) to facilitate ego-saving defense mechanisms for conduct which would be perceived as being professionally and socially indefensible and unacceptable. Defensive rationalizations allow an individual to transcend his or her professional and moral obligations to society free of guilt. Some of the most often expressed rationalizations are “every one else does it,” “what I don't know/see can't hurt me,” “it's okay for appraisers to disagree,” “I'm entitled to my opinion,” “I was instructed by my client to appraise the property this way,” etc. The need for an appraiser to resort to rationalization is an early warning signal to a mental state of resolution conflict between right and wrong.

Rationalizations are intended to anesthetize against potential feelings of guilt associated with unethical reasoning. Dehumanization or depersonalization (divestiture or deprivation of human qualities or attributes) is another ego-saving defense mechanism; an artificial construct in which all actions are treated as abstractions to avoid personal and direct responsibility to society for any undesirable consequences, financial or otherwise, stemming from intellectually dishonest conduct. By viewing financial institutions, expropriating and taxing authorities, and judicial/quasi-judicial tribunals as inanimate entities with “deep pockets,” an intellectually dishonest appraiser can avoid having to come psychologically face-to-face with the real victims of his or her conduct (i.e., shareholders, depositors and the general public.)

Professional appraisers are taught and encouraged to convey their findings in a third-person writing style to reinforce the appearance of objectivity, but this writing style should not be construed or applied as an ego-saving defense mechanism for the masking of intellectual dishonesty devoid of personal professional responsibility. Objective writing should be reflective of objective reasoning.

Appraisal activity or conduct that

is intellectually dishonest can manifest itself in many different ways, but is essentially accomplished through use of the two techniques described as follows:

1. Deliberate bypassing

An intent to miscommunicate by withholding, avoiding or circumventing vital information (i.e., deliberate errors of omission) that might adversely impact or contradict an unquestioned predetermined appraisal objective; and

2. Intentional blinding

An intent to obstruct, distort or misstate an appropriate appraisal objective to impede the achievement of desirable or fundamentally sound appraisal solutions or conclusions.

IDENTIFICATION OF INTELLECTUAL DISHONESTY IN THE APPRAISAL PROCESS

Within the appraisal process, the key categories in which intellectual dishonesty can manifest itself are listed below.

Function of the appraisal:

- Unidentified appraisal objective or function.
- Pursuing an appraisal objective that has no legitimate function or serves no meaningful use.

Property rights appraised:

- Valuation of unidentified property rights.
- Valuation of undefined property rights.
- Valuation of inappropriate property rights.

Definition of value:

- Undefined value.
- Inappropriate definition of value.

Highest and best use:

- Undefined highest and best use.
- Failure to identify the highest and best use.
- Inappropriate highest and best use.

Appraisal methodology:

- Undescribed appraisal methodology.
- Application of inappropriate appraisal methodology.

Assumptions and limiting conditions:

- Undisclosed important assumptions and limiting conditions.
- Reliance on inappropriate assumptions and limiting conditions.

Certification:

- Excluded certification.
- Exclusion of a statement of compliance with acceptable appraisal standards within a certification.

(Note: The preceding contravenes USPAP and AIC regulations.)

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THE NEED FOR INTELLECTUAL HONESTY

Intellectual honesty is a fundamental philosophy of ethical reasoning (in contradistinction to unethical rationalization) in which the objective view calls for a clarity and consistency of fundamentally sound and unbiased judgement. (An ethically unreasoned position should never be rationalized.)

Within the context of the appraisal profession, intellectual honesty is an essential underpinning of any claim to professionalism. Only through the development and application of sound principles can a supportable and trusted body of knowledge evolve. Should the primacy of legitimate and ethical appraisal objectives be com-

promised by intellectual dishonesty, inconsistent and inappropriate value conclusions would become the norm and the appraisal profession could no longer be able to legitimately lay claim to serving the public good. Without intellectual honesty our professed professional aims are likely to be sceptically viewed by the public as self-serving, counterproductive, contrary and detrimental to the advancement and attainment of worthy societal goals.

CONSEQUENCES OF INTELLECTUAL DISHONESTY

Should intellectual dishonesty continue unabated, the following insidious consequences are likely:

- the credibility of all appraisers may be brought into question by financial institutions, expropriating and taxing authorities, and judicial/quasi-judicial bodies;
- the Courts and other quasi-judicial bodies may deem appraisers unqualified to give opinion evidence;
- the development of flawed case law founded on unreasoned and unsound appraisal theory and practice may become even more entrenched in areas such as expropriation, assessment and capital gains taxation;
- the potential for collapsing the financial integrity of banks, trust companies, credit unions, life insurance companies and pension funds as depositors and shareholders sustain insurmountable monetary losses; and
- the conduct of intellectually dishonest appraisers may drive ethically motivated appraisers from the appraisal profession and also discourage others from entering the profession.

RESISTING

INTELLECTUAL DISHONESTY

As intellectual dishonesty is a self-directed act, its eradication from the appraisal profession may only come about from strict enforcement of a professional code of ethics by way of professional peer review that is

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premised on a doctrine of ethical responsibility. Strong organizational leadership committed to expelling from its ranks all morally bankrupt appraisers and disarming them of their designations is essential if intellectual dishonesty is to be eradicated from the appraisal profession and public confidence restored in the appraisal process. Nonetheless, in the hope of introspection and a re-examination of self-image as possible deterrents to intellectual dishonesty, the following cautions are provided:

- consider avoiding blind and unquestioned acceptance of implied or explicit client instructions;
- consider whether your objective would remain unchanged under the same circumstances, independent of you client’s interest;
- consider whether your opinions, analyses and conclusions would remain unchanged if you were representing the opposing side in a real estate valuation dispute;
- consider the consequences of your actions on society and the appraisal profession;
- consider avoiding the use of ego-saving defense mechanisms such as rationalization and dehumanization as substitutes for unbiased reasoning;
- consider avoiding efforts to dehumanize your conduct as a

- means of circumventing accountability and social responsibility;
- consider the implications of your actions on third parties and society in general;
 - consider how your conduct would be judged by your professional peers; and
 - consider the ethical implications of your conduct for your self-image and how you will be perceived by your colleagues, friends and family.

CONCLUSION

What has been conveyed and portrayed as intellectual dishonesty, professional appraisers have preferred to term as unacceptable appraisal practices. However intellectual dishonesty is labelled, some appraisers have lost credibility with the public because of the practice. The reversal of public cynicism will require each appraiser to dedicate him or herself to the proposition that ethical conduct (intellectual honesty) is a societal goal worthy of pursuit and essential to achieving and maintaining professional status.

Umbrella organizations such as the AIC must provide strong leadership to reinforce the need for ethical conduct (intellectual honesty) through strict enforcement of meaningful codes of professional practice and stress the importance of voluntary acceptance of peer review over one’s professional conduct. Regular field audits of each member’s office and

compulsory peer review of appraisal reports with value estimates that vary by more than 10 per cent, mandated by the governing appraisal body, would help identify intellectually dishonest appraisal practices and would restrict the Courts and quasi-judicial tribunals from being exposed to the unwarranted theories and postulates of intellectually dishonest appraisers.

The fiduciary bond between the appraisal profession and the public must be re-established to regain the confidence of financial institutions, expropriating and taxing authorities, and Courts and quasi-judicial tribunals, all of which are dependent on the sound judgement of intellectually honest appraisers for the economic well-being of their constituents (i.e., shareholders, depositors and the general public). ▲

Bibliography

- Rand, Ayn, *Philosophy: Who Needs It*. Signet 1984.
- Popkin, Richard H., and Stroll, Avrum. *Philosophy Made Simple — Second Edition Revised*. Doubleday 1993.
- Haney, William V. *Communication and Interpersonal Relations: Text and Cases — Fifth Edition*. Irwin 1986.
- Ethical Issues in Professional Life, Joan C. Callahan, Editor; Oxford University Press 1988.
- Scott, Charles E. *The Question of Ethics — Nietzsche, Foucault, Heidegger*. Indiana University Press 1990.