

COLORADO CHAPTER APPRAISAL NEWS

**Appraisal
Institute®**

*Professionals Providing
Real Estate Solutions*

Volume 16, No. 3 — June, 2006



Editor: Steven D. Clauson, MAI

www.colorado-ai.org

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Colorado Chapter of the Appraisal Institute Presents

SIXTH ANNUAL SUMMER EVENT!!!

Beaver Run, Breckenridge, CO

September 15, 16, 17, 2006

Mark your Calendars:

**\$25 FOR MEMBERS FOR ENTIRE EVENT OR ANY PART OF THE EVENT
NON-MEMBERS - \$50.00 PER DAY**

Friday, September 15

1 p.m. – 5 p.m.

**Stigmatized Properties
Preparing for Litigation**

Meth, Mold, Termites, Etc.
Brownfield Area, High Power Lines
Moderator: John (Jack) W. Nisley, MAI

Saturday, September 16

8 a.m. – Noon

Transit Oriented Development (TOD)

Marilee Utter, Urban Land Institute, conducted several TOD seminars around town after FastTracks was approved by voters
Bill Effenbein, Chair of the RTC Board of Directors when it obtained voter approval of FastTracks

Steve Moyski, former President, Cherokee Denver, developer of a portion of the former Gates Rubber property, perhaps the largest TOD in the metro area

Bob Simpson, Community Development Director, City of Englewood, participated in the redevelopment of Cinderella City to the Englewood City Center with its Light Rail Shop

Moderator: William James, MAI
Golf – contact Randy Pierzina, SRA
303.932.2362 (Price & location to be determined)

Sunday, September 17

8 a.m. – Noon

Residential Issues

Fraud
Underwriting
Moderator: Matthew E. George, SRA
Gayle Campbell, Underwriter, Universal Lending Corporation

BOARD OF DIRECTORS MEETING

Friday, August 11, 2006, 3:30 p.m. – 5:30 pm., Maggianos – All Members Welcome

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Advertising Policy

1. Advertisements must be camera-ready.
2. Advertisements must represent closely-related businesses or services to the real estate appraisal field.
3. All advertisements submitted for publication are subject to the Editor and Publisher's approval.
4. Appeals for rejections will be submitted to the Board of Directors and their decisions are final.
5. Fees are as follows:

		Member	Non-Member
Full Page	7" x 10"	\$165	\$175
Half Page	7" x 5" or 3 3/4" x 10"	\$ 90	\$100
Quarter Page	3 1/2" x 4 1/2"	\$ 50	\$ 60
1/8 Page	(Bus. Card size) 3 1/2" x 2"	\$ 30	\$ 40

Colorado Chapter does not endorse any product or service advertised in this newsletter.

Send camera-ready copy and check to:

Appraisal Institute, 1540 S. Holly, #5, Denver, CO 80222

If you have questions, please call 303-691-0487
Outside Denver metro area 1-800-571-0086
www.colorado-ai.org

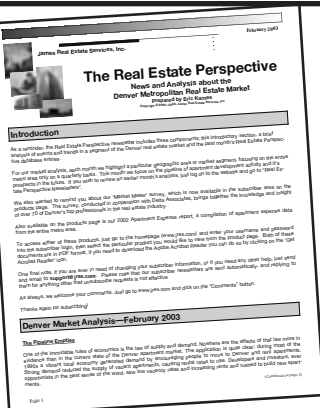
COLORADO CHAPTER'S 2006 REGION II REPRESENTATIVES

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Real Estate Perspective

**A weekly e-mail update of
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economic information in
the Denver metro area.**

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James Real Estate Services reviews daily, neighborhood and industry newspapers and magazines, government websites and industry newsletters. Our staff condenses real estate and economic articles and events into one-paragraph summaries for distribution to subscribers by weekly e-mail. Each article is accompanied by an internet link to its source if the article is available at a source website. Each summary is also added to a database of article summaries compiled since 2001, which may be searched by property type, topic, date, location (zip code) or source.

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PAID ADVERTISEMENT



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PRESIDENT'S CORNER

by Harold S. McCloud, MAI



REAL ESTATE APPRAISER'S LIEN LAW ISSUE BRIEF

Chapter members have repeatedly requested information concerning their ability to collect a fee for their service from a property owner when a lender does not pay. I am passing on the following information that was received from Justin R. Morton, State Government Relations Representative, Appraisal Institute (202) 298-5593

Introduction: The goal of this issue brief is to determine whether real estate appraisers are covered under state *lien laws*. A *lien law* is a law that allows an individual to place a lien on property in order to recover a contracted fee that the property owner has failed to pay. Lien laws give real estate professionals a legal mechanism to recover unpaid fees or commissions.

Common Lien Laws: There are essentially two types of lien laws: Mechanic Lien Laws and Broker Lien Laws. Mechanic lien laws primarily cover contractors and those making improvements on property. Broker lien laws tend to cover those in the real estate industry who have a written agreement with the property owner to perform certain services. Generally appraisers are not covered under mechanic's lien laws, because appraisers do not make improvements on property. Broker lien laws come closer to covering appraisers, because their transactions more closely mirror an appraisers transaction.

Currently over 25 states have broker lien laws, yet only four state lien laws specifically cover appraisers. The majority of broker lien laws apply only to brokers and grant only licensed brokers the right to place a lien on property. In a typical lien law, the term broker is defined as an individual licensed under state broker laws. The definition of broker rarely includes appraisers. For example, Ohio has a lien law that is similar to the lien laws in other states. According to the terms of the Ohio lien law, the lien only covers licensed real estate brokers named in a real estate contract.

Lien Laws covering Appraisers: There are, however, states that do cover appraisers under their lien laws. In 1999 Texas passed the Broker and Appraiser's Lien on Commercial Property Act. The definition of broker in

this act includes a licensed appraiser. Specifically, the act states "broker means a person who is licensed as a real estate appraiser." This definition is unique to Texas, as no other state includes "licensed appraiser" in the definition of broker.

Another state that specifically covers appraisers in their lien law is Missouri. Missouri has enacted a lien law separate from their broker's lien law. Their law grants appraisers the right to place a lien on property for the amount of services the appraiser rendered. Missouri is the only state to include a separate law dedicated specifically to granting appraisers a right to place a lien on property.

Arkansas also has a lien law that specifically covers appraisers. The law includes architects, engineers and other service oriented professions. Their law extends the lien to professionals who perform services on a property, even though their services may not result in a tangible improvement to the property. Arkansas law specifically states that the lien is to be enforced in the same manner as a contractor's lien or a mechanic's lien.

Lastly, Maine's lien law covers appraisers who are licensed under real estate laws. Maine grants lien laws to all real estate licenses. Thus, as long as you are a "licensed" appraiser you are covered.

Unique Lien Law: Virginia's lien law is a kind of hybrid appraiser/broker law. Their law allows a broker to place a lien on property if the property owner fails to pay the appraisal fee. This covers appraisal fees if a broker has personally hired the appraiser. However, the lien law does not allow appraisers themselves to place a lien on property, only the broker. The last couple of legislative sessions, Virginia has introduced bills that, if passed, would specifically cover appraisers under their lien law. Unfortunately, these measures have not passed the legislature.

Conclusion: In conclusion, most appraisers are not covered under state lien laws. Most state lien laws only cover real estate brokers and contractors. Broker lien laws specifically define broker to only include "licensed brokers". And in all states but Texas, appraisers do not fall under this definition.

CHAPTER MEETING

by Phil Suarez, Residential Associate

On Thursday, April 6, the Colorado Chapter of Appraisal Institute presented a valuable seminar on land planning issues entitled "What is the Value of Land Planning for Real Estate Appraisers, Residential & Commercial?"

Approximately forty people attended the seminar, held at the Red Lion Hotel near I-70 & Quebec. The chapter was pleased to have such expert opinions on the following topics:

- Expert witness assistance relative to highest and best use analysis.
- Land planning issues- the importance of design in developing communities.

Ken Bagley of Bagley Development Consultants, Ken Puncerelli of Land Architects, and Richard Chase MAI/Moderator, provided insight and state-of-the-art information about highest & best use analysis and relevant aspects of land planning.

During a question and answer period, appraisers and the panel discussed current issues, such as urban renewal, condemnation proceedings, and potential disputes between municipalities, developers, and environmental groups. The topics discussed represent current issues and reflect some of the complexities which residential and commercial appraisers encounter.



Seated at the head table (l to r) **Richard G. Stahl, MAI, SRA**, Past President; **Richard C. Mosier, MAI**, National Director; **Harold S. McCloud, MAI**, President; **Kent Bagley**, Bagley Development Consultants; and **Claudia D. Klein, SRA**, Vice President.



Harold S. McCloud, MAI conducted elections for members of the Nominating Committee and Region II Representative Alternates.



Richard B. Chase, MAI fielded questions and shared experiences pertaining to the seminar topic.

They Went That-A-Way

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EDITORIAL RAMBLINGS

by Steven D. Clauson, MAI



REAL ESTATE APPRAISAL – ART OR SCIENCE?

The perception of the general public that real estate appraisal is an art (and not a science) has always been intriguing to me. Webster's Dictionary defines **art** as:

1. skill acquired by experience, study or observation;
- 2a. branch of learning... and
3. an occupation requiring knowledge or skill.

Webster's Dictionary defines **science** as:

1. the state of knowing : knowledge as distinguished from ignorance or misunderstanding;
- 2a. a department of systematized knowledge as an object of study,
- 2b. something (as a sport or technique) that may be studied or learned like systematized knowledge... and
- 3a. knowledge covering general truths or the operation of general laws especially as obtained and tested through scientific method.

I think that real estate appraisal clearly and cleanly fits the three parts of the definition of **art** stated above –

1. real estate appraisal is a skill acquired by experience, study and observation;
2. real estate appraisal is a distinct separate branch of learning in the overall field of real estate careers, and
3. real estate appraisal is definitely an occupation requiring knowledge or skill!

I also think that real estate appraisal clearly fits the three parts of the definition of **science** stated above (but does not cleanly fit – there is some fuzziness here) –

1. at the end of a real estate appraisal assignment, an appraiser does know what his or her estimate of value is, but there is always the possibility that the process that led to the value estimate could have some elements of ignorance or misunderstanding;
2. real estate appraisal theory is a department of systematized knowledge, but at times is rife with debate over certain theories and techniques (i.e. – such as the ongoing debate relative to estimating “Business Enterprise Value”), and
3. real estate appraisal theory is knowledge covering general truths or the operation of general laws, but

there is not a recognized scientific method within real estate appraisal theory. A real estate columnist with the Washington Post, Benny L. Kass, wrote that “...appraisals are not based on any scientific formula: they clearly are subjective.”

Unfortunately, the majority of the general public (and even some residential lenders) think that all real estate appraisals are subjective. I do concede that value can be within a range and that there is a small element of subjectivity in estimating value within a range, but it is apparent that many residential borrowers think that appraisers can “determine value” rather than reliably estimate market value.

After conducting my research, I have concluded as many have before me: real estate appraisal does incorporate elements of both art and science. I believe that the common theme between art and science is acquiring knowledge. All real estate appraisers, from trainees on up to designated Appraisal Institute members, have had to acquire significant professional knowledge through coursework and training with an experienced appraiser, and continuing education requirements on both the state levels and Appraisal Institute levels insures acquisition of more timely knowledge. Perhaps the best way to describe real estate appraisal is to say it combines elements of art and science.

Relative to the “science” aspect of real estate analysis, I obtained a Master of Science degree in “Real Estate Investment Analysis and Advanced Appraisal Theory” from the University of Wisconsin in the early 1980's prior to starting my professional real estate appraisal career. It was a good choice for my professional education because I had the opportunity to study under Professor James A. Graaskamp, one of the pioneering leaders of real estate analysis. One of Graaskamp's famous quotes is: *“Real estate should be taught as a process of dynamic interactions rather than functional and historical facts. The result should be a real estate entrepreneur with the creativity of Leonardo da Vinci, the sensitivity for the natural world of John Muir, and the political humanity with cash management for profit of James Rouse. Of course, the graduate student should be something more!”* This quote incorporates **Art** (Leonardo da Vinci); **Science** (John Muir), and **Entrepreneurship** (James Rouse) in its reference to famous leaders.

My real estate appraisal professor at Wisconsin was Michael L. Robbins. Professor Robbins is currently the Appraisal Institute Instructor for the seminar entitled “The **Art/Science** of Real Estate Feasibility Analysis” – being given on September 14, 2006 in St. Paul, MN. I am looking forward to attending this seminar!

In conclusion, I believe that dedicated professional real estate appraisers can move the perception of our industry more towards its scientific aspects through the diligent application of improved techniques, better knowledge, better technology and better communication.

Welcome New MAIs

by Julianne M. Anderson, SRA

Richard D. Williams, MAI

The Colorado Chapter would like to congratulate new MAI, Richard D. Williams. He is a graduate of Cornell University in Hotel Administration. After several years of managing and owning the Buckhorn Exchange restaurant, Richard gained experience as a commercial real estate broker in the retail market in the Denver area. He says, "I started at the top and rode the market all the way to the bottom," in the 1980s. William Hopping, MAI convinced Richard to join him as a hotel appraiser in 1989. He worked several years with William Hopping and then joined HVS International. He gained tutelage from Steven Rushmore and Gregory Hartmann, MAI and wishes to thank them and William Hopping for all their help in steering him toward his MAI designation. Karen, his wife, was also a huge help during the education process and Richard would like to thank her as well. Don Boyson, MAI, SRA, also urged Richard toward this designation and his help was much appreciated. Presently, Richard works as an appraiser for HVS Food and Beverage Services. To those looking toward achieving this prestigious designation, Richard lends this analogy by relating his experience of obtaining the designation to the little boy who kept hitting himself in the head with a hammer. When asked why he would do such a thing the little boy responded, "Because it feels so good when I stop." Richard, now that you have achieved your goal, we hope the "feels so good" part continues in your career. We are thrilled to have you as a part of us.

Kent C. Stevens, MAI

Obtaining his Bachelor of Finance from BYU, Kent Stevens was introduced to the appraisal business through his father-in-law, Verl Brady, MAI, in Montana. He prepared primarily commercial appraisals for four years. After working for the private sector, Kent chose to join forces with the government and has prepared appraisals for many different governmental departments in the late 1980s and 1990s. He has worked for the National Park Service, the Department of Interior, BLM, Fish and Wildlife and Bureau of Reclamation, to name a few. He currently works with the Department of Interior and is always looking for new highly qualified appraisers to prepare appraisal work for his department. Currently he does primarily review appraisals. Kent would like to thank Verl Brady, MAI, Tom Power, MAI, SRA, Harold McCloud, MAI and John Schwartz, MAI for all their help in his obtaining the designation. He also acknowledges many other MAIs whom he has worked with in the past few years and credits each of them for raising his level of expertise, as they all have taught him something. Kent has nothing but praise for those with the MAI designation, as he feels the networking with such professionals has allowed him to be a better appraiser and will continue to do so in the future. This networking has increased his level of consciousness in many difficult assignments and this is why the MAI designation means so much to him. Kent and his wife, Barbara, have three children and enjoy their lives in our beautiful Colorado. We hope you continue to enjoy the networking with other fellow Appraisal Institute members, Kent. We are proud to have you as our well-regarded peer.

CHAPTER LIBRARY

Remember the Chapter Library is a great FREE resource for appraisal work! If you haven't used it, you will find that it includes a number of useful appraisal data sources that would otherwise cost you a lot. The library includes the most recent editions of:

- Dollars and Cents of Shopping Centers – Urban Land Institute
- Denver Metro Apartment Vacancy and Rent Survey
- IREM Income and Expense Analysis – Conventional Apartments
- IREM Income and Expense Analysis Federally Assisted Apartments
- BOMA Experience Exchange Report – Office
- NAIOP Industrial Income and Expense Report
- Frederick Ross Company Market Reports – Retail, Office and Industrial – Denver/Boulder
- Home Builders Association Report – Building permits
- Dollars and Cents of Multifamily Housing – Denver and Colorado Springs
- *NEW* – Trends in the Hotel Industry – 2005 Edition

Come to the Chapter office to look these over at your first opportunity. You will find them very useful for appraisal work. The Chapter can even offer use of the Chapter copier at no charge as well. Of course, if you would like any other resources added to the library, please contact the office.

We have found one resource (actually three) that residential appraisers will find useful. The following websites include access to databases of contacts for Home Owners Associations so you can find out monthly dues, reserves, etc. They were compiled by two title companies and a brokerage.

<http://www.realestatecolorado.net/denver-hoas/index.html>

http://www.firstamheritage.com/Hoas/heritage_hoasearch.asp

<http://www.stgco.com/hoa/hoaview/hoasearch.asp>

By the way, all Members of the Appraisal Institute can call 312.355.4469 for a complimentary copy of the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute, which includes a complete copy of the current version of USPAP.