

DEFINITIONS, GUIDELINES & REQUIREMENTS

STANDARD DEFINITIONS

➤ Appraisal

An appraisal is a written statement, independently and impartially prepared by a qualified appraiser, setting forth an opinion of defined value, of an adequately described property, as of a specific date, supported by the presentation and analysis of relevant market information.

➤ Contributory Value

Contributory value of an improvement, fixture, tract of land or portion thereof is an amount by which the total value of a property is changed either due to its presence or absence.

➤ Eminent Domain

The Iowa Constitution in Article 1, Section 9 provides that "no person shall be deprived of life, liberty or property without due process of law". Article I, Section 18 further provides that "Private property shall not be taken for public use without just compensation first being made, or secured to be made to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken".

➤ Equipment

Readily relocatable personal property not specifically designed or adapted to the function of the real estate. These items may be attached, but their removal would not impair the function or use of realty.

➤ Fixtures

Fixtures are defined as additions to real estate by reason of their attachment and the specific purpose which they serve. Fixtures are usually permanently affixed to the building or land and contribute to the purpose or use of the basic realty.

➤ Just Compensation

Iowa courts have translated the constitutional term "fair and just compensation" into a formula which defines the "measure of damage" to be used in determining the amount to be paid when private property is acquired for public use. Just Compensation is expressed in terms of market value and states that the measure of damage is the difference between fair and reasonable market value of the whole tract immediately before the acquisition and the fair and reasonable market value of the remaining portion immediately after the acquisition, without consideration of any benefits to the property which may have resulted or may result in the future from the proposed improvement. Likewise, in the case of total acquisitions of property, fair and reasonable market value is considered as the basis for "just compensation".

Basis:

Iowa Constitution, Article 1, Section 18; *Iowa Civil Jury Instructions 2500.3*; *Belle v. Iowa State Highway Commission*, 126 N.W.2d 311 (Iowa 1964); *Harris v. Board of Trustees of Green Bay Levee & Drainage Dist. No. 2, Lee County*, 59 N.W.2d 234, 237 (Iowa 1953); *Aladdin, Inc. v. Black Hawk County*, 562 N.W.2d 608 (Iowa 1997).

➤ Fair and Reasonable Market Value

STATE OF IOWA DEFINITION-- The term "fair and reasonable market value" means the cash price which would be arrived at as between a voluntary seller, willing but not compelled to sell, and a voluntary purchaser willing, but not compelled to buy. It assumes a buyer and seller are bargaining freely, in the open market for the purchase and sale of the real estate in question.

The term does not mean a value under circumstances where greater than its fair price could be obtained, nor does it mean the price which the property would bring at a forced sale. It does not mean what the property is worth to the plaintiff (owner) nor what the defendant (acquiring authority) can afford to pay, but what it is fairly worth in cash on the open market, as above stated.

Basis:

Iowa Civil Jury Instructions 2500.4

In short, the fair and reasonable market value of a property is to be considered in the same manner that a knowledgeable, voluntary buyer determines the fair and reasonable market value of a property-- what are its capabilities, what are its detriments, what is it fairly and reasonably worth in the market place? The jury and/or Compensation Commission is entitled to be informed of all factors which (1) the willing seller would impress upon the willing buyer that tend to show value and (2) the willing buyer would

impress upon the willing seller that tend to indicate lack of value--including sales of comparable properties and evidence of its highest and best use.

Basis:

Iowa Civil Jury Instructions 2500.6 and annotated authorities; Bellew v. Iowa State Highway Commission, 171 N.W. 2d 284, 288-289 (Iowa 1969); and, In Re Primary Road No. 141, 255 Iowa 711, 124 N.W.2d 141, 147 (1963).

The determination of “Market Value” may not consider or reflect any enhancement in value of the subject, caused by the public improvement which has prompted the taking. (No sales exhibiting these effects may be used as a comparable in arriving at the value of the subject property, either before or after the date of condemnation.)

Basis:

Iowa Civil Jury Instructions 2500.3; Socony Vacuum Oil Co. v. State, 170 N.W.2d 378 (Iowa 1969).

➤ Salvage Value

Value inherent in fixtures and personal property to a purchaser who must remove them from the premises at the purchaser’s expense, for transport to another location allowing a reasonable period of time to find a purchaser with knowledge of the uses and purposes for which they are adaptable and capable of being used, including the separate use of serviceable components and scrap when there is no reasonable prospect of sale, except on that basis.

Any compensation for the loss, damage or reduction in value of personal property will be made as a Relocation Assistance payment.

Basis:

Section 6B.42 Eminent domain – payment to displaced persons, and, *Iowa Code*, Section 316.2(3); Nidy and Company v. State, 189 N.W.2d 583 (Iowa 1971); Cahill v. Cedar County, Iowa, 367 F. Supp.39 (N.D. Iowa 1973).

➤ Value in Place

Value in place is defined as the amount a prudent purchaser would pay for an item (fixtures and equipment) in place; determined by the use the item contributes to the whole property. This value is typically based on the installed cost of the item less depreciation. Installed cost includes the cost of the item plus costs of any foundations, wiring, plumbing, permits, etc., necessary for the item to remain in the existing operational condition.

The Iowa DOT typically requests this valuation information in fixture and equipment appraisals. This information is also used by the Relocation Assistance Section when making an “Actual Direct Loss of Tangible Personal Property” determination.

APPRAISAL, GUIDELINES & REQUIREMENTS

➤ Access

Access to an established roadway is considered a property right. Every property has the right to free and convenient access to a public road system. However, the right of access associated with a property abutting a public roadway does not include the privilege of unrestricted entry at each and every point along the frontage. Through exercise of police power, state and local governments are authorized to control access. Abutting owners are not entitled to compensation if their property retains or is provided with reasonable access compatible with highest and best use.

Valid exercises of police power by a governmental authority and which do not entitle the abutting landowner to compensation for damages may include:

- ❖ Insertion of median dividers only separating the lanes of travel
- ❖ Changing traffic from two-way to one way
- ❖ Increase or decrease in traffic volume, or a change in the nature of traffic on the roadway
- ❖ Limitations of size, weight, and class of vehicles authorized to use roadways
- ❖ Limiting access to defined entrance locations

Basis:

Linge v. Iowa State Highway Commission, 260 Iowa 1226, 150 N.W.2d 642 (1967); Lehman v. Iowa State Highway Commission, 251 Iowa 77, 99 N.W.2d 404 (1959).

A landowner is not entitled to damages for denial of access to a new highway or section of a relocated highway designated as a controlled-access facility at the time of its construction. No right of access vests, therefore no compensation can be allowed. While the landowner may recover damages to the land caused by the fact that the road separates a parcel into two tracts, the landowner may not recover for loss of access to the highway itself.

Basis:

Lehman v. Iowa State Highway Commission, 251 Iowa 77, 99 N.W.2d 404 (1959); Des Moines Wet Wash Laundry v. City of Des Moines, 197 Iowa 1082, 198 N.W. 486, 489 (1924).

When a property presently has frontage on two or more roads and access is denied or substantially impaired on one of the roads, availability of the alternate does not necessarily eliminate damages to the remainder.

Frontage roads present an additional access question. If direct access is impaired, the property may be damaged even though the frontage system is a substitute for the direct access, although the frontage road may reduce or eliminate such damage.

Access is one area in which there is a limited judicial record. Many areas are still subject to additional judicial review and ruling. Therefore, when a special issue is encountered, the appraiser is advised to consult with the Chief Appraiser.

If the frontage road right of way is purchased by either warranty deed or permanent easement, public maintenance will be provided. A frontage road or entrance constructed on a temporary easement will not have public maintenance.

Right of way plans on some highways will include predetermined access locations (PDA). Most PDA's will be built during project construction. Construction of entrances at PDA's which are not built until after the project completion will be by the Iowa DOT. These un-built PDA entrances will be constructed in response to the property owner's request.

➤ Adverse Possession

Acquisition of property rights through the legally prescribed process of "open and notorious occupancy". No private individuals may acquire property rights to government owned lands through adverse possession. Therefore, no compensation may be paid for the acquisition of private improvements located on public lands or for reclaiming public lands from private occupancy.

➤ Advertising Devices (Signs)

In Iowa, when an advertising sign is located within the proposed acquisition area, it is generally considered as personal property and will be moved under the state's Relocation Assistance Program.

Advertising signs may be categorized into two main groups, On-Property Signs and Off-Premise Signs.

On-property signs advertise the principal product sold or activity conducted on the property where the sign is located and may require local, city or county permit or approval.

Off-premise signs are those signs displaying general advertising about products or services available at locations other than at the sign site. With the exception of special event signs, all off-premise signs require a permit which is issued through the Advertising Management Section in the Office of Traffic and Safety at the Iowa Department of Transportation.

Examples include: billboards owned by advertising companies; county-municipal-school district recognition signs that welcome approaching travelers; and, church-service club signs that display a message relating to locations or meeting times.

An advertising device WILL BE APPRAISED and acquired:

- ❖ When there is an on-property advertising sign on a total acquisition, the sign will be appraised as part of the real property.
- ❖ When the advertising sign cannot legally be moved back onto remaining land because of zoning or spacing requirements. Generally, this involves off-premise signs on partial acquisitions.
- ❖ When the sign and/or structure supporting the sign cannot physically be moved or it is not economically feasible to move it. This generally involves masonry structures.

➤ Allocation of Just Compensation

Iowa Code Section 6B.45 requires that the property owner be provided an "itemization of appraised value of real property or interest therein, any buildings thereon, all other improvements including fences, severance damages and loss of access". The review appraiser is to allocate an estimate of just compensation, concluded in a Detailed Appraisal (Before and After) or a Value Finding Appraisal, into the categories noted on Form 633-102. The allocation is to be based upon either, the appraiser's conclusions and opinions stated in the report, or the review appraiser's interpretation of the market data. This form will become a part of the review appraiser's report and will be presented to the property owner.

➤ Appraisal Confidentiality Requirement

Except as required by due process of law or written consent, it shall be considered improper for the appraiser to disclose to the property owner or a third party the appraisal report or any of the observations or conclusions reached until the appraisal becomes a matter of public record.

➤ Appraisal Objectivity

The appraiser's duty in preparing an appraisal is to provide an unbiased opinion of "fair market value" of a specified property and an estimate of "just compensation" for a proposed acquisition. The value conclusion is to be objective and unrelated to any perceived desires, wishes or needs of the acquiring agency or property owner. The appraiser is neither to withhold nor to overemphasize any facts, data or opinions

concerning the subject, or in any other particulars to become an advocate. The appraiser has an obligation to present data, analysis, and value conclusions without bias, regardless of their effect on any party to the action.

➤ Approaches to Value

The appraisal report should include only those approaches to value that are pertinent to the property appraised. Any approach to value that is not applicable to the solution of the appraisal issue may be omitted. Reasons for omitting any approach to value should be clearly stated in the report. When sufficient market sales are available to support the fair market value for the appraisal, the appraiser should include only a Sales Comparison Approach to value in the appraisal report. When appraising properties with older improvements, the cost approach to value should be omitted. When appraising properties that are not normally leased, the income approach to value should be omitted. The sales comparison approach to value should be examined in all cases where market sales exist.

➤ Assumptions and Limiting Conditions

The following is a partial list of assumptions and limiting conditions which are acceptable in appraisals for the Iowa DOT. Some assumptions may not be applicable to all appraisals. The appraiser may assume:

- ❖ The photographs contained in the individual appraisal reports were taken by the appraiser on the date the property was inspected. Any photo taken on a different date or by another person is appropriately labeled.
- ❖ The title to the property is good and merchantable, free and clear of all liens. There are no encumbrances other than those mentioned in the appraisal report.
- ❖ The plans, plats, legal descriptions and other data furnished by others are assumed to be correct and reliable, but the appraiser assumes no responsibility for their accuracy.
- ❖ The individual appraisals conform with the Iowa Constitution and *Iowa Code* and do not reflect any benefits or diminution of value caused by the proposed improvement, and do not include non-compensable items of damage.
- ❖ Any temporary easement area acquired will be retained by the State until completion of the construction project and will be returned in the condition indicated by the project plans.

- ❖ Existing drainage will not be adversely affected by highway construction unless otherwise specified in the data furnished. Tile lines on remaining property will function properly after highway construction is completed, unless otherwise noted.
- ❖ The property is appraised as though under responsible ownership and typical management.
- ❖ In those cases where the State does not erect a right of way fence, and fencing is required, the property owner will be paid separately for the cost of fencing the new right of way line. The property owner has a right to pasture livestock adjacent to any State erected fence but must assume all responsibility for restraint of such livestock. Any project effect on fencing other than right of way fence or temporary fence will be considered in the individual appraisal reports.
- ❖ The property owner or lessee will be paid separately for loss, if any, of growing crops or completed field preparation.
- ❖ The Iowa DOT may use any or all of the contents of appraisal reports only for normal business functions.

➤ Benefits Offsetting Damages

Article 1, Section 18 of the Iowa Constitution forbids project benefits from being used to offset either damages or land costs during eminent domain acquisition. See Page 3, "Jurisdictional Exception Rule".

➤ Benefits or Diminution of Value

Benefits may be defined as, "A significant market advantage which has resulted, or which may result in the future, from the public improvement for which land is sought to be acquired." Diminution in value may be defined as "A significant reduction in value resulting from anticipation of the impending project or any other public improvement project".

No consideration may be given to changes in value resulting from speculation based on knowledge of the project. This speculation may result in either an increase or decrease in the property value. **An eminent domain project property appraisal must reflect the value of subject property as if the project did not exist.**

The appraiser shall consider comparable sales of properties located in the vicinity of the property being appraised. However, when sale prices of these properties reflect

enhancement or diminution of value caused by anticipation of the proposed project, the appraiser shall reject such sales and substitute sales in unaffected comparable locations.

Basis:

Socony Vacuum Oil Co. v. State, 170 N.W.2d 378 (Iowa 1969).

The facts and circumstances of sales rejected because their sales price reflects benefits or detriments shall be reported by memorandum to the Chief Appraiser or Manager of Appraisal Production.

Likewise, if, during the interview, the owner informs the appraiser of a sale that occurred, AND it was NOT used in developing the appraisal, the appraiser should note that fact in the owner contact.

➤ Comparable Sale

Market data is essential to each of the three value approaches. The appraiser's opinion of value is to be based on objective rather than subjective analysis. In order to accomplish this, the appraiser must use comparable sales.

In order for a sale to be considered a valid comparable to the property under appraisal, it must meet three criteria.

1. The comparable sale must be competitive. That is, it should be a reasonable substitute for the subject property. The comparable must be similar enough in size, shape and features.
2. The comparable sale must qualify as an open market transaction. This requirement eliminates sales that are not "arm's length" sales. There should be no unusual circumstances about any particular sale that could distort its price.
3. The comparable sale should have a sale date relatively close to the date of value. The appraiser must also consider general market price trends. The sale prices of all properties are generally affected by inflation or deflation and by other local influences more than national trends. The more current a sale, the less chance there is for some influence affecting a sale's comparability.

Every property is unique in some way. Because of this, the appraiser may have difficulty in finding recent sales of completely comparable properties. While the appraiser should make every attempt to collect sales that are as similar as possible in time, location and major characteristics, there sometimes may not be enough market to do so. It then becomes necessary to widen standards of comparability to obtain an adequate number of sales. **The appraiser should never use sales that do not meet the criteria for an open market transaction.**

In Iowa eminent domain appraisal, there are additional criteria which define what is considered to be a comparable sale.

An “arms length” sale of the subject property can be used as an indication of the fair market value of the subject property.

Basis:

Jordan v. Iowa Department of Transportation, 468 N.W.2d 827 (Iowa 1991); Riley v. Iowa City Board of Review, 549 N.W.2d 289 (Iowa 1996); Redfield v. ISHC, 99 N.W.2d 413 (Iowa 1959); Campbell v. ISHC, 222 Iowa 544, 269 N.W. 20 (1936),

The sales price of third party sales which are comparable to the subject property, as a matter of law, is independent evidence of the value of the subject property. For such sales and sale prices to be comparable, they must be similar in size, use, location, character of land and time, mode and nature of the sale.

Basis:

In RE Primary Road No. Iowa 141, 255 Iowa 711, 124 N.W.2d 141, 147 (1963); Belle v. Iowa State Highway Commission, 126 N.W.2d 311 (Iowa 1964); Redfield v. Iowa State Highway Commission, 99 N.W.2d 413 (Iowa 1959); Iowa Development Company v. Iowa State Highway Commission, 122 N.W.2d 323 (Iowa 1963).

Land contract sales must be reduced to their cash equivalent value when used as a comparable sale.

Basis:

Iowa Civil Jury Instructions 2500.4; Jordan v. Iowa Department of Transportation, 468 N.W.2d 827 (Iowa 1991).

Speculative contract sales or contract sales for a consideration other than money should not be used as comparable sales.

Basis:

Redfield v. Iowa State Highway Commission, 110 N.W.2d 397 (Iowa 1961).

Sales of lots and small acreages are not comparable sales for determining the before value of a large farm unless there is a present demand for such uses or a reasonable expectation of demand in the near future.

Basis:

Martinson v. ISHC, 134 N.W.2d 340 (Iowa 1965); Bellew v. Iowa State Highway Commission, 171 N.W.2d 284, 288-289 (Iowa 1969); Redfield v.

ISHC, 99 N.W.2d 413 (Iowa 1959); Iowa Development Company v. Iowa State Highway Commission, 122 N.W.2d 323 (Iowa 1963).

Neither the sales of properties under the threat of condemnation or properties that have been condemned may be used as comparable sales. Sales reflecting special benefits or detriments from public improvement projects under appraisal may not be used.

Basis:

Iowa Civil Jury Instructions 2500.7; Socony Vacuum Oil Co. v. State of Iowa, 170 N.W.2d 378 (Iowa 1969); Jones v. Iowa State Highway Commission, 259 Iowa 616, 144 N.W.2d 277, 280 (1966);

An unaccepted offer of sale that assumes that a certain use of the property will be permitted and that subsequently fail to reach fruition because the assumption is incorrect, should not be used as a comparable sale.

Basis:

Danamere Farms, Inc. v. Iowa Department of Transportation, 567 N.W.2d 231 (Iowa 1997); Hardaway v. City of Des Moines, 166 N.W.2d 578, 580 (Iowa 1969).

➤ Closing Costs

Costs associated with the closing of real estate transactions such as future abstracting, mortgage release, etc. shall not be considered in the appraisal. These are handled under separate payment during the acquisition, relocation, and closing processes.

➤ Contacts With Property Owner and Tenants

When preparing an appraisal, the appraiser must contact the property owners, or their designated representative, before an on site physical inspection of the subject property. **Permission to inspect the property must be requested and the owner or their designated representative must be invited to accompany the appraiser on the property inspection.** (See Page 7, “Statement of Property Owners’ Rights”) The appraiser is to interview that person in order to gain such information as is required to properly complete the assignment.

Any questions the owner may present concerning the proposed acquisition are to be researched and answered if possible.

All contacts with the owner are to be in a helpful, non-argumentative manner. In the case of a leased property (except residential month to month and annual farm leaseholds) the appraiser should also interview the tenant. The tenant must be offered an

opportunity to accompany the appraiser on a property inspection if tenant-owned improvements are affected by the proposed acquisition and/or when it is determined there is a leasehold.

Copies of property plats and the summary of proposed acquisitions may be presented to the owner and tenant.

➤ Contacts With the Public

Appraisers are to promote good public relations for the agency through professional conduct and exercise of discretion in their contacts with the public. Individuals should issue no statements to news media without the approval of the Right of Way Director.

➤ Cost to Cure

When appraising a partial acquisition where monetary damages, due to acquisition, may be substantially reduced through some action on the part of the property owner, and the cost of that action is less than damages would otherwise be, the appraiser is to consider the "cost to cure", or actual cost to solve the situation, in the report. The total of cost to cure and damages, as cured, must not exceed the total damages as if not cured. Significant costs to cure must be supported by written contractor's estimates, attached to the appraisal report. The "Cost to Cure" is considered an appropriate technique, as it reflects actions of purchasers in market transactions when they examine deficient or damaged property.

Although the owner of the property may opt to do so, the appraiser should not use cost to cure when the removal of buildings or fixtures to the real estate is required to lessen or mitigate damages.

Basis:

Wilson v. Fleming, 239 Iowa 718, 31 N.W.2d 393 (1948).

➤ Crop Loss

Appraisals prepared prior to condemnation are not to consider crop loss in the acquisition area. Compensation will be provided separately at the time of acquisition or condemnation.

In the case of an appraisal for court testimony where the crop was not harvested by the owner, the appraisal shall consider the value as of the condemnation date.

➤ Donations

Iowa Code Section 6B.54(9) and Title 23 of the United States Code of Highways, Section 323, provide that a person whose real property is acquired in connection with a Federal-aid highway project may offer a gift or donation of such property, or any part thereof, or of all or part of the "just compensation" paid for the property, to a Federal Agency, a State or a State Agency, or to a Political Subdivision of a State, as determined by that person. Such donation may only occur after the person has been fully informed of their right to receive "just compensation" for acquisition of the property.

When property is acquired by donation, no appraisal is required. However, owners must also be fully informed that they are entitled to an appraisal of the property along with an offer of just compensation. It is not unusual for an owner to insist upon receiving an appraisal, even though the property is ultimately to be donated, for accounting and tax reasons.

If an owner wishes to donate land, the Iowa DOT's or Acquiring Agency's obligation to appraise and offer just compensation for the acquisition of property must be waived. Form 633-220 provides for the property owners' written release. This document is normally presented to the property owner by the acquisition agent in the negotiation process.

➤ Driveways--Additional Maintenance

State law provides that the Iowa DOT shall pay the property owner \$20.00 per lineal foot for additional length of any driveway to a remaining residence, requiring private maintenance, that is relocated as a part of a highway construction project. The purpose of this payment is to reimburse the property owner for future maintenance costs of the additional driveway length. The additional length will be specified on the summary sheet provided in the parcel file. See Exhibit 21-7.

Basis:

Iowa Code Section 306.19(2a)

➤ Duplication of Damages

Highway construction plans often provide for the replacement of drives, walks, parking surfaces, retaining walls, etc., or specify that certain trees or shrubs will not be disturbed during construction activities. The appraiser shall exercise care to avoid payment for these items in the after valuation. Damage for items replaced shall not appear in the after valuation unless their utility is diminished.

➤ Easements

❖ Temporary Easements

Temporary easements are for stated purposes and limited time periods, which vary with the requirements of the easement. When appraising the after value of temporary easement areas, the appraiser shall consider the condition in which the tract will be left after the completion of the construction project, the length of time the easement will be in force, and whether the owner will have any rehabilitation expense after it is released.

Temporary easements are acquired for many specific purposes such as: borrow, haul road, shaping slopes, ditching outlets, removing acquired improvements, driveway construction, utility construction, etc.

❖ Temporary Easement Haul Roads

A road grade will normally be constructed for haul roads. This grade will be removed and the ground elevation returned to its approximate original contour, prior to the abandonment. A haul road easement will be released following completion of the construction project.

❖ Temporary Easement Borrows

A temporary easement borrow is normally purchased when a quantity of fill material is required for the construction of a specific highway project. The appraiser is to be provided a surface drawing of the limits of the easement and the limits of the actual borrow area within the easement. A cross section plan or topographic map indicating the final slope of the borrow is also to be provided by the Agency.

In the case where the plans and "Summary of Proposed Acquisition," furnished by the Agency, state that topsoil is not to be replaced, only the after condition for the borrow is to be valued.

In case where the plans and "Summary of Proposed Acquisition" state that topsoil is to be replaced, the appraiser is to value the borrow assuming the replacement of eight inches of topsoil throughout the borrow area. If, during the property inspection, or analysis, the appraiser should conclude that soil quality, topographical features, change of highest and best use, or use for commercial, industrial or residential development, precludes the need for topsoil replacement, the appraiser may contact the Chief Appraiser for instructions on how to proceed.

On borrows where topsoil is to be replaced, the Iowa Department of Transportation is required to make provisions for the salvage of top soil. The property owner is no longer responsible to provide an area to store topsoil during borrow activities.

Basis:

Iowa Code Section 314.12A

Stabilized crop seeding and fertilizing will be applied to all areas except water covered areas of lake-type borrows and borrows where topsoil is replaced.

Temporary borrow easements will normally be released after completion of the grading, paving and erosion control on project.

If field tile lines are severed by removal of the borrow material, the state's road contractor will perform whatever restoration is necessary to assure continuing function of any tile remnant draining on remaining land. Therefore, this is not an appraisal issue except that the borrowed portion will not be re-tiled.

Costs for temporary perimeter fencing for a borrow easement will be reimbursed as part of the acquisition process and not as part of the appraisal.

The after value of the borrow easement areas shall be supported by market or income analysis. Sales of former borrow areas may be used for documentation of values.

❖ Permanent Easement Borrows

Iowa DOT policy is to vacate permanent easements for borrow one year after all construction has been completed, except on those permanent easements for wetland mitigation purposes in addition to borrow purposes. Permanent easement borrows are usually acquired for use on more than one project or for use at different stages of a single project. Therefore, the appraisal will consider the easement right to permanently encumber property.

❖ Permanent Easements for Ponding

Ponding rights are obtained by a permanent easement covering a specific area. They are typically obtained when drainage structures are proposed with a raised entrance flow line.

When ponding is required, a specified easement area will be indicated. The appraiser will consider the effect on the remaining property. A ponding easement includes purchase of a specific right only. The appraisal is to recognize the value

remaining as derived from the property rights not acquired. Property fence can usually be re-constructed along the right of way line, leaving the owner in protected physical possession of the ponding easement area. A fence berm, along the right of way, will normally be constructed to facilitate fence construction.

If a previous ponding agreement has been obtained from the property owner, the existing ponding area normally will not be designated on the highway plans or summary sheet, but a copy of the agreement may be included in the parcel file. These prior agreements shall be considered as an existing limitation to the rights of ownership. Care is to be exercised to avoid duplication of payment when considering the value of a subsequent acquisition.

If only the proposed ponding elevation is indicated on the highway plan, the appraiser will consider the property to be undamaged. In that case ponding conditions which are not desired by the property owner will be eliminated during acquisition. Elimination of unwanted ponding easements should not be initiated by the appraiser.

❖ Permanent Easements for Road Purposes

When a permanent easement for road purposes is acquired, the method of appraising the property shall be same as if the acquisition were by fee title. Use of the easement area is assumed to be permanently lost to the remaining property.

❖ Permanent Easements for Special Purposes

Permanent easements are purchased for such special purposes as to construct and maintain a berm, backslope, drainage structure or flowage. They may also be purchased for utility locations, scenic preservation and other purposes. In these instances, the easement is for a single purpose and usually does not result in the total loss in value of the described area. Each easement of this type should be considered according to the individual purpose and limitations placed upon the property owner's future use of the affected area. Any fencing which may be required, may be erected along the new right of way line.

➤ Fencing

- ❖ Partial Acquisitions—The appraiser shall not consider loss of Right of Way fence as a damage item in pre-condemnation appraisals. Separate payments will be made for replacement of existing fence, and for construction of new fence along relocated highways. The appraiser will not consider any extra fencing damage such as additional fence corners or water gap fencing along new right of

way line, as these costs will also be compensated separately. All other fence located within the area purchased, whose utility is not replaced by conventional right of way fence, shall be considered in the appraisal. This may include ornamental or special-purpose fences, and interior field, lot or lane fencing.

Basis:

Iowa Code Section 6B.44

- ❖ Total Acquisitions--On all total acquisitions, fence need not be separately valued. The fence should be considered as it contributes to the overall value of the property.
- ❖ Agency Erected Fence--The agency will construct a line fence along freeway right of way. Such fence will be maintained for access control purposes only. The adjacent owner is permitted to use the fence as a property line fence; however, the owner must assume full responsibility for the restraint of livestock. If special fencing is required by the property owner, it will be addressed during the acquisition process.
- ❖ Temporary Fence--Any temporary fence that may be required, during the period of highway construction, shall not be considered as a part of the pre-condemnation appraisal. Such fence, when erected, will be compensated for by the District. In appraising for condemnation or court appeal, the appraiser shall consider any temporary fence that may have been required.

➤ Haul Roads--See Easements

➤ Hazardous Substances/Contamination

This is defined as contaminants of buildings and/or land which are recognized as potentially hazardous to public health or safety. These materials may include but are not limited to: asbestos, petroleum, farm and industrial chemicals, urea formaldehyde foam insulation (UFFI), etc. The appraiser is to note any suspected presence, and immediately notify the Chief Appraiser.

The appraiser should be especially aware of the implications of ground stains, lack of vegetation, underground storage tank filler caps and vents, improperly storage or disposal of chemical bottles, cans and drums.

❖ Underground gasoline and oil tanks

The appraiser is to identify the age, condition, location, size, and contents of tanks present, if possible. The Chief Appraiser is to be notified immediately of tank existence. The Iowa DOT will ascertain whether the tanks are a

contaminant. Legal tanks are registered with the Iowa Department of Natural Resources (DNR). Illegal tanks are subject to fine by the DNR.

❖ Asbestos

The appraiser will identify the type, location and condition (friability) if possible. Asbestos is most commonly found in furnace and pipe wrap, house siding, floor tile, and sound absorption sprayed ceiling texture.

The following information is required by the Environmental Protection Agency (EPA) as a part of their notification policy on asbestos removal.

- ◆ Parcel Number
- ◆ Property Address
- ◆ Description and Type
- ◆ Size or Amount
- ◆ Age
- ◆ Previous Use
- ◆ Present Use

❖ Chemical Waste

The appraiser is to note any chemical disposal sites or spill areas and, if possible, identify the chemical. These may include old barrel storage areas and improperly disposed of chemical cans in farm dumpsites. The Chief Appraiser is to be immediately notified of their existence.

WARNING – The appraiser is to take proper precautions when inspecting properties with suspected chemical or asbestos contamination. You are not expected to be an expert in this field, and thus should protect yourself in situations where it is possible to inhale or come in physical contact with dangerous substances.

Neither the liability for nor the reasonable cleanup costs can be considered by the appraiser until they have been established in a legal proceeding brought by the DNR or by the acquiring authority as required by law.

Basis:

Iowa Code Sections 455B.381 through 399; Aladdin, Inc. v. Black Hawk County, 562 N.W.2d 608 (Iowa 1997).

➤ Inspection Of Subject Property

When preparing an appraisal, prior to inspecting the subject property, the owner or owner's designated representative shall be given an opportunity to accompany the appraiser during the appraiser's inspection, unless the owner cannot be located. See Page

7, “Statement of Property Owners’ Rights”. The appraiser will conduct the inspection in a manner that will fully reveal and yield the data needed to properly complete the appraisal. All buildings that are included in the proposed acquisition, or are being substantially affected, will be entered for inspection. This inspection will include viewing all required portions of the property, making necessary measurements and taking applicable photographs. The inspection will be conducted in a manner that will avoid any unnecessary disturbance of livestock, crops, operations of business, customers, etc.

In the case of a leased property (except residential month to month and annual farm leaseholds) the appraiser should also interview the tenant. The tenant must be offered an opportunity to accompany the appraiser on a property inspection if the tenant-owned improvements are affected by the proposed acquisition and/or when it is determined there is a leasehold interest.

If permission to inspect is denied, the appraiser will notify the Chief Appraiser who will determine the appropriate procedure to follow in completing the assignment.

➤ Interim Use of Improvements

An interim use is the temporary use of an improvement to generate income during the period preceding redevelopment. When the value of a tract, as if vacant, exceeds or equals the value as currently improved, a change in use must be considered as probable. If redevelopment is imminent, the value of improvements is normally a negative and equal to the difference of their cost to remove and their salvage value. If redevelopment is postponed, some consideration must be given to income which may be generated through the interim rental of improvements.

➤ Landlocked Tracts

A tract severed from existing access, by an acquisition, to which no alternative access is to be provided, is considered landlocked. When the file data indicates a landlocked tract will be acquired and the owner expresses a desire to retain the area, this information should be brought to the attention of the Chief Appraiser. The appraisal is to reflect the access status of a tract as reflected on the project plans and property plat.

➤ Legal Descriptions

Legal descriptions are typically one of the following:

❖ Rectangular Grid System or Government System

This system was authorized by the Continental Congress in 1785 and by subsequent Congressional acts. This system is in use today in 30 of 50 states, including Iowa. Excluded from this system are the 13 original colonies, all Atlantic coast states (except Florida), Hawaii, West Virginia, Kentucky, Tennessee and Texas.

Land is divided into townships approximately six miles square, each township normally containing thirty-six sections and each section normally containing 640 acres. This is the most typical rural legal description in Iowa.

❖ Lot and Block System

This system, including subdivision plats, was developed as an outgrowth of the rectangular survey system. It is used to simplify the locational descriptions of small parcels. This system is the most typical urban legal description in Iowa.

❖ Monuments

This is a legal description by reference to natural or manmade objects. If monuments are permanently fixed and unequivocally identifiable, description by monuments is satisfactory. It is found in some Iowa rural areas.

❖ Metes and Bounds

A description of a parcel of land by reference to the courses (angles east or west of due north or due south) and distances (usually in feet or chains) of each straight line which forms a boundary, with one of the corners tied to an established point, such as a section corner, or the intersection of center lines of two roads, etc. In Iowa it is normally used in conjunction with a government system or lot and block description.

❖ Land Grant Description

A description of land resulting from French or Spanish land grants. These areas are exempted from the Government System and exhibit descriptions similar to Metes and Bonds descriptions. A few areas of this type can be found in Iowa.

❖ Recorded Plat

A description of a parcel of land by reference to a survey plat which has been filed in the Office of the County Recorder.

➤ Livestock Passes

On projects where an existing livestock pass is not replaced, the appraiser will consider whether this loss affects the value of the remainder. If a drainage structure is used as a stockpass the appraiser will not consider the loss as a compensable item of damage, unless an instruction is provided to the contrary. Property owner requests for new stockpasses will be deferred and will be addressed during the acquisition process.

The Iowa DOT will maintain all stockpass structures, but will not be responsible for the maintenance of approaches or clearing of passageway.

➤ Liquid Petroleum (LP) Tanks

Liquid Petroleum tanks located within the proposed acquisition area or which serve improvements to be acquired, must be researched as to ownership.

Where a petroleum system, including the storage tanks, is put to the same use as the realty and the owner intended to make the system a permanent part of the real estate, a liquid petroleum tank is real estate and not personal property.

Basis:

Young v. Iowa Department of Transportation, 490 N.W.2d 554 (Iowa 1992).

If the tanks are leased and will not be included with the real estate, they will be identified as such and the lessor will be named. Any other items such as satellite dish, yard ornamentation, etc. that are not considered part of the real estate, must be clearly identified in the appraisal report.

➤ Machinery and Equipment

Identification criteria involved in M & E appraisals include:

- ❖ Machine Unit Data: manufacturer's name, location, specifications; serial and model numbers; size or capacity; machine name; standard or auxiliary attachments; drive arrangement type; etc.
- ❖ Prime Mover Data: electric, hydraulic, pneumatic, steam, etc.

- ❖ Installation Data: controls, millwright work, foundations, etc.
- ❖ Owner's Identification or inventory number
- ❖ Record Data: physical, functional, economic
- ❖ Ownership

➤ Mailing Address

Lessor and lessee names and mailing address will be listed on Forms 633-101, 401, or a page attached thereto. In the case of multiple owners, all names and addresses, if available, must be reported in the appraisal. When the appraiser is unable to secure an owner or tenant's name or address, he/she should report that information to the Chief Appraiser, and documented in the appraisal report.

Property addresses must identify either a street, avenue, or rural route number because a post office box number cannot be served in the event of a condemnation proceeding. Continue to indicate post office box numbers as applicable together with the proper numbered street, avenue, or rural route address. Applicable zip code numbers must also be secured and identified.

➤ Mineral Deposits

Iowa does not follow the unit rule in valuing the value of a mineral deposit. It is improper to calculate damages to the owner of a mineral interest right by multiplying the amount of minerals by the royalty figure or market price.

Basis:

Bowser v. Iowa Department of Transportation, 504 N.W.2d 632 (Iowa 1993).

However, the amount and value of recoverable mineral deposits are proper and necessary elements to be considered in determining the before and after value of the mineral leasehold.

Basis:

Lehigh Clay Products, Ltd. v. Iowa Department of Transportation, 512 N.W.2d 541 (Iowa 1994).

➤ Minimum Payment

Appraisals will not recommend a minimum payment or damage, but will reflect the appraiser's estimate of compensation due.

➤ Mitigation of Damages

When the parcel file data and/or highway plans indicate that the construction will be for the specific use and benefit of the subject property, such construction can be considered in the valuation process, but only to the extent that it may offset severance damage to remainder. Examples include entrance construction, ponding easements, flowage easements, etc.

➤ Non-Compensable Items

An acquisition, in which the use of eminent domain is a possibility, is a proceeding to acquire real property. It is not a proceeding against the owner of the property. In the case of a partial acquisition, payment of the difference between the before and after value of the property will justly compensate the owner for all compensable damages caused to the remaining real property.

The Iowa Supreme Court has considered and rejected a number of claims for damages which, if paid, would provide either double or duplicate recovery; or which do not damage remaining real property. Therefore, they are non-compensable.

A number of damage items have been held by courts to be generally non-compensable.

Following is a list of such items which the appraiser shall not consider.

❖ Loss of anticipated profits or increase in operating expenses

Basis:

Kurth v. Iowa Department of Transportation, 628 N.W.2d 1 (Iowa 2001); City of Des Moines v McCune, 487 N.W.2d 83 (Iowa 1992); City of Des Moines v. Wizer, Inc., 446 N.W.2d 289 (Iowa 1989); Nedrow v. Michigan-Wisconsin Pipeline Co., 61 N.W.2d 687 (Iowa 1953); Johnson County Broadcasting Corp. v. Iowa State Highway Commission, 256 Iowa 1251, 130 N.W.2d 707 (1964); Wilson v. Iowa State Highway Commission, 249 Iowa 994, 90 N.W.2d 161, 169 (1958).

❖ Loss of good will in business (State does not acquire business interest)

Basis:

Kurth v. Iowa Department of Transportation, 628 N.W.2d 1 (Iowa 2001); Post-Newsweek Cable, Inc. v. Board of Review; 497 N.W.2d 810 (Iowa 1993); Nichols on Eminent Domain, Vol. 4, §13.13[2]; Am. Jur. 2d. Eminent Domain, §335.

- ❖ Inconvenience during construction including temporary loss of business
Basis:
Wilson v. Iowa State Highway Commission, 249 Iowa 994, 90 N.W.2d 161, 169 (1958); Blank v. Iowa State Highway Commission, 252 Iowa 1128, 109 N.W.2d 713 (1961).
- ❖ Loss of sentimental value
Basis:
Iowa Civil Jury Instructions 2500.4; Nidy and Company v. State, 189 N.W.2d 583 (Iowa 1971); Stortenbecker v. Iowa Power & Light Co., 96 N.W.2d 468 (Iowa 1959); Hamer v. Iowa State Highway Commission, 98 N.W.2d 746 (Iowa 1959).
- ❖ Change in volume or rerouting of highway traffic
Basis:
Grove & Burke, Inc. v. City of Fort Dodge, 469 N.W.2d 703 (Iowa 1991); Wilson v. Iowa State Highway Commission, 249 Iowa 994, 90 N.W.2d 161 (1958)
- ❖ Construction of only median or dividing strips to control traffic
Basis:
Simkins v. City of Davenport, 232 N.W.2d 561 (Iowa 1975).
- ❖ Loss of any existing private use of a portion of highway or established right of way
Basis:
Richardson v. Derry, 284 N.W. 82 (Iowa 1939).
- ❖ Loss or cost of removing improvements located on present established right of way, except where such use is allowed by prior contract, deed or condemnation reservation
Basis:
Richardson v. Derry, 284 N.W. 82 (Iowa 1939); DePenning v. Iowa Power & Light Co., 33 N.W.2d 503 (Iowa 1948); Fanning v. Mapco, Inc., 181 N.W.2d 190 (Iowa 1970); Moran v. Iowa State Highway Commission, 274 N.W. 59 (Iowa 1937).
- ❖ Circuity of travel
Basis:
Hinrichs v. ISHC, 152 N.W.2d 248 (Iowa 1967); Nelson v. Iowa State Highway Commission, 253 Iowa 1248, 115 N.W.2d 695 (1962); Warren v. Iowa State Highway Commission, 250 Iowa 473, 93 N.W.2d 60 (1958).

- ❖ Any injury suffered in common with the community and not peculiar to the subject property
Basis:
Hinrichs v. ISHC, 152 N.W.2d 248 (Iowa 1967); Nadler v. City of Mason City, 387 N.W.2d 587 (Iowa 1986).
- ❖ Damage items considered to be remote, speculative or contingent
Basis:
Randell v. Iowa State Highway Commission, 241 N.W. 685 (Iowa 1932).
- ❖ Denial of access to a newly created highway that did not previously exist
Basis:
Lehman v. Iowa State Highway Commission, 251 Iowa 77, 99 N.W.2d 404 (1959).
- ❖ Owners inability to locate an acceptable substitute property or location
Basis:
City of Des Moines v. Wizer, Inc., 446 N.W.2d 289 (Iowa 1989).
- ❖ Loss, damage or reduction in value of personal property and moving payments. (See Page 69, “Relocation Assistance and Payments”)
Basis:
Interstate Finance Co. v. Iowa City, 149 N.W.2d 308 (Iowa 1967); Nidy and Company v. State, 189 N.W.2d 583 (Iowa 1971); Cahill v. Cedar County, Iowa, 367 F. Supp. 39 (N.D. Iowa 1973); *Iowa Code* Section 316.2(3); *Iowa Code* Section 6B.42.

As part of the appraiser’s analysis of the appraisal problem, the appraiser shall consider all potential items of damage. The appraiser shall determine if a potential claim for damages to remaining real property has been considered and compensated in the after value or in the value of remaining land or if the potential claim for damages would either allow duplicative recovery or would make payment for non-compensable items of damage.

➤ Personal Property

It is important to have a good understanding of which items are considered as personal property and which are considered as the real property to be acquired.

Iowa law is not very clear about the distinction between personal and real property. In general, a fixture or piece of equipment is considered to be real property if:

- ❖ Its removal would be injurious to the structural integrity of the building, structure or other permanent improvement; or

- ❖ A typical buyer of the real property would consider the item to be part of the real property; or
- ❖ The item cannot be removed without injuring the structural integrity of a building, structure or other permanent improvement.

It is critical that an understanding be reached among the Appraisal, Relocation and Acquisition Sections before problems develop. Up-front planning and communication is very important to ensure a quality appraisal, successful negotiations and relocation activities that are in the best interest of the property owner. Typically, Relocation Assistance will reimburse the owner for the cost of moving the personal property.

➤ Pondering--See Easements

➤ Property Unit - Larger Parcel - Parent Tract--Synonymous terms

The owner of each eminent domain parcel is entitled to a separate award. Public acquisition authorities that exercise the powers of eminent domain are bound by constitution and statutes to offer to pay just compensation. Landowners are entitled to be paid for not only the land or property rights acquired, but also for damages caused to the remaining property. The purpose of the damage to remaining property element of just compensation is to make the property owner whole by compensating for the injury to the entire property.

The appraiser must consider all the capabilities of the property as to the business or use to which the property has been devoted, and of any and every use to which it may reasonably be adapted or applied.

The larger leasehold and/or operating unit parcel shall incorporate all contiguous real estate, or real estate in reasonable proximity thereto, that is under the same ownership, or leasehold and operated as an assembled economic unit. To do so, the appraiser must consider:

- ❖ If the tract being acquired, either in whole or in part, has an enhanced or special value because of its use as a part of the assembled economic unit that can not be readily replaced by the owners' purchase of a replacement tract; or,
- ❖ Alternatively, do tracts not being acquired lose any special value as part of an assembled economic unit that cannot be readily replaced by purchase of a tract similar to the tract being acquired?

If either consideration is the case, the appraiser and appraisal reviewer must each include an allocation of value to the various tracts in their respective reports.

In determining the larger parcel or parent tract, roads and physical separations do not alone prevent non-contiguous tracts from being a single eminent domain parcel. Two tracts separated by a highway, but devoted to one actual and permanent use, are considered as one parcel for eminent domain purposes.

The appraiser must consider how the parcel is being used in order to determine the entire or remaining parcel. If the property being acquired is being used along with other property as an assembled economic unit, it is effectively owned and operated by the same person or entity so that they have a special value because of their unified use. They collectively constitute the larger parent, or before parcel.

It is considered as one parcel even if one of the tracts of a leasehold and/or operating unit is being purchased from a third party on contract as long as all the tracts are being operated as an assembled economic unit. The fee owner is holding title as security for the payment of the purchase price by the contract buyer. Thus, the fee owner holds an interest in the form of a lien. The fact that the acquiring authority must use a separate transfer document to obtain the signature from the contract seller does not change this result.

A husband and wife are considered as one entity. All properties that are recorded as owned either individually or in combination by either of them, and operated as a single unit, shall be considered as one parcel.

For eminent domain purposes, a business operating on three tracts, where two tracts are in the name of the husband and the third is in the name of the husband and wife, is one parcel.

Basis:

Crist v. Iowa State Highway Commission, 123 N.W.2d 424 (Iowa 1963))

An assembled economic unit is an eminent domain parcel even when the ownership interest in one of the tracts is limited to a lease.

Basis:

Wilkes v. Iowa State Highway Commission, 172 N.W.2d 790 (Iowa 1969);
Estelle v. Iowa State Highway Commission, 119 N.W.2d 900 (Iowa 1963).

Land areas which are considered as wetlands, forests or conservation areas, etc., and/or, are identified as environmentally sensitive lands, restricted as to development, may or may not be considered as separate parcels. All elements of the restricted use must be considered. Sometimes these lands may be incorporated in a development plan to yield a higher density of development for adjacent developable land. See *Iowa Code* Section 314.23.

A legal description of the part of a property being acquired for the project (the design parcel) may be considered as the parcel in the case of temporary and minor acquisitions.

In instances where the extent of the property unit is unclear, the Chief Appraiser may provide instructions as to what constitutes the property unit to be considered.

➤ Public Utility Lines

The required relocation of water, gas, sewer or electric lines owned by a utility company or public body and located in existing or future right of way will not be considered in the appraisal.

➤ Relocation Assistance and Payments

Relocation Assistance and Payments are provided pursuant to Iowa Code Chapter 316. Iowa eminent domain acquisitions that involve the displacement of persons must also provide relocation assistance as required by *Iowa Code* Section 6B.42. This is required regardless of whether the project is funded either by federal, state or local funding, or any combination thereof.

In order to prevent unjust enrichment or duplication of payments, there should be no consideration in the appraisal of items and situations covered by Relocation Assistance.

The appraiser should have a basic understanding of the scope of costs that are covered by the Iowa Department of Transportation's Relocation Assistance Program.

Although the Relocation Assistance Manual and/or Relocation Assistance Supervisor should be consulted for an in-depth discussion of the program, **none of the following relocation assistance costs should be considered in the appraisal report.**

Moving and Related Expenses

- ❖ The actual, reasonable and necessary costs to disconnect, move and re-connect personal property.
- ❖ Payment for actual direct loss of tangible personal property. Generally, this is personal property made obsolete because of the acquisition where the value-in-place is less than the cost to move.
- ❖ The purchase of substitute personal property, storage expenses for personal property, business re-establishment expenses and expenses incurred in searching for a replacement property.

Replacement Housing Costs for Homeowner-Occupants

- ❖ The supplemental payment which, when added to the amount paid for the acquired residence, is equal to the reasonable cost of a comparable replacement residence.
- ❖ Increased interest costs.
- ❖ Actual reasonable and necessary expenses incidental to the purchase of a replacement residence. Incidental expenses associated with the acquired residence are also paid by the Iowa Department of transportation, but not under the relocation assistance program.

Replacement Housing Costs for Tenant-Occupants and Certain Others

- ❖ The supplemental payment which, when added to the monthly rent paid for the acquired residence, times 42 months, is equal to the reasonable rental cost for a comparable rental unit, with certain caveats, **OR**
- ❖ A payment to make a down payment for the purchase of a qualifying residence.

For specifics, see the Right of Way Relocation Assistance Manual. For additional clarification, or further information, contact the Chief Appraiser.

➤ Residential Portion

The appraiser or review appraiser may be requested by the Relocation Assistance Supervisor to determine the estimated acquisition cost of a displacement dwelling. This most often occurs when an owner resides in a mixed use or multi-family property. The appraiser is no longer to estimate the value of residential portion of the acquisition (building, septic system, and well) on a typical lot. The appraiser must determine "that portion of the acquisition payment which is actually attributable to the displacement dwelling".

If the displacement property is appraised and acquired based on a highest and best use other than residential, such as vacant commercial, the acquisition price of the residential portion is the per unit price applied to the square footage that is considered to be typical for a residential site.

Examples:

If the displacement dwelling is located on a 30,000 square foot lot that is appraised based on the determination that the property has a highest and best use for vacant commercial development and is purchased for \$3.00 per square foot.

Also, that the typical residential site size in the area is 10,000 square feet. The acquisition price of the residential portion in this case would be 10,000 (sq. ft.) x \$3.00 per sq. ft., or \$30,000.

If the displacement dwelling is part of a commercial building which is valued at \$25 per square foot of building including land, the value of the residential portion is determined by multiplying the residential square footage by the determined per square foot value of \$25. Say, the displacement dwelling contains 1,000 square feet and is a part of a commercial building containing 5,000 square feet. The total building value, at \$25 per square foot of building including land, is \$125,000. The value of the residential portion is \$25,000.

If you are unsure of any of these determinations, consult with the Chief Appraiser or the Relocation Assistance Supervisor.

➤ Revisions (Design and Title)

When minor changes in the right of way or construction design are desired, parcel division is required, or a change in ownership is to be reported, the appraiser shall file a form 633-021, "Request for R.O.W. Design Revision" with Right of Way Design Supervisor. The request should be supported by explanatory materials.

➤ Rounding of Values

Appraisers should minimize rounding within the calculations of an individual approach to value, however, the FINAL VALUE ESTIMATE SHOULD REFLECT A REASONABLE DEGREE OF ROUNDING. The conclusion of value should reflect common pricing practices in the market area for that type of property. (eg. do not use hundreds, tens, ones, or cents as the rounding point unless the typical market sales indicate that this is in fact where purchasers are themselves rounding)

➤ Septic System

In any situation where the proposed right of way acquisition, either permanent or temporary, interferes with the function of a septic system, the appraiser is to determine and document the necessity and degree of cure required. The appraiser will investigate local health rules, interview the local health officer and document the position utilized.

The Iowa DOT does not assume responsibility for, or pay damages to correct illegal septic systems. The State of Iowa should not be held financially responsible for costs to bring systems into compliance, if the systems are illegal or non-conforming under current regulations.

Any cost to cure for a legal conforming system shall be documented by a detailed contractor's estimate and clearly stated within the appraisal report. This estimate becomes a maximum amount to be paid by the Agency for correction of the septic system. The owner will be reimbursed for actual costs, upon receipt by the Agency of a contractor's statement, following completion of the cost to cure.

Each septic system situation must be considered on an individual basis, as determined by the appraiser. As required, advice and assistance will be provided in order to seek an appropriate solution.

➤ Title and Ownership Verification

Ownership and leasehold data furnished to the appraiser in parcel files may be incomplete or outdated. The appraiser has the responsibility to determine the true extent of the unit that will be appraised and provide a complete and accurate listing of the titleholders and lessees and their addresses. This can best be accomplished during the interview of the property owner and/or operator. If the unit or title is different from that furnished in the parcel files, the appraiser shall secure the proper data from available records. This data is to be delivered to the Right of Way Design Supervisor for use in correcting office records. If the appraiser has any doubt as to what constitutes the property unit, the Chief Appraiser should be consulted before proceeding with the appraisal.

➤ Underground Lines

All privately owned water lines, utility lines or other service lines crossing existing primary road, county road or city street right of way, either with or without a permit, shall be relocated at owner's expense. This includes crossing lines which lie in the additional right of way to be acquired.

Where the lines lie totally on private property approximately parallel to the existing right of way, their acquisition shall be considered as an element of damage and compensation may be based upon a "cost to cure" to relocate.

Where a relocated highway crosses existing private lines, and when regulations will permit such continued line crossing, the cost of relaying lines in compliance with Iowa DOT specifications shall be considered as an element of damage. If it is not possible to allow the lines to remain or be reestablished, the damages caused by their loss shall be considered.

Privately owned underground lines located in temporary easement areas shall be compensated for based on a cost-to-cure, if they are damaged.

➤ Uneconomic Remnant

An uneconomic remnant is defined as “a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner’s property, and which the acquiring agency has determined has little or no value to the owner”.

A tract is considered to be an uneconomic remnant if it is not economically feasible to continue the use of this tract by itself, or as a part of a larger separated remainder, because of its size, shape, access, change of use, or other detrimental characteristics resulting from the acquisition.

The determination may be made during the Design, Appraisal or Acquisition activities of the right of way process, but will generally occur during the appraisal/appraisal review or acquisition activities.

The appraiser or review appraiser should notify the Chief Appraiser or the Appraisal Production Coordinator, when a potential uneconomic remnant is found. The Right of Way Director will be informed and the decision whether to offer to acquire the remnant will be made, except when the decision would conflict with or compromise the provisions of other Federal or State law or regulation.

If a remainder or part of a remainder is determined to be an uneconomic remnant, revised property plats will be furnished to the appraiser and placed in the parcel file.

➤ Units of Comparison (Taxable Acres)

Units of comparison are the components into which a property may be divided for purposes of comparison. The Iowa DOT Design Section furnishes property areas based on County Assessor’s calculations which are expressed in terms of taxable acres or taxable square footage.

In the analysis of sales of comparable properties, the appraiser should express sale prices in terms of the appropriate sale price per taxable acre or taxable square foot.

➤ Valuation of Minor Items

One area of significant difficulty in appraisal of partial acquisitions is the valuation of minor items. When determining the value of any real property improvements to be acquired, the appraiser is to value those items that contribute to the overall value of the property. With some real property items, the item's cost (less depreciation) can be a valid measure of the contributory value.

Properties with varying numbers of trees do not sell for amounts in direct relationship to the difference in the number of trees. Differences in landscaping, unless they are highly

significant, (such as none as compared to a property with beautiful, manicured professional site improvements) are frequently not recognized by the market. It is frequently difficult to measure the contributory value of various items of landscaping.

The cost of a replacement tree (or other landscaping or type of site improvement) of equal size and growth, installed on remainder property, as determined from a nursery, is generally not a reasonable measure of a tree's value in place. When the improvement whose value is enhanced by the trees or landscaping is acquired, the trees or landscaping may have no recognizable value standing alone after the acquisition.

The value of trees and/or landscaping will ultimately be supported primarily by the appraiser's experience, sound judgment, and reason.

➤ Wagon, Tractor and Stock Passes

When acquired and not replaced in new construction, passes shall be valued as to their contribution to the market value of the property before the acquisition. Passes are not typically included in new construction, except as an alternate use of a necessary drainage or bridge structure. New passes may be constructed only at no cost to the state.

➤ Wells, Primary

When a well that is the primary water supply for subject is to be acquired or otherwise rendered unusable by the right of way acquisition, the appraisal shall be on a cost-to-cure basis.

A well contractor is to be hired to test the capacity of the well and the quality of the water. The contractor is to determine the gallons pumped per minute. A water sample will be taken and sent to a qualified laboratory to determine the bacterial and nitrate level. The intent is to have a benchmark for a new water source. This should help to reduce the number of claims of poor quality or low water volume in a new replacement well. The charges for the two tests completed by the well contractor can be submitted to IDOT for payment.

➤ Wells, Secondary

If the property appraised has more than one well and the well acquired is a secondary water supply, the appraiser must determine whether the remaining water supply is adequate for the continued use of the remainder property. If the water supply is not adequate, the appraisal shall be based on the cost-to-cure to replace the well with one that will produce potable water in sufficient quantity to supply the unmet needs of the

remainder property. If the remaining water supply is adequate, the appraisal shall only include the contributory value of the well acquired.