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Institute®**

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MESSENGER

<http://www.wisai.com>

APRIL 2011

PRESIDENT'S COLUMN

Tim Warner, MAI, SRA

In this newsletter, I will discuss some of the items of note from the recently issued Final Interagency Guidelines Appraisal and Evaluation Guidelines (FIGAEG), and their application.

The FIGAEG (available at www.ots.treas.gov/_files/490054.pdf) were released in December of 2010. These *guidelines* replace the guidelines previously issued in 1994 and explain the agency's minimum regulatory standards for appraisals.

The guidelines also incorporate the agency's past supervisory issuances on appraisal practices, address information technology used in collateral valuation practices, and clarify standards for the industry's appropriate use of analytical methods and technological tools in developing evaluations. Most appraisers are not involved in evaluations and should carefully read Advisory Opinion 13 before they consider involvement. The guidelines emphasize that financial institutions are responsible for selecting appraisers and those doing evaluations. Institutions should demonstrate the independence of their processes for obtaining property values and adopt standards for appropriate communications and information-sharing with appraisers and people performing evaluations.

Additionally, the guidelines emphasize the importance of institutions maintaining strong internal controls to ensure reliable appraisals and evaluations. Institutions also are responsible for monitoring and periodically updating valuations of collateral for existing real estate loans and for transactions, such as loan modifications and workouts.

The following are explicitly noted in the guidelines:

- Broker Price Opinions (BPOs) can not be used as the primary basis for making a lending decision.
- Direct communication with appraisers by banks is permit-

ted and even encouraged as long as it does not compromise appraiser independence.

- Reviewers are expected to have sufficient education, experience and knowledge about appraisal methodology.
- The appraiser independence requirements previously introduced in the HVCC are now part of the new guidelines.
- Restricted use reports are generally not sufficient for supporting a lending decision.
- AVMs can not be used as the primary basis for making a lending decision.

The guidelines also state that an institution should use written engagement letters when ordering appraisals, especially for large, complex, or out-of-area commercial real estate. An engagement letter typically specifies the; property's location and legal description, intended use and users of the appraisal, requirement to provide an opinion of the property's market value, expectation that appraiser will comply with applicable laws and regulations, appraisal report format, expected delivery date, and appraisal fee.

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Office Hours:

8:00 a.m. - 5:00 p.m. Monday - Friday

TREASURER'S REPORT

The Chapter funds as of 3/31/11 are:

Primary Checking Account:	\$18,404.84
Money Market Account:	\$28,376.97
CD Account:	\$3,939.25
 Total funds balance:	 \$50,721.06

PRESIDENT'S MESSAGE

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One of the specific appraisal requirements in these guidelines is that an "as is" value must be provided in all cases. This is the value of the property, as it exists on the effective date of the appraisal, and reflects its current physical condition, use, vacancy, and zoning.

The valuation of an owner-occupied industrial, or similar property, is rather straight forward. But suppose that you are being asked to value an income producing property that is 60 percent occupied by several tenants under leases that have several years remaining on each lease term. For this appraisal, you are also of the opinion that a stabilized occupancy level of 85 percent would be typical for this property given its current market setting. In order to provide your opinion of the "Current" or "As-Is" Value of the subject property, you will first need to value the property on a "Prospective Value" basis, presuming rent-up to stabilization. The next step in the process would be to subtract the necessary costs to obtain rent-up and stabilization. These costs can vary but the appraiser should consider costs to complete construction, tenant improvements, or complete unfinished areas, holding or expense carry costs, leasing and/or sales costs, lost income, other charges and/or fees as well as demolition and other associated costs during the time until the property is stabilized.

When considering the "Current" or "As-Is" and the "Prospective" Values, additional consideration of report dating is also necessary under USPAP. To understanding what is necessary to develop these values, we will explain "report date" and "effective date" and well as "Prospective Value", and "Current" or "As Is" Value. The best way to understand "report date" and "effective date" is to look at these terms in the index of the 2010-2011 USPAP. You will first notice that "report date" and "effective date" are the only two terms that USPAP recognizes for report dating. Other terms like "inspection date"

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PRESIDENT'S MESSAGE

(Continued from Page 2)

or "date of issuance" are either not mentioned or are referenced as "effective date" or "report date." So if you are certifying that your report conforms to USPAP "effective date" or "report date" are the only two terms that should be used.

The best way to understand "Prospective Value" is to read Statement 4 of USPAP carefully. Statement 4, Statement 3 on "Retrospective Value", and Advisory Opinion 17 on "Prospective Value", provide the context for an understanding. In sum, when the report date and effective date are the same you are doing a current or "as is" value. When the effective date is after the report date, or in the future, you are doing a prospective value. Stating that you are doing a prospective value without these date differences would not be appropriate. The Prospective Value would, by necessity, be conditioned on an Extraordinary Assumption that prominently states the premise of rent-up to stabilization. Again, see the current edition of USPAP which has several good examples in the FAQ section in the back. Of course, Extraordinary Assumptions, as well as Hypothetical Conditions need to be prominently identified, disclosed, and/or stated, as well as explained.

Returning to the example I began with, a commercial income producing property that is 60 percent occupied by several tenants with leases, you would likely use actual rental rates specified by the leases. However, the remaining 40 percent of the property is not currently leased. When you include rental income for the remaining 25 percent that is the difference between your opinion of stabilized occupancy upon rent-up at 85 percent occupancy and its current occupancy at 60 percent, you are providing your opinion upon stabilization. This is a "Prospective Value". In order to provide your opinion of "Current" or "As-Is" Value, you will usually back into it by deducting the costs necessary to achieve rent-up and stabilization of occupancy from the stabilized, or Prospective Value. We discussed the costs the appraiser should consider previously. As always, there may be other considerations, depending on the specific facts and circumstances. However, a request for a "Current" or "As-Is" Value for many properties in today's market typically requires a "Prospective Value" opinion. A "Prospective Value" opinion would require the two different report dates, a discussion and definition of "Prospective Value," and a report section to detail the necessary costs involved in stabilization together with the related discussion.

Moving on, statements of competency and certification in reports are required under these new guidelines and USPAP. When you include this statement on your competency to appraise the property by type and location, do note that both the

certification and competency discussion are statements that apply to individual appraisers, and not the appraisal company. Lastly, USPAP 2010-2011 requires the disclosure of any professional real estate services you have provided for the subject property during the past three years. This disclosure must be located in report and the certification of the report. Although only a positive disclosure is required by USPAP, some institutions may ask that you state that you have not provided professional real estate services during the last three years if that is the case.

For those interested, Rick Larkin, SRA, has authored A Guide to the Valuation of Recreational Land With Trout Streams - An Analysis of Wisconsin's Driftless Area.

We have posted a PDF copy of this study on the Wisconsin Chapter website. See *Useful Links* in the left corner of the chapter website, <http://www.wisai.com/pages.asp?id=21>.

2011 UPCOMING COURSES & SEMINARS

For more information on each offering and
TO REGISTER, please go to:

<http://www.appraisalinstitute.org/education/Wisconsin>

Date	Course/Seminar
April 18	The Lending World in Crisis (7 Hr.)
May 25	Annual Condemnation Symposium (6 Hr.)
October 21	USPAP Update (7 Hr.)

All seminars/courses will be offered at
WCAI's facility located at:
11801 W. Silver Spring Drive, Suite 200
Milwaukee, WI 53225
(Unless otherwise noted.)

QUESTIONS?

Please call the WCAI office at (414) 271-6858
or visit www.wisai.com.

*Specific dates and locations will be published
as they become available.*

BOARD MEETING MINUTES

February 16, 2011

President Tim Warner called the meeting to order at 5:01 at the office of Wisconsin Association Management, 11801 West Silver Spring Drive, Milwaukee, WI

Members Present

Tim Warner, Tom Swan, Matthew Gehrke, Jason Teynor, Todd Delahunt, Ryan Gieryn, Katie Thompson, Steve Lauenstein, Cheryl Dodson, David Thill. Doug Stangoehr was also in attendance. Dave Wagner was on teleconference.

Secretary's Report

The minutes from the December 3, 2010 meeting were approved (Motion, Ryan - 2nd Cheryl) with unanimous approval.

Treasurer's Report

Financials through 12/31/2010 were reviewed. Tom Swan noted that the most recent education offering profited approximately \$3,500. Katie pointed out that 21 of the registered students were from the State, which helped keep enrollment high.

Doug noted that about \$2,900 was released to our chapter from a government relations committee that is now dissolved from a prior sub-chapter.

Tim Warner stated that the chapter is losing money and his goal is for us to break-even or make a profit in 2011.

A budget related question was raised and that is should the chapter fund sending regional representatives to the national meeting. I was noted that usually the chapter funds two representatives. Tim Warner made a motion, which was seconded by Tom Swan to approve sending 2 representatives to the national meeting in Las Vegas. National requires our chapter to send representatives. The motion passed.

A motion was made by Ryan to accept the minutes. It was seconded by Dave Thill and the motion passed.

Education Report

2011 education offerings are to include a USPAP class by Stephanie Coleman on 9/20/2011. There was also discussion as to whether our chapter should offer the curriculum overview class which is a 2 day class versus classes that help people become designated or certified.

Legislative Update

Issues regarding LDAC were discussed and a motion was made to approve chapter funds (\$4,000) for Dominic Landretti, Katie Thompson and Cheryl Dotson with a provision or condition that Katie and Cheryl would share a room, if possible at the 2011 LDAC meetings. Motion was by Ryan and seconded by Steve. The motion passed.

Old/New Business

National has made an appeal for chapter contributions to a strategic planning committee. Ryan made a motion, which was seconded by Tom Swan, to have our chapter decline to send in funds for this committee. The motion passed.

Jason Teynor asked for assistance on the government relations committee. Ryan agreed to help him on the committee.

Dave Wagner, via telephone conference, stated that after 2011 he would need to step down from his active involvement on the chapter board. Tim Warner raised the issue of a slate of potential officers to be elected for next year which needs to be established in May. It was decided that this slate would be decided at the next meeting.

Adjournment

At 6:18 Ryan made a motion to adjourn; it was seconded by Cheryl.

Respectfully Submitted,
Stephen C. Lauenstein, MAI
Secretary, Wisconsin Chapter of the Appraisal Institute



Online Education: Learn at your own pace anytime, anywhere,
http://www.appraisalinstitute.org/education/online_education.aspx.

Top-notch Appraisal Institute courses and seminars come straight to your desktop with online education! Learn from any computer anywhere, whenever you have time. It's easy, convenient and a great way to get the education you want. Check out the current course listing now!

APRIL SEMINAR

The Lending World in Crisis—What Clients Need Their Appraisers to Know Today

Monday, April 18, 2011 — 8:00 am-4:30 pm
Wisconsin Chapter of the Appraisal Institute

This revised seminar, previously released in 2005, titled What Clients Want Their Appraiser’s to Know, has been updated to reflect dramatic changes in the real estate market. According to clients, commercial appraisers are making the same error – providing little or no critical analysis – which in these times is even more critical now. Legislation will give appraisers more independence than ever before, but if the work product does not improve, many appraisers will find their appraisal volumes declining. Keep your clients satisfied and your assignments growing by attending this important educational program!

At the end of this seminar participants will be able to

Discover strategies to protect their appraiser independence.

Recognize and identify a market bubble – when does it start and when does it end.

Understand how to support a market conditions adjustment in a “bubble market” or a distressed (no new sales market).

Develop and report value opinions in a “bubble market” or a distressed market.

Detect when there will be an upward turn in a bust market; or a downward turn in a bubble market.

Recognize why your clients need you and why they might want to get rid of you.

Discover when you may want to fire your clients.

Handle external obsolescence whether it be temporary or permanent.

Determine what a good engagement letter should include.

Identify scope of work and competency issues.

To register, please go to:

<http://www.appraisalinstitute.org/education/Wisconsin>

8TH ANNUAL CONDEMNATION APPRAISAL SYMPOSIUM



The Wisconsin Chapter of the Appraisal Institute and Michael Best & Friedrich, LLP are pleased to co-sponsor the 2011 Condemnation Appraisal Symposium on **Wednesday, May 25th** at the WCAI Office. This

marks our eighth Symposium, which has developed into a key annual event to attend for those professionals involved in eminent domain in Wisconsin.

This year's event brings fresh perspectives from several new speakers.



We will present eight programs covering the following issues:

- Recent Legal Developments
- Disposition of Surplus Government Property: Methodology & Valuation
- Compensability of Business Losses Caused During Construction
- DOT Perspectives
- Defining Reasonable Access
- New Evidence Rules for Experts in Wisconsin Courts
- The VFW Case: Zero Value Property
- Use of Subsequently Acquired Knowledge in the Determination of Just Compensation



As in past years, we will conclude with a Q&A session, which will allow for appraisers, attorneys, government officials and others involved with eminent domain activity to openly discuss and debate

the most current and difficult condemnation appraisal issues. Please feel free to bring questions. Following the Symposium, the attendees are invited to a social hour/networking reception.

To register, please go to:

<http://www.appraisalinstitute.org/education/Wisconsin>

NEW COURT OF APPEALS DECISION TO IMPACT EMINENT DOMAIN NEGOTIATIONS

by Charles Graupner

On August 10, 2010 a decision was issued by the Wisconsin Court of Appeals which may dramatically change the way eminent domain negotiations should be handled on behalf of property owners. In the case of *Klemm v. American Transmission Co.*, the court held that litigation expenses, which are principally made up of attorneys fees and appraisal costs, are not available to a successful property owner who has appealed from a negotiated settlement rather than appealing from a jurisdictional offer. This ruling changes several decades of practice in eminent domain negotiations.

In the past, property owners often accepted a condemnor's initial offer, knowing that they could appeal, and if they achieved an increase of 15% over that accepted offer, would also be paid their attorneys fees and any other litigation costs. The *Klemm* case has changed this common strategy. After *Klemm*, the property owner can still appeal from a negotiated sale price, but will not be entitled to an award of litigation expenses in the event of a successful appeal. After *Klemm*, the only circumstance in which litigation expenses are awardable is where the property owner awaits the issuance of a jurisdictional offer before commencing the appeal. In that circumstance, if the judge or jury awards more than 15% in excess of the jurisdictional offer, litigation expenses are added to the award and the owner receives the entire increase in value. Ironically, the *Klemm* case disfavors the property owner who cooperates with the condemning authority by negotiating a sale, but favors the owner who refuses to negotiate and forces a jurisdictional offer.

There is currently pending a petition to have the *Klemm* decision reviewed by the Wisconsin Supreme Court, but unless that petition is accepted, the *Klemm* decision will govern, at least in the absence of a legislative change. In order to retain the opportunity to recover litigation expenses in cases where property owners may wish to appeal the amount of the condemnor's offer, property

owners are well advised to decline to negotiate a voluntary sale, and are better off requiring that condemnor to proceed to the jurisdictional offer. The *Klemm* case does not require that the jurisdictional offer actually be rejected in order to preserve the right to litigation expenses, only that a jurisdictional offer be issued.

Charles Graupner is a partner at Michael Best & Friedrich LLP practicing in the field of eminent domain litigation. He can be reached at cpgraupner@michaelbest.com.



LOOKING FOR ARTICLES

Do you have an article that you'd like to see in the *WCAI Messenger*? If so, please forward to Heather at heather@wamllc.net.





ADVERTISING OPPORTUNITIES AVAILABLE

The Wisconsin Chapter of the Appraisal Institute (WCAI) is proud to offer advertising opportunities in its newsletter and website. To sign up to advertise, please fill out the form below.

If you have any questions regarding advertising, please call the WCAI office at 414-271-6858.

AD SIZES	1 Issue	2 Issues	3 Issues	4 Issues
A. Business Card	\$50 / \$75	\$45 / \$70	\$40 / \$65	\$35 / \$60
B. ¼ Page	\$85 / \$125	\$80 / \$120	\$75 / \$115	\$70 / \$110
C. ½ Page	\$125 / \$175	\$120 / \$170	\$115 / \$165	\$110 / \$160
D. Full Page	\$225 / \$300	\$215 / \$290	\$205 / \$280	\$190 / \$265
E. Inside Front Cover	\$325 / \$425	\$310 / \$410	\$295 / \$395	\$280 / \$380
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F. Back Cover (1/2 pg)	\$375 / \$475	\$360 / \$460	\$345 / \$445	\$330 / \$430
G. Website*	\$175 / \$225	\$250 / \$350	\$300 / \$400	\$325 / \$425

*Price per issue decreases for each additional issue you advertise in First number indicates member rate, second number indicates non-member rate.
Per Quarter (For Website)

Confirm your selection by e-mailing a .jpeg/.tif/.pdf/or .eps file to Heather Westgor at heather@wamllc.net and mail your advertising fee and order form to WCAI, 11801 W. Silver Spring Dr., Ste 200, Milwaukee, WI 53225.

ORDER FORM

Circle Issue(s): January April July October Website

Ad Size: _____

Calculate your total: \$ _____
(Multiply price per issue x number of issues)

Contact Information

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Name: _____

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City, State, ZIP: _____

Phone:(____) _____ Fax:(____) _____

E-mail: _____



Associate Membership Application

Return to:

Return completed application to Appraisal Institute, 550 W. Van Buren St., Suite 1000, Chicago, Illinois 60607; fax to 312-335-4146. Questions? Contact the AI Service Center at 888-7JOINAI or email aiservice@appraisalinstitute.org.

Category

Associate Membership is open to individuals who are performing work identified by the Standards of Professional Appraisal Practice.

I am applying for (choose one):

- General Associate Membership – not pursuing designation
- Residential Associate Membership – not pursuing designation
- General Associate Membership – pursuing MAI designation
- Residential Associate Membership – pursuing SRA designation
- Dual Associate Membership – pursuing both MAI and SRA designations

Please indicate your appraisal licensure status (choose one):

- General Certified Appraiser
- Residential Certified Appraiser
- Licensed Appraiser
- no appraisal license

State of licensure: _____ License number: _____ License expiration date: _____

For individuals who hold a trainee or equivalent license or are seeking such a license, please see the application for Trainee Associate Membership.

Please indicate your previous membership status:

- I am a new applicant to the Appraisal Institute
- I was previously a Designated member, Associate member, or Candidate with the Appraisal Institute or one of its predecessor organizations.

Per the membership Regulations, prior Associate members (including Trainee Associate members) seeking readmission must meet the Standards and Ethics requirements within the four (4) years prior to applying for readmission. Please indicate the date you have met BOTH portions of the requirement:

- Provide proof of passing the [15-Hour National Uniform Standards of Professional Practice \(USPAP\)](#) course/exam - Date Completed: _____
- Complete the Appraisal Institute course [Business Practices and Ethics](#) course - Date Completed: _____
- I am currently an Appraisal Institute Designated or Associate member applying for dual membership. Member number: _____

Were you recruited by an Appraisal Institute member:

- No
- Yes – Recruiter’s name: _____
Recruiter’s phone number: _____

2011 Membership Dues

Membership will be come effective upon receipt of dues payment and acceptance into membership. Membership dues for Associate Members are \$310. Members joining between February and November have prorated dues. Members joining after November will be charged the full dues amount for the upcoming year. *Once remitted, membership dues are non-refundable.*

Chapter: Wisconsin

National Dues \$310.00

Total Amount \$310.00

Dues Payment Method

- Check
- VISA
- MasterCard
- American Express

Card Number _____ Expiration Date _____

Signature _____

- YES, I would like to go paperless and receive future dues invoices via email**

Identification

Mr./Ms. _____

Last _____ First _____ Middle Initial _____

Maiden Name _____ Date of Birth _____

Home Address _____ City/State/Zip _____

Company Name _____ Title _____

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Business Address		City/State/Zip	
Home Phone		Business Phone	
Fax		E-mail	
Preferred Mailing Address	<input type="checkbox"/> Home	<input type="checkbox"/> Business	
How did you hear about us?	<input type="checkbox"/> Education Program	<input type="checkbox"/> Mailing/email	<input type="checkbox"/> Appraisal Institute Publication
	<input type="checkbox"/> <i>www.appraisalinstitute.org</i>	<input type="checkbox"/> Local Chapter	<input type="checkbox"/> Other: _____

Good Moral Character

All Members of the Appraisal Institute must have good moral character, which is honesty, truthfulness, and respect for the law. Please answer the following questions:

- Are you currently the subject of a pending criminal proceeding, or have you ever been convicted of any criminal offense, either misdemeanor or felony? Yes No
- Are you currently the subject of any regulatory proceedings, or have you ever been disciplined, or had a license, certification, or registration suspended, revoked, or denied by a regulatory agency? Yes No
- Are you currently the subject of a civil proceeding in which you are alleged to have acted or failed to act in a manner reflecting negatively on your honesty, truthfulness, or respect for the law, or have you ever been the subject of a civil proceeding in which a finding has been made that reflects negatively on your honesty, truthfulness, or respect for the law? Yes No

If the answer to any of the above questions is "Yes," please attach a full description and copies of the official documents setting forth the allegations (e.g., indictment, complaint) and the results of the proceedings (e.g., judgment, decision).

Agreements of the Applicant

I hereby apply for admission to Associate Membership in the Appraisal Institute. In making this application and in consideration of review of my application:

1. I agree to abide by the Appraisal Institute's Bylaws, Regulations, Standards of Professional Appraisal Practice, and Code of Professional Ethics, now and as they may be amended in the future, as well as such policies and procedures as the Appraisal Institute may promulgate from time to time. I understand that the Appraisal Institute's Regulation No. 1 and the MAI Procedure Manual set forth requirements and procedures relating to admission to General Associate Membership and MAI Membership, and that the Appraisal Institute's Regulation No. 2 and SRA Procedure Manual set forth requirements and procedures relating to admission to Residential Associate Membership and SRA Membership.
2. I agree to immediately disclose to the Associate and Affiliate Member Services Department any circumstances and events occurring after the date of submission of this application that may have a bearing on my moral character.
3. I understand and agree that if I am convicted on or after the date of this application of a crime committed prior to this application, I will be subject to discipline pursuant to the Appraisal Institute's Regulations.
4. I understand and agree that the Appraisal Institute may investigate my moral character and I consent to such investigation.
5. I understand that if I was subject to any pending peer review proceedings when any previous candidacy, affiliation, or membership with the Appraisal Institute or its predecessor organizations ended, these proceedings may be reopened if I am readmitted or admitted to associate membership.
6. I understand and agree that if my application for admission to Associate Membership in the Appraisal Institute is approved:
 - a. I will become an Associate Member of the Appraisal Institute.
 - b. I will only refer to myself, both orally and in writing, as an "Associate Member" of the Appraisal Institute, which term is not a professional designation and may not be abbreviated.
 - c. I will use the title "Associate Member" only in conjunction with my name and not in connection with the name, logo, or signature or any firm, partnership, or corporation.
 - d. If I refer improperly to my membership, I may be subject to disciplinary proceedings conducted pursuant to the Appraisal Institute's Regulation No. 6.
7. I IRREVOCABLY WAIVE ANY CLAIM OR CAUSE OF ACTION AT LAW OR EQUITY THAT I MIGHT HAVE AT ANY TIME AGAINST THE APPRAISAL INSTITUTE, ITS BOARD OF DIRECTORS, OFFICERS, COMMITTEE MEMBERS, CHAPTER MEMBERS, EMPLOYEES, MEMBERS OR OTHER PERSONS COOPERATING WITH THE APPRAISAL INSTITUTE, EITHER AS A GROUP OR AS INDIVIDUALS, FOR ANY ACT OR FAILURE TO ACT IN CONNECTION WITH THE BUSINESS OF THE APPRAISAL INSTITUTE AND PARTICULARLY AS TO ACTS IN CONNECTION WITH: (1) DENYING THIS APPLICATION FOR ASSOCIATE MEMBERSHIP; (2) DENYING ME CREDIT FOR ONE OR MORE DESIGNATION REQUIREMENTS; AND (3) CONDUCTING PEER REVIEW PROCEEDINGS, INCLUDING BUT NOT LIMITED TO THE TAKING OF DISCIPLINARY ACTION AGAINST ME.
8. I represent and certify that, to the best of my knowledge and belief, all the information contained on this application is true and accurate. I understand and agree that if I have made any false statements, submitted false information, or failed to fully disclose information requested in this application I will be subject to discipline pursuant to the Appraisal Institute's Regulations.

Signature	Date	Promotion Code
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Upon acceptance to Associate membership, confirmation will be sent via email. Please allow 5-10 business days for processing of completed application.

Note: Upon acceptance to Associate membership, an appropriate portion of your national Associate Member dues will be allotted to your yearly subscriptions to Appraisal Institute publications. Dues are not considered charitable contributions for federal income tax purposes; however, they may be deductible by Associate members as an ordinary and necessary business expense.

Nondiscrimination Policy

The Appraisal Institute advocates equal opportunity and nondiscrimination in the appraisal profession and conducts its activities in accordance with applicable federal, state and local laws.