

WAIVER VALUATION: BROKER PRICE OPINION – REQUIREMENTS FOR INDEPENDENT CONSULTANTS, WITH CERTIFICATION

(Not for MDOT staff preparation)

These requirements apply to the use of the Broker Price Opinion in relation to the proposed acquisition of real property for MDOT transportation projects, and in certain circumstances to decisions relative to the disposal of MDOT owned real property. MDOT employees are not approved to prepare Broker Price Opinion reports for any use.

A Broker Price Opinion (BPO) is defined as a market analysis of real property for a fee performed by a Real Estate Broker or Associate Broker (BROKER) licensed under article 25 of the Michigan Occupational Code which does not involve a federally related transaction if the market analysis is put in writing. Source: Appraisal Institute's State Laws Affecting the Performance of Appraisals/BPOs/CMAs/BOVs By Real Estate Brokers and Salespersons, January 2, 2019. Federally regulated transactions for the above definition is defined for Federal banking law (12 USCA 3350) as "Any real estate-related financial transaction which: (A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and (B) requires the services of an appraiser" The Dictionary of Real Estate Appraisal, 6th Edition, 2015, Appraisal Institute, Chicago, Ill.; therefore acquisitions under transportation projects are not considered a Federally regulated transaction in the above definition.

To complete the BPO the BROKER shall:

- Be in good standing with the State of Michigan with a valid State issued Real Estate Broker or Associate Broker license.
- Identify the subject property or project area.
- Have sufficient knowledge and competency in the local real estate market to be qualified to develop/prepare the waiver valuation and be knowledgeable and competent in the task assigned.
- Have access to the information and resources necessary to formulate an accurate conclusion.
- Personally visit the sites of the project area and sales/listings used, if possible, conduct the inspection, and take photos.
- Provide analysis and opinions which are objective.
- Not discuss the BPO report or analysis subject matter with anyone other than the client/vendor of the report except to gain access to the property.
- Perform duties in a professional, ethical, and competent manner.
- Report to MDOT, any person attempting to unduly influence or coerce the Broker.
- Have no interest in the real property for which the BPO will assist in setting the Estimated Just Compensation.
- Retain the report and all supporting documentation for a minimum of six years or the amount of time state law requires. Records can be a print out, digital, or a combination of both.

The BPO is to include:

- The following statement in boldface print (Failure to add this statement to the report may result in the individual being subject to penalties).
"This is a market analysis, not an appraisal and was prepared by a licensed real estate broker or associate broker, not a licensed appraiser."
- Discussion of scope of the work. Provide a statement of the purpose of the report, including the definition of market value used, intended use, type of acquisitions the project includes, type and extent of market data used, type of inspection completed, etc.
- Define market area including the general characteristics of the market area (streets that border the market area, types of property located in the market area, etc.), and analysis of inventory and market, including trends. Define similar market area(s) used for sales if not in direct market area.
- Define the search criteria for the vacant land sales data; type of property being researched (zoning, use, size, etc.). Preparer must disregard any change in highest and best use to the study area due to the project when determining comparable market area and property type.

- Cite sources of property data. Use verifiable sources whenever possible and cite them. Use identification numbers e.g. MLS #, Tax #, APN, Doc # etc. if applicable.
- Report any physical deficiencies or adverse conditions of the subject property, when there is a subject property identified, (such as, but not limited to, the presence of hazardous waste, toxic substances, adverse environmental conditions, wetland, etc.) that would make the property less valuable if known or visible.
- Maps of any market areas utilized in the report, along with maps indicating the sales locations. Plan sheets of the project may be added to show impacts to properties.
- Develop data analysis sales summary grids. Use sales, and offerings “listings” for sale, that reflect the prevailing forces driving the same market as the project’s market; similar economic conditions, zoning and uses (residential, multifamily, commercial, etc.) as the properties affected in the project area. There may be more than one BPO completed for different property types (residential lots, residential 1 acre to 5 acres, commercial, etc.) depending on the properties impacted within the project.
 - a. Each group of sales should represent a specific property type or use within the transportation project area or an individual property, as directed by client.
 - b. Analyze the sales and make adjustments accordingly. Market condition adjustments are to be made as of the date of closing and on an annually compounded basis.
 - c. It is preferable for the sales to be within the last 6 months but may be older if there are not at least 3 sales or limited sales data. If the target number of transactions is not within an appropriate sample size, either increase or decrease the search parameters (e.g. sales date) to get an appropriate sample size. Listings may be used to support the recommended value range or price.
 - d. Price opinion may be a specific price or range of values for an area or a subject property, depending on client’s requirements and must identify the basis for the opinion
 - e. Cite at a minimum: identification numbers e.g. tax # and address, size, sales price, date sold, and zoning.
- Comments on any situation which falls outside the Guidelines set forth and explain how it impacted the report, and the resolution used by the BROKER.
- An explanation of the discount to fee value, if used in the report. The preparer of these applied rates (capitalization rate, rental rate, etc.) must be knowledgeable and competent and these adjustment determinations must have relatively recent supporting data. If the rate is obtained from a published source, or a source other than the Broker, the source must be cited in the report along with the data. If the rate is developed by the Broker, supporting documentation on development of the rate, if not in the report, must be retained in the agency’s files and available for review if requested during an audit.
- Executed Waiver Valuation Preparer’s Certification.
- Photos of the vacant land sales/listings (at least one front view of each property).
 - a. Note date photo taken/date visited property, if applicable.
 - b. Ensure correct photos were used prior to final submission.
 - c. Photos containing people, pets/animals, and/or inappropriate/graphic content should not be in any photos.

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WAIVER VALUATION – PREPARER CERTIFICATION

I certify that:

- I am: In good standing with the State as a licensed Real Estate Broker, Associate Broker, Salesperson, Appraiser, or Certified Assessor.
Not licensed in the real estate profession (Pre-approved by MDOT Real Estate Coordinator).
- I did not knowingly discriminate against any State or Federal protected classes when completing the waiver valuation report.
- Neither my employment nor my compensation is contingent upon the reporting of predetermined values or data that favors the cause of the client, the amount of the price estimate, the attainment of a stipulated result, or the occurrence of a subsequent event. In addition, if this is a Broker's Price Opinion, the subject and the sales relied upon in making said report were as represented by the photographs, if any, and were the most similar to the properties affected by the transportation project and the choice of these sales was not influenced by my client.
- No one has attempted to unduly influence or coerce me, or those assisting with the report, regarding any aspect of the report.
- I am competent and have sufficient knowledge and experience in the market area to complete the waiver valuation report.
- The statements contained in this report are true, and the information is correct, subject to the limiting conditions described.
- This report has been made in conformity with the appropriate State & Federal laws, regulations, policies and procedures which apply to the type of report.
- I, and anyone providing significant professional assistance to me, have no present or prospective interest in the property(ies) used in this report and have no present or prospective personal interest or bias with respect to the participants in the transaction. Person(s) providing significant professional assistance are:

Names

The certification in this report is subject to the following assumptions and limiting conditions:

- If this assignment is a Broker's Price Opinion with a subject property, I have been informed that the subject property should be looked at under the assumption that the property is free of any and all contaminants. I have noted in the report any adverse conditions (such as deterioration, adverse environmental conditions, etc.) observed during the inspection of the subject property(ies) or that I had prior knowledge of or became aware of during the research involved in preparing this report.
- This report is to be used only for the purchase, exchange, and/or temporary use (including grading) of property in conjunction with a transportation project.
- I have disregarded any decrease or increase in the fair market value (FMV) of the real property caused by the project for which the property is to be acquired.
- Unless otherwise stated in this report, I have no knowledge and assume there are no hidden or unapparent physical deficiencies or adverse conditions of the properties listed that would make the property(ies) less valuable, and make no guarantees or warranties, express or implied.
- This report is not an appraisal and is not purported to comply with the Uniform Standards of Professional Appraisal Practice for writing an appraisal report; Appraisal standards under the Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act; or the Standards of the Federal Financial Institutions Regulatory Agencies; or FNMA/FHLMC Appraisal Guidelines.
- I obtained the information, estimates, and opinions (if applicable) that were expressed in the report from sources that I consider to be reliable and believe them to be true and correct.

BPO PREPARER NAME		DATE OF REPORT
LICENSE TYPE	LICENSE #	