

CEAA

Statement on Jurisdictional Exceptions

Introduction

Jurisdictional exceptions in the evaluation of candidates has not been adequately addressed. The purpose of this Statement is to provide clear guidance to jurisdictions seeking the Certificate of Excellence in Assessment Administration. The underlying premise of this statement is that jurisdictions wishing to claim a jurisdictional exception either to IAAO Standards and/or USPAP must provide a convincing case that the claimed exceptions either to IAAO standards or USPAP.

Put succinctly, the burden of proof that a jurisdictional exception exists rest with jurisdiction. Making a claim to a jurisdictional exception does not necessarily establish that one does exist.

USPAP and Jurisdictional Exceptions.

USPAP provides this statement, “If any applicable law or regulation precludes compliance with part of USPAP, only that part of USPAP becomes void for that assignment.”¹

Further USPAP provides, “In an assignment involving jurisdictional exception an appraiser must:

1. Identify the law or regulation that precludes compliance with USPAP;
2. Comply with that law or regulation;
3. Clearly and conspicuously disclose in the report the part of USPAP that is voided by the law or regulation; and
4. Cite in the report the law or regulation requiring this exception.”²

To establish the breath of the jurisdictions exceptions coverage USPAP notes: “Law includes constitutions, legislative and court made law, and administrative rules and ordinances. Regulations include rules or orders having legal force, issued by an administrative agency. Instructions from a client or attorney do not establish a jurisdictional exception.”³

Despite its coverage, there are significant omissions: unsubstantiated opinions no matter what the source, customary practice, articles in newspapers or journals, suggestions or recommendation not having legal force, and practices in other jurisdictions which are not subject to identical laws or regulations.

¹ The Appraisal Foundation December 2016, “Jurisdictional Rule”, *USPAP 2016-2017 edition*, p.16

² Op cit.

³ Op. cit.

While these definitions were written primarily with fee appraiser in mind, Chapter 6 of USPAP, “Mass Appraisal, Development and Reporting”, speaks to the rule as it applies to mass appraisal.

The reporting and jurisdictional exceptions applicable to public mass appraisals prepare for ad valorem taxation do not apply to mass appraisals prepared for other purposes....The JURISDICTIONAL EXCEPTION RULE may apply to several sections of STANDARD 6 because ad valorem tax administration is subject to various state county, and municipal laws.⁴

USPAP offers no specific examples of what jurisdictional exceptions might be when used in mass appraisal⁵.

IAAO Standards and the Jurisdictional Rule

In evaluating a CEAA submission the new *Assessment Practices: Self-Evaluation Guide*, 5th Edition puts emphasis on jurisdictions complying with IAAO Standards. If a jurisdiction can’t meet a standard that must be noted in the application and a reason provided for this failure. Jurisdictional exceptions may constitute such a reason.

IAAO has not covered jurisdictional exceptions in any comprehensive manner. On the cover of every Standard these words are included, “If any portion of these standards is found to be in conflict with the *Uniform Standards of Professional Practice (USPAP)* or state laws, USPAP and state laws shall govern”.

IAAO has in its Standards established the principle, “A market value standard is essential to achieving equity,”⁶ “...to maximize fairness and understandability in a property tax system, assessments should be based on current market value of property.”⁷ IAAO has reaffirmed market value is to be preferred as the basis for appraisal even in international settings. “To maximize fairness and understandability in a property tax system, assessments should be based on current market value, and this principle should be supported in legislation”.⁸ While recognizing that area systems of valuation are used in other nations no standards or guidelines have been developed by IAAO addressing these systems.

⁴ Op cit. p.39

⁵ It can be assumed the IAAO’s use of “law” shall refer to the definitions contained in USPAP

⁶ IAAO, January 10, 2010., *Standard on Property Tax Policy*, 4 p.10

⁷ IAAO, *Standard on Property Tax Policy*, op. cit. 4.2.1 p.12

⁸ IAAO, January 2014, *Guidance on International Mass Appraisal and Related Tax Policy*, p. 8

In the IAAO *Standard on Property Tax Policy* there is indirect reference to how jurisdictional exceptions should be developed. “Administrative or oversight agencies especially at the state level, often develop rules and regulations to clarify. State administrative agencies are encouraged to incorporate clear and concise language into such regulations...”⁹ “Non-market value systems should be rejected as a model because they deviate from the basic principle of ad valorem taxation and tend to be less equitable for all property taxpayers.”¹⁰

IAAO’s *Standard on Property Tax Policy* provides a listing of possible jurisdiction exception.¹¹

- Exemptions partial or full
- Property Classifications
- Property tax deferrals
- Property assessment “freezes”
- Use value assessment
- Abatements
- Valuation Increase limits

All of these violate the premise of market valuation and contribute to reduced equity in property assessment. For the CEAA the concern should not be with whether these are sound assessment practices, but if they are required as legitimate jurisdictional exceptions.

There are other ways of providing property tax preferences which involve property tax rates, but these are beyond the consideration of the appraisal function and should not be included in the evaluation of jurisdictional exceptions for the CEAA. These include tax credits, circuit breakers, rate limits, TIFS and deferrals.

Guidance for the CEAA

It is recognized that most if not all jurisdictions will have some jurisdictional exceptions which will keep them from applying market value to all properties. In order to evaluate whether these constitute legitimate reasons to grant a jurisdictional exception the following is guidance.

- The exception must be specific
- Documented evidence that the jurisdictional exception is required
- The specific section of the law must be given and included as a link in the narrative
- Demonstration of how the jurisdictional exception influences the assessment of property in the jurisdiction.

⁹ IAAO, January 10, 2016, *Standard on Property Tax Policy*, 2.1.5, p 6

¹⁰ IAAO, *Standard on Property Tax Policy*, op. cit. 4.2.4. p. 13.

¹¹ IAAO, *Standard on Property Tax Policy*, op. cit. 4-5

In chapter one of the CEAA application, the applicant jurisdiction must clearly note the jurisdictional exceptions which will present in their application. In addition, for each succeeding chapter specific reference to the portion of the law that applies to that question where a jurisdictional exception is claimed. Failure to properly apply a claimed jurisdictional exception will result in a grade of zero for that portion of the chapter.