



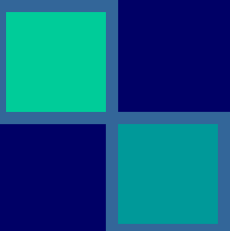

# Presenting the Administrative Assessment Case



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# Vision Statement

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- The vision and long term direction of this and all future training sessions: better assessor oral case presentation, better written appraisals
  - For:
    - New & Experienced Assessors
    - Residential & Commercial
    - PTAAB & MTC
- 




# Goal and Objective

- The desired goal of this session: to have assessors learn new information about PTAAB and MTC presentations
  - The desired objective: to have all offices presenting (with or without counsel) coordinated, effective support for assessments at the administrative level
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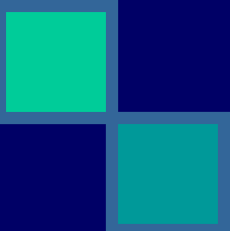



# Current Situation

- Department has many new assessors who need training questions in these areas:
    - Direct testimony
    - Appraisal contents
    - Rebuttal testimony
    - Cross-examination
    - Lodging objections
    - Opening/closing statements
  - Department has many experienced assessors who have questions in these areas.
- 




# How Did We Get Here?

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- Information consolidated from assisting assessors at hearings
  - Teaching skills as adjunct professor at University of Maryland School of Law
- 



# Overview of Today

- I. Oral Presentation at the Administrative Level in Support of Value
  - II. Written Presentation at the Administrative Level in Support of Value
  - III. Judicial Review of Tax Court Determinations by the Circuit Courts
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# I. Oral Presentation at the Administrative Level in Support of Value

- Potential Categories of Oral Presentation
    - Preliminary Matters
    - Opening Statement
    - Direct Testimony
    - Rebuttal Testimony
    - Cross-examination
    - Objecting
    - Closing Statement
- 




# Preliminary Matters

- Sometimes you will be asked about this
    - Discovery Issues (Rule 7)
    - Is Petitioner represented by owner or attorney
    - Can the issues be narrowed?
  - May be on or off the record
  - May help to narrow issues
- 





# Opening Statement

- Many times waived
  - If Respondent, you go second, but . . .
  - Hone in on the issue:
    - Give full cash value conclusion
    - Identify what kind of property
    - State DOF
    - Why is your approach and methodology correct? (don't wait to make your point)
- 


# Direct Testimony

## ■ Preparation

- Know the subject property (visit the subject)
  - Physical characteristics
  - Location
  - Zoning
- Know your comps
- Know the petitioner's comps
- Support every step of your analysis (reports, income/expense stmts, etc.)
- Review your appraisal and Petitioner's
- Petitioner's appraisal (notes for rebuttal)




# Direct Testimony (cont.)

- Facets of Direct Testimony
    - Introducing yourself
    - Getting expert qualification
    - Establish familiarity with subject
    - Getting appraisal admitted
    - Introduction to appraisal
    - The heart of the valuation
    - Final value conclusion
- 



# Direct Testimony


## Facets of Direct Testimony

- Introducing Yourself
    - Name
    - Business address
    - Title of job classification
    - Years with office
    - Years in present position
    - Typical duties
    - One duty is to testify
  - Build credibility
- 



# Direct Testimony


## Facets of Direct Testimony

- Getting expert qualification
    - Education
    - Training
    - Accepted before
    - CV or resume can't hurt
    - Offer yourself as such
    - Build credibility
- 



# Direct Testimony


## Facets of Direct Testimony

- Establish familiarity with subject
    - Been there
      - Exterior
      - Walk-through
    - Valued before
      - Prior cycles
      - Prior levels
    - Assessed area before
    - Assessed type of property before
    - Valued for this proceeding
    - Build credibility
- 



# Direct Testimony


## Facets of Direct Testimony

- Getting appraisal admitted
    - Identify written appraisal
    - Exchanged according to rules
      - Rule 7 of MTC for comps
      - TP, 14-512 for appraisal
    - Offer it into evidence (now you can talk about it freely)
- 



# Direct Testimony

## Facets of Direct Testimony


- Introduction to appraisal
    - State your bottom line value
    - Establish DOF
    - Briefly describe property
      - Improvements
        - Age, condition, size, etc.
      - Land
        - Zoning, size, location, etc.
    - Highest and Best Use
    - Other physical characteristics
    - Other facts material to issue of valuation
- 





# Direct Testimony

## Facets of Direct Testimony

- The heart of the valuation
    - Which of 3 approaches used (cost, market, income)
    - Which not and why not
    - Which deserves most weight
  - Run through your appraisal
- 



# Direct Testimony


## Facets of Direct Testimony

- The heart of the valuation (cont.)
  - Cost approach
    - Replacement cost of building
    - Land value
    - Final cost
  - Market Approach
    - Sale of subject
    - Sale of comps
      - Sale dates, prices, adjustments
      - Stand by one
    - Final market
  - Income Approach
    - Direct Cap
    - DCF
    - Final income




# Direct Testimony

## Facets of Direct Testimony

- Final Value Conclusion
    - Value you are defending from below
    - Correlate approaches
    - Restate bottom line
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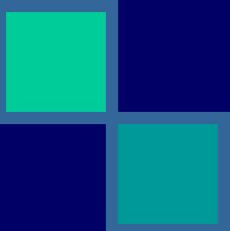



# Rebuttal Testimony

- Your chance to respond to and criticize things brought out in taxpayer's case
  - If you are Respondent, go right into it
  - Examples:
    - Comps have significant differences
    - No adjustments – Adjustments too great
    - Cap rate not supported
    - Data not supported (pro forma vs. actual)
    - Should have been stabilized
    - Sales are not arms-length
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# Cross-examination

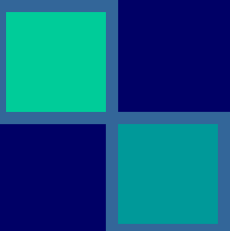

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- Your chance to question taxpayer's witness about testimony
  - Use to establish bias, licensing problems, lack of credibility
  - If Respondent, you will do this before direct
  - Use leading questions (theoretically require yes or no) to elicit facts that support your valuation
    - Isn't it true that ...
    - You agree that ...
    - It would be fair to say that ...
- 

# Objecting

- When improper evidence is coming in
- Most common grounds
  - Rep, must be property owner or attorney
  - Failure to comply with exchange rules
  - Out of order
    - Taxpayer tries to impeach your appraisal before it is in evidence
  - Relevance
    - Evidence past DOF
    - Comparing assessments, Samet case
    - Percentage of increase
    - Higher tax bill
  - Settlement discussions
  - Hearsay
    - Generally coming in
    - But, c.f., appraisals without appraisers
  - Non-Expert Opinions
  - Testifying Attorneys
  - Failure to give I&E at first level
  - Information is after Date of Finality
  - Petitioner is relying on other assessments instead of sales




# Closing Statement

- 
- Sum up your case
  - Refocus fact-finder back to the issue
- 




## II. Written Presentation at the Administrative Level in Support of Value

- Your appraisal and supporting documents
  - Any other relevant documents to go into evidence
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# Appraisals


- If represented, send to counsel at least two days before 10-day deadline
  - Indispensable Elements
    - Residential
    - Commercial
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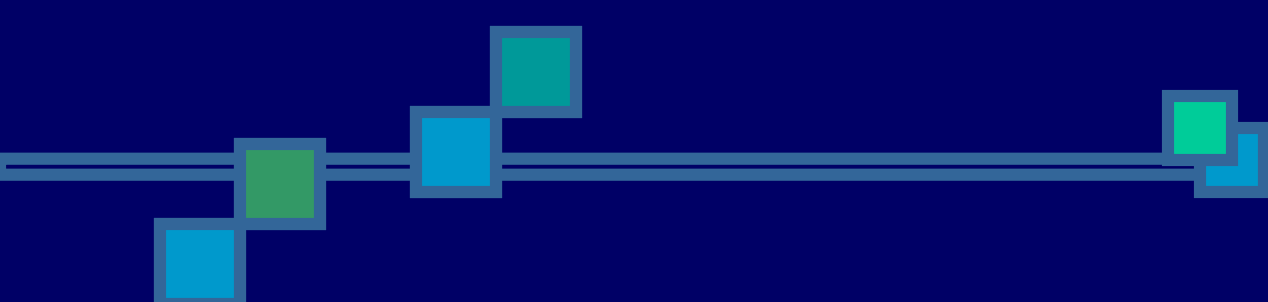
# Appraisals

- Residential - Indispensable elements
  - Assessor name and title
  - Date of appraisal
  - Case number
  - Property identification
  - Date of finality
  - Value conclusion
  - Value history
  - Site and improvement data
  - Neighborhood data
  - Some method of comparing sales to subject
  - Cost approach or worksheet
  - Map
  - Pictures
  - Qualifications of assessor
  - Rule 7 letter




# Appraisals

- Commercial – Indispensable elements
    - See residential above
    - Add:
      - Table of contents
      - Pages numbered consecutively including addendum
      - Highest and best use discussion
      - Income approach
      - Correlation of approaches
      - Publications and other documents
- 



# Indispensable elements – finer points

- Market approach
    - Residential – grid
    - Commercial
      - One comp per page
      - Unit of comparison
  - Cost
    - Residential - CAMA worksheet
    - Commercial – CAMA worksheet
  - Income
    - Rate build up
      - RERC, Korpacz
      - Go national to localize your rate
      - Market derived
      - Band of investment
    - DCF assumptions
- 




# Judicial Review in Circuit Court (or why it is important to make a good record)

- Record Review
  - Scope/Standard of Review
- 




# Record Review

- Based on evidence below
    - Transcript of testimony
    - Exhibits
  - Oral argument/memoranda vs. testimony
  - Assessors welcome but not required
- 



# Scope/Standard of Review

- Narrow on the facts – deference -expertise
    - Valuation is factual
      - Choice of approach, comps, depreciation
      - Choice of cap rate, grade, obsolescence
  - Broader on the law – go and substitute
    - Usually evidentiary error
      - Evidence should come in and does not
      - Evidence comes in and should not
    - Can be constitutional
- 



# Conclusion/Questions

- Hopefully we reached or will reach:
    - Vision: better assessor oral case presentation, better written appraisals
    - Goal: to have assessors learn new information about PTAAB and MTC presentations
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