

Rethinking Exposure Time in Texas Eminent Domain Appraisals

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In real estate appraisal, particularly for eminent domain purposes, the question often arises: is it necessary to define and support an exposure time estimate? Traditionally, exposure time has been viewed as a critical component of market value. However, in the context of Texas condemnation appraisals, a closer look at USPAP Advisory Opinion 34 and relevant case law, particularly *City of Austin v. Cannizzo*, suggests that defining exposure time may not be required — and, in fact, may be inconsistent with the legal framework governing market value in condemnation cases.

What Is Exposure Time?

Exposure time, as defined by USPAP, is “the estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal.” It is a backward-looking concept — how long would it have taken to sell the property if it had been actively marketed before the appraisal date, at the appraised value?

USPAP Standard Rule 1-2(c) requires that appraisers identify and, when appropriate, develop an opinion of exposure time. The phrase “when appropriate” opens the door to contextual interpretation, which is elaborated upon in **Advisory Opinion 34 (AO-34)**.

AO-34: Flexibility Based on Intended Use

AO-34 clarifies that an exposure time opinion is not always required. The necessity of developing and reporting an exposure time depends on the **intended use** of the appraisal and the requirements of the **client and applicable laws**. For example, exposure time may be essential in a mortgage lending context where it informs the lender of potential marketability risks. However, in a legal setting — such as eminent domain — the focus shifts from marketing considerations to statutory and case law definitions of market value.

This distinction is critical in Texas condemnation practice.

City of Austin v. Cannizzo: The Legal Standard for Market Value

In *City of Austin v. Cannizzo*, 153 Tex. 324 (1954), the Texas Supreme Court established that market value in a condemnation case must be based on **“the price the property would bring when it is offered for sale by one who desires to sell, but is not obliged to sell, and is bought by one who desires to buy, but is under no necessity of buying.”**

This definition is grounded not in exposure time, but in the hypothetical willingness and reasonableness of the parties involved. There is no requirement that the property be actually offered for sale, nor is there a statutory mandate that the value must reflect a specific period of market exposure.

The *Cannizzo* standard focuses on **willing buyer/willing seller** assumptions — a theoretical exchange in an open and competitive market — not the logistical details of how long a property would need to be listed before selling.

Implications for Texas Eminent Domain Appraisals

Given the legal definition of market value in Texas condemnation cases, the inclusion of an exposure time estimate is not only unnecessary — it could introduce ambiguity or conflict with legal precedent.

More specifically:

1. **Exposure time is irrelevant to the definition of market value under Texas law.** The courts have clearly delineated what constitutes market value, and exposure time, as defined by USPAP, plays no part in that definition.
2. **AO-34 supports omitting exposure time when it is not necessary for the intended use.** Since eminent domain appraisals are primarily used for litigation or settlement within a legal framework, and not for lending or transactional purposes, exposure time is not “appropriate” in this context under USPAP.
3. **Including exposure time may risk introducing misleading information.** Estimating exposure time could suggest that market value is somehow contingent on marketing strategies, which is inconsistent with the theoretical and legal underpinnings of condemnation valuation.

Conclusion

In Texas eminent domain appraisals, the appraiser’s task is to apply the legal definition of market value as established by case law — not to conform to transactional norms that might apply in other contexts. USPAP Advisory Opinion 34 grants appraisers the discretion to omit an exposure time estimate when it is not appropriate to the intended use. And under *City of Austin v. Cannizzo*, Texas law defines market value independently of any specific marketing timeline.

Accordingly, defining and supporting an exposure time is not required — and may in fact be inappropriate — in Texas condemnation appraisals. Appraisers should remain aware of both USPAP flexibility and legal precedent when determining the necessary scope of their reports in this specialized field.