

**SIEGEL
JENNINGS**
PROPERTY TAX LAW

CLEVELAND
CHICAGO
COLUMBUS
PITTSBURGH

Evaluating the Evaluators

Critically reviewing appraisals and solutions from around the Country

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The Basic Principle of Taxation

John Locke (1623 – 1704) advocated that the foundation of government is predicated on the people freely transferring certain necessary powers to the government in exchange for the government protecting the rights of the people. The people have given the right to tax to the government; however, in exchange, the government must tax only within the rules. Those overriding rules are our Constitution.

Uniform Assessment Procedures

"True value in money" or "true value" means one of the following:

(1) The fair market value or current market value of property and is the price at which property should change hands on the open market between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having a knowledge of all the relevant facts.

(2) The price at which property did change hands under the conditions described in section [5713.03](#) of the Revised Code, within a reasonable length of time either before or after the tax lien date, unless subsequent to the sale the property loses value due to some casualty or an improvement is added to the property.

Date of Valuation



January 1st

The date is January 1st of the tax year but data that is known or should have been foreseeable is acceptable. Sales within 24 months are often accepted unless there has been a change to the market or property.



Theory of Anticipation

Value is commonly perceived as the anticipation of future benefits. Because value changes over time, an appraisal reflects value at a particular point in time. Because value is an economic concept, the monetary worth of property, goods, or services to buyers and sellers is an expression of value. *The Appraisal of Real Estate 15th Ed.

Start with the Basics

First, we follow the Constitution

- Equal protection – boils down to treating all taxpayers alike
- Taxed by uniform rule according to value - Article XII, Sec 2

How do we do this in Ohio?

The county auditor, from the best sources of information available, shall determine, as nearly as practicable, the true value of the fee simple estate, as if unencumbered but subject to any effects from the exercise of police powers or from other governmental actions – ORC 5713.03

Uniformity

Why fee simple as if unencumbered?

- Uniformity – fee simple is the only measure that is the same for all taxpayers
- The Uniform Standards of Appraisal Practices requires that the appraiser identify the interest being appraised.

In accordance with the uniform rules and methods of valuing and assessing real property as adopted, prescribed, and promulgated by the tax commissioner. ORC5713.03

Understanding Date of Valuation - Market, Market, Market

Using the income approach with the sales comparison:

- Dates: What should be considered? **AUDIENCE**
PARTICIPATION
 - Lease renewal
 - Lease inception
 - Date negotiated
 - Date of sale
 - Lease to own?
 - Other factors?
 - "may consider" 5713.03

Market, Market, Market ... What has changed?

11 interest rate hikes since March 2022

Band of investment calculation

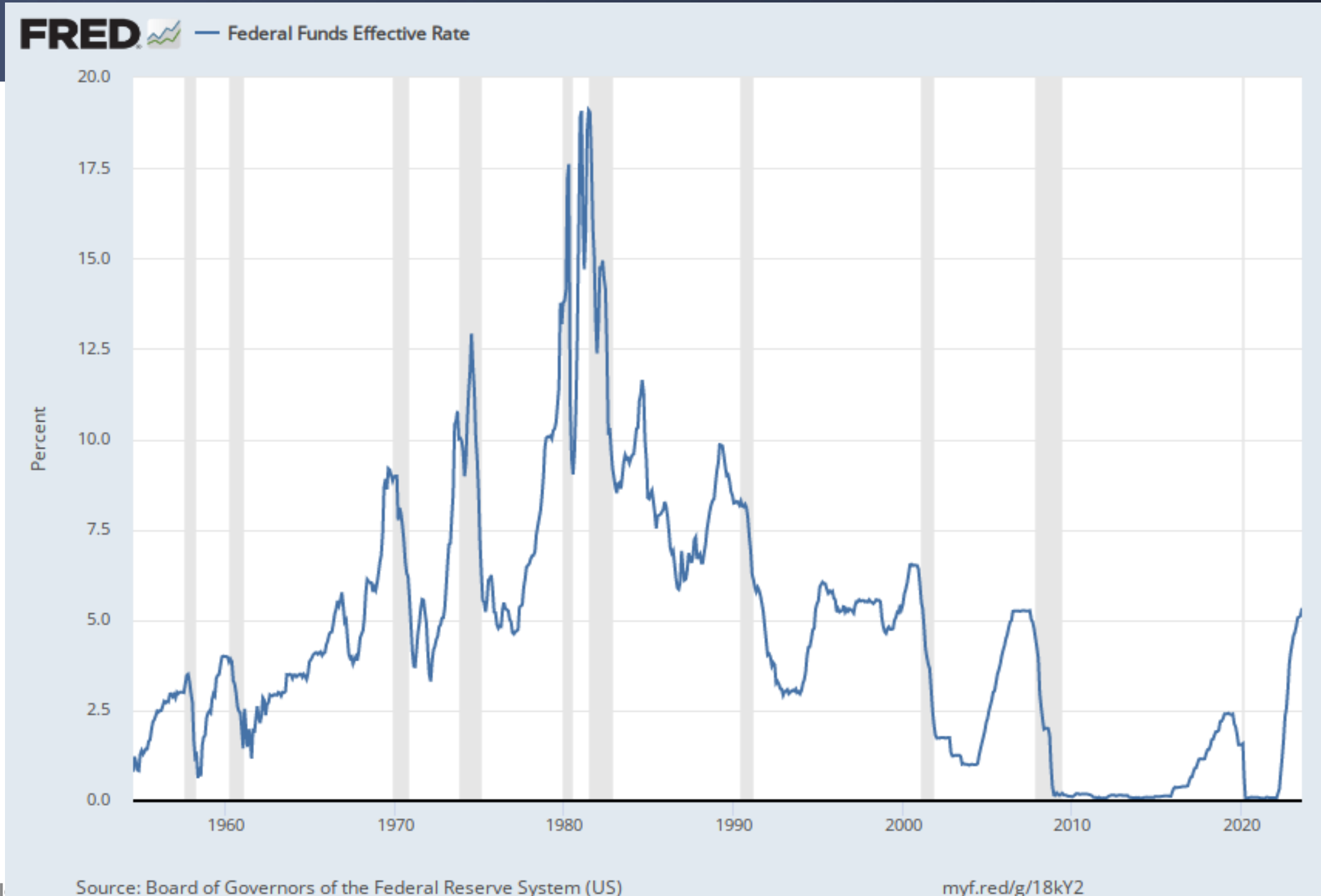
LTV

Mortgage Constant (interest rate typically 2.0% above 10 year)

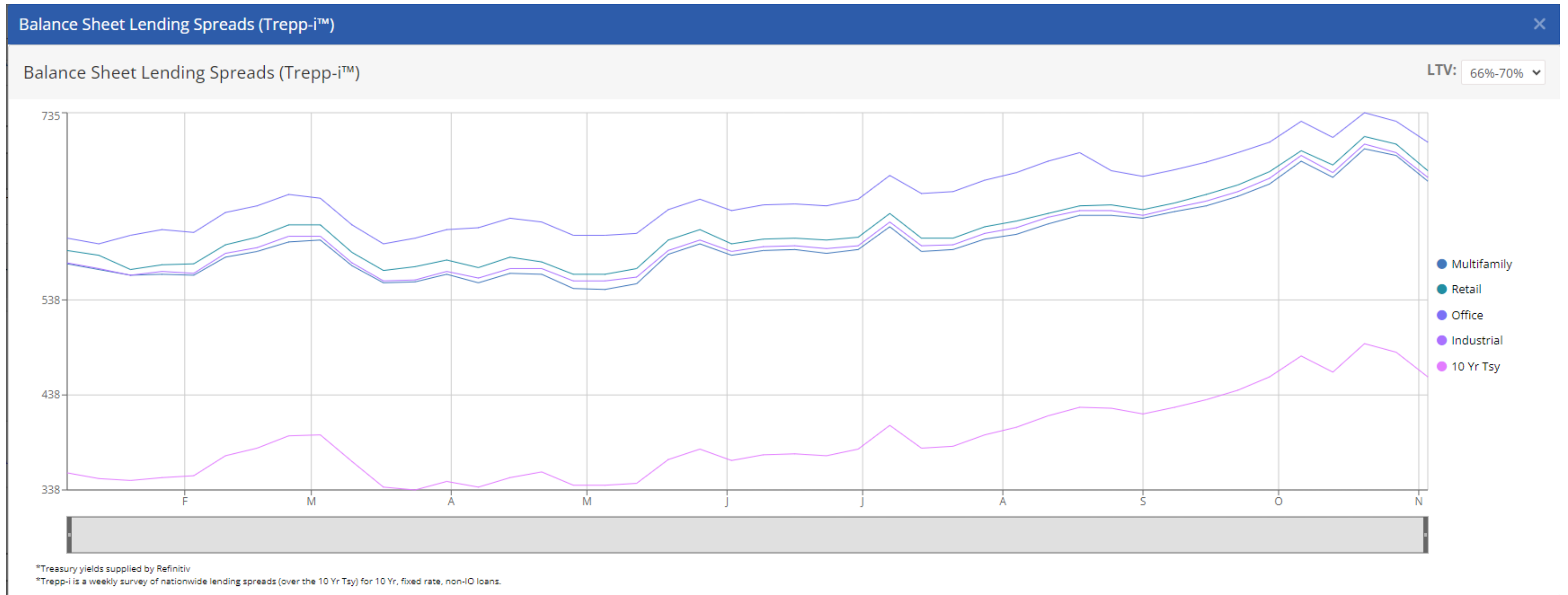
Equity Dividend = cash on cash return typically reflects risk and what could be obtained in an alternative investment.

Tax additure

What can we expect ?



Interest rates to 10-Year Treasury



Equity Dividend / Cash on Cash Return

RealtyRates.com INVESTOR SURVEY - 1st Quarter 2023*			
EQUITY DIVIDEND RATES			
Property Type	Min.	Max.	Avg.
Apartments	4.78%	13.92%	9.80%
Garden/Suburban TH	4.78%	12.72%	8.35%
Hi-Rise/Urban TH	4.78%	13.92%	8.89%
Student Housing	4.78%	13.32%	8.62%
Golf	9.22%	21.77%	16.12%
Public Daily Fee Courses	9.22%	21.17%	14.59%
Semi-Private Clubs	9.22%	21.77%	14.86%
Private Clubs	9.22%	20.57%	14.32%
Health Care/Senior Housing	7.19%	16.67%	12.40%
Acute Care Facilities	7.39%	16.67%	11.56%
Out-Patient Care Facilities	7.19%	15.47%	10.91%
Congregate Care Facilities	7.29%	16.07%	11.24%
Assisted Living Facilities	7.24%	15.77%	11.08%
Industrial	6.77%	15.36%	11.50%
Warehouse/Distribution	6.77%	14.16%	10.10%
R&D/Flex	6.97%	15.36%	10.75%
Climate Controlled/Manufacturing	6.87%	14.76%	10.42%
Lodging	7.44%	18.85%	13.71%
Full Service Facilities	7.44%	17.65%	12.03%
Limited Service Facilities	7.64%	18.85%	12.68%
Golf/Gaming/Resort	7.54%	18.25%	12.36%

Mobile Home/RV Park/Camping	7.61%	17.62%	13.12%
Manufactured Housing	7.61%	16.42%	11.58%
Mobile Home Parks	7.71%	17.02%	11.90%
RV Parks/Campgrounds	7.81%	17.62%	12.23%
Office	7.25%	15.59%	11.84%
Suburban	7.25%	14.39%	10.46%
CBD	7.45%	15.59%	11.11%
Medical	7.35%	14.99%	10.79%
Restaurants	10.14%	19.80%	15.45%
Full Service	10.34%	19.80%	14.60%
Fast Food	10.14%	18.60%	13.95%
Retail	7.66%	17.33%	12.98%
Anchored	7.66%	16.13%	11.47%
Un-Anchored	7.86%	17.33%	12.12%
Convenience/Gas	7.76%	16.73%	11.80%
Free Standing	7.61%	16.58%	11.65%
Self-Storage	7.51%	14.88%	11.56%
Climate Controlled	7.71%	14.88%	11.01%
Mini Storage	7.51%	13.68%	10.28%
Special Purpose	9.98%	20.68%	15.87%
Schools/Day Care Centers	9.98%	19.48%	14.26%
Churches/Temples/Synagogues	10.18%	20.68%	14.91%
All Properties	4.78%	21.77%	12.12%

*4th Quarter 2022 Data

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Capitalization Rate Mortgage Equity Approach

70%/30% LTV 10-year treasury 4.5% 20-year amortization

Mortgage const on a 7% loan	$9.304\% \times .70 = 6.512\%$
Equity 9% cash on cash return	$9\% \times 30\% = \underline{2.7\%}$
Capitalization rate before tax add	9.212%
Tax rate 100 mills X 35%	<u>3.5%</u>
Total capitalization rate	12.712%

DATA INTEGRITY AKA Garbage in = Garbage out

Verification and Motivation are essential for good data understanding.

- *A primary purpose of verifying a sale of real property is to make sure that the sale occurred under conditions that meet the definition of value used in the appraisal. The verification process also provides an appraiser with an opportunity to obtain accurate information about the property and to better understand the attitudes and motivations of the buyer and seller.*

**Appraisal of real estate 15th ed.*

Why are non-comparable rents and sales concerning?

YOUR TURN

- Audience participation

What does it mean to be comparable?

- The comparable properties should have the same or a similar highest and best use as the subject property
- A good comparable sale is a competitive alternative—i.e., a property that the buyer of the subject property would also consider. The selection of comparables is directed to some extent by the availability of data. Investigation of an active market usually reveals an adequate and representative number of transactions within a restricted area and time-period.

* Appraisal of Real Estate 15th ed. p. 110

Unrelated Informed Parties

There are two sides to every transaction

Buyer/Seller

Lessor/Lessee

What factors might be relevant?

Terms are important

Property Rights

Total costs (CAM, Taxes, Rent)

Data not immediately relevant

- *The data included in an appraisal report should be directly relevant to the property being appraised and the market in which the property competes. Appraisers should take care to include relevant data in the report and leave out irrelevant information. * Appraisal of Real Estate 15th ed. p. 96*
- *Information in an appraisal for argumentative purposes is a potential red flag that the appraiser is not being independent and has taken on the role of an advocate.*

Data Necessary to inform the reader

- Conclusions without support is a red flag
- Adjustments without support
- Qualitative and quantitative adjustments are OK but need support.
- Motivations need to be known so that arm's-length can be determined.
- Unverified data is suspect
- Use of surveys alone are suspect (need to know what data was used) how extensive is the survey, who was surveyed, where, etc.

But the world is not perfect...

- Adjustments can and should be made



MARKET Comparables

Researching Transactional Data

- *In the first step of the sales comparison approach, appraisers gather data on sales, listings, contracts, offers, refusals, and options relating to properties considered competitive with, and comparable to, the subject property. Appraisers must thoroughly research the prices, real property rights conveyed, financing terms, motivations of buyers and sellers, expenditures made immediately after purchase, and dates (i.e., the market conditions) of the property transactions or contracts. Appraisers must also consider each property's location, physical condition, functional utility, economic characteristics, use, and non-realty components.*

**Appraisal of Real Estate 15th ed*

How do you know unless you know???

sb Yogi Bera

Appraisers should not select comparables based strictly on price, as other factors must be considered when assessing comparability. Because conclusions must be market-derived, appraisers will rely heavily on interviews, personal contacts, and proprietary research. **Personal verification with a party to the transaction is an important step** in the sales comparison approach and it may be a client requirement.

*Appraisal of Real Estate 15th ed

Wrap up of valuation ... simple way to remember

- COMPARE APPLES TO APPLES
- MARKET, MARKET, MARKET
- Where did the data come from?

Some ways assessments work(ish) from around the U.S.

- Phase-in of new assessments – Maryland solution
- Assessment caps – California and Proposition 13
- Uniform and Equal – Texas/Illinois/variations on the theme
- Timing of assessment appeals Texas/Pennsylvania/etc.

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