Florida Law Governing Property Appraiser’s Assessments

The duties of Florida’s sixty-seven county Property Appraisers are governed by the Florida Constitution s. 4, Art. VII, Florida Statutes, and the Rules and Regulations of the Florida Department of Revenue.

The Property Appraiser is an elected official who has autonomy to direct his or her office in compliance with the laws and guidelines set forth by the above entities. To comply with this requirement, the Florida legislature created Florida statute section 193.011. It reads as follows:

In arriving at just valuation as required under s. 4, Art. VII of the State Constitution, the property appraiser shall take into consideration the following factors:

(1) The present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in a transaction at arm’s length;

(2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and any zoning changes, concurrency requirements, and permits necessary to achieve the highest and best use, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium;

(3) The location of said property;

(4) The quantity or size of said property;

(5) The cost of said property and the present replacement value of any improvements thereon;

(6) The condition of said property;

(7) The income from said property; and

(8) The net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or atypical terms of financing arrangements. When the net proceeds of the sale of any property are utilized, directly or indirectly, in the determination of just valuation of realty of the sold parcel or
any other parcel under the provisions of this section, the property appraiser, for the purposes of such
determination, shall exclude any portion of such net proceeds attributable to payments for household

The Florida Supreme Court has interpreted the meaning of "just valuation" and the application of the eight
statutory factors that the Property Appraisers consider in arriving at just value. Case law provides that,

. . . the just valuation at which property must be assessed under the constitution and section 193.011 is
synonymous with fair market value, i.e., the amount a purchaser, willing but not obliged to buy, would pay a
seller who is willing but not obliged to sell. In arriving at fair market value, the assessor must consider, but not
necessarily use, each of the factors set out in section 193.011. Valencia Center, Inc. v. Bystrom, 543 So.2d
214,216 (Fla. 1989) (quoting Walter v. Schuler, 176 So.2d 81 (Fla.1965) and Oyster Pointe Resort Condominium
Ass'n v. Nolte, 524 So.2d 415 (Fla.1988)).

Taken together, the case law and statutory provisions require the Appraiser to consider the eight factors to
determine a just valuation that represents what a willing buyer would pay a willing seller.

If the appraiser places most emphasis on one factor, such as income, and arrives at a just value that is lower
than fair market value, than he or she has not met the legal requirements for establishing just value. Similarly,
if the appraiser ignores or places little emphasis on a single factor, such as highest and best use, and
establishes a just value higher than fair market value, the appraisal is also improper. A single factor cannot
drive the value determination when it results in a value other than just or fair market value.

Disclaimer: The principle of Highest and Best Use is one of the most important - and most
misunderstood - concepts in property appraisal. There are entire books and week-long appraisal
courses dedicated exclusively to the discussion of Highest and Best Use, and the principle is too
complex to condense into a short explanation. Florida Statutes charge that the Property Appraiser must
consider Highest and Best Use. The following is our attempt to provide a brief, simplified description of
what it is, what it is not, and how it affects property values. This should not be considered a
comprehensive discussion of all the elements involved in, or how to determine, Highest and Best Use.
HIGHEST & BEST USE

Florida Statute 193.011 requires the Property Appraiser to consider "the highest and best use to which property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law" (F.S. 193.011(2)).

According to the International Association of Assessing Officers:

Highest and Best Use is that use which will generate the highest net return to the property over a reasonable period of time.¹

"Demand for a property depends on potential utility rather than utility in current use. In a well-functioning market, buyers and sellers are aware of the various uses to which a property could be put, and market value is based on its most profitable legal use."²

"Market forces create market value, so the analysis of market forces that have a bearing on the determination of highest and best use is crucial to the valuation process. When the purpose of an appraisal is to develop an opinion of market value, highest and best use analysis identifies the most profitable, competitive use to which the property can be put.

Appraisal theory holds that as long as the value of a property as improved is greater than the value of the land as though vacant, the highest and best use is the use of the property as improved. In practice, however, a property owner who is redeveloping a parcel of land may remove an improvement even when the value of the property as improved exceeds the value of the vacant land. The cost of demolition and any remaining improvement value are worked into the test of financially feasible for redevelopment of the land.

The present use of a site may not be its highest and best use. The land may be suitable for a much higher, or more intense, use. For instance, the highest and best use of a parcel of land as though vacant may be for a 10-story office building, while the office building that currently occupies the site has only three floors."³

The principle of highest and best use acknowledges that the potential uses of a property, not just current use, affect the buyers and sellers in the real estate market.

Consideration of highest and best use does NOT mean, however, that a beachfront property with a small motel will be valued as if it were developed with a condominium complex, but that the LAND value will be impacted by development potential, which influences sale prices, and therefore, market value.

To establish market value, the Property Appraiser's Office considers all aspects of the local real estate market,
including sale prices, construction costs and depreciation, and typical rents and operating expenses, as well as Highest and Best Use.

Highest and Best Use, like all appraisal principles, is considered by the Property Appraiser’s Office to arrive at a fair market value, which is simply defined as the most probable sale price a willing buyer would pay a willing seller, in an open market, under normal conditions, as of January 1 each year.