

**American Society of Interior Designers
Building Owners and Managers Association (BOMA) International
Green Building Initiative
Home Innovation Research Labs
International Council of Shopping Centers
NAIOP, Commercial Real Estate Development Association
National Apartment Association
National Association of Home Builders
National Association of Real Estate Investment Trusts
National Leased Housing Association
National Multifamily Housing Council
The Real Estate Roundtable**

September 6, 2016

Rick O. Baumgardner
Chair
Appraisal Practices Board
The Appraisal Foundation
1155 15th St., NW
Suite 1111
Washington, D.C. 20005

Dear Mr. Baumgardner:

The undersigned organizations represent businesses involved in every aspect of real estate ownership, development, management, services, and financing, spanning all asset types of income-producing properties. In the United States and abroad, we represent billions of square feet of health care, industrial, office, retail, storage, and mixed-use properties; millions of residential and apartment units; and millions of hotel rooms.

Our industry has been the subject of numerous third-party efforts to define and direct sustainability-related “voluntary” standards, investments, and best practices. We have created our own successes in developing and implementing replicable, cost-feasible sustainability programs to meet the demands of building owners, developers, tenants, occupants, and investors.

We write to express significant concerns with the ***First Exposure Draft—Valuation of Green and High Performance Property: Commercial, Multifamily, and Institutional Properties*** (“Draft”)¹ prepared by the Appraisal Practices Board (“APB”). We appreciate your August 8, 2016, email to several of our groups requesting that we provide line-by-line input and recommended edits to improve the Draft, along with a multifamily case study. Regretfully, because of the Draft’s serious flaws, we do not believe such a line-item review

¹ Dated May 6, 2016. It appears that links to the Draft have been removed and can no longer be accessed on-line. See <https://appraisalfoundation.sharefile.com/error.aspx?type=linkdeleted>.

would be helpful at this time and that a more comprehensive re-write and re-evaluation is necessary.

We welcome an opportunity to meet with the relevant APB representatives, appraisal industry stakeholders, and others involved in the Draft’s preparation to discuss our concerns, including the following:

1. Regulatory and Potential Impact

- Page 1 states: “Compliance with all guidance issued by the APB is voluntary. However, it is possible that state or federal government agencies, clients and/or user groups of appraisal services, professional appraisal organizations, or others may opt on their own volition to mandate compliance with the guidance issued by the APB.”
- We believe this statement is insufficient to disclaim the Draft’s non-regulatory intentions or potential regulatory effects.
- The Draft should more clearly emphasize that APB does not *intend* that the document be used for any regulatory purposes whatsoever. As evidence to disclaim any potential regulatory intent, the Draft should expressly state it was not developed with the requisite *procedures and processes* that typically attend to government rulemaking.

2. Subject Matter Experts (SMEs)

- Because APB did not consult with building owners, operators and other real estate stakeholders as part of the SME panel, we believe the Draft improperly conveys an impression that “green” building labels inevitably connote high levels of building performance—and that such ratings alone may serve as a proxy for higher property values.
- Page 4 lists Subject Matter Experts (SMEs) who contributed to the Draft.
- The SME panel is comprised of two sustainability NGO representatives, two real estate appraisers, a principal at a land economics and real estate consulting firm, and an LBNL scientist.
- The SME panel includes no representative from a building or real estate ownership, management, or development company or association. APB thus failed to consider or address the opinions and expertise of the commercial real estate community—the very constituency whose assets the Draft would purport to evaluate.
- An appraiser would be unable to adequately value energy efficiency and other high performance building attributes without knowledge of facilities engineering, energy management, and system effectiveness. Typical valuation methodologies referenced in the Draft² would likely lead to suspect real estate appraisals unless they are

² *E.g.*, highest and best use, initial investment cost vs. value in exchange, probable buyer, sales comparisons, etc.

applied with a foundational understanding of building operations and engineering. A building rating alone (such as LEED) is no substitute for such expertise.

- The SMEs appear to lack expertise or day-to-day knowledge regarding how buildings operate, and what sustains or enhances their bottom line performance. Since appraisers must take into account the revenue and expenses of a building, and not just replacement costs or sales values, the failure of a potential standard to adequately take into account these matters is antithetical to its purpose.
- A re-write of the draft with an SME panel comprised of buildings operations, ownership and other real estate experts is in order.

3. Greater Emphasis Needed on Quantifiable Metrics vs. Estimated or Modeled Performance

- Page 21 states: “One particularly important nuance is that appraisers should determine if a property’s energy rating is based on actual energy consumption or modeled energy consumption. Consideration should be given to accuracy, which in the case of actual energy consumption includes completeness of billing data (all meters and fuels). In the case of energy modeling, the appraiser must understand the assumptions made and incorporate, as appropriate, data from the actual modeling of the subject, as well as third-party validation studies.”
- Our organizations agree, as reflected in a 2015 comment letter submitted by real estate groups regarding an analogous NGO-developed sustainability standard. We stated:
 - “The real estate industry is interested in an investment and return orientation to sustainability. No longer is the focus simply on collecting ‘points,’ but also considers the nature of the investment we are making, the return we are getting, how much of that return is economic and quantifiable, and how much is less-tangible impact reduction. The metrics on which [APB] has focused thus far are short on measuring and quantifying investment and return on economics, environmental performance, and impact reduction.”³
- However, “performance” vs. “estimated performance” should receive greater emphasis throughout the Draft—especially when LEED (or other) ratings are discussed. This distinction is particularly relevant in any effort to attempt an appraisal of high-performance buildings.
- Appraisers must consider the very real limitations multi-tenanted residential and commercial property owners and managers face in collecting utility consumption data. Indeed, given the great number of residential tenants in many multifamily properties, modeled energy consumption may make the most sense.

³ Real Estate Industry Letter to Sustainability Accounting Standards Board (SASB), June 23, 2015, pp. 2-3 (hereafter, “SASB Letter”). The SASB Letter is available at: <http://www.rer.org/ContentDetails.aspx?terms=SASB&id=14703©left.aspx%3fpageid=123%3d115732>.

- Because of state privacy laws and related concerns, owners and managers of multi-tenant buildings frequently face major obstacles in gathering energy usage data to enable “whole-building” utility benchmarking.
- More consideration needs to be given to factors outside of the ability of building owners and managers to control—such as availability of whole building energy consumption data. Varying policies of utilities and public service commissions may—or may not—assist in capturing such data. Indeed, not all utilities offer such data. In some cases, the energy usage is not available long enough to establish a building’s improved energy efficiency. The appraiser should expect more interaction with the building’s owners and managers regarding the asset’s energy usage over time in order to consider improved efficiency.
- The Draft should expressly state that appraisers must not stop analysis at whether a building has obtained a rating under LEED (or some other certification system). Appraisers need to dig deeper. *E.g.*: A building that received a green building certification years ago—at the time it was newly constructed (such as LEED NC)—is no indication that it is actually performing at high levels of efficiency and has likely never gone on to confirm or rate performance by obtaining an existing building certification (such as LEED EB:OM).⁴

4. No Consideration of High Performance Leased Spaces and Tenant Engagement

- Nowhere does the Draft discuss the relevance of high-performance tenant-leased spaces as a factor when assessing appraised value of commercial and multifamily buildings.
- “The importance of tenant engagement is driving sustainability programs in the real estate sector . . . so we are disappointed this issue did not receive significant attention in the [Draft].”⁵
- Buildings—and the tenants and other occupants who live, work and play in them—account for a large portion of the nation’s energy usage. Owners and managers can directly address energy efficiency in the common areas of the asset—but consumption in individual tenant spaces is frequently beyond their control. There are many factors that contribute to the building’s energy output. Weather conditions (winter and summer months) and the tenant’s preferred indoor temperature are very important factors. Tenant plug loads (appliances and other electronics) and installed lighting are huge influencers as well. All are beyond

⁴ See *infra* notes 14-15.

⁵ SASB Letter, p. 2.

management’s control and under the tenant’s purview. The Draft should thus explain to appraisers how tenants vs. landlord control issues can greatly impact energy usage in commercial and multifamily assets.

- Just as APB sensitizes appraisers to EPA’s ENERGY STAR program, the Draft should do the same regarding the “Tenant Star” program currently under development at EPA.⁶
- The First Exposure Draft should be revised to reflect how tenant engagement and the design, construction, and operational phases of leased commercial building spaces may be appropriate considerations for a commercial building appraiser.

5. ENERGY STAR Ratings

- The Draft makes many references to ENERGY STAR labels, scores and documents.
- Insofar as ENERGY STAR emphasizes actual energy consumption metrics, our organizations agree that ENERGY STAR-related materials for commercial buildings and plants are appropriate *as a factor* that appraisers may consider—***but are not determinative of a building’s overall performance or value.***
- The Draft should plainly explain to appraisers that many buildings can still operate at high levels of efficiency without ENERGY STAR labels. There may be myriad reasons why an efficient building has not obtained an ENERGY STAR label.
- “While many companies strive to recognize their buildings under labeling programs, a variety of factors may render such ratings infeasible or cost ineffective. For example, highly energy intensive tenant uses (like data centers, television studios, or trading floors) may make it impossible for a building to obtain an ENERGY STAR rating—even though the owner has taken significant steps to manage the asset for optimal energy performance.”⁷
- With regard to ENERGY STAR for multifamily high rise, appraisers should understand that very few such assets have received an ENERGY STAR label.⁸ This is due to the fact that EPA only developed a 1-100 rating for multifamily in 2015.⁹ Also, given their great numbers of individual tenants and residential units, larger

⁶ https://www.energystar.gov/buildings/tenants/about_tenant_star.

⁷ SASB Letter, p. 3.

⁸ Only 109 m-f buildings have received the ENERGY STAR label, as of Aug 19, 2016. See https://www.energystar.gov/index.cfm?fuseaction=labeled_buildings.showResults&search_owner_id=&search_h_prop_manager_id=&FILTER_B_ID=&building_type_id=44&zip=&search_spp_id=&year=&city=&profiles=&code=ALL

⁹ https://www.energystar.gov/buildings/tools-and-resources/energy_star_score_multifamily_housing_united_states.

multifamily buildings face particularly difficult challenges to capture “whole building energy data” that is requisite for EPA’s ENERGY STAR.

- The Draft should also educate appraisers on anticipated changes in ENERGY STAR scores due to updated Commercial Building Energy Consumption Survey (CBECS) data. EPA expects to update all ENERGY STAR scores in 2018, based on the most recent CBECS data gathered by the Energy Information Administration.¹⁰ It is thus crucial that appraisers consider the “vintage” of an asset’s ENERGY STAR Score.
- In short, the Draft should be revised to provide deeper context on whether and when ENERGY STAR-related materials may be an appropriate factor when assessing a commercial building’s appraised value.

6. Over Reliance on LEED Ratings

- The First Exposure Draft is preoccupied with LEED ratings.¹¹ In its repeated emphasis on LEED, APB fails to:
 - Acknowledge the reasons why a real estate owner may *not* deem it appropriate to obtain a third-party label for a high performance building in the first place;
 - Recognize the full marketplace of other nationally available and credible “green” building rating programs; and
 - Consider that most LEED buildings are newly constructed and thus would typically be more valuable than comparable existing buildings—regardless of any LEED recognition.
- “[A]n existing building awarded an ENERGY STAR label automatically achieves prerequisites under many LEED rating systems—but an owner may forego LEED recognition because the significant added costs of certification do not make sense from a marketing perspective, or because available ‘points’ are not based on quantifiable metrics to objectively indicate improved energy performance.”¹²

¹⁰ <https://www.energystar.gov/buildings/facility-owners-managers/existing-buildings/use-portfolio-manager/update-energy-star-scores-cbecs>.

¹¹ The term “LEED” appears approximately 30 times throughout the Draft, frequently mentioned in the same sentence as EPA’s ENERGY STAR rating. *E.g.*: “This Advisory identifies relevant documentation such as energy use disclosures, [LEED] certification scorecards, annual ENERGY STAR scores” (p. 10); “If certain green building related documents or attributes are not revealed in the initial engagement contract (i.e., LEED certification) the appraisal scope of work, report fee, and delivery timing may require modification” (p. 17); “These frameworks can be complementary (e.g. LEED and ENERGY STAR), and green assets are often characterized by multiple performance ratings” (p. 19); “GBIG can help appraisers locate comparable buildings with similar ratings and use types, and determine market velocity including LEED credit achievement details, scores associated with ENERGY STAR labels” (p. 21); “Specialized expert reports include ... LEED or ENERGY STAR documentation” (p. 24).

¹² SASB Letter, p. 3.

- LEED is not the sole participant in the building ratings market. The Draft does not mention any other third-party commercial or multifamily building sustainability rating systems or accreditation programs, much less study or analyze these other platforms.¹³
- Aside from conveying an improper impression that a LEED rating *per se* should be credited by an appraiser, the Draft exacerbates its over-reliance on LEED by failing to assess or describe LEED’s various rating **types**. For example, the Draft fails to explain the differences between LEED’s ratings for **new** construction (formerly “NC” and currently “BD+C” under v. 4), and the rating for **existing building** operation and maintenance (“EB:OM”).
 - “[F]ocus on LEED would unwittingly emphasize labels for new construction (LEED’s primary market) versus existing building operations. New construction, however, is virtually always more expensive than existing building retrofits, generally commands the highest rents, and consumes the most raw materials. Thus, the [Draft’s impression] ... that LEED-rated assets achieve higher revenues and sale prices is necessarily skewed because new buildings—that is, LEED’s primary market—inherently rent and sell for more than older buildings in any event. Secondly, the vast majority of all buildings which will be in place in 2050 in the developed world already exist. Thus, we are highly concerned that [APB] is de-emphasizing those assets where strides in sustainability can be the greatest—namely, the existing buildings stock.”¹⁴
 - “[I]nsofar as LEED and commercial real estate are concerned, the U.S. Green Building Council’s statistics reveal that the vast majority of its rated buildings enter the market with New Construction (‘NC’) certification. A LEED NC certification is no guarantee to ensure sustainable operations going forward. Only a tiny percentage of NC buildings subsequently obtain a rating under the Existing Buildings: Operations and Maintenance (‘EBOM’) system. In fact, USGBC has convened a commercial real estate “user group” to consider issues such as improving the number of NC buildings that may proceed to existing building recognition; extending the LEED brand through a ‘plaque’ that some of us fear may diminish the considerable efforts and expenses to obtain a full-blown LEED EBOM rating; improving LEED’s penetration into second tier markets; and

¹³ Resources regarding myriad third-party high performance building rating systems – other than LEED – are readily available. E.g.: <https://www.wbdg.org/resources/gbs.php>; <http://www.wiley.com/WileyCDA/WileyTitle/productCd-047040194X.html>; <http://www.boma.org/awards/360-program/pages/default.aspx>; <http://www.homeinnovation.com/green>; <http://www.greenglobes.com/home.asp>.

¹⁴ SASB Letter, p. 2.

- developing system ‘adaptations’ because certain building types have been unable to gain significant footing to date under LEED’s various rating platforms. [The Draft] do[es] not contemplate the impediments—recognized by USGBC itself—that might render LEED certification impractical for certain buildings.”¹⁵
- Operations and contingent liability are major components of the definition of sustainability and value. It is entirely possible for a building to be LEED-rated and not operate sustainably. LEED ratings for new construction and building operations themselves change from time to time under various iterations. It is highly unlikely that an appraiser will keep pace with or understand the importance of these changes. Hence, an appraisal which relies on LEED will likely fail to account for changing standards with different difficulties and criteria to attain.

7. Relationship between APB’s First Exposure Draft and the Appraisal Institute’s Green Addendum

- In 2014, the Appraisal Institute (“AI”) released its “Commercial and Residential Green and Energy Efficiency Addendum.”¹⁶
- We are unclear of the relationship between APB’s Draft and AI’s Addendum. The sole, short-hand reference to the Addendum (on p. 28 of the Draft) does not explain whether these documents should, or how they might, work together.
- Are APB’s Draft and AI’s Addendum intended to complement each other and work synergistically? Are they supposed to compete against each other, where an appraiser should only consult one? Has APB examined whether there are any conflicts or inconsistencies between its Draft and AI’s Addendum? In practical terms, how is an appraisal professional supposed to use these documents in the field? Is there even a need for a 61-page Draft from APB, when the Green Addendum checklist already exists from AI? Is it expected that an appraiser will take the time to digest and then apply all of the content in APB’s 61-page Draft?
- Any subsequent iteration of the Draft should answer these and other questions regarding its need and practical use relative to AI’s Green Addendum.

¹⁵ SASB Letter, pp. 3-4.

¹⁶ <http://www.appraisalinstitute.org/education/education-resources/green-building-resources/>

We appreciate this opportunity to provide comments on the First Exposure Draft. Our organizations look forward to further discussions to address the concerns raised above, and address ongoing innovations and diagnostics relating to energy efficiency and how they may impact the value of commercial and multifamily buildings.

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