



## 2.10 WAIVER OF APPRAISAL PROVISIONS

### 2.10.1 General Policy

A waiver of appraisal is allowed in the following circumstances:

1. WisDOT determines that the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at \$10,000 or less and there is no severance to the remaining property (except fencing, see below) based on a review of available market data.
2. Owner is donating property and releases WisDOT from its obligation to appraise the property.

A waiver of appraisal is not considered an appraisal as defined by the Uniform Act (URA) and 49 CFR 24. Therefore, appraisal performance requirements or standards regardless of their source are not required for waivers of appraisals. Owner accompaniment is not required and an appraisal review is not necessary. The waiver of appraisal needs to be performed by a person with sufficient understanding of the local real estate market. A reasonable basis for the established value must be documented. The availability of consistent market data is necessary to support the value estimates that are required. Adequate time and effort must be spent analyzing each parcel for such items as change of grade, driveways, landscaping, fencing, proximity and other factors that would affect the property values and eligibility for the waiver process. A department official must approve an amount believed to establish just compensation for the acquisition.

Fencing - Fencing values are allowed to be included in the waiver of an appraisal because Wisconsin has a statute that allows compensation for the replacement of this item when it is affected by an acquisition. This item can also be handled outside of the waiver of appraisal process by a relocation claim if there is a question whether or not the fence will actually be replaced. In either case the contributory value of the existing fence should be allocated in the nominal parcel and the cost to cure or claim would be the difference between contributory value and the replacements cost. All other cost to cure items require a standard appraisal in order to include the necessary analysis to determine that the cost to cure is economically justified. The same RE specialist should do the entire waiver of appraisal process. Typically, the same specialist who prepares the Project Data Book (PDB) and waiver of appraisal estimates will then make the offers and prepare any appraisals that may be required when an appraisal waiver is not obtained. It is permissible to use a PDB prepared by other staff or a contract appraiser; however, the person preparing the waiver of appraisal offers and appraisals should be familiar with the sales. To ensure accuracy and consistent valuations a qualified real estate agent with at least a working knowledge of PDB preparation and non-complex appraising should be utilized for this process. In the event that an appraisal is required, the same agent can serve as the negotiator, only if appropriate and as long as the total compensation remains under \$10,000.

Payment consistency - Regional staff are responsible for entering all data into READS. Regional project managers and the RE supervisors are responsible for ensuring consistent payments throughout each project and to closely monitor the waiver of appraisal process for compliance.

## 2.10.2 Waiver of Appraisal Identification

Parcels identified for this procedure must meet the following criteria:

- Can be appraised with the Short Format Summary Appraisal (RE1005) if a waiver cannot be obtained.
- No damage to improvements.
- Non-complex, \$10,000 or less in value.

Regions should make an effort to identify waiver parcels early and indicate the parcel number and type in “Column 1” of the R/W Parcel Cost Estimate-Worksheet (RE1778) that accompanies the relocation order. This will notify the WisDOT Bureau of Technical Services-Real Estate (BTS-RE) not to prepare folders for these nominal parcels. The final, signed Nominal Payment Parcel-Waiver of Appraisal Recommendation and Approval (RE1897) is kept in the region’s files. Parcel folders can be created later if the waiver turns into an appraisal because an owner is unwilling to sign the waiver or it is determined later that the appraisal problem is actually complex. An acquisition may be minor; however, the lack of supporting sales data or change of use causes the appraisal problem to be complex.

## 2.10.3 Preparation of the Project Data Book (PDB)

A thorough study of comparable sales must be prepared and presented in the Project Data Book (PDB). Sales should be grouped by size and use categories. The sales ranges should allow value selection without further analysis or adjustments. Allocation of mixed-use sales may help tighten these value ranges. An individual unit value must be concluded for each category that will be the basis for the nominal payment. See Section 2.5 of this manual for more detail on the PDB.

Waiver of Project Data Book (PDB) - The PDB requirement can be waived by BTS-RE, either a manager or a BTS-RE review appraiser, for projects where all of the payments fall under the amount that has been established as the minimum payment in the region or for the project. This may happen when all of the parcels are temporary interests and are being valued based on a rental rate or rate of return where regardless of the land value the payments would need to be rounded up to the amount of the minimum offer. An example of this situation is as follows: 0.05 ac TLE x \$1,000/ac @ 10% = \$5.00. At \$10,000/ac the amount would be \$50.00. In this type of situation, a \$50.00 or \$100.00 minimum payment would cover all of the nominal parcels within this value range. Regions have discretion in establishing the amounts for minimum offers. Regions must document the file containing the Nominal Payment Parcel-Waiver of Appraisal Recommendation and Approval (RE1897) with appropriate justification for the unit value chosen, whether it is comparable land sale raw data or listing data.

## 2.10.4 Waiver of Appraisal Preparation

1. Review appraiser and appropriate regional representative scope project to identify parcels for potential waivers based on complexity.
2. Indicate type of fencing, if any, for future claims and list on Waiver of Appraisal (RE1897).
3. Agent/appraiser keeps notes and calculations for any additional items included in waiver so they are available if needed to convert to an appraisal.

4. Include at least one photo of parcel and, if applicable, one or more close-up photos of fencing in regional file. Make sure all items in acquisition, or affected by it, are in photo(s).
5. The BTS-RE review appraiser or the regional review appraiser must approve PDB prior to any payments being processed. The responsible party here will depend on the complexity of the project and can be determined in the project management conference. Any request to waive the PDB requirement should be in writing and the reviewer can file the request and approval, if granted, in the project file. It is a good idea to prepare at least one appraisal in each size and property type category prior to initiation of the appraisal waiver process to ensure that the value ranges are supportable. This can also support offers for minor parcels if the sales require more adjustment than can be done in the PDB. In this case, waiver amounts would be based on the appraised value of adjacent parcels. An example of this process would be to appraise one parcel in a line of the same size city lots and then use the same unit value in waivers for the rest of the lots. The review appraiser must approve any exceptions or other methods used to justify the nominal amounts.
6. A summary of all nominal parcels must be listed on Nominal Payment Parcel Report (RE1889). RE management must approve report before any offers to owners.
7. The agent should fill out the Nominal Payment Parcel-Waiver of Appraisal Recommendation and Approval (RE1897) in advance of personal contact. After the owner signs the form, if there is no change in the offer the agent can sign the approval. Regional RE management must sign the approval if changes are made.

### **2.10.5 Waiver of Appraisal Negotiations**

1. The owner's rights brochure and appropriate cover letter must be given/sent to owner(s) prior to negotiation. Date of delivery must be noted in Negotiation Diary (RE2058).
2. Owners must be notified of right to have property appraised and be agreeable to waiving that right.
3. Offers should be made in person if possible. Group meetings to explain the project to multiple property owners at one time work well for urban projects with minor acquisitions. Owners are then given the opportunity to meet individually with RE staff to complete the transactions. Owners should be shown the sales study used to establish the price. Negotiation by mail is not prohibited and in some cases may be the most cost effective. If the negotiation is done by mail, copies of the sales sheets from the sales study used to establish the price must be included with a letter explaining the offer and process.
4. The completed Nominal Payment Parcel-Waiver of Appraisal Recommendation and Approval (RE1897) is given to the owner to sign and left with the owner if an immediate agreement is not reached.
5. A Negotiation Diary (RE2058) must be completed for each parcel. Justification for change or increases must be documented on the form. Changes must be made in pen on the Nominal Payment Parcel - Waiver of Appraisal Recommendation and Approval (RE1897) and initialed by the RE specialist and the property owner.
6. Specialists should not refer to "leeway" or percentage increases. Under no circumstances should the owner be pressured to waive their right to an appraisal.
7. It is allowable to make a second follow-up visit if the owners want to think about it or not all of the owners are present. The specialist can complete the appraisal inspection at that time so the owner can be presented an appraisal at the next meeting. If they agree, have them sign the deed and complete the paperwork.
8. If the owner chooses not to waive the right to an appraisal or is reluctant, tell the owner someone will be coming back to do an inspection. If any facts were discovered at the meeting that would make the valuation problem complex, such as an unanticipated damage

to the remainder, the appraiser should inform regional management and an appraisal addressing the problem should be made. The appraisal must be submitted to the project review appraiser to have an offering price established. Once an offering price is approved, a revised offer must be approved to change the offer. If condemnation is going to be used a final offer should be considered that covers any risks to the agency.

9. A deed is required to convey land interest. The agent must be a notary public to witness the deed. If payment is \$600 or more, owner should be asked to complete an IRS1099 form (see current IRS instructions) so that an IRS Form W-9 can be prepared for the owner. The closing statement prepared in advance may be modified in the field if necessary.
10. Any changes from the previously approved amount must be made in ink on the waiver form, initialed by the owner and agent and documented in the Negotiation Diary (RE20058). Owners should be made aware that such changes are subject to regional management approval.
11. A statement to the construction engineer must be completed for all waivers of appraisal. This form lists all commitments made to the property owner. If no commitments are made, the form should say "none" and still be given to the construction section with a copy to the owner. This form should be signed by the owner and the agent.
12. Regional RE staff must enter all payment data into READS.
13. Payment can be requested by submitting a copy of the signed Waiver of Appraisal (RE1897) to the BTS-RE/Finance along with a Payment Request (RE1630).

### **2.10.6 Converting a Waiver of Appraisal into an Appraisal**

If an agreement is not reached, the agent/appraiser should ask to accompany owner on an inspection of the property. An Appraisal Report Short Format Summary (RE1005) should be prepared in accordance with the established WisDOT format. The PDB can be referenced in the sales analysis or comparable sales data sheets can be inserted into the appraisal.