

**Position Statement On January, 2017 Draft (“Draft”)
*Guide for Plant Appraisal, 10th Edition***

Summary

- In our opinion the manuscript cannot be published in its present form – it is seriously flawed, technically incorrect, and poorly written. It requires major rework, not simply piecemeal editing to make it credible.
- If this manuscript is published substantially as written, PAVC will not endorse it and we will disseminate our rejection widely.

We do not reject this document lightly, given the thousands of hours required to craft and review it. However, publishing this Draft as it is, or with only minor editing will be a disservice to ISA member plant appraisers and the public they serve.

Overview

As detailed in our 2012 Position Statement, the Guide for Plant Appraisal, as a flagship publication, is of Strategic significance for ISA.

The PAVC has completed its review of the Draft as requested by Mark Duntemann, ISA’s representative to the Council of Tree & Landscape Appraisers (CTLA). This Position Statement is the unanimous result. Mark Duntemann, as CTLA representative, recused himself from voting. (PAVC members are listed at the end of this review)

This Draft is a 296 page document. It has introduced new and untested material, much of which is poorly presented and confounds easy comprehension, even by experienced plant appraisers. We were allowed 60 days to review, develop comments, collate and share them, then develop this Committee position and return it to CTLA. In this limited time PAVC members developed an extensive list (several hundred comments) of Draft deficiencies, on only a limited portion of the Draft. Correcting only these limited examples will not make the document acceptable. We have found there are too many factual, technical, and conceptual flaws in the Draft.

The Draft is also riddled with bias, promotes narrow and unnecessary perspectives, and it is clearly inconsistent with established practice and legal precedent. The many errors and inconsistencies in logic, argument, and technical content are egregious. Much of the manuscript lacks technical support and cohesive thought. Collectively these problems invalidate the document, and on balance the Draft works against the interests of ISA member plant appraisers.

PAVC acknowledges that the Draft has introduced much needed material, such as Chapter 3 - Appraisal Process and defining the problem. The addition of examples and illustrations is helpful, but some of the examples are confusing, inconsistent with practice, and contain errors. Some of the concepts and

practices presented in the Draft are useful contributions, supporting or advancing established plant appraisal practice. However, these improvements are eclipsed by the preponderance of deficiencies described above. Because the negatives outweigh the positives, this Draft is unacceptable and the PAVC does not support it as presented.

Some of our major concerns include the following:

1. **Bias.** The entire manuscript is indefensibly biased to real estate market value, both as a type of assignment result and as a test of the reasonableness of appraisal results. Chapter 2 presents concepts related to market values as if they govern all appraisals.

There is no evidence that market value appraisal assignments dominate amenity plant appraisal practice. What is reasonable is always a function of the appraisal problem and of appropriately applying the Approaches, Methods and Techniques to solve it. Imposing *a priori* and arbitrary limits on appraisal practice compromises the rational and systematic process that the 10th Ed. purports to champion.

There is also a bias to lower appraised values. The manuscript relentlessly steers appraisers to Methods or Techniques that suppress the outcome, for example, strongly favoring forestry methods outside of improved or managed landscapes. Again what is appropriate is always a function of the appraisal problem.

Even if this bias is removed, this Draft, the Guide should contain the following statement right at the front of the text.

Nothing in this Guide is to be considered, construed, interpreted, or understood to establish or even suggest a bias or default to or preference for:

- a) any particular type of value or other assignment result, or
- b) any particular approach, method, or technique to develop the assignment result.

Every appraisal problem is a blank slate. The appropriate and relevant type of assignment result must be identified by the appraiser in each and every problem. The appraiser also defines the scope of work—data collection and methods of analysis—that is appropriate to solve that appraisal problem.

2. **Guide not Standard.** The Guide has always been a guide and never has been promulgated as a Standard. This draft only weakly says this and implies that it or regional guides produced by Regional Plant Appraisal Committees (RPACs) are *de facto* standards (Chapter 1, page 9). Suggesting or promoting the guide as ‘a’ or even ‘the’ standard is misleading, and is damaging to ISA member amenity plant appraisers, and fails to provide the necessary guidance. As with the bias statement, a clear, bold statement in the front matter or in Chapter 1 should read as noted at the end of endnote 1.¹
3. **Installed Costs** The exclusion of the installed cost of a nursery tree as the basis to calculate a unit cost for the Trunk Formula Technique (TFT - Chapter 5, page 8) is illogical. It is inconsistent with the theory of the cost approach and is in opposition to much current and proper plant

appraisal practice. It develops unrealistically low estimated costs that are divorced from real-world installed costs. It is one example of the bias to lower outcomes described above. This exclusion of installed unit cost undermines the credibility of TFT appraisals performed by amenity plant appraisers.ⁱⁱ

4. **Forestry.** The draft contains extensive discussion of both wooded or “forested” areas, and of “forestry” based solutions. We note that it is arbitrary, improper, and unsupportable to exclude use of TFT for appraisal of forested areas if the appraisal problem so demands. There is considerable legal precedent supporting TFT appraisals in forestry settings, and to deny this is wrong. The text that follows the section on “forestry” appraisal solutions (Chapter 9, Page 10) is outside the competence of plant appraisers trained only by the Draft. The entire history of amenity plant appraisal is founded in arboriculture. The forestry based solutions may be useful to foresters trained in timber appraisal. They have training and literature that go well beyond what is discussed in the Draft. Any attempt to derive a forestry or timber appraisal solution clearly takes arborists trained in plant appraisal well beyond their area of expertise. In turn, that overreach exposes them to accusations and possible malpractice suits. The entire timber appraisal discussion needs to be removed from the Draft. ISA is not in a position to provide timber appraisal guidance and training.
5. **Internal Inconsistency** The draft is often inconsistent, self-contradictory, or simply poorly explained. It contains too many factual errors and excessive sloppiness in construction.ⁱⁱⁱ
6. **Legal Context.** The Courts, Laws and Statutes, and attorneys, (Chapter 8 - Reasonableness) should be presented with much more clarity and balance. To the extent that laws and court precedents are considered in defining the appraisal problem they might be introduced in Chapter 3. There are also issues on Competence addressed in another point.^{iv}
7. **Whose Value Matters?** Value to the Owner. On page 7 of Chapter 2 the text box asserts, “It is highly problematic for the appraiser to estimate “value to the owner” because the factors producing this value are unique to that owner, highly subjective...” The PAVC opinion is that “value to the owner” is, in many appraisals, a valid goal of the appraisal assignment. In such instances the omission of this assignment component could constitute a breach of ethical duty by the appraiser.^v

The appraisal literature is clear that understanding “whose value matters” is not only appropriate and proper practice, it is essential. This is *not* a question of competing PAVC and CTLA opinion.

8. **Reasonableness** (Chapter 8). The Draft expounds at some length on this topic, but does so in a way that is, at best misleading and at worst incorrect. In any appraisals that get to court, without exception the Court decides what is reasonable. The appraiser provides an opinion that is based on the assignment, the available evidence, and the processes applied. Here again the Draft exhibits bias to Market Value. The sections on page 11 of Chapter 8 completely exclude legal precedents that specifically contradict these sections. See endnotes 1 and 4.

9. **Competence.** PAVC notes that in at least two key areas CTLA has encouraged plant appraisers to go beyond their typical expertise. At best CTLA has failed to caution and guide plant appraisers on recognizing the limits of competence.
- Real Estate Market Value. In most U.S. states, offering an opinion on real estate market value, or the highest and best use (HBU) of real estate requires a state license or certification. Even when that is not required, very few arborists working in plant appraisal have technical training in real estate appraisal. Even with such training a competent real estate appraisal requires current and local knowledge of the market and sales price data that most plant appraisers are unlikely to have. Zillow or tax assessor data are useful inputs for trained real estate appraisers, but they are a trap that could invalidate an appraisal result if relied upon by plant appraisers who are otherwise untrained in real estate appraisal.
 - Legal Interpretation. The Reasonableness section of Chapter 8 suggests that plant appraisers can and should interpret statutory and case law in defining appraisal problems. This implies that plant appraisers should be advising their clients on the law. Further this section suggests that plant appraisers should second guess lawyers on the law. It is yet another instance where the Draft explicitly encourages plant appraisers to act outside their area of expertise. Such encouragement is irresponsible and entirely unwarranted in this Draft.

CONCLUSION

The Draft claims to build on past editions, but it clearly doesn't. It has discarded too much of the past guidance and introduced a whole new set of ideas that are not properly supported. Approaches remain, but Methods, Techniques and associated terms are new, without any clearly articulated rationale for how they improve appraisal practice. Many of the structural problems identified by the PAVC in the 2012 draft remain in this draft, and it is not clear why the CTLA has failed to address these in the intervening years. Despite some improvements in this Draft, the overall manuscript is retrograde, not only from the 2012 draft, but the 9th Edition of the Guide, on which it purportedly builds.

Publishing the Draft in this form will be a massive disservice to the members of the International Society of Arboriculture (ISA) and to the professional practice of plant appraisal in general. This draft fails to support a new standard of care. Instead, in its present form the Draft undermines and diminishes the high standards of technical and editorial excellence typically produced, and expected of the ISA and its publications. The many problems identified are not simple editorial matters that can be easily addressed with even extensive disconnected tweaks. The foundation of the discussion and practices presented must be corrected to provide a meaningful resource to landscape and amenity plant appraisers.

To be very clear, the PAVC does not reject the Draft lightly. We are well aware that key figures in the industry wish to bring the 10th Ed. to publication soon. We understand this desire, but it cannot, indeed must not, be used to push through a document so clearly flawed, and lacking in both credibility and technically valid reasoning. The PAVC remains committed to helping CTLA accomplish the shared goal of getting a credible 10th Ed. of the *Guide for Plant Appraisal* published. In order to accomplish this, CTLA

must accept that they need to listen and accept input from other industry experts. If CTLA declines to address foundational issues and fix the many problems noted, and ISA publishes a deeply flawed document, PAVC and its members will not endorse or support it, and we will publicly urge others to reject it as well.

ENDNOTES

These are just a few of the hundreds of comments from our PAVC member reviews. These are among the most critical.

¹ We require, either in the front matter of the book, or in Chapter 1, L 163, the following:

“This document, like earlier editions is intended as a guide and resource for plant appraisers. It is not intended to be, and must not be construed as a standard. It is a guide and only a “Guide for Plant Appraisal.” Similarly, publications by Regional Plant Appraisal Committees must be recognized as guides, not standards. Deviation from this Guide or from RPAC guidance is often justified, and does not, in itself call into question the quality or validity of any well-developed appraisal”.

¹¹ In the 9th Ed. (p. 71), the unit cost could be wholesale, retail, or installed as determined by an RPAC or the appraiser. This led to wide variation among appraisals, and was inconsistent with the theory of the cost approach. CTLA had recognized that the theory of the cost approach requires installing the plant (just as it would require building a house not just acquiring a pile of materials), and installed unit costs were used in the 2012 draft of the 10th Ed. (p. 197). This January, 2017 draft has backpedaled, not only excluding the theoretically sound single type of cost, but also eliminating the appraiser discretion of the 9th Ed.

TFT derives, by formula or extrapolation, a surrogate or substitute cost to plant a tree that is larger than commonly planted. The goal of TFT is to determine a likely cost for installing the large tree, then, as with the Direct Cost Technique used for smaller trees, depreciate, if appropriate to the assignment. For TFT to be reasonable and supportable this surrogate cost should be as close as possible to actual costs of procuring and installing the larger, appraised tree. Even as often currently practiced, including full installation cost in the calculation of unit cost, extrapolating that unit cost to the appraised tree, then depreciating that extrapolated cost, likely yields an implied cost considerably smaller than the actual cost to put such a tree in the ground. Determining an estimated surrogate cost reasonably close to an actual cost is required for a credible appraisal and should be a goal of the Guide. The current draft undermines this goal.

In Chapter 8, Example 1 a 15 inch diameter tree of 80% Physical deterioration and 80% Functional limitation is appraised. Nursery cost of the tree (it's not divulged whether this is a wholesale or retail nursery) is \$400 and installation cost is \$600. In the example, excluding planting cost from unit cost calculation the appraised value/cost estimate, but adding it in after depreciation is \$4,085. Including the planting cost within the unit cost, extrapolating, then depreciating the result yields a depreciated value or cost of \$8,581, more than twice that shown in the example, and much more likely to be “realistic.” The 10th Edition draft offers no explanation for this apparently arbitrary technique that provides a result that is less defensible rather than more defensible when compared to real world costs.

The PAVC notes that the draft promotes one of the strengths of CCT as being, “Cost estimates are based on documentable tree cost and interests [sic] rates which are defensible, empirical, and based on biological and financial facts.” We also note that for TFT the draft chooses to ignore documentable large transplant tree cost associated that could similarly be strength to calibrate and validate that Technique.

The PAVC also finds it is curious that the stated strength of one extrapolation, technique, CCT is that, “Can be applied in both urban landscape and wildland settings,” but that a weakness of TFT is, “Application is generally limited to residential and urban landscape settings.” This is presented *ipso facto*, with no supporting logic and is incorrect, arbitrary, and misleading; both Techniques begin with the cost of a small tree and extrapolate them. They are applicable in the same settings.

These are examples, as noted in point #1, of the Draft steering the appraiser toward lower appraisal results for their own sake without regard to definition of the appraisal problem and without logical support.

- iii An example of inconsistency is seen at Chapter 8, bottom of page 10 where it says, “The appraisal problem and the context of the assignment should determine whether a particular appraisal methodology or conclusion is reasonable (see Chapter 3).” Immediately following, page 11 says, “The most common indicator of reasonableness is market value.” (The paragraph continues with emphasis on the contribution of the tree or landscape to overall property value.)

These two consecutive sentences and the concepts they represent contradict one another. The latter may purport to be a statement of fact, but in the field of amenity plant appraisal it is not, and it contradicts the former sentence, which is precisely correct. This is also another example of blatant bias in the Draft toward Market Value solutions or constraints.

As another example, Chapter 2, page 7 finds “value to the owner” problematic and generally inferior to market value (which may generally be lower). Chapter 9, page 9, by contrast, says that value should be viewed through the eyes of the owner as a way to rationalize lower values.

As an example of factual errors that are simply sloppy, the “history” portion of Chapter 1 had 20 errors in one PAVC review. These were not contentious issues subject to debate or interpretation. This was a simple matter of fact checking. The inattention to detail permeates the entire Draft. As another example of sloppy writing and thinking, the non-timber portion of “wooded and forested areas” in Chapter 9 required 51 comments in one PAVC review which concluded that the 9 pages of text in the end failed to create a logical and supportable nexus between CTLA’s recommendation and proper, fact based appraisal practice.

- iv In Chapter 8, “CTLA cautions...against relying too heavily on case results. Court decisions are often based on factors quite distinct from appraisal.” Whether court decisions vary from common appraisal practice is irrelevant in litigation settings; the court decision is the rule in that jurisdiction even if in conflict with common appraisal practice. In any case, the appraiser may accept an instruction from a retaining attorney to perform the appraisal as though the relevant jurisdictional rule does apply or as though it does not. The appraisal can then be conditional on that instruction, with full transparency to all users. In such settings it is the purview of the attorney, not the appraiser to rely on case results.

A pivotal case in California, *Heninger v. Dunn* (1980) 101 Cal.App.3d 858, 162 Cal. Rptr. 104, disconnects the proper measure of damages for loss of trees and understory from value of the land. Rather, it states that if the plaintiff has a personal reason for wanting the land in the state it was prior to injury, that measure for loss of such plants can be the cost to replace them, irrespective of depreciation and without regard to Location of the plants. This recognized measure of damages can be as much as the pre-damaged value of all the land, improvements and the remaining, uninjured trees and understory. It does not state that some proportion or

percentage of vegetation must be lost for this to apply, nor does it recognize, in the sense that plant appraisers are taught, whether the plants are situated in an important Location. Similar case law exists in other states, creating exemptions to a usual measure of damages based on diminution of property value resulting from the loss of the trees, so long as the owner has a personal reason for desiring the land in the pre-damaged condition.

The most high-stakes appraisals are those contested in litigation settings. These case-law precedents rule, and their implications cannot be overstated. Tempering consideration of them must be approached with more caution than is suggested in the Draft.

Statutes also govern the measure of damages and associated appraisals. Connecticut allows that loss of private trees may only be compensated by diminution in market value of the land, or the market value of the timber. Publicly owned trees or those on conservation open space land, however, can be compensated by the cost to “restore the land to its condition as it existed prior...including reasonable management costs necessary to achieve such restoration...” (CGS 2015, §52-560a; Ventres 2011)

^v Let’s say that some entity owns rights to the benefits provided by the asset (the tree). Any value thus accrues to the recipient of the utility of that asset. Value cannot exist in a vacuum. These benefits could lead to a market value solution in the case of an anticipated land sale, but without such anticipation they could simply be about enjoyment of, and commitment to, the asset.

The corollary to this, the perception of benefits by the owner, may in some assignments represent the utility, thus the value. While the owner (or other legal beneficiary) of the asset must not influence the appraiser directly regarding the assignment result, their perceptions regarding the benefits provided by the asset are critical and pertinent facts of many assignments. The PAVC believes that in these instances, to ignore owner perceptions is an unethical breach of duty. The appraiser has a duty to consider all facts bearing on the appraisal. In many appraisals the practitioner must consider owner input.

The Box on page 7 of Chapter 2 continues that, “the factors producing this value...[are] incapable of being objectively modeled in economically meaningful terms.” This assertion is entirely without merit, at least in broad application, as “economically meaningful terms” are often irrelevant, with no bearing on validity of the appraisal.

Composition of PAVC. PAVC was established in 2002, held its first formal meeting and defined its Purpose Statement in 2006, to, "...address[es] appraisal and valuation issues for the ISA membership, and acts in a technical advisory capacity to the ISA's ... (CTLA) representative." The PAVC developed a Position Statement on the 2012 draft *10th Ed.* as part of its mission. ISA staff became CTLA administrator in 2012 and established a firewall between these two entirely separate membership and staff functions. As part of its continuing mission, PAVC developed this Position statement on the January, 2017 draft *10th Ed.*

PAVC is authorized to have twelve members. Eleven members are currently serving, and all participated in developing this Position Statement of March 20, 2017 on the *Guide for Plant Appraisal 10th Edition* Draft of January, 2017.

PAVC's members are all mature and seasoned professionals with experience in plant appraisal. Their collective training and experience goes beyond arboriculture to include economics, forestry, horticulture, planning, real estate appraisal and urban forestry.

Lew Bloch. Involved in landscape design-build, nursery and arboriculture since the 1950's. Licensed Landscape Architect. ALCA/PLANET representative to CTLA 1994-2007. Mid-Atlantic Chapter of ISA, Lifetime Achievement Award.

Russ Carlson. Involved in arboriculture since 1977. Undergraduate education in forestry. ISA Board Certified Master Arborist. ASCA Registered Consulting Arborist. ISA representative to CTLA 2002-2010. Past President of ASCA. Past President and ISA Board of Directors for the Penn-Del Chapter of ISA.

Scott Cullen. Involved in arboriculture since 1971. ISA Certified Arborist. ASCA Registered Consulting Arborist. Connecticut Licensed Arborist. Licensed real estate broker. Masters degree in real estate development and investment, and graduate level education in real estate appraisal. Published, on tree appraisal, in the peer reviewed literature.

Dr. Julian Dunster. Involved in arboriculture since 1974. Degrees in forestry and regional planning. Registered Professional Forester, Registered Professional Planner, ISA Certified Arborist, ASCA Registered Consulting Arborist, ISA Tree Risk Assessment Qualified. Past President PNW Chapter of ISA. Honourary Life member of ISA and PNWISA.

Mark Duntemann. Current ISA Representative to CTLA. Consulting arborist and urban forester since 1988. Under-graduate education in forestry, graduate education in urban forestry. ISA Board Certified Master Arborist, President Illinois Arborist Association, Chair Urban Forestry Committee for the Illinois Council on Forestry Development (Governor-appointed).

Adam Hollis. Graduate education in arboriculture. Fellow and Registered Consultant of the Arboricultural Association, Member of the Institute of Chartered Foresters, Member of the Institute of Chartered Surveyors, Chartered Environmentalist. Author of UKI-ISA Valuation Guidance Note.

John Harris. Involved in arboriculture and urban forestry for over 25 years. Undergraduate education in natural resource management, graduate education in business administration and in forest economics. ISA Certified Arborist, ASCA Registered Consulting Arborist, NYS-DEC Cooperative Consulting Forester, SAF Certified Forester.

Dr. J. James Kielbaso. Emeritus Professor of Forestry, the Michigan State University. Member SAF Science Advisory Board, Chairman of the Michigan Tree Valuation Committee, ASCA Registered Consulting Arborist, Michigan Registered Forester. Past President of ISA and the Michigan Forestry and Park Association. Served on the National Urban and Community Forestry Advisory Council.

Joe McNeil. Chair. Involved in arboriculture since 1970 ISA Board Certified Master Arborist. ASCA Registered Consulting Arborist. ISA Tree Risk Assessment Qualified. Past Board, ASCA. Past chair, ASCA Standards of Professional Practice Committee. California Community Colleges past faculty in arboriculture.

Burton Smeltzer. Involved in arboriculture since the 1950's. ISA Board Certified Master Arborist. ASCA Registered Consulting Arborist. Past two-term president of the Maryland Arborist Association 1980-84. Founding member of ISA Mid-Atlantic Chapter.

Dr. T. Davis Sydnor. Emeritus Professor of Urban Forestry, the Ohio State University. Involved in arboriculture, horticulture and urban forestry since 1959. Chair, Ohio Regional Plant Appraisal Committee. ISA Board Certified Master Arborist, ASCA Registered Consulting Arborist. Former Urban Forestry Working Group Chair for SAF.