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Cannabis From An Appraisers Perspective

November 21, 2018



Appraisal Institute of Canada
Ontario

About the Appraisal Institute of Canada (AIC)

- Founded in 1938, the AIC is the premier real property valuation association in Canada.
- AIC is a professional organization with over 5,400 members across the country, and 10 provincial associations and affiliates.
- AIC's mission is to promote and support our members in providing high quality property advisory services for the benefit of clients, employers, and the public.



AIC-Ontario Association

- 2,289 members
- In 2017, AIC members in Ontario completed third-party appraisals that were valued at approximately \$638 billion worth of property:
 - \$364 billion (57%) residential
 - \$274 billion (43%) commercial or non-residential
- In 2017, AIC members in Ontario completed 616,580 third-party appraisals:
 - 85 % residential
 - 15 % commercial



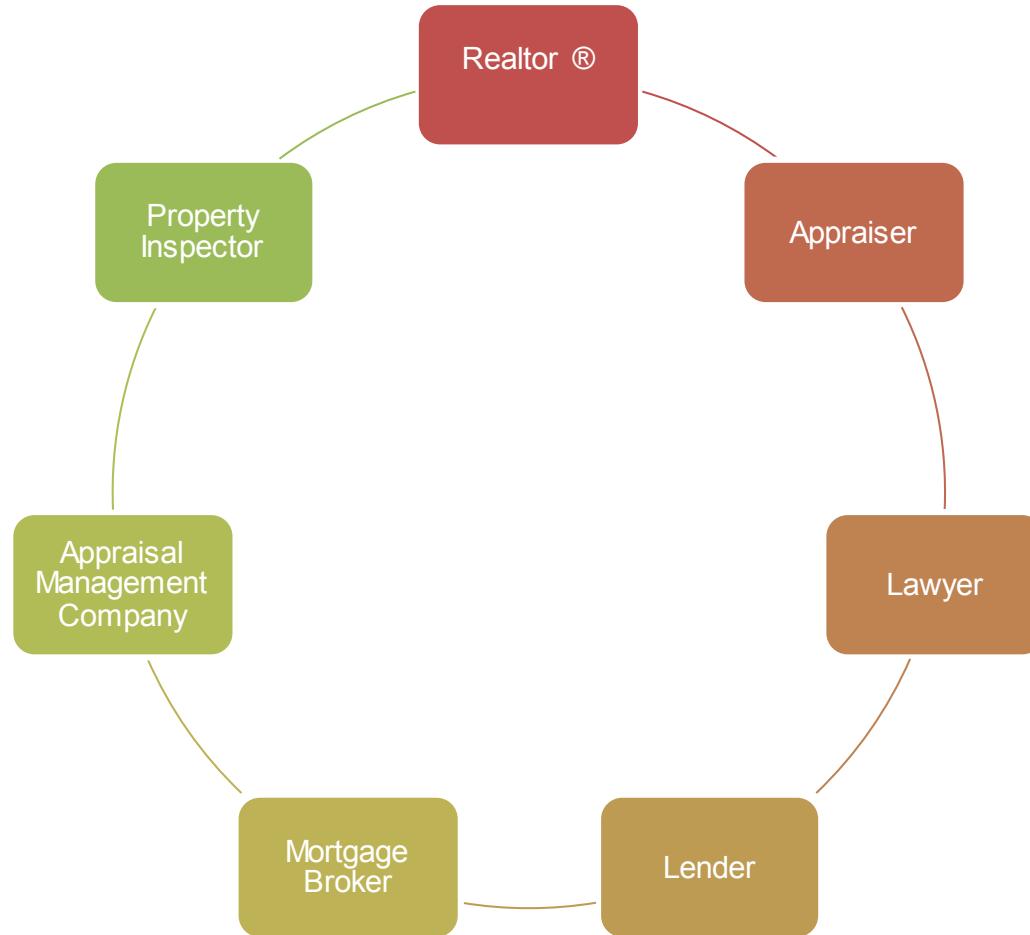
When are AIC-designated appraisers engaged?

When an unbiased, independent market value is needed to make real estate decisions, including:

- Financing – to confirm the value of collateral for mortgage or refinance purposes
- Insurance – to provide value of property for insurance policies or claims
- Expropriation – to determine the compensation for the subject property
- Property Tax – to confirm or appeal property values for taxation purposes
- Expert Testimony & Litigation – for matrimonial purposes or other property related matters
- Reserve Fund Studies – to plan for future capital requirements
- Machinery and equipment valuation for financing, insurance, leasing, acquisition, and disposition
- Property Condition Reports – ASTM E2018-15
- Business mergers, acquisitions or dissolutions involving real estate and assets
- Valuing public property for municipal, provincial or federal government
- Due diligence, market analysis, feasibility studies, market-rent studies, and much more!



Who is part of a Real Estate Transaction?



AIC Position – Cannabis Legalization

- AIC's position and guidance to its Members is based on research and consultation with the Office of the Privacy Commissioner in the context of the Personal Information Protection and Electronic Documents Act (PIPEDA).
- PIPEDA requires consent before taking photographs of a property which could include photographs of anything in or on the property that would be considered a personal and/or identifiable item.
- Furthermore, privacy laws require organizations to limit collection, use and disclosure of personal information to purposes that a reasonable person would consider appropriate under the circumstances. In other words, consent is not a free pass to collect and use personal information indiscriminately for whatever purpose.





- With PIPEDA in mind, it was determined that the cultivation of cannabis plants is considered personal information about the owner/occupant; as such, an AIC Member may not disclose information about cannabis plants found in/on a property nor are they responsible for reporting on whether cannabis plants are legal or illegal.
- AIC Members should obtain a signed consent from the occupant of the property to take and use photographs of the property before taking pictures.
- Brokers/Realtors/Lenders can help with streamlining this process by obtaining a signed consent form right at the outset.

AIC Position – Cannabis Legalization

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- Even with consent, an AIC Member should only photograph a cannabis plant to document the existence of a **detimental condition** that may be a result of the cultivation of the plant.
- The Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP) requires Members to disclose any and all concerns observed or revealed during an inspection of, or through research about, a property that affects value.
- CUSPAP does not allow you to break privacy/PIPEDA laws. If you can't do a 'grow-op' assignment properly, you may have to decline the assignment.



AIC Position – Cannabis Legalization

- The existence of cannabis plants may not be disclosed; however, any visible/observable indications of **detrimental conditions** that may be a result of the cultivation of the plants must be documented, including the existence of:
 - mould, water damage, excess humidity, odours;
 - structural changes including to the foundation, exterior brick, floor joists;
 - modifications to ducts, vents, wiring, plumbing, etc.



Cannabis Legalization – A changing Landscape

- Lenders have already expressed a desire to receive as much information as possible about cannabis cultivation in subject residences.
- This desire/need for information may prove to be at odds with privacy laws.
- It may be reasonable to expect legal challenges from residents regarding disclosure of cannabis cultivation.
- AIC will monitor the situation closely to ensure that members continue to strike the right balance between client requirements and legal obligations.



AIC Position – Cannabis Legalization

To summarize:

- AIC Members must obtain consent from an owner/occupant/tenant before taking any photographs of a property.
- The existence of cannabis plants in/on a property, in and of itself, is not to be considered a detrimental condition.
- Regardless of consent, AIC Members must disclose any aspect of a property that could be considered a detrimental condition.
- Detrimental conditions that may be a result of the cultivation of cannabis plants must be documented and reported – without reporting the existence of the cannabis plants unless consent has been obtained to do so.



Public Awareness – Home Cultivation

- As professional property appraisers, AIC Members have in-depth knowledge of the many components that go into determining the market value of a residential and non-residential property.
- Concerns have been raised regarding cultivating cannabis plants within a home.
- In the absence of proper ventilation and proper equipment, mould and other detrimental conditions may occur. These conditions could well have a negative impact on the value of a property and could conceivably affect the ability to sell, finance, refinance, rent or purchase a home.



Public Awareness – Home Cultivation

- Furthermore, with the anticipated increase in home cultivation once legalization is enacted, it is reasonable to expect problems arising from transparency (or lack thereof) in disclosure for homes which have seen cannabis cultivation at some point in their history. III effects can linger and indeed deteriorate long after plants are removed which could have negative consequences for subsequent buyers, and which may not be caught in a traditional property inspection.
- The federal government should undertake an awareness campaign to inform homeowners of the potential detrimental impacts home cultivation can have on their home.

