100 Questions on Direct Examination

By WALSTEIN SMITH, JR., Waco, Texas

Mr. Smith has engaged in real estate appraising since 1953 and became a Senior member of the Society in 1960. He was selected Realtor of the year for 1960 by the Waco Real Estate Board. An instructor of many aspects of business and real estate, he has done appraisal assignments for several government agencies, as well as insurance companies, school districts, and private corporations. Mr. Smith was a member of the City Commission of Waco, and served as Mayor Pro-Tem, chairman of the Board of Adjustment and chairman of the Tax Advisory Council. He was graduated from Baylor University and served in World War II, emerging as a Captain in the Army. His memberships include the Appraisal Institute, the American Business Law Association, and the Texas Bar Association.

The ideal real estate expert would be an individual who has accumulated a considerable fortune in a reputable manner through many types of real estate endeavors, including appraising, over a period of many years; also has acquired several college degrees along with many real estate professional designations, including the SRA, MAI, and ASA; has an actor's ability to communicate clearly to his audience; a teacher's ability to explain with patience; the endearing humbleness of a great preacher, and a willingness to prepare an appraisal and testify for a modest fee.

This kind of expert witness is exceedingly difficult to obtain. Those not possessing the above qualifications must either plan to achieve them or must struggle along with the ones they do possess.

The opposing counsel will continue to seek out the weaknesses that likely exist. If a person has not been to school he is untrained and non-professional. If he has been to school then he is too theoretical and non-practical. If he is paid a large sum his testimony is dictated by his employer. If he is paid a small fee he very obviously did not do much of an investigation.

The following 100 questions are not guaranteed to win the case. In many instances some of the questions will not be applicable. It is possible that the judge will not permit a few to be answered on the objection of the other side. It is guaranteed, however, that if these questions are gone over in a pre-trial conference that a better understanding between lawyer and appraiser will exist. They will also serve as a check list for the lawyer and the appraiser to avoid overlooking some items of importance to either the qualifications, the appraisal, or the interrogation.

100 QUESTIONS ON DIRECT EXAMINATION OF REAL ESTATE EXPERT WITNESS

1. What is your name. 10. Have you ever taken any appraisal courses.
2. Where do you live. 11. Have you ever taught any appraisal courses.
3. How long have you lived in this locality. 12. Have you written any articles on appraisal subjects.
4. What is your primary occupation. 13. Have you ever appeared before conferences and conventions as a speaker on appraisal topics.
5. Do you have other business or professional pursuits. 14. To what professional real estate organizations do you belong.
6. Do you maintain a full time office offering your services to the public. 15. How are admissions to these organizations gained.
7. What is your business address. 16. Have you ever held office in any of them.
8. Describe your educational background with particular references to real estate education.
9. How long have you been engaged in making independent fee appraisals.

JUNE, 1962
17. Have you served on any city boards and committees related to real estate activities.
18. Are you a licensed real estate broker in this state.
19. Will you name some of the governmental agencies for whom you have done appraisal work.
20. Will you name some of the private individuals or firms for whom you have done appraisal work.
21. Have you ever been appointed commissioner in a condemnation case.

WHICH SIDES REPRESENTED
22. Have you ever appraised for condemnors in eminent domain cases.
23. Have you appraised for condemnees in eminent domain cases.
24. Have you ever bought, built, developed, and/or sold realty for your own account.
25. Have you ever bought, built, or sold property of the type of subject property for your own account.
26. Have you ever acted as broker in a sale of this type property.
27. Have you ever bought, built or sold property near the subject property for your own account or as a broker.
28. How recently have you performed any real estate service in the general vicinity of subject.
29. Is there anything else you would like to say relative to your qualifications.
30. Will you define the term “appraisal” and “appraisal report.”
31. Will you define market value.
32. Were you employed by X to make a market value appraisal of subject property.
33. What date were you employed.
34. Did you submit a written appraisal report.
35. Were you paid by X for making this appraisal.
36. How long did it take you to complete the assignment.
37. How much were you paid.

38. Do you expect to get paid for the time spent in preparing for this hearing and during this hearing.
39. How much do you expect to be paid.
40. Is your fee contingent upon the value estimate reported or upon the results of this litigation.
41. Have you any interest in the property under appraisement, either directly or indirectly, or any contemplated future interest.
42. Did you receive any assistance from anyone in the making of this appraisal. If so, what.
43. Did you make a personal physical inspection of the subject property.
44. On what date or dates did you make such a physical inspection.
45. What was the last date of inspection.
46. What did you do in making a physical inspection of the property.
47. Describe the land and its physical characteristics as to location, width, depth, area, shape, and other features.
48. Describe the topography of the land.
49. What were the conditions as far as utilities serving the subject location.
50. What were the conditions concerning access.
51. What was the zoning of subject site.

CITE UNUSUAL FEATURES
52. Did the subject have any particular unusual features that should be brought to the attention of the court.
53. What is your definition of highest and best use.
54. What, in your opinion, is the highest and best use of the subject property.
55. Did you draw a plat or have one furnished to you showing dimensions of the subject site.
56. Is this a plat which truly represents the dimensions of the land on the date of the taking. (The plan can
now be offered as an exhibit in evidence.)

57. What type of improvements, if any, were located on the subject land on the date of the taking.

58. Did you prepare a construction check list of the improvements.

59. What was included in such list.

60. Is this your construction check list and does it truly represent the items considered by you. (The check list can now be offered as evidence.)

61. Did you prepare a diagram showing outside dimensions and general floor plan of the improvements.

PRESENT ACCURATE DIAGRAM

62. Is this a diagram which truly represents the outside dimensions of the improvements and general floor plan. (The diagram can now be offered as an exhibit of evidence.)

63. Did you photograph the improvements and the site or have some other party photograph the improvements and the site.

64. Are these photographs truly representative of the subject property as of the date.

65. How many square feet are in the various improvements.

66. Did you make a study of the probable market value of the subject property based upon cost less depreciation.

67. Will you define depreciation.

68. What kinds of depreciation were involved in the subject property.

69. Did you discuss the matter of income, expenses, and values with other owners, tenants, real estate brokers, bankers, and others.

70. Did you ascertain the income and expenses of the subject property.

71. Did you investigate the income and expenses of similar competitive properties.

72. Did you make a study of the probable market value of the subject property based upon the capitalization of net rental income.

73. Will you define the term "leasehold."

74. Is there a leasehold interest involved in this case.

EXPLAIN CAPITALIZATION

75. Will you define the term capitalization.

76. Will you illustrate a capitalization of income problem.

77. Did you make studies as to the probable value of subject property based upon sales of similar type properties.

78. What procedure did you follow in considering sales of similar type properties.

79. Will you define the expression "market comparison approach."

80. Have you prepared or are you prepared to point out on a map the location of properties which have sold and their relative location with respect to subject properties.

81. Will you describe those comparable sales considered by you.

82. Did you make an analysis of the neighborhood in which the subject property is located.

83. Will you describe how neighborhood influences are related to the subject property.

84. What is meant by under-improvement, over-improvement, and proper improvement.

85. Are there any other matters outside of the subject property that have not been covered that you would like to discuss which have a bearing on the market value of the subject property.

86. Would your opinion of the market value of this property be any different if you were appraising for the other side of this case.

87. Would your opinion of the market value of this property be any different if a condemnation was not involved.

NEXT TO FINAL QUESTIONS

88. Have you been able to arrive at an opinion of the market value of the subject property being taken based
on your experience, education and investigation.

89. What, in your opinion, is the market value of the subject property.

IN THE CASES OF PARTIAL TAKINGS

90. Will you describe the partial taking.

91. What in your opinion is the market value of the part being taken (considered as separate land in Texas).

92. Will you describe the remainder.

93. What, in your opinion, is the market value of the part being taken (considered as separate land in Texas).

94. Will you describe the remainder.

95. What, in your opinion, is the market value of the part being taken (considered as separate land in Texas).

96. What, in your opinion, is the market value of the remainder immediately before government construction.

97. What are the improvements to be made by the government which you considered.

98. Was there severance damages to the remainder in your opinion.

99. What is your reasoning for your opinion that there was severance damage.

100. What, in your opinion, was the amount of the severance damage.

101. Did you consider the possibility of enhancement to remainder.

102. What, in your opinion, is the total compensation due the owner in this case.

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1961 SUMMER COURSES
Principles and Techniques of Residential Appraising

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