

BROKER PRICE OPINIONS (BPOs)

What are they?

A BPO is a tool utilized by the real estate industry to determine a competitive listing price on a property. Real estate licensees commonly use BPO's to show sellers both active and sold comparable properties in their neighborhood, combined with the licensee's knowledge of the current real estate market, to assist the seller in determining a realistic sales price for a particular property at a particular time. BPO's are not appraisals and should not be used for any purpose other than described herein.

Who can perform them?

Real estate licensees may complete BPOs for buyers and sellers of real property for the purposes of listings, sales, exchanges, options, purchases, rents or leases, but never for lending or appraisal purposes. The standards of practice and rules found in NRS 645 and NAC 645 apply to BPOs. This includes recordkeeping procedures, compensation being paid through the broker and broker responsibility and supervision.

A real estate licensee, whose license is active and in good standing, may perform a BPO and may collect a fee. The BPO should include the following requirements:

- (a) A statement of the intended purpose of the price opinion;
- (b) A brief description of the subject property and property interest to be priced;
- (c) The basis of reasoning used to reach the conclusion of the price, including the applicable market data and/or capitalization computation;
- (d) Any assumptions or limiting conditions;
- (e) A disclosure of any existing or contemplated interest of the licensee(s) issuing the opinion including the possibility of representing the seller or purchaser;
- (f) The license number, name and signature of the licensee(s) and, if the licensee is a salesperson or broker salesperson, the name of the licensee's broker issuing the price opinion and the date of its issuance.
- (g) The following disclaimer in 14 point, boldface type: "Notwithstanding any preprinted verbiage to the contrary, this opinion is not an appraisal of the market value of the property. It is intended only for the benefit of the requesting party for the purpose of assisting the requesting party in deciding the listing, offering, sale, exchange, option, lease or acquisition price of the real property and not for any other purpose, including, but not limited to, obtaining financing. If an appraisal is desired, the services of a licensed or certified appraiser must be obtained."

When is performing a BPO against the law?

When a licensee prepares a BPO for any reason other than listings, sales, exchanges, options, purchases, rents or leases of real property **and receives compensation** they

have violated Nevada Revised Statutes 645C.

Why?

Nevada is a mandatory licensing state which requires anyone who provides an opinion of value (or market value) on any real property located in the State of Nevada to first obtain a license or certification.

NRS 645C.030 “Appraisal” defined. “Appraisal” means an analysis, opinion or conclusion, whether written or oral, relating to the nature, quality, value or use of a specified interest in, or aspect of, identified real estate for or with the expectation of receiving compensation.

(Added to NRS by 1989, 822)

NRS 645C.040 “Appraiser” defined. “Appraiser” means a person who prepares or communicates an appraisal, but does not include anyone who merely relays an appraisal on behalf of the person who prepares it.

(Added to NRS by 1989, 822)

Further, USPAP defines appraisal and appraisal practice as follows:

Appraisal: (noun) the act or process of developing an opinion of value; an opinion of value. (adjective) of or pertaining to appraising and related functions such as appraisal practice or appraisal services.

Appraisal Practice: Valuation services performed by an individual acting as an appraiser including but not limited to appraisal, appraisal review, or appraisal consulting.

Who is Exempt?

NRS 645C.150 Applicability of chapter. The provisions of this chapter do not apply to:

1. A federal or state employee, or an employee of a local government, who prepares or communicates an appraisal as part of his official duties, unless a license or certificate is required as a condition of his employment.
2. A person appointed to evaluate real estate pursuant to chapter 152 of NRS or NRS 269.125, except as required by the appointing judge.
3. A board of appraisers acting pursuant to NRS 269.135.
4. A person licensed pursuant to chapter 645 or 684A of NRS, or certified pursuant to chapter 645D of NRS, while he is performing an act within the scope of his license or certificate.
5. A person who makes an evaluation of real estate as an incidental part of his employment for which special compensation is not provided, if that evaluation is only provided to his employer for internal use within the place of his employment.
6. A person who makes an assessment of the value of property in connection with a judicial proceeding for eminent domain brought pursuant to chapter 37 of NRS.

(Added to NRS by 1989, 823; A 1991, 887; 1997, 1797; 2005, 522)

Penalties

The Commission of Appraisers of Real Estate may impose an administrative fine of up

to \$5,000 to anyone who engages in any activity for which a license or certificate is required pursuant to NRS 645C.

NRS 645C.555 Administrative fine for engaging in certain conduct without certificate, license, registration card or authorization; procedure for imposition of fine; judicial review; exceptions.

1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:
 - (a) Engages or offers to engage in any activity for which a certificate, license or registration card or any type of authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate, license or registration card or has not been given the required authorization;
 - or (b) Assists or offers to assist another person to commit a violation described in paragraph (a).
2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or \$5,000, whichever amount is greater.
3. In determining the appropriate amount of the administrative fine, the Commission shall consider:
 - (a) The severity of the violation and the degree of any harm that the violation caused to other persons;
 - (b) The nature and amount of any gain or economic benefit that the person derived from the violation;
 - (c) The person's history or record of other violations; and
 - (d) Any other facts or circumstances that the Commission deems to be relevant.
4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.
5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.
6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter if:
 - (a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and
 - (b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities. (Added to NRS by 2003, 1297)

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