The Shoulda, Woulda, and Couldas of Market Value Definitions

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Abstract

Appraisers claim expertise in market value estimation, yet we routinely ignore the definitional distinctions embedded in our own regulatory framework. We cite definitions without understanding their nuances. We apply one standard when another governs. We treat precision as pedantry. If we can't distinguish between *should*, *would*, and *could*, we're not applying the definitions; we're potentially undermining them.

Introduction

Appraisers make critical valuation decisions daily, yet we rarely pause to consider the precise meaning and valuation impact of simple words like *should*, *would*, or *could*. Disregard for certain terminology often matters more than we might assume. Drafters of laws, contracts, and other rules and legal documents operate from several principles, and readers, users, and those who are expected to rely on or be bound by these documents must as well. Particularly relevant here are three critical principles:

- Every word is required.
- Words mean what they ordinarily mean unless otherwise defined.
- No words are missing.

When appraisers ignore these principles, we don't just communicate poorly; we risk making professional distinctions that contradict the existing body of knowledge or the intent of the drafter of a definition, not through misunderstanding of appraisal theory but through imprecision in its expression.

A brief note on terminology is warranted here. In linguistics and philosophy, *modality* refers to the way language expresses the relationship between a proposition and its possibility, probability, necessity, or contingency. Modal verbs, including *should*, *would*, *could*, *shall*, *may*, and *must*, are the grammatical instruments through which modality is expressed in English. They do not simply describe actions or states; they characterize the epistemic or normative status of those actions or states, signaling whether something is obligatory, probable, possible, or conditional. Throughout this article, we use the terms *modal verb* and *modal framework* in this specific linguistic and philosophical sense. When we say that a definition employing *should* reflects a normative modal framework and one employing *would* reflects a predictive modal framework, we are making a claim about the epistemological or analytical assumptions embedded in the language itself, not merely about stylistic preference.

The Uniform Standards of Professional Appraisal Practice (USPAP®) state that appraisers must[1] "identify the type and definition of value" (SR 1-2(c)) and determine a scope of work nec-

1. Ironically, USPAP® uses *must* often throughout its standards with perfect clarity. This modal verb admits no ambiguity about obligation or probability. One might wonder why this same precision proves so elusive when defining the central concept of value definitions. The contrast with market value definitions is instructive.

essary to produce "credible assignment results" (Scope of Work Rule). These requirements assume that once an appraiser identifies the applicable definition, the path to credible results becomes clear. But what happens when the definition itself is the source of ambiguity? When one jurisdiction defines *market value* using *should* while another uses *would* or *could*, appraisers face an unacknowledged challenge: The modal verb isn't mere stylistic variation; it may dictate fundamentally incompatible analytical frameworks. USPAP® tells us to identify the definition and develop appropriate methods but offers no guidance when the definition's own language creates potential contradictions.

This is not a newly discovered problem. For decades, appraisal scholars have documented what one Appraisal Institute white paper (1999) described as "a proliferation of market value definitions, dilution of the market value concept, and great confusion in the marketplace."[2] The debate over "highest price" versus "most probable price" has consumed professional attention since at least the 1960s, with authors repeatedly noting that "differing definitions yield different estimates of market value."[3] Yet these debates have never been resolved because they misdiagnose the problem as definitional proliferation rather than recognizing the modal framework conflict underneath. When Nevada's legislature shifted from "highest price" to "most probable price" in 1993 and then back to "highest price" in 2007, the majority opinion of the state Supreme Court ruled that these terms were not synonymous.[4]

The answer lies in understanding that "highest price" and "most probable price" are not merely different value standards but that they reflect fundamentally incompatible modal frameworks. "Highest price" embodies a normative *should* orientation (what rational analysis supports), while "most probable price" embodies a predictive *would* orientation (what market behavior indicates). Until the profession recognizes this modal distinction, no amount of definitional refinement will resolve the confusion.

The practical implications become clear when we examine market value itself. The distinction between what a property *should*, *would*, or *could* sell for isn't semantic; it is substantive. Consider how the profession itself relies on these distinctions. Three widely accepted definitions of *market value* illustrate the point, and each turns on a single word that fundamentally alters meaning and application.

The Dictionary of Real Estate Appraisal, 7th ed., has several definitions of *market value*, with three using the word *should*. For example, the following definition is used by agencies that regulate federally insured financial institutions in the United States:

> The most probable price that a property **should** [emphasis added by authors] bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:
> - Buyer and seller are typically motivated;
> - Both parties are well informed or well advised, and acting in what they consider their best interests;
> - A reasonable time is allowed for exposure in the open market;
> - Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
> - The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.
>
> (12 C.F.R. Part 34.42(g); 55 *Federal Register* 34696, August 24, 1990, as amended at 57 *Federal Register* 12202, April 9, 1992; 59 *Federal Register* 29499, June 7, 1994)[5]

On the international stage, the International Valuation Standards Council defines *market value* in these general terms as follows:

2. Appraisal Institute, *Market Value Initiative* White Paper (Appraisal Institute, revised December 7, 1999), 5.
3. Peter F. Colwell, "A Statistically Oriented Definition of Market Value," *The Appraisal Journal* (January 1979): 58.
4. *County of Clark v. Buckwalter*, 115 Nev. 58 (1999).
5. Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 7th ed., s.v. "market value," Definition 3 (Appraisal Institute, 2022).

> The estimated amount for which an asset or liability **should** [emphasis added] exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently, and without compulsion.[6]

Alternatively, the Uniform Appraisal Standards for Federal Land Acquisitions define *market value* as follows:

> Market value is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property **would** [emphasis added] have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.[7]

This same general construction can be found in the California Code defining the term *full cash value* or *fair market value* as:

> Except as is otherwise provided in Section 110.1, "full cash value" or "fair market value" means the amount of cash or its equivalent that property **would** [emphasis added] bring if exposed for sale in the open market under conditions in which neither buyer nor seller could take advantage of the exigencies of the other, and both the buyer and the seller have knowledge of all of the uses and purposes to which the property is adapted and for which it is capable of being used, and of the enforceable restrictions upon those uses and purposes.[8]

An example of this can be found in California Code of Civil Procedure, which uses a definition of *value for condemnation matters* as follows:

> The fair market value of the property taken is the highest price on the date of valuation that **would** [emphasis added] be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.[9]

Another example from California is the one from the jury instruction for economic damages (CACI 3903(f)):

> "Fair market value" is the highest price for the property that a willing buyer **would** [emphasis added] have paid to a willing seller, assuming:
> 1. That there is no pressure on either one to buy or sell; and
> 2. That the buyer and seller know all the uses and purposes for which the property is reasonably capable of being used.[10]

Also common to find in appraisal practice are definitions of *market value* that focus more on the term *could*. In Oregon's statutory language for property tax assessment, you can find this definition:

> Real market value of all property, real and personal, means the amount in cash that **could** [emphasis added] reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm's-length transaction occurring as of the assessment date for the tax.[11]

In eight authoritative definitions from federal banking regulations to international standards to state tax and civil codes, the critical distinction turns on the words *should*, *would*, or *could*. Do these words mean the same thing? Does it matter which word we apply? This reveals that these are not just semantic variations but that each word reflects a different legal intent and economic purpose:

- ***Should*** implies normative expectation (what ought to happen in an orderly market).

6. *The Dictionary of Real Estate Appraisal*, 7th ed., s.v. "market value," Definition 4.
7. *The Dictionary of Real Estate Appraisal*, 7th ed., s.v. "market value," Definition 5.
8. Cal. Rev. & Tax. Code § 110(a) (West 2023).
9. Cal. Civ. Proc. Code § 1263.320(a) (West 2024).
10. Judicial Council of California Civil Jury Instructions, CACI No. 3903(f) (2024).
11. Or. Rev. Stat. § 308.205(1) (2023).

- ***Would*** implies predictive certainty (what will happen given specific conditions).
- ***Could*** implies possibility (what might happen under prescribed circumstances).

The distinction between *should*, *would*, and *could* is real and well recognized in linguistics, law, and formal drafting, but the way that distinction is often described in appraisal conversations tends to blur several different concepts together. The fact that appraisers use these interchangeably or fail to recognize which definition governs a particular assignment is not just sloppy language; it is potentially applying the wrong standard to the valuation problem at hand.

Historical Context: A Debate Without Resolution

The confusion over *market value* definitions is not new. Richard U. Ratcliff, writing in the 1960s and 1970s, advocated for "most probable price" years before it was adopted in federal lending regulations, arguing that market value should reflect "the market as it is, however imperfect" rather than impose "hypothetical or idealized perfect market conditions."[12] Ratcliff emphasized that "appraisal is largely the predicting of human behavior under given market conditions,"[13] a fundamentally *would* orientation.

Yet *The Appraisal of Real Estate*'s ninth edition (1987) acknowledged that the concept of market value as "highest price," as opposed to market value as "a modal or central tendency, is controversial," noting that "a definition that includes the word *highest* is perhaps subject to misinterpretation."[14] The 1981 edition of *Real Estate Appraisal Terminology* had shifted from "highest price" (1975 edition) to "most probable price,"[15] but this change failed to resolve the underlying tension.

The practical consequences became visible when Nevada changed its eminent domain statute from "highest price" (pre-1993) to "most probable price" (1993–2007), then back to "highest price" (2007-present).[16] In *County of Clark v. Buckwalter*, the Nevada Supreme Court ruled that these terms were not synonymous, noting the legislature's characterization of "highest price" as "speculative" and subject to "misuse and abuse." Yet one justice dissented, calling it "a distinction without a difference."[17]

This disagreement reveals the problem: Without understanding the modal framework distinction, intelligent people reach opposite conclusions about whether these terms differ. The majority saw "highest price" as normative/speculative (*should*), while the dissent treated both as empirical predictions (*would*). Both were partially correct, but neither recognized they were describing different epistemological frameworks.

The Appraisal Institute's Guide Note 12, Analyzing Market Trends, represents the profession's most direct institutional attempt to address the practical consequences of this unresolved tension.[18] Developed in the aftermath of the Great Recession, Guide Note 12 acknowledges that market values may diverge from fundamental conditions and instructs appraisers to "discuss as appropriate the likelihood that the value might not be sustainable into the foreseeable future." This guidance is significant because it implicitly concedes what the profession had not formally stated: that a market value opinion anchored in current transaction evidence may reflect a *would* conclusion that the intended user cannot safely treat as durable. Yet Guide Note 12 stops short of resolving the underlying modal question. It instructs appraisers how to communicate uncertainty within the reconciliation process, but it does not address which framework, normative or predictive, governs the assignment in the first place.

12. Richard U. Ratcliff, discussed in Michael V. Sanders, "Market Value: What Does It Really Mean?," *The Appraisal Journal* (Summer 2018): 209, 212.
13. Richard U. Ratcliff, "Appraisal Is Market Analysis," *The Appraisal Journal* (October 1975): 486.
14. American Institute of Real Estate Appraisers, *The Appraisal of Real Estate*, 9th ed. (American Institute of Real Estate Appraisers, 1987), 18.
15. Byrl N. Boyce, American Institute of Real Estate Appraisers, and Society of Real Estate Appraisers, *Real Estate Appraisal Terminology*, rev. ed. (Ballinger Publishing, 1981), 160–161.
16. Sanders, "Market Value," 208–209.
17. *County of Clark v. Buckwalter*, 115 Nev. 58 (1999).
18. Appraisal Institute, *Guide Note 12: Analyzing Market Trends* (Appraisal Institute, 2012), minor revisions 2018.

The debate persists because it has been framed as a choice between definitions rather than a choice between modal frameworks. As Sanders observes, "Differences between an idealized semi-perfect market and the real world shouldn't require appraisers to make this choice, even subconsciously."[19] But appraisers do make this choice—every time they reconcile approaches, apply market conditions adjustments, or determine highest and best use. They simply don't acknowledge it.

More on *Should*

One definition of *should* carries deontic modality as it expresses obligation, duty, recommendation, or expectation based on rules, norms, or standards. It implies that "this is the right/proper/expected thing." This is confirmed by the *Oxford Dictionary of English*, which defines *should* as:

> Used to indicate obligation, duty, or correctness, typically when criticizing someone's actions: *he should have been careful* | *I think we should trust our people more* | *you shouldn't have gone*.[20]

The American Heritage Dictionary offers multiple definitions, most consistent with the historical definition from the *Oxford Dictionary of English*, but is also contradictory when looking at Definition 3, combining *should* and *would* in the example:

1. Used to express obligation or duty: *You should send her a note.*
2. Used to express probability or expectation: *They should arrive at noon.*
3. Used to express conditionality or contingency: *If she should fall, then so would I.*
4. Used to moderate the directness or bluntness of a statement: *I should think he would like to go.*[21]

That said, the generally accepted definition of *should* relied heavily on the construction of a duty or obligation.

In the real estate appraisal context, while never specifically defined, *should* functions as a normative expectation based on rational market analysis rather than a moral obligation. It is making a claim about what occurs in a theoretically efficient market where all participants act rationally based on complete information.

This usage might be best described as *should* as rational market prediction or *should* as an analytical conclusion. It carries an implicit qualifier: "should, *if the market were behaving rationally and efficiently*" or "should, *based on fundamental value indicators*."

The key difference from the first definition (obligation/correctness) is that this version acknowledges that:

- It is predictive rather than prescriptive.
- It is based on analytical framework rather than moral judgment.
- It can be contradicted by actual market behavior without being "wrong."
- It reflects what the evidence *suggests* rather than what participants *must* do.

For example, when you say a party "should pay no more than $900,000" but a transaction occurs at $1,200,000, you're essentially saying: "Given rational analysis of comparable sales, market conditions, and property characteristics, the supported value is $900,000, yet one market participant demonstrated different behavior."

This is why appraisers distinguish between *market value* (what informed parties should pay based on analysis) and *transaction price* (what a party paid). This latter interpretation of *should* bridges that gap. It is an analytical expectation meeting empirical reality.

In common English, *should* is a modal verb that primarily expresses normativity. It conveys obligation, expectation, or recommendation relative to some standard. That standard might be moral, professional, customary, prudential, or predictive, but the grammatical force of *should* is evaluative rather than descriptive. When someone says a property should sell for a certain price, the speaker is implicitly invoking a benchmark. That bench-

19. Sanders, "Market Value," 217.

20. Angus Stevenson, ed. *Oxford Dictionary of English*, 3rd ed., s.v. "should," Definition 1 (Oxford University Press, 2010, online ed., 2015).

21. *The American Heritage Dictionary of the English Language*, s.v. "should," accessed February 25, 2026, https://bit.ly/4sPtwcU.

mark might be market norms, rational behavior, equilibrium conditions, underwriting standards, or even fairness. The key point is that *should* answers the question of what is appropriate, expected, or justified, not what will in fact occur.

This is not merely a stylistic observation. Major dictionaries consistently define *should* in terms of duty, propriety, expectation, or advisability. Legal writing authorities repeatedly warn that *should* introduces ambiguity precisely because it can signal recommendation rather than fact.[22] In statutory drafting, for example, *should* is often avoided because it lacks the determinacy of *shall* or *must*, and because it can be read as hortatory rather than descriptive.[23]

The persistence of *should* in legal definitions reflects what Sanders identifies as a tension between "positive (objective; what is) or normative (subjective; what should be)" conceptions of market value.[24] California's eminent domain statute uses "highest price," which is a normative standard suggesting what the property *should* command based on its characteristics.[25] The federal banking definition's awkward construction "most probable price which a property should bring" attempts to bridge this gap but instead creates internal contradiction. Until the profession explicitly acknowledges this normative/predictive divide, appraisers will continue navigating it unconsciously, producing inconsistent results.

More on *Would*

The word *would* carries epistemic or hypothetical modality. It expresses what is likely, expected under certain conditions, or hypothetical. Unlike *should*, which invokes a normative standard, *would* is fundamentally predictive. The *Oxford Dictionary of English* defines *would* as:

> Expressing the conditional mood indicating the consequence of an imagined event or situation: *he would lose his job if he were identified*.[26]

The American Heritage Dictionary offers multiple definitions. The most consistent with the historical definition from the *Oxford Dictionary of English* is:

> Used in the main clause of a conditional statement to express a possibility or likelihood: *If I had enough money, I would buy a car. We would have gone to the beach, had the weather been good*.[27]

This conditional character is critical. When someone says a property *would* sell for a certain price, they are making a claim about expected market behavior under assumed conditions, not about what the market ought to do or what rational analysis suggests is appropriate. The speaker asserts a probabilistic outcome grounded in observed behavior, market precedent, and empirical patterns—not theoretical efficiency.

This distinction became explicit policy in 1985 when Freddie Mac proposed that appraisers estimate "the most probable price" a property *would* sell for, rather than "the highest price" it *could* bring.[28] This wasn't mere semantic refinement. Instead, it was a deliberate pivot away from optimistic ceiling values toward realistic market predictions. The change reflected growing recognition that appraisals needed to estimate likely outcomes, not theoretical maximums.

This shift embedded a crucial concept into appraisal practice: *Market value* as typically defined reflects the center of a distribution of possible prices, not its upper bound. Real estate markets are heterogeneous; each transaction is unique, influenced by seller and buyer motivation, property characteristics, negotiation dynam-

22. Bryan A. Garner, "Legal-Writing Tip: 'Must' vs. 'Shall,'" *The Bar News* (Illinois State Bar Association) (November 24, 2009), https://bit.ly/3PEn1ez; Elizabeth Ruiz Frost, "The Legal Writer: The Problem with Shall," *Oregon State Bar Bulletin* (February/March 2012), https://bit.ly/47FWsM6.

23. Mireille Butler, "Drafting Transactional Documents and Avoiding Ambiguity," *Washington State Bar News*, (October 8, 2024), https://bit.ly/3QgBnlj.

24. Sanders, "Market Value," 216.

25. Cal. Civ. Proc. Code § 1263.320 (2023).

26. *Oxford Dictionary of English*, 3rd ed., s.v. "would," Definition 1.

27. *The American Heritage Dictionary of the English Language*, s.v. "would," accessed February 25, 2026, https://bit.ly/4sYGzsH.

28. Kenneth R. Harney, "Appraisal Methods May Change," *The Washington Post* (August 16, 1985).

ics, nuances in financing markets, and countless other variables. Any given property could theoretically sell across a range of prices. The *would* framework directs appraisers to identify the most probable price in some instances and the highest price in others. But this is still within that distribution or the outcome that would emerge most frequently if the transaction could be repeated under similar conditions.

The *would* construction forces appraisers to anchor their analysis in observable market behavior. This means:

- Analyzing recent comparable sales and active listings to determine how buyers are pricing similar properties
- Considering current supply-demand dynamics, buyer sentiment, and prevailing financing conditions
- Recognizing that market conditions *at the valuation date* determine what a property would bring, regardless of what it theoretically should bring[29]

Crucially, most *market value* definitions assume a "reasonable exposure time." This assumption is inherently a *would* question: *Given typical marketing efforts over a reasonable period, what price would this property achieve?*

This empirical grounding creates potential tension with analytical expectations. If the market is appreciating rapidly and buyers routinely bid above list prices, the *would* framework requires appraisers to reflect that reality even if it seems irrational by traditional metrics. Conversely, in a declining market where buyers are scarce and cautious, appraisers must acknowledge that the property *would* sell for less than what seller expectations or fundamental value indicators might suggest.

Consider a property with a fundamental value (based on income, replacement cost, and comparable analysis) of $2.5 million. If the current market shows similar properties consistently selling for $2.8–$3.0 million due to intense buyer competition and limited inventory, a *would* standard requires the appraiser to estimate $2.8–$3.0 million, or what the property would bring regardless of analytical concerns about sustainability or rationality.

The *would* standard thus demands descriptive accuracy over normative judgment. It asks: What does the market evidence indicate will happen? Not: What *should* happen if participants behaved rationally?

This describes the default orientation of a *would* framework when applied to the income capitalization approach, but it is not the only possible outcome. A trained appraiser applying fundamental supply and demand analysis may look through unsustainable rent growth and anchor income projections in what the market should support over a reasonable investment horizon. In that case, the income capitalization approach produces a *should* conclusion despite the methodology's natural forward-looking character. The modal framework is not determined by the approach itself but by the analytical stance the appraiser takes in selecting and applying inputs. An appraiser who projects current rents because that is what buyers are anticipating is producing a *would* conclusion; an appraiser who adjusts those projections to reflect fundamental market equilibrium is producing a *should* conclusion, regardless of which approach is being used.

More on *Could*

Could introduces a different modal quality altogether, one that emphasizes possibility rather than probability or normativity. While *should* invokes a standard and *would* makes a prediction, *could* acknowledges a range of reasonable outcomes without committing to any single point estimate. The *Oxford Dictionary of English* defines *could* as:

> used to indicate possibility: *they could be right | I would go if I could afford it*.[30]

The American Heritage Dictionary offers multiple definitions of *could*:

29. The authors recognize this slight incongruity. The valuation/effective date is often the date of the inspection. Because the property necessarily was previously exposed to the market and went under contract some time earlier, we might more accurately state that the market conditions at the time of exposure and contract are the conditions that determine what the property "would bring" on the effective date. This is a rich topic that invites much deeper analysis.

30. *Oxford Dictionary of English*, 3rd ed., s.v. "could," Definition 1.

1. Used to indicate ability or permission in the past: *I could run faster then. Only men could go to the club in those days.*
2. Used with hypothetical or conditional force: *If we could help, we would.*
3. Used to indicate tentativeness or politeness: *I could be wrong. Could you come over here?*[31]

This suggests a sense of potential rather than certainty and shapes its function in valuation contexts. When Oregon's property tax statute defines *real market value* as "the amount in cash that could reasonably be expected to be paid," it is making a subtle but significant departure from both normative and predictive frameworks. The language doesn't ask what price *should* emerge from rational analysis, nor what price *would* most likely occur given current conditions. Instead, it asks: What price *could reasonably be expected*? What falls within the realm of reasonable possibility?

This construction reflects a particular view of market uncertainty. Real estate markets are characterized by incomplete information, diverse sellers and buyers, unique properties, and variable transaction conditions. No two sales are identical, and even similar properties can sell for meaningfully different prices depending on timing, seller and buyer motivation, negotiation skill, and countless other factors. The *could* framework acknowledges this inherent variability.

Rather than forcing the appraiser to identify a single most probable price (as *would* does) or a normatively justified price (as *should* does), *could* permits the appraiser to recognize that multiple prices might reasonably occur. Then the question theoretically becomes: What range of prices could a reasonable, informed buyer pay to a reasonable, informed seller under the specified conditions?

This is not the same as asking for the "highest price" or the "maximum value." Oregon's statute includes the crucial modifier "reasonably be expected." This constrains the range of possibilities to those that are credible given market evidence. A property might theoretically sell for an extraordinarily high price if a uniquely motivated buyer with specific synergistic value emerged, but such an outcome could not "reasonably be expected" in the ordinary course of market activity.

The use of *could* in property tax assessment contexts is particularly revealing. Assessment valuations serve a different purpose than lending or acquisition valuations. They must be:

- Applicable across diverse properties
- Defensible over a period as assessments remain in place until the next revaluation cycle
- Fair in aggregate across thousands of parcels with varying characteristics

In this context, "could reasonably be expected" provides necessary flexibility. It allows assessors to establish values that reflect reasonable market possibilities without requiring proof that any specific transaction *would* occur at precisely that price. The standard acknowledges that in a functioning market, the property could transact within a certain range, and the assessment should fall within that range.

Could also introduces a different temporal quality than *would*. When we say a property *would* sell for a certain price, we are often implicitly referring to current market conditions or what would happen if we marketed it at the start of the exposure time. But "could reasonably be expected" has a somewhat broader temporal frame. It asks: Given the market conditions as of the assessment date, what price could emerge over a reasonable marketing period, whether that takes weeks, months, or longer?

This matters because assessment dates are often retrospective (as of January 1st for the tax year), and the assessment must remain valid through an entire tax cycle. The *could* framework accommodates this temporal breadth better than a point-in-time *would* prediction.

Could Versus *Should* and *Would*

The distinctions described thus far become concrete when market conditions are volatile or uncertain:

- In a rapidly appreciating market, *should* might suggest caution about unsustainable prices, *would* requires reflecting actual transaction prices, and *could* permits a range that acknowledges both current activity and reasonable expectations.

31. *The American Heritage Dictionary of the English Language*, s.v. "could," accessed February 25, 2026, https://bit.ly/4bYdBSp.

- In a declining market with few transactions, *should* might point to fundamental value, *would* struggles with limited comparable data, and *could* allows consideration of the reasonable range of prices that might emerge given market stress.
- For unique properties in thin markets, *should* relies heavily on analytical adjustments, *would* has limited empirical grounding, and *could* acknowledges the legitimate uncertainty about what price might reasonably occur (see the following paragraphs).

The Cost of Vagueness

Yet this flexibility comes with a cost. *Could* is inherently less determinate than *would* and potentially less rigorous than *should*. It can invite speculation about what *might* happen rather than disciplined analysis of what market evidence indicates. Without the constraint of "most probable" (embedded in *would*) or the benchmark of analytical support (embedded in *should*), *could* risks becoming a license for unjustified optimism or unwarranted conservatism, practices appraisers should most definitely avoid.

This is likely why Oregon's statute includes "reasonably be expected." This drafting language is designed to limit the range of possibilities within bounds supported by market evidence. But "reasonable" is itself a flexible standard, and different appraisers might reasonably disagree about what prices "could reasonably be expected" for the same property.

The Practical Question

When an appraiser encounters a definition using *could*, the operative question shifts. It is no longer "What is the most probable price?" (*would*), nor "What price does analysis support?" (*should*), but "What range of prices could reasonably occur, and where within that range does the evidence point?"

This is a fundamentally different analytical task, one that requires acknowledging uncertainty while still providing a defensible estimate. It demands that appraisers distinguish between what *might* happen (the outer bounds of possibility) and what *could reasonably be expected* (the range supported by evidence).

In practice, many appraisers may collapse these distinctions, treating *could*, *would*, and *should* as interchangeable. But when statutory or regulatory definitions turn on these specific words, the differences matter. An appraiser applying a *could* standard who instead estimates what the property *should* bring (based on analytical value) or *would* bring (based on most probable price) may be answering a different question than the one the definition poses.

Examples of the Consequences of Confusion

Example 1. The Principle of Anticipation

The Appraisal of Real Estate provides some interesting passages related to the principle of anticipation, which creates modal confusion for appraisers. The book defines *anticipation* as "the perception that value is created by the expectation of benefits to be derived in the future." The text further states that "value is commonly perceived as the anticipation of future benefits." Continuing, the book posits that "value is created by the anticipation of benefits to be derived in the future," and that "the value of owner-occupied residential property is based primarily on expected future advantages, amenities, and the opportunity cost of ownership and occupancy." As related to the income capitalization approach, the text states that "the value of income-producing real estate is based on the economic benefits (income and appreciation) it is expected to produce in the future."[32]

The Contradiction

According to *The Appraisal of Real Estate*, the principle of anticipation is fundamentally forward-looking and predictive (*would*). Yet as shown, many common market value definitions use *should* (normative/analytical). This creates an element of tension:

- According to the principle of anticipation, value equals what benefits buyers and sellers expect to receive (predictive/empirical).

32. Appraisal Institute, *The Appraisal of Real Estate*, 15th ed. (Appraisal Institute, 2020), 21–22.

- According to *should* definitions, value equals what price rational analysis ought to support (normative/analytical).

The Dissonance

If an appraiser applies a *should* definition (normative expectation based on analysis) while invoking the principle of anticipation (market expectations about the future), they are conflating two different epistemic frameworks:

- What analytical models predict should happen (*should*)
- What market participants anticipate will happen (*would*)

When a market is experiencing "irrational exuberance" or rapid appreciation, market participants may anticipate (expect or believe) prices that are 20% higher than what fundamental analysis should support. The principle of anticipation directs the appraiser to the market's forward-looking expectations, but a *should* definition anchors them to analytical norms.

Example 2. The Income Capitalization Approach

The Appraisal of Real Estate states that "in the income capitalization approach, the present value of the anticipated future benefits of property ownership is measured. Income capitalization converts periodic future income expectations into a lump-sum capital amount." The text also notes that "in yield capitalization, several years' income and a reversionary value, if any, at the end of a designated period are forecasted and converted to present value using a yield rate."[33]

The Contradiction

The income capitalization approach is explicitly and unavoidably forward-looking. It requires:

- Forecasting future income (not analyzing what income *should* be but what it likely *will* be)
- Estimating anticipated future benefits (what buyers expect to receive)
- Converting future expectations into present value

Yet when an appraiser applies a *should* definition of market value to an income capitalization approach analysis, they create a contradiction in logic. Under the *should* framework, the property should sell for the price that rational analysis supports, yet the income capitalization approach methodology estimates what future income the property would generate and what buyers would pay for that income stream.

The Dissonance

For example, consider a rental property in a hot market described as follows:

- Current rents (historical/factual) are $30 per square foot.
- Market trajectory analysis (predictive): Rents would likely increase to $35 per square foot within two years based on supply and demand.
- Analytical rent support (normative): Rents should stabilize at $32 per square foot based on long-term affordability metrics.

The definition of *market value* used affects the analysis:

- An appraiser using a *would* definition forecasts an income stream of $35 per square foot (what the market anticipates).
- An appraiser using a *should* definition uses a $32 per square foot income stream (what analysis suggests is appropriate).

As noted, this difference isn't trivial; it's a different valuation premise entirely. *The Appraisal of Real Estate*'s income capitalization approach methodology demands forward-looking market predictions (*would*), but *should* definitions can pull appraisers toward analytical judgments about what the market ought to do, whether it is in fact doing so or not. It is worth noting, however, that the income capitalization approach does not inexorably produce a *would* conclusion. An appraiser who recognizes that current rent growth is outpacing job formation and fundamentals may deliberately anchor their income projections in sustainable levels rather than the current market trajectory. In doing so, they are applying the income capitalization approach within a *should* framework. The modal outcome depends on whether the appraiser's inputs reflect what market participants are currently anticipating or what fundamental analysis indicates they ought to anticipate. This same

33. *The Appraisal of Real Estate*, 15th ed., 36.

duality applies in reverse to the sales comparison approach: Comparable sales drawn from transactions made by irrationally exuberant buyers reflect *would*, while an analytically grounded adjustment conclusion anchored in what informed buyers ought to pay based on fundamentals leans toward *should*. The methodology does not fix the modal framework; the appraiser's analytical choices do.

Example 3. Approaches to Value and Temporal Mismatches

The Appraisal of Real Estate teaches that "in the sales comparison approach, an opinion of market value is developed by comparing properties similar to the subject property that have recently sold, are listed for sale, or are under contract." The cost approach, meanwhile, is based on the proposition that the informed purchaser would pay no more for a property than the cost to produce a substitute property with the same utility as the subject property. The cost approach relies on "the reproduction or replacement costs of the property improvements on the effective date," and the text states that "cost indexes can be used to convert a known cost as of a past date into a current cost estimate."[34]

The Contradiction

While *The Appraisal of Real Estate* doesn't explicitly state this, the temporal orientations of the three approaches to value are fundamentally different:

- The sales comparison approach is based on what similar properties have recently sold for (historical transactions), adjusted for time and differences to estimate current value. The question asked is: What have similar properties sold for?
- The cost approach is based on historical or current costs of construction, depreciated to reflect current condition. The question asked is: What did it cost to create this property?
- The income capitalization approach is based on forecasts of future income and benefits, using discounted cash flow or yield capitalization. The question asked is: What will this property produce?

The sales comparison and cost approaches are fundamentally backward-looking, while the income capitalization approach is forward-looking. When market value definitions use different modal verbs, these temporal mismatches become more than methodological differences; they become incompatible epistemological frameworks.

The Dissonance

The following occurs if market value is defined using *should* (normative/analytical):

- The cost and sales comparison approaches align naturally (both provide analytical frameworks based on historical data).
- The income capitalization approach becomes problematic (requires market forecasts and participant expectations, not analytical norms about what would occur).

The following occurs if market value is defined using *would* (predictive/empirical):

- The income capitalization approach aligns perfectly (forecasting what future benefits would support as a price).
- The sales comparison approach requires temporal bridging (past sales must predict what would happen now).
- The cost approach requires translation (costs should inform value, but market behavior would determine it).

The Cost Approach Temporal Paradox

The cost approach presents an additional temporal anomaly that compounds the reconciliation problem. When using current cost multipliers to estimate reproduction or replacement cost as of the date of value, the appraiser faces an impossible question: Is the hypothetical building one on which construction *begins* on the date of value, or one that *completes* on the date of value?

If construction begins on the date of value using current costs, the building won't be ready for occupancy for some time, meaning the completed property doesn't exist as of the date of value. This seems incompatible with estimating the "market value as of" a specific date.

34. *The Appraisal of Real Estate*, 15th ed., 352, 528, 545.

Conversely, if the presumption is that the building is completed as of the date of value, then logically the costs should reflect what a contractor would have charged to begin construction 18 months earlier (or whatever the appropriate construction period would be). *But appraisers routinely use current costs, not costs from 18 months prior.*

This temporal paradox reveals why modal verb choice matters so deeply in the cost approach:

- ***Should* (normative):** Sidesteps the paradox by treating the cost approach as an analytical benchmark or what an informed buyer *should* consider when evaluating the property, regardless of temporal logistics.
- ***Would* (predictive):** Collapses under the paradox. Which specific moment's costs *would* the market participant consider? The start date? The completion date? Neither answer works cleanly.
- ***Could* (possibility):** Accommodates the paradox best. The cost approach demonstrates what price range *could* be reasonable given construction economics, without requiring precise temporal alignment.

The cost approach, then, doesn't just face the backward-looking orientation problem identified above. It faces an internal temporal contradiction that makes it fundamentally incompatible with predictive *would* frameworks, while remaining coherent within *should* (analytical) or *could* (possibility) frameworks.

Before proceeding, an important qualification is warranted. The modal orientations described above represent the natural default tendencies of each approach rather than fixed outcomes. In practice, the modal framework of any approach is determined by the inputs and analytical judgments the appraiser applies. An income capitalization approach built on fundamental supply and demand analysis and looking through irrational market behavior to identify sustainable income levels produces a *should* conclusion. An income capitalization approach that uncritically projects recent trends because current buyers are doing so produces a *would* conclusion. The same appraiser, in the same assignment, can shift modal frameworks between approaches or even within a single approach depending on how inputs are selected. This is precisely why making the governing modal framework explicit at the outset of the assignment is essential. Without that clarity, the appraiser may unknowingly apply different epistemological standards to different portions of the analysis, producing a reconciliation that compounds rather than resolves the underlying inconsistency.

The Practical Problem

The Appraisal of Real Estate informs appraisers of the need to reconcile the three approaches to reach a final value opinion. But if the approaches are oriented toward different temporal and epistemological frameworks (backward-looking analysis versus forward-looking prediction), and if the cost approach contains an internal temporal paradox regarding construction timing, reconciliation becomes conceptually incoherent unless the appraiser first establishes which modal framework governs the assignment.

An appraiser who treats *should*, *would*, and *could* as interchangeable cannot logically reconcile any of the following:

- A cost approach conclusion (what it should cost to recreate, depreciated)
- A sales comparison conclusion (what market evidence suggests it should sell for based on past transactions)
- An income capitalization approach conclusion (what future benefits would support as a price)

These conclusions are answers to three different questions unless the modal framework is made explicit and applied consistently.

Example 4. Highest and Best Use: The Temporal Paradox

According to *The Appraisal of Real Estate*, "Uses that are not currently financially feasible for new construction can be analyzed to forecast when they would be financially feasible at some point in the future." Further, "The most probable buyer is a critical conclusion used in choosing comparable sales in the sales comparison approach. The probable space user is critical in choosing comparable leases in the income capitalization approach."[35]

35. *The Appraisal of Real Estate*, 15th ed., 322, 327.

The Contradiction

Highest and best use analysis requires determining:

1. What use would be most profitable (predictive)
2. What use is legally permissible (factual/present)[36]
3. What use is physically possible (factual/present)
4. What use is financially feasible (analytical/normative)

Notice the mixed modalities embedded in this framework:

- The "most probable buyer" equals *would* (predictive/empirical).
- "Financially feasible" could be *should* (analytical) or *could* (possibility).
- "Would be financially feasible at some point in the future" equals *would* (predictive).

The Dissonance

If market value is defined as what a property *should* bring, then highest and best use becomes what use the property should be put to (normative/optimal based on analytical framework). If market value is defined as what a property *would* bring, then highest and best use becomes the use that the most probable buyer would implement (predictive/behavioral).

These can diverge significantly. Consider the following transitional zoning scenarios:

- Analytical highest and best use (*should* framework): Holding the property for three years before developing a commercial use yields the highest net present value based on cost-benefit analysis. The property should be valued based on this optimal timing.
- Market highest and best use (*would* framework): The most probable buyer is a speculative developer who would develop immediately despite lower returns because of competitive pressures and financing constraints. The property would sell based on immediate development assumptions.

The Appraisal of Real Estate's language "forecast when they would be" reveals the *would* orientation of highest and best use analysis as taught in the text. Yet this contradicts *should* definitions that ask what price the property ought to bring based on rational analytical support rather than what market participants would do.

Example 5. Market Conditions Adjustments: The *Would* vs. *Should* Problem

The Appraisal of Real Estate states: "If sale prices have been changing rapidly over the past several years and an adequate amount of sales data is available, the sales selected for comparison should take place as close as possible to the effective appraisal date." The text continues: "When current data on local sales is not available, appraisers may need to expand the search to another market area, which may call for an adjustment for location, or extend the search back in time in the same market area, which usually calls for an adjustment for market conditions."[37]

The Contradiction

Market conditions adjustments acknowledge that:

- Markets change over time.
- Historical sales must be adjusted to current value levels.
- The adjustment reflects what is happening in the market (descriptive, not normative).

Market conditions adjustments are inherently *would* adjustments. Sales from six months ago are adjusted to reflect what they would sell for today. The adjustment is based on observed market trends and empirical patterns, not analytical judgments about what should happen.

The Dissonance

But when an appraiser applies a *should* definition of market value, market conditions adjustments create methodological tension. Consider this scenario:

36. We recognize that there may be times when there is a reasonable probability of a zoning change that may not be factual or present per se but may be driving investor demand for properties under this possibility. In an *as is* scenario, there would clearly be a temporal difference, but for other temporal values such as prospective market value, these differences may be negligible.

37. *The Appraisal of Real Estate*, 15th ed., 341.

- A comparable property sold six months ago for $500,000.
- The market has appreciated 10% in that period due to intense buyer competition and limited inventory.
- Some indicators suggest this appreciation reflects irrational exuberance unsupported by fundamentals.

Under a *would* framework, the adjusted price is $550,000 (reflecting actual observed market behavior). Under a *should* framework, the adjusted price might be $510,000 (reflecting moderate, sustainable appreciation that rational analysis supports). Under a *could* framework, a reasonable expectation might be anywhere between $510,000 and $550,000.

The Practical Problem

The Appraisal of Real Estate's methodology for market conditions adjustments demands that appraisers:

1. Observe what is happening in the market (descriptive).
2. Adjust historical data to current market levels (empirical).
3. Conclude what the subject would sell for today (predictive).

This methodology is fundamentally incompatible with *should* definitions that ask what price rational analysis supports, especially in volatile or irrational markets. An appraiser cannot simultaneously apply market-derived trend adjustments (what is happening) while concluding a value based on what should happen according to fundamental analysis.

Example 6. Entrepreneurial Incentive/Profit: *Should* vs. *Would* in the Cost Approach

The Appraisal of Real Estate distinguishes between two related concepts: "Entrepreneurial incentive is a forecast of the amount the developer expects to receive. This forecast is made prior to construction. Entrepreneurial profit is the actual amount received after the property is complete."[38]

The Contradiction

The Appraisal of Real Estate makes clear that:

- Entrepreneurial incentive is a forecast/expectation (forward-looking or *would*).
- Entrepreneurial profit is the actual result (historical fact).

When applying the cost approach, the appraiser must estimate entrepreneurial incentive, or what profit developers would expect to earn for undertaking the project. This is inherently forward-looking and market-based. It requires understanding what the market anticipates, not what analytical models suggest are appropriate.

The Dissonance

If an appraiser is applying a *should* definition of market value, the cost approach presents a conceptual problem. The cost approach asks, "What should this property be worth based on what it would cost to create plus the entrepreneur's expected profit?" The *should* framework implies that the market ought to pay an amount justified by creation costs and reasonable profit expectations. But determining "expected profit" requires asking what developers would anticipate earning in the current market, which is a *would* question embedded within a *should* framework.

The Practical Problem

Consider a frothy development market where developers currently expect 25% returns, but historical norms and fundamental analysis suggest profit should be 15%. Which figure does the appraiser use?

The Appraisal of Real Estate's methodology says "forecast what developers expect" (*would*), pulling toward 25%. But *should* definitions pull toward "what profit is analytically justified," suggesting 15%.

This creates a 10-percentage-point difference in the cost approach indication, resulting not from different data but from applying incompatible modal frameworks. The appraiser mixing *would* (market profit expectations) with *should* (cost-based value conclusion) produces methodologically incoherent results.

38. *The Appraisal of Real Estate*, 15th ed., 19.

Conclusion

This article began with a modest but consequential observation that the words *should*, *would*, and *could* appear frequently in authoritative definitions of market value, yet they are rarely examined for their distinct analytical implications. What emerges from closer inspection is not a matter of mere stylistic variation, but a set of fundamentally different valuation questions embedded within the profession's regulatory, statutory, and methodological foundations.

Definitions that employ *should* invoke a normative framework. They ask what price is supported by analytical reasoning, orderly assumptions, and rational expectations. Definitions that employ *would* adopt a predictive frame. They ask what price is most likely to occur, given observed market behavior and prevailing conditions. Definitions that rely on *could* acknowledge a broader range of reasonable outcomes, reflecting uncertainty, variability, and the limits of determinacy in real estate markets. Each framework is internally coherent. None is inherently superior. But they are not interchangeable.

The persistence of debate over market value definitions, including disputes over "highest price" versus "most probable price," suggests that much of the profession's long-standing confusion stems not from definitional proliferation alone, but from the unacknowledged coexistence of these distinct modal frameworks. Without making this distinction explicit, appraisers may unknowingly answer a different valuation question than the one posed by the governing standard.

At the same time, the profession's core methodologies, as taught in *The Appraisal of Real Estate*, frequently rely on forward-looking, market-based expectations. The principle of anticipation, the income capitalization approach, market conditions adjustments, entrepreneurial incentive, and highest and best use analysis all depend on predictions of what market participants are likely to do. These methods align naturally with a *would* framework, even when the controlling definition of value employs *should*. The resulting tension is not a failure of appraisal practice, but a reflection of the complex intellectual terrain in which appraisal operates at the nexus of macro- and microeconomics, law, and human behavior.

Recognizing these distinctions does not require abandoning established methods or privileging one definition of *market value* over another. Rather, it demands greater conceptual clarity. When appraisers are conscious of the modal framework imposed by the applicable definition, they are better positioned to align their analysis, explain divergences among approaches, and communicate the meaning and limitations of their conclusions with greater precision.

Ultimately, the significance of *should*, *would*, and *could* lies not in semantics, but in professional intent. Market value is not a single, universal answer. It is a response to a specific question posed within a defined legal and analytical context. The contribution of this article is not to resolve that question once and for all, but to shed light on the need to clarify what question is being asked. That clarification, in turn, strengthens appraisal reasoning, enhances transparency, and reinforces the credibility of valuation opinions within both professional and legal arenas. After all, this is what professional appraisers ***should*** do.

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Additional Resources

Suggested by the Y. T. and Louise Lee Lum Library

Appraisal Institute

- **Lum Library, Advanced search [Login required]**
  Subject: "market value" and Keyword: definition
- **Lum Library, Bibliography [Login required]**
  Market Value Definitions: https://bit.ly/3R5iPF4