

Distinctions between Broker Price Opinions, Comparative Market Analyses, Evaluations, and Appraisals

Broker Price Opinions and Comparative Market Analyses, Evaluations and Appraisals are three distinct terms under South Dakota law. Broker Price Opinions (BPO) and Comparative Market Analyses (CMA) are interchangeable terms. They are set forth in SDCL 36-21A-12.2 and are regulated by the Real Estate Commission. Evaluations and Appraisals are defined terms under SDCL 36-21A-3 and 36-21B-2, and regulated by the Appraiser Certification Program (ACP). However, brokers licensed by the Real Estate Commission are authorized to perform all of these subject to certain requirements.

The difference between these reports relies on the statutes that regulate the m. A BPO/CMA by its statutory terms is a report detailing the “probable selling *price* or leasing *price*” of property. Whereas Evaluations and appraisals are defined as *valuation* reports.

In everyday life the terms price and value are used interchangeably, however, since these terms are used in statutes regulating two distinct professions the exclusive use of these terms in separate, but related chapters of law mean they take on distinct meanings. It is improper for a BPO/CMA to use the term value when speaking on the probable price of a parcel of real property.

In addition, what constitutes a BPO/CMA is detailed in SDCL 36-21A-12.2. It includes detail about the (1) property’s condition, (2) market and neighborhood, and (3) information on comparable properties. A BPO/CMA is explicitly not allowed to rely on an automated valuation model. If a BPO/CMA report goes beyond these areas, it risks falling into an appraisal or evaluation.

An Evaluation is defined under SDCL 36-21B-2(4) as a “valuation of real estate . . .” and the requirements for performing an evaluation are set forth in administrative rule chapter 20:14:14. Provided a broker complies with the laws and rules of the ACP a broker is authorized to perform evaluations. SDCL 36-21A-6(8).

Similar to evaluations a broker is allowed to perform appraisals, but again is subject to the laws and rules of the appraisal certification program. SDCL 36-21A-6(8).

Record Keeping:

A broker performing any of these services is required to keep the records for 4 years, as these reports are “records relating to any real estate transaction.” SDCL 36-21A-74.

Enforcement:

Enforcement of any of these laws and rules is within the jurisdiction of the Real Estate Commission. Even though a broker performing an appraisal or evaluation is working under the laws and rules of the Appraisal Certification Program, that work is authorized by the Real Estate Commission’s laws. SDCL 36-21A-28 requires a licensee to perform the acts under this chapter, SDCL 36-21A-6 details what acts constitute what it means to be a broker under this chapter, 36-21A.