



Amerival Realty & Valuation Newsletter

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HOW COLD IS COLD?

BY

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JUST HOW COLD IS COLD??- It is rather cold with temperatures being about 0—10°. And, if you complain to anyone who served in Korea in the 1950's and later, you'll find that it was a normal Winter day. Temperatures on the DMZ in Korea were between 0 and 15 below freezing. But of course in those days there was nothing known about "wind chill" I remember walking home from school on a cold and blustery afternoon and asking myself, "how come the temperature is 20 ° but it feels much colder". That made me wonder and in my infinite 11 year old brilliant mind, I thought that if cold air was blowing it would make it colder. So, the next day I asked my teacher who puzzling said, "I don't know." It wasn't till years later that my brilliant deduction at 11 years old was translated to "Wind Chill Factor". So, just as you all don't believe I discovered it, neither has anyone else.

With that all said, our concern as business people is that we can't let the temperature control our business acumen and use the typical public's aversion to cold and wet weather dampen our spirits and our business plan. So, simply, focus on the warm and fresh air of Spring which will help lift your spirits and keep you focused on your business plan.

INDEPENDENT CONTRACTOR STATUS- This topic has been discussed before but the issue keeps rearing its ugly head. This is geared toward appraisers but it could also be for attorneys and accountants and I'm sure other businesses. Business people make arrangements to have other people help when business is more busy than usual. Satisfying clients or customers is an important part of good business practice. Professional business people needing temporary or occasional assistance have some "go to people" to provide that help. Some type of financial arrangement is made and work or assignments are passed to the temporary assistance person (s). When this occurs, usually the furthest thing from either party's mind is "what kind of worker am I?" Well, it's time to worry because the IRS is finding as many "small businesses as possible who fit this slippery slope mold". And, appraisers are definitely one of them. What I have learned having been one of the earliest

appraisal firm targets for this scenario is to make sure you have your bases covered. The IRS has a *Twenty (20) Point Factor Test*. You can go onto the IRS website and read the law which "guides" them. On page three (3) of this newsletter is the checklist for independent contractor status vs employee.

What I have learned is that appraisers and others need to have an agreement between the party needing assistance and the one providing it. This agreement is one which outlines the arrangements for the "assistance" arrangement. Using the checklist as your guide, address everyone of the twenty point factors. Do it step by step. There are other issues which should be in place. (CON'T)

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(CON'T) The most important of the assurances you must have in place is that the Independent Contractor with whom you are arranging has a valid license; has his / her own company, has business cards, a business address (can be a home address, business telephone number, and has his / her own clients that they presently do assignments directly. And, as stated on the 1st page, have a written agreement in which you both acknowledge that you are aware of an independent contractor status and that neither of you intend to create an employee and employer relationship. I also suggest that you retain the service of an attorney who can help you draft a strong agreement in addition to an accountant that has experience with this issue. If you are at a loss for one, call us at our office as we have one who has dealt with this issue many times and successfully. As with most of that which we do, there are no guarantees but being prepared is the best defense.

SEEING IS BELIEVING- And then again, not always! Below are two houses. A frontal view of each makes it difficult to determine when they were constructed. One was constructed in 1910 and the other in 2001. Can you tell which is which? Likely not. This is just to make the appraisers aware that exterior design is not the tell all. An interior viewing is necessary to make that determination. Room layout, ceiling height,



wall construction materials and cover and floor construction will be the tell tale to make an age determination. Having appraised a dwelling constructed in the mid- 1700's, it took the inside to tell the tale. The construction was by a Danish builder who had a special way to construct foundations and walls. It wasn't truly

historical because the interior was totally modernized, which I was advised removed it's historical significance. Which frankly I didn't think so then and still question that but it was the information I was provided. I am not a historical valuation expert so I am not advising that you consider the few words herein as professional direction. There are appraisers who specialize in historic valuation. It is wise to contact one of them or the local historical society and the state in which the property is located to check the historic status of the property. If it is, then you better know what you are doing. The best advise I was given is be certain the reaction to the dwelling's value is historical and not hysterical. I believe the age requirement is 100 years. For those living in a city as New Orleans it is rather easy to determine historical qualities and criteria. I believe a historical property cannot be painted unless the color and quality of paint is approved by the committee. At least in New Orleans there are comparative sales unlike in many locales.

If George Washington slept in the house, it is likely historical because he slept there, not that the dwelling was built in the 18th century. Know your facts and the locale and state requirements before you tackle an historical house appraisal.

The answer to the question of the two houses' ages is. The one on the left was constructed in 1910 and the one on the right in 2001. There is a movement presently for people to live in houses that reflect a certain period of history and finding an existing dwelling of that period is not easy, and, if one is found it may not be in the location that one desires. Thus, by building new they can enjoy the period living environment which makes them comfortable without the concern of hidden defects and the extraordinary costs of modernizing the interior to satisfy the families needs and wants.

Internal Revenue Service 20 point Checklist for Independent Contractor

Mistakenly classifying an employee as an independent contractor can result in significant fines and penalties. There are 20 factors used by the IRS to determine whether you have enough control over a worker to be an employer. Though these rules are intended only as a guide-the IRS says the importance of each factor depends on the individual circumstances-they should be helpful in determining whether you wield enough control to show an employer-employee relationship. If you answer “Yes” to all of the first four questions, you’re probably dealing with an independent contractor; “Yes” to any of questions 5 through 20 means your worker is probably an employee.

1. **Profit or loss.** Can the worker make a profit or suffer a loss as a result of the work, aside from the money earned from the project? (This should involve real economic risk-not just the risk of not getting paid.)
2. **Investment.** Does the worker have an investment in the equipment and facilities used to do the work? (The greater the investment, the more likely independent contractor status.)
3. **Works for more than one firm.** Does the person work for more than one company at a time? (This tends to indicate independent contractor status, but isn’t conclusive since employees can also work for more than one employer.)
4. **Services offered to the general public.** Does the worker offer services to the general public?
5. **Instructions.** Do you have the right to give the worker instructions about when, where, and how to work? (This shows control over the worker.)
6. **Training.** Do you train the worker to do the job in a particular way? (Independent contractors are already trained.)
7. **Integration.** Are the worker’s services so important to your business that they have become a necessary part of the business? (This may show that the worker is subject to your control.)
8. **Services rendered personally.** Must the worker provide the services personally, as opposed to delegating tasks to someone else? (This indicates that you are interested in the methods employed, and not just the results.)
9. **Hiring assistants.** Do you hire, supervise, and pay the worker’s assistants? (Independent contractors hire and pay their own staff.)
10. **Continuing relationship.** Is there an ongoing relationship between the worker and yourself? (A relationship can be considered ongoing if services are performed frequently, but irregularly.)
11. **Work hours.** Do you set the worker’s hours? (Independent contractors are masters of their own time.)
12. **Full-time work.** Must the worker spend all of his or her time on your job? (Independent contractors choose when and where they will work.)
13. **Work done on premises.** Must the individual work on your premises, or do you control the route or location where the work must be performed? (Answering no doesn’t by itself mean independent contractor status.)
14. **Sequence.** Do you have the right to determine the order in which services are performed? (This shows control over the worker)
15. **Reports.** Must the worker give you reports accounting for his or her actions? (This may show lack of independence)
16. **Pay Schedules.** Do you pay the worker by hour, week, or month? (Independent contractors are generally paid by the job or commission, although by industry practice, some are paid by the hour.)
17. **Expenses.** Do you pay the worker’s business or travel costs? (This tends to show control.)
18. **Tools and materials.** Do you provide the worker with equipment, tools, or materials? (Independent contractors generally supply the materials for the job and use their own tools and equipment.)
19. **Right to fire.** Can you fire the worker? (An independent contractor can’t be fired without subjecting you to the risk of breach of contract lawsuit.)
20. **Worker’s right to quit.** Can the worker quit at any time, without incurring liability? (An independent contractor has a legal obligation to complete the contract.)

UPCOMING NEW JERSEY NAIFA 50TH ANNIVERSARY APPRAISAL CONFERENCE-

Dates: *April 12 & 13, 2016*

Place: *Harrah's Hotel in Atlantic City, NJ (777Harrah's Blvd.; Tel. 844-619-0667)*

The 1st day will have the 2016 & 2017 required 7 hour USPAP seminar. So don't miss the first opportunity of a professionally presented USPAP seminar being conducted by a highly recognized and sought after national instructor from Tennessee.

The next day will have several offerings of which one is a Land Use Seminar which will have 2 highly recognized land use attorneys and a New Jersey land use expert with years of successful experience and published in the specialty. This will be followed by a mock land use hearing featuring the two attorneys from the seminar and the expert who shall be chairman of the board accompanied by a partner from a New York law firm with high powered experience. They will present a land use case which will be decided by the board and then decided by the audience. Don't miss this!! Ask those who attended last years conference in which there was a mock tax board hearing that 150 people were absolutely thrilled. This will be at least as good.

Also scheduled is a 5 hour special FHA seminar to be conducted by Tom Munizzo, a former NAIFA national president. Mr. Munizzo, a highly recognized speaker throughout the U.S. with an exciting flair.

There is also a new real estate law seminar required for NJ appraisers which will be presented by Joseph Palumbo, a member of the NJ Appraisal Board. He was responsible for some of the success our 2015 conference enjoyed with the NJ board update.

And, an exciting and novel 2 hour "*edge of your seat*" seminar entitled "Weird and Unusual Assignments" which will be presented jointly by Chuck Blau, Esq, IFAS, Carl Mucciolo, IFAS and John Marrasso, IFAS, all past NJ State Directors.

Keep watching for updates. Go to the NJNAIFA website for up to the minute updates for the seminar. The website is <http://NJNAIFA.COM>.