

National Reverse Mortgage Lenders Association Presents The

2023

ANNUAL MEETING & EXPO

OCTOBER 23-25 NASHVILLE, TN

NRMILA

National Reverse Mortgage Lenders Association

Appraisals – Panelists

Shannon Hicks – Moderator



John Dingeman - Class Valuation



Jim Milano – McGlinchey Stafford, PLLC



Appraisal Independence

Appraiser and Valuation Independence (2008-2014)

- New York Controversy (2008) - Countrywide, Fannie Mae and Freddie Mac, NYAG Settlement
- Home Valuation Code of Conduct (HVCC)
- Appraisal Independence Rule Independence (or AIR)
- Many States Amended their Mortgage Banking Laws to Prohibit Influencing or Coercing Appraisers

Dodd-Frank Act

- Section 1472 - Amended TILA, and the Fed added provisions to Reg. Z, then CFPB Assumed authority over TILA, etc.
- Focus is on Independence of Valuations focused on the accuracy of Valuations

State Appraisal Boards Regulate Appraisers and AMCs

- Some States Implemented Their Own “Customary and Reasonable” Regulations
- Anti-Trust Issues
- FTC Sued the Louisiana Appraisal Board

Appraisal Independence

For purposes of subsection (a), acts or practices that violate appraisal independence shall include— any appraisal of a property offered as security for repayment of the consumer credit transaction that is conducted in connection with such transaction in which a person with an interest in the underlying transaction compensates, coerces, extorts, colludes, instructs, induces, bribes, or intimidates a person, appraisal management company, firm, or other entity conducting or involved in an appraisal, or attempts, to compensate, coerce, extort, collude, instruct, induce, bribe, or intimidate such a person, for the purpose of causing the appraised value assigned, under the appraisal, to the property to be based on any factor other than the independent judgment of the appraiser; mischaracterizing, or suborning any mischaracterization of, the appraised value of the property securing the extension of the credit; seeking to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of the transaction; and withholding or threatening to withhold timely payment for an appraisal report or for appraisal services rendered when the appraisal report or services are provided for in accordance with the contract between the parties.

- 15 U.S. Code § 1639e - Appraisal Independence Requirements

Appraisal Independence

Exceptions

The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, consumer, or any other person with an interest in a real estate transaction from asking an appraiser to undertake 1 or more of the following:

- Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support an appraisal.
- Provide further detail, substantiation, or explanation for the appraiser's value conclusion.
- Correct errors in the appraisal report.
- 15 U.S. Code § 1639e - Appraisal Independence Requirements

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Appraisal Bias

FIRREA (1989)

- Safety and Soundness for Banks' Real Estate Secured Lending

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The PAVE Report (Property Appraisal and Valuation Equity) (March 2022)

- Based on the Efforts of 13 Federal Agencies
- Focused on Fair and Unbiased Appraisals
- Not a Law or Regulation, but a Plan – But is resulting in Regulations
- 5 Parts to PAVE – 1) Agency Action, 2) Enhancing Fair Housing Enforcement, 3) Appraiser Training, 4) Empowering Consumers (ROVs), and 5) Better Data for Researchers and Enforcement Agencies

Appraisal Bias

CFPB

- Press Release - Mortgage Borrowers Can Challenge Inaccurate Appraisals Through the Reconsideration of Value Process (October 2022)

FHA

- Draft Mortgagee Letter - Borrower Request for Review of Appraisal Results (Jan. 2023)

Proposed Interagency Guidance on ROVs – June 2023

- Federal Banking Agencies and CFPB Proposed Interagency Guidance on Reconsiderations of Value for Residential Real Estate Valuations - Still in Proposed Stage
 - Guidance highlights risks associated with deficient residential valuations and notes how financial institutions may incorporate ROV processes into risk management
 - Gives examples of policies financial institutions might establish to identify, address, and mitigate the risk of discrimination impacting residential real estate valuations

Appraisal Bias

Prior To PAVE and other Agency actions...

Fair Housing Complaints at the Federal and State Level

- Lenders, Appraisers, and AMC

Litigation

- Lenders, Appraisers, and AMC

What is an Appraisal Dispute or a Reconsideration of Value?

An appraisal dispute is an evidential-based challenge to an appraiser's opinion of value for a specific property.

The best chance for success in disputing a “perceived” low appraisal is preparedness with a focus on evidence-based research about potential home improvements the appraiser missed or errors in the appraisal report.

Placing a Reconsideration of Value (ROV)

- “Sales” (not listings or pending sales).
- MLS printouts for each requested sale.
- A concise narrative explaining why the requestor believes the sales provided are superior to those selected by the appraiser.
- A narrative explaining the items of disagreement and the reasons for believing the information provided in the report is incorrect.

Sentimentality or Borrower/Agent Bias

There are numerous ways an appraisal might be wrong, but they're usually right.

It's important when you're disputing an appraisal to ask if it's based on emotion; after all, the consumer, the agent, the loan originator are all interested parties to the transaction.

Is the dispute based on market value or is it about what the home means to the consumer? If it's the latter, there's a good chance a reconsideration of value will not produce the result that you want.

Keys to a Positive Outcome

- Review the appraiser's narrative in its entirety
- Send sales similar in Condition, Quality, View, etc. - Consistency is key
- Don't sweat the small stuff – “The subject has a new porch light and mailbox...”
- Select alternative sales wisely
- Be polite and professional