

Allison Burke

From: "Rey Cano"
To: "Rey Cano" <
Sent: Monday, December 27, 2010 5:16 PM
Attach: image001.emz; oledata.mso; Summary, Appraisal Fee Survey #1.pdf; Appraisal Fee Survey #1.pdf; LPS Fee Schedule - April 2009.pdf; WellsFargo_Appraisal_AMC_HVCC_Appraisal_Process, Dec 2008.pdf; Miller Childers letter 5 24 HVCC.pdf
Subject: FW: Docket No. R-1394; RIN No. AD-7100-56.



December 24, 2010

Kathleen Ryan, Senior Counsel
 Division of Consumer and Community Affairs
 Federal Reserve Board
 Washington, DC 20551

Re: Docket No. R-1394; RIN No. AD-7100-56. Appraiser Independence; implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank).

Dear Ms. Ryan and Colleagues:

On behalf of the members of the California Coalition of Appraisal Professionals (CCAP), and CCAP's sphere of influence participants, which now numbers over 1,000 California Licensed, Certified and Certified General appraisers, and in recognition of the 16 other State Appraiser Coalitions which have formed to fill the historical void in comprehensive appraiser participation in national affairs, we offer the following observations and suggestions specific to Appraiser Independence and Dodd-Frank.

Our observations and suggestions are not developed along Dodd-Frank specific lines. Rather, our intention is to instigate, or compliment, in a general way, the kind of practical decision making that can occur when sound work place driven common sense approaches prevail. However, for you to best understand our thinking and our view of the current circumstances confronting our profession, and what we believe is needed to improve the situation, a quick review of the appraisal marketplace since early 2009 may be useful.

The Appraisal Marketplace: We believe the appraisal marketplace, the where, how and with who appraisers do business, has been completely, and inappropriately, altered by the Home Valuation Code of Conduct (HVCC) which was enabled in early 2009. This disruption was instantaneous, all encompassing and is still continuing.

The primary intention of HVCC, or so it was understood, was to "create a firewall" that offered work relationship integrity. To an extent this was accomplished. But, from the standpoint of the residential appraiser, HVCC also gave new found, dominant, and inappropriate market control to

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the Appraisal Management Company (AMC). The overarching market reorganization that ensued was not based on historically sound and proven business practices.

Immediately on adoption HVCC caused the preponderant volume of residential appraisal orders to be sent to an AMC. This business, which here-to-fore been available through a more inviting, accessible and competitive marketplace, where appraisers had pre-existing and long term relationships based on experience, education, reliability and level of service, was suddenly and dramatically altered.

From its inception HVCC disrupted the appraisal marketplace as follows:

- The mortgage brokerage function, indeed the mortgage brokerage service sector, was all but eliminated. The result was that the borrower was immediately deprived of product neutral expertise. Simultaneously, the appraiser was deprived of what had been a substantial part of their business practice.
- 60 to 70% of the total residential appraisal order volume was suddenly being directed to a limited number of Lender owned or influenced AMC's.
- The appraisal fee, which was now all but exclusively controlled by AMC's, was used in large part, as the money the AMC would take for their operating fees.
- The appraisal fee, which here-to-fore had been clear and transparent, suddenly was misunderstood and confused. It was commingled and improperly reported.
- The HVCC grievance mechanism that was promised, and per the deal was to be funded by FANNIE and FREDDIE, and had been made a cornerstone of the arrangement, was never funded. In fact, it was never enabled.

For these, and numerous other reasons, and as expeditiously as possible, we believe there must be a return to a reasoned, orderly, more open and more balanced marketplace. The marketplace needs to insure that all participants are licensed, appropriately educated and regulated. And further, that each participant has defined responsibility and specific liability. These goals, while general, should be advanced by any and all rule writing opportunities that may exist. It makes good sense for the process and for the consumer.

Appraisal Fees: Appraiser compensation (appraisal fees) is the highest priority concern of today's professional residential appraiser. In this regard we believe that a basic fairness approach must be the paramount focus not a discussion of reasonable and customary.

Reasonable and customary, as used in Dodd-Frank, has a nice political ring. We believe reasonable suggests that "what is proposed is mutually acceptable" and customary means "what is provably occurring at a point in time". But neither can be accurately applied unless the environment in which they are used is open, unfettered and interactive.

Post HVCC appraisal fees, fees actually paid to the appraiser, in many instances, and provably, have been reduced by as much as 50%. And, it is reported that overall appraisal costs to the consumer have increased. This is wrong. Also, the appraiser has been asked, in fact required, to do more work and in shorter periods of time. This is wrong.

Attached, in support of what was actually going on pre HVCC, is appraiser fee data (*CCAP Appraisal Fee Survey #1*[non-complex, typical]) and market pricing data (LPS and Wells Fargo

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“Newsflash” [Fiserv, LSI, MDA Lending Solutions and Rels Valuation]). While the Dodd-Frank definition of acceptable information is not precisely satisfied by this data, it is relevant none-the-less. It reflects the appraisal fees being charged and paid, provably, and lender/AMC appraisal pricing information, provably, in effect in California on or before April, 2009. Notice that lender pricing information includes a base fee plus additional fee amounts dependant on assignment scope of work.

The base appraisal fee being paid for a Form 1004 appraisal (single family residence) pre HVCC, at least to the extent of the noted AMC’s, was: \$340, \$340, \$385, \$390 & \$390. And AMC exhibits all include a base fee plus additional fees aspect depending on the complexity of the property, the services requested, or both. Fee data developed by other non appraiser industry participants supports this - and more. VA fee data supports this - and more. *CCAP Appraisal Fee Survey #1* supports this - and more.

CCAP Appraisal Fee Survey #1 - Demographic Highlights:

- Data was reported from all 58 California counties.
- Survey confidence interval was determined to be 95% +/- overall.
- 90% of respondents hold Certified or Certified General Licenses.
- 50 % of respondents have between 11 and 30 years experience; 40% of respondents have between 5 and 10 years experience.
- Clients (pre HVCC) - greatest number of assignments were received from: Mortgage Brokers 91%, Banks 69%, Credit Unions 33%, Lawyer’s 31%.

CCAP Appraisal Fee Survey #1 - Attitudes, Opinions and Impressions:

When asked the definition of Customary... 81% said commonly practiced, 48% said according to - established by practice, 45% said based on custom or tradition rather than written law or contract.

When asked the definition of Reasonable... 64% said rational / capable of reasoning, 64% said reasonable for the market area, 61% said not excessive or extreme.

CCAP Appraisal Fee Survey #1 - Fees:

Form 1004 (single family residence): 82% report fees between of \$350 to \$425; \$375 to \$400 is predominate.

CCAP Policy - Appraisal Fees: The appraisal fee(s), no matter the assignment, should be determined between the appraiser and the client. While minimum fee(s) guidelines can be viewed, as an interactive process between the appraiser and the market, a final fee(s) should be determined only after appraiser client agreement on the assignment Scope of Work and the assignment time frame.

We believe there is reason, and immediate need, that is justified, to assure equitable compensation which should be, by consensus, requisite to both good work relationships and to the professional and reliable results desired by all market participants.

Appraisal Fee Transparency: We believe the appraisal fee must be wholly transparent. The appraisal fee is the amount actually paid to the appraiser for the appraisal service rendered. Unfortunately, there is reason to point out what the appraisal fee is not. The appraisal fee is absolutely not the charges of the AMC, or any other similar type entity, for service’s provided as an intermediary in the process. The appraisal fee is distinctive and must stand apart. It should be visible in any and all transaction documentation. It must be easily understood by both the client and the consumer.

This can be accomplished, and we believe it must be accomplished now, if the rules make clear what the appraisal fee is and what it is not. By rule it can be required that the appraisal fee be reported in the text portion of each appraisal report. Further, it can be required that every appraisal report requires an Invoice as an integral component of the completed report. To do this would insure that the recipient, indeed all the parties, would know what the actual appraisal fee is. This moves us to complete transparency now.

Appraiser Independence: We believe Appraiser Independence continues as an open question. Dodd-

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Frank does not achieve Appraiser Independence as it was envisioned, developed and adopted by the United States House of Representatives (Sec.4312 of H.R.4173; see attached Miller, Childers, Manzullo, Baca, Sherman letter of May 24, 2010) and anything short of that objective falls short the mark. Appraiser Independence and Dodd-Frank must not be confused as being one and the same. They are not.

In this context however, the opportunity exists to compliment Appraiser Independence if and as you recognize and reinforce the value of both the appraisal, and the appraiser, as an instrumentality of unique benefit in a responsible and reliable mortgage process. Another way to look at this is to note that all the participants in a mortgage transaction work for profit - except one. All are motivated by profit - except one. And profit is powerful influence in decision making. The "except one" referred to here is the appraiser. The appraiser stands as the guardian at the gate. The appraiser, must be allowed, no assured, of independence. It makes good sense.

Reporting of USPAP and other perceived process violations: A reporting mechanism, indeed a process that insures that all participants have an appropriate and easily accessed tool to use for perceived grievances, should an essential component of, or its existence assured by, the final rules. The mechanism, whatever its form, needs to insure that all participants have equal access, equal protection and that appropriate and understood limitations are inherent. Further, that the mechanism, if it is provided for, must be implemented. Finally, that consideration is given to making the mechanism available at the state, rather than the federal, level. Current administrative architecture may exist with The Appraisal Foundation (TAF), or the Association of Appraiser Regulatory Officials (AARO), or both.

Other items which we ask you to keep in mind as you proceed include:

- Appraisal Turn Time (the time from order to return of finished report) - speed does not complement accuracy. Adequate time is essential to quality.
- Appraisal Fee Collection - appraisal fee collection should be considered "at the door" allowable when possible; unwarranted float is now being created.
- The Brokerage Function - the consumer is advantaged by having product neutral guidance available. A brokerage function works to the advantage of the borrower.
- Participation and Future Development - please know that there are numerous other appraisal groups formed, and forming, that are available to help. Call on us.

In conclusion we commend your attention to the ideas and expressions of interest and concern that you have received from other appraisers individually, and as organizations. Appraisers do care. Among our group here in California there is a great sense pride in what we do. There is also a strong sense of mission; a commitment to a greater good. So, we are naturally concerned with the importance of what you are doing.

We thank you now for the hard work, and the interest, you are demonstrating as you develop and refine these important rules. Also, we appreciate your taking our views into account. We stand ready to help in any way in which we are able.

Sincerely,

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I agree!
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appraiser for 35
years.

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