



August 15, 2007

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
Twentieth and Constitution Avenue, N.W.
Washington, DC 20551

Re: Docket No. OP-1288 – Public Hearing on Home Equity Lending Market

To Whom It May Concern:

Thank you for the opportunity to comment on the home equity lending market, specifically the Federal Reserve's authority in the area of abusive lending practices pursuant to the Home Ownership and Equity Protection Act (HOEPA). As professional real estate appraisers, members of our organizations support policies and principles that promote fairness and offer transparency in the marketplace.

A real estate appraisal is a vital component in mortgage financing, particularly in heavily collateralized lending such as home equity or subprime lending. An appraisal, developed by an independent appraisal professional, provides unbiased information to underwriters and other decision makers involved in a mortgage transaction. Stated directly, the appraisal is a fundamental component in the lending process that helps ensure credibility and contributes to the safety and soundness of lending institutions nationwide. While lending institutions benefit, the systematic process of collateral lending also benefits the consumer. The safeguards in the system, including appraisals, are designed to sustain a credible, fair and accountable process. Maintaining this process is good for the institutions and good for the consumer.

One concern that is not discussed in the Request for Comment relates to the real estate appraisal process and circumstances that tend to undermine independence in the appraisal process. Unfortunately, there are parties involved in the mortgage financing process that assert undue pressure on appraisers to produce faulty appraisals. Many of our members report receiving ultimatums from clients to change their appraisal or face loss of future business. Unfortunately, such threats occur with virtually every type of mortgage product and homeowners suffer as a result.

Appraiser coercion is a deceptive practice that has serious consequences for the home-buying consumer. Being "upside down" on a mortgage, owing more than the property is worth, can lead a homeowner to foreclosure and loss of their home.

To help prevent such events from occurring where it involves overvalued property, we believe the Federal Reserve should include acts of appraiser coercion in its definition of abusive, unfair or deceptive lending practices. Such an action would serve as a direct reminder to all parties about the importance of maintaining an independent appraisal process, and hold violators accountable (given the Federal Reserve's broad authority in this area) for any improper influence.

We note that absent federal standards in this area, many states have enacted laws prohibiting coercion of appraisers in order to prevent predatory lending and mortgage fraud. Several of these states could serve as a model for how the Federal Reserve might enforce an anti-appraiser coercion provision.

For instance, the state of Ohio enacted SB 185, the Homebuyers Protection Act, to prevent unscrupulous mortgage participants, loan officers and others from taking advantage of vulnerable consumers. SB 185 states:

No person or business entity, directly or indirectly, shall knowingly compensate, coerce or intimidate or attempt to compensate, coerce or intimidate a licensed or certified appraiser for the purpose of corrupting or improperly influencing the independent judgment of a licensed appraiser with respect to the value of property.

This act grants the Division of Banking or the Mortgage Broker Division the power to invoke fines, suspend or revoke licenses or other penalties suitable to the Division. Currently, the law is being used by the Ohio Attorney General to prosecute individuals for inappropriately pressuring real estate appraisers¹.

Similarly, Colorado, Iowa, Arkansas, Kansas, North Carolina, Utah and West Virginia have enacted prohibitions against appraiser coercion, intimidation or bribery, and California, Illinois, Michigan and Massachusetts are considering similar measures. Additionally, several states have defined mortgage fraud as a criminal act, and we believe such laws can be used to promote appraiser independence.

We believe this is an opportune time for the Federal Reserve Board to take a stand against such practices and address this issue. We urge the Federal Reserve to include legally definable and enforceable acts of appraiser coercion, extortion and bribery in a definition of abusive lending practice.

Our organizations stand ready to assist in this matter; please do not hesitate to contact Don Kelly, Chief External Relations Officer, Appraisal Institute at 202-298-5583 or dkelly@appraisalinstitute.org. Thank you for the opportunity to comment.

Sincerely,

Appraisal Institute
American Society of Appraisers
American Society of Farm Managers and Rural Appraisers
National Association of Independent Fee Appraisers

Attachment

¹ Harris, S. (2007, June 7). "Ohio AG says companies pressure home loan appraisers." *Cleveland Plain Dealer*. Retrieved from http://blog.cleveland.com/earlyedition/2007/06/ohio_ag_says_companies_pressur.html