

09/04/2010

Chairman Ben S. Bernanke  
Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue, NW  
Washington, DC 20551

Re; TAVMA Letter of 08/25/2010

Dear Chairman Bernanke.

This letter is written to you in response to the TAVMA letter requesting that the FRB delay the "customary and reasonable" fee provision of the proposed interim final rule.

In that letter Jeff Schurman, TAVMA Executive Director, Makes several statements that are uniformed, misinformed, deceitful and/or untrue.

Let's start with the assertion that Customary and Reasonable **"is at best a vague standard lacking any coherent definition"**.

An internet search will for a definition of Customary and Reasonable produced 16,700,000 results. Many apply to fees paid in the medical or insurance industry. All are similar. In addition Webster's has taken the time to define both Customary and Reasonable. Then there is the FHA stand expressed in ML 09-28 that says Customary and reasonable appraisal fees are reflective of those fees established and negotiated by an FHA approved self employed independent fee appraiser or an appraisal firm that may directly employ FHA approved roster appraisers or retain FHA approved roster appraisers as independent contractors, for appraisal services rendered, regardless of whether a lender, AMC or a 3rd party company or vendor is ordering/requesting appraisal services. The fee charged must be commensurate with the level of services provided and should reflect the amount of research, level of difficulty, and due diligence required on the appraiser's part to produce a credible, reliable and accurate appraisal report that is in compliance with all FHA guidelines and USPAP.

Customary and reasonable Appraisal fees, for purposes of FHA, do not include:

AMC or other third party fees.

Management or review fees charged by lenders

Then there is the suggestion that there is **"no readily identifiable source of "customary and reasonable appraisal fees" nationally, by state, county, or other governmental division."**

I just have to ask about the VA Fee Schedule. They aren't identifiable? And there are other sources of guidance for customary and reasonable fees. AlaMode has a Published Fee schedule. LSI also has a schedule. Many more are being put together now.

**"In addition, it is unclear what appraisal product types are implicated in the statute and there are no readily available authoritative surveys to gauge what constitutes a "customary and reasonable fee" across the country"**

Due to the nature of the industry a customary and reasonable fee in Florida may not be reasonable and customary in California. Also not all appraisals are the same. Fees should be dictated by the complexity or Scope of Work of the appraisal.

**"Customary and Reasonable" – HUD's Prior Use of the Term**

Mr. Schurman conveniently leaves out this part; FHA field offices will no longer establish maximum appraisal fees. However, a lender's charge to the borrower for an appraisal must be no more than the actual amount charged by and paid to the appraiser, subject to the fee being reasonable and customary for an appraisal in the area in which the property is located. That fee may be included in the closing costs upon which the mortgage is based. Lenders that utilize their own staff appraiser may charge a fee to the mortgagor which does not exceed that which is reasonable and customary in the area.

**Scope of the Appraisal and Appraisal Report.**

Mr. Schurman seems to believe that Scope of Work is dictated by USPAP. Nothing could be further from the truth. USPAP *defines* Scope of Work as; the type and extent of research and analyses in an assignment. That means it is dictated by the use and the requirements of the user.

**Appraiser Trainees.**

“Will appraisal firms have any motivation to train new appraisers, and will less experienced appraisers be able to compete for appraisal work if fees are not a factor?”

Fees are a factor. And at the fees the AMCs want to pay, (Less than 1980 fees) an appraiser cannot afford to hire and train an intern. As far as creating a “preponderance of “experienced Appraisers” just the opposite has happened with the low fees being dictated by the AMCs. Many of the best, brightest and most experienced appraisers have left the industry.

**Anti-trust.**

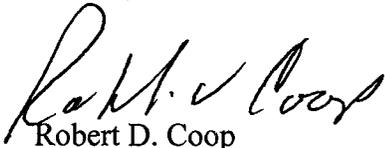
“Will “customary and reasonable fees” effectively create a price-fixing problem that will adversely impact consumers and the market?”

This is absurd. The AMCs are, effectively, price fixing now. And appraisers are such a diverse lot in such a diverse geographical area performing such a diverse array of services I am afraid there just isn't any way to get them all together long enough to create a price fixing scheme.

In Mr. Schurman's conclusion he purports to be concerned that this will **cause “unanticipated harm” to AMCs, lenders and consumers.** Well so far the AMCs are making obscene amounts of money as are the lenders that own some of those AMCs. The other lenders are passing the costs on to the consumer who is now paying more for an appraisal than 3 years ago. The appraisers are now being paid less than they were paid three years ago and in some instances less than they earned 15 years ago.

The letter Mr. Schurman writes is an attempt to deflect, delay or negate the implementation of section 129E(i) of the Truth in Lending Act.

On behalf of the appraisal profession I ask that you ignore the letter from TAVMA and allow the Interim Final Regulations Implementing Section 129E(i) of the Truth in Lending Act to stand as written.



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