



CELEBRATING
55 YEARS

nerej

Appraisers should unite to rid the profession of Fannie Mae - by Roger Durkin

October 13, 2017 - Appraisal & Consulting



Roger Durkin
Durkin Law

Fannie Mae and Freddie Mac want to replace residential appraisals with automated valuation models (AVM). Good! No, the idea is better than just good. It is superb. Fannie Mae please go-ahead and utilize your data and regression analysis to calculate market values. While you are at it, just as quickly get out of dictating the format and content of appraisal reports.

Why would I support such a step? I would answer, "Fannie Mae form appraisals and all that it pretends to be should be purged from the appraisal profession for the good of the appraisal profession." It is time to recognize that the \$250 to \$400 fee paid for a form appraisal report results in a low-cost, low-quality, and flawed appraisal report. The appraisal profession has lost thousands of appraisers across the country. These appraisers have either quit, failed to renew a license, or had their appraisal business ruined by the imposition of reputationally and economically damaging professional sanctions based on evidence that should not have permitted a reasonable mind to reach the conclusion in question. (1)

Any person, including a borrower, divorcee, estate administrator, lender, broker, who does not like the appraisal report can and does file a complaint with the state license board. Every residential appraiser appears have adopted the firm belief that the software generated form filled appraisal report is fine. The reports are not fine. Nearly every residential appraiser prepares the appraisal form similarly. Fannie Mae form filled appraisal reports and the methods used to fill in the form are systemically flawed. Most appraisers will privately admit the systemic flaws. Another reason Fannie Mae form appraisal should go is that 80% of the Appraisal License Board Complaints are connected to alleged errors in filling out Fannie Mae form reports. Fannie Mae form filling requirements are not a law or regulation. However, alleged errors in form-filled Fannie Mae appraisal reports are then interpreted by the prosecutors as USPAP violations. Examples abound; comps not appropriate, incorrect census track, failed to include basement fireplace, unsupported adjustments and rental data, signature violation, zoning classification, GLA wrong, neighborhood buildup, etc. Fannie Mae Form 2000 is not USPAP compliant. Fannie Mae does not recognize GLA below grade as in a split-level house. Fannie Mae does not recognize a bedroom that does not have a closet, etc. Is there any appraiser out there who can honestly attest to the factual source of his or her percentage or dollar adjustments? Alleged violations are stacked. Charge stacking occurs wherein the prosecutor charges 25 to 50 violations that in turn results in a near impossible defense. Rather such charge stacking forces plea-bargaining to the detriment of the accused appraiser. One prosecutor enthusiastically stated, "This appraiser prosecution work is easy. I came out of the DA's office. There we had to prove charges beyond a reasonable doubt. Here, we only have to prove the violation is 51% more likely true." (2)

Bill Brown, current president of NRA spoke out against Fannie Mae's move to eliminate appraisals in favor of AVMs. He said, "They [appraisals] give consumers an expert opinion on the value of what they're purchasing and a level of certainty that they're making a sound financial decision. We need to make sure whatever changes occur will allow an appraisal proves that protects consumers..." Maybe some appraisers believe that Fannie Mae form appraisal reports are "expert opinions." My experience, based on being a review appraiser and defense counsel is that the Fannie Mae report is

not expert opinion but is systemically flawed.

Fannie Mae is a government sponsored enterprise (GSE) not a government agency. It can make no rules for appraisers under FIRREA. There are many GSEs including Sallie Mae, SBICs, MESBICs, etc. All operate similarly. A privately owned enterprise puts up a million dollars and the government guarantees billions of dollars in debentures issued by the GSE up to three times the private investment.

The Fannie and Freddie were/are privately owned. The bailout of 2008 is on going—approximately \$187 billion. This bailout kept Fannie, Freddie and the housing market functioning. Fannie and Freddie are still under conservatorship of the Federal Housing Finance Agency (FHFA).

You may have forgotten the 2004 Fannie Mae corruption scandal. Franklin Raines, former Budget Director under President Clinton was the CEO of Fannie Mae. Raines' total compensation from 1998 through 2004 was \$911,000,000 that is \$91.1 million, including some \$52.6 million in bonuses. Raines was forced to resign. In 2008, Raines paid back \$31.4 million in settlement. The regulators alleged accounting fraud at Fannie Mae that included manipulations to reach quarterly earnings targets so that Raines and other company executives could pocket hundreds of millions in bonuses from 1998 to 2004. Raines said in a statement, "While I long ago accepted managerial accountability for any errors committed by subordinates while I was CEO, it is a very different matter to suggest that I was legally culpable in any way, I was not. This settlement is not an acknowledgment of wrongdoing on my part, because I did not break any laws or rules while leading Fannie Mae. At most, this is an agreement to disagree."

Getting rid of Fannie Mae form reports will, at a minimum, reduce the license board prosecution of inconsequential charges and simultaneously cause an improvement in appraisal report writing. What will appraisers do if the profession rids itself of Fannie Mae form reports? The appraisers will likely perform narrative appraisal reports supported by logic, evidence, and argument that support the appraiser's professional value opinion.

Roger Durkin, JD, MS, FASFA is an attorney and appraiser with Durkin Law PC, Boston, Mass.

1. State of Alaska, et al. v. Kim Wold, Alaska Supreme Court, No 6673-May 2012

2. The License Board's burden of proof is substantial evidence, "Substantial evidence is in light of the record as a whole... such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."

New England Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540