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Appraisals are just an opinion? This opinion will come back and haunt you

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Many residential appraisers are in full crying mode about nearly everything. No reason to be overly sympathetic. While the current crisis hasn't put bad appraisals into the spotlight yet - there are plenty of other bad actors sharing the glare currently - there is plenty of blame for appraisers who were complicit in some way in aiding and abetting the abuses that led to our historic housing collapse.

For most fraud schemes to work, an appraiser was needed to grossly overvalue the property, value a property that didn't exist, to fabricate comparable data, or to utterly misrepresent the condition and size of the property. Those are the extreme cases. In many other instances, appraisers simply ignored market trends, misinterpreted sales and market data, and misapplied adjustments. Pre-HVCC, these practices were termed smart business. Many not willing to go along had wallflower status during the boom.

Typical boom practice meant supporting the sales price or substantiating a value to allow for a refinance to occur as requested. In rising markets, it was not too difficult to do either. Once markets stopped appreciating, it was necessary to become more creative.

With an appraisal obtained that fit the deal, these loans were packaged and ultimately many became pieces of various types of securities. These were purchased by a wide variety of investors.

Many appraisers defend their actions, then and now, by saying it's only an opinion after all. And opinions provide for latitude.

Everyone has an opinion about real estate values. Appraisers enjoy a special status because their opinions are relied upon in the course of a transaction, whether it is a sale, refinance, etc. Appraisers have special and specific obligations in the course of developing and communicating their opinions.

Here's the crux of the problem. The value opinion in an appraisal is certainly subject to variations. Appraisals prepared by otherwise well-qualified appraisers will not result in the same value opinion. Different individuals will interpret the "market" differently and the "market" is inefficient enough to all for variation.

So the market is not black and white. That is clear. However, the development and reporting of an appraisal is much less subject to variation. The scope of an appraisal is acceptable to appraisal peers and intended user and produces credible results or it doesn't. The appraisal development process contains significant errors omission or commission of fact or it doesn't. A report is misleading or it is not misleading. The report provides the information to support the value or it provides a false reporting of the value.

The climate now is different than it was in the 1990's real estate bust. USPAP's evolution has provided appraisers (and users) strong guidance in appropriately developing and reporting value opinions, much of which was ignored or subverted during the boom.

The new appraisal rules in Dodd-Frank are designed to arrest mortgage fraud at the point of origination. The appraiser is made an independent, non-partisan third party in the financing transaction.

Many appraisers may have appraisals prepared cavalierly come back and haunt them if their attitude during the boom was that the appraisal was just an opinion not subject to very many constraints. This attitude in the current environment will simply not fly.

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