



CELEBRATING
55 YEARS

nare

Appraiser/lender regulation and appraisal review

October 02, 2014 - Spotlights

There is not enough time or space to discuss the many disquieting concerns about ever-increasing appraiser license regulations. I will try to address a few.

USPAP is a statutory set of rules. It is also elaborated in the regulations. USPAP Rules are often vague and ambiguous. The words do not have plain meanings, therefore the Rules can be interpreted as having more than one possible meaning. Appraisers should become actively involved in getting the USPAP Rules and Standard Rules written in clear and concise language. While USPAP is state law, Fannie Mae and Freddie Mac is not state law. An Order to Show Cause is issued by the license board charging the appraisers with various transgressions. The license board consists of three appraisers, a banker, layperson, and a real estate broker. The board has only one licensed residential appraiser, one certified residential appraiser and one general certified appraiser. Most typically, the report being sanctioned is a Fannie Mae Form Appraisal. Just as typically, the transgressions are against Fannie Mae Guidelines. The license board's review appraiser critiques the appraisal report against Fannie Mae guidelines. The license board member or review subcontractor' uses his or her own subjective interpretation of the Fannie Mae Guidelines and interpolates alleged transgressions into USPAP violations. Fannie Mae guidelines are not state law. Charges are often based on failure to check the right box, that the comps are inappropriate, the census track is wrong, or the gross living area is incorrect. Some of you might not know that Fannie Mae guidelines require a bedroom to have a window and a closet then it is not to be considered a bedroom. Fannie requires that any finished space below grade is not to be included in gross living space. Fannie Mae guidelines are not state law or regulation. Often a subcontractor appraiser will be employed by the Board or Prosecutor to "review" the appraisal. The subcontractor is a state licensed or certified appraiser who uses a checklist-type review format. Worse, the subcontracted review appraiser uses Fannie Mae Form 2000. Be aware, neither the checklist nor the Form 2000 in compliance with USPAP Standard 3 Requirements. USPAP remember is mandatory state law. Hence, the appraiser using the form or a checklist is subject to fines, penalties, probation, or other punishments.

Dodd-Frank Wall Street Reform And Consumer Protection Act mandated that lenders report a material failure to comply with USPAP to the state boards. The Appraisal Subcommittee (ASC) audited the state boards and claimed that 40% were not in compliance with FIREEA and Dodd Frank in their enforcement activities. The state boards were required to hire more staff and expedite complaints.

Are real estate appraisers still being pressured by lenders to deliver a desired value? Do lenders sanction appraisers by putting them on a black list or a do-not-use-list. Do lenders notify the AMC not to use Mr. X for the lender's appraisal requests? Do lenders directly or indirectly attempt to influence the appraiser's value opinion?

Did you know that Dodd Frank, the ASC, the Truth in Lending Act, Â§ 129E Federal Regulatory Interagency Appraisal Guidelines, Fannie Mae, FHA, Mass. Mortgage Lending Act, and HUD all have enforcement provisions that prohibit a lender, employee of a lender, officer, AMC, from influencing, attempting to influence the reporting, result, or review of an appraisal by coercion, extortion, collusion, compensation, inducement, intimidation, bribery, or other manner or to withholding or threatening to withhold future business or demoting or terminating or threatening to demote or terminate an appraiser. Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality or violates law or regulation, including, but not limited to, the Truth in Lending Act (TILA) and Regulation Z, or the Uniform Standards of Professional Appraisal Practice (USPAP).

I would appreciate any factual input on either subject from practicing real estate appraisers.

Roger Durkin is an attorney and Fellow of the American Society of Appraisers, Boston.

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