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## **Home Valuation Code of Conduct The good, the bad and the ugly**

July 08, 2009 - Appraisal & Consulting

The Home Valuation Code of Conduct (HVCC) has been in effect for several months now, long enough to generate some real life reaction. To refresh readers' memories, the HVCC is an outgrowth of an early 2008 agreement between New York attorney general Andrew Cuomo and Fannie Mae, Freddie Mac and the Office of Federal Housing Enterprise Oversight (now known as Federal Housing Finance Agency) in reaction to the subprime debacle in New York state that has become national in scope. The purpose of the agreement was to protect and insure the independence of the appraisal process. Originally scheduled to become effective on January 1st, 2009, the HVCC came into effect on May 1st, 2009. Reaction to HVCC can be categorized into the good, the bad and the ugly.

First, the good. Thus far, the HVCC appears to have had the desired impact in that appraisers have not been subject to undue pressure from lenders and/or mortgage brokers who in the past have pressured appraisers to generate the "right" number. One study conducted prior to the enactment of HVCC found significant bias in broker ordered appraisals. This no longer occurs as brokers can no longer order appraisals.

Next, the Bad. The HVCC has also created a lack of communication. That is, appraisers do not and cannot communicate directly with the lender or the broker including the real estate broker who may be an interested party to the transaction. These parties may be able to provide important information about the property or comparable sales that the appraiser may not have access to otherwise. Information is critical to the appraisal process, pressure undermines it.

The HVCC has also created a plethora of appraisal management companies (AMCs) that are largely unregulated with the exception of those located in the four states that have passed AMC legislation. As with any industry, there are AMCs that embrace excellent business practices and some that could definitely be improved. Those AMCs that practice the principal of hiring the appraiser who can provide the quickest and cheapest appraisal versus hiring the appraiser who is the best qualified are those who will hopefully be weeded out of the system. Another AMC practice that is attracting attention is "broadcast ordering" where an appraisal assignment is broadcast to a large number of appraisers in the hopes that one will accept the assignment.

Now the Ugly. The Federal Housing Administration states in Mortgagee Letter 97-46 that the total fee to be charged by an AMC is "limited to the customary and reasonable fee for an appraisal in the market area where the appraisal is performed." Therefore according to FHA, the AMC cannot charge a consumer more for an appraisal that is ordered through an AMC despite the added administration costs of the AMC. As a result of this policy, the cost of the AMC is borne on the backs of appraisers who are paid less than the customary and reasonable fee. With the increasing educational and experience requirements needed to become an appraiser, this level of

compensation to an appraiser for his or her expertise is discouraging people from entering the field. The National Association of Realtors (NAR) has complained that as a result of the HVCC appraisals are coming in too low, too slow, and not in the know. In other words, values are too low, reports are delivered late, and reports are being completed by appraisers who are not adequately familiar with the geographic area in which the property is located. The HVCC has been accused of impeding the recovery from the current recession, and several organizations are suggesting an HVCC moratorium.

The intent of the HVCC is excellent in that appraisers should not be subject to undue pressure to arrive at the "right" value. After all, the appraiser plays an important role in the mortgage finance system as the disinterested third party that delivers unbiased estimates of value for real estate used as collateral for mortgage loans. That being said, the HVCC is only one piece of a matched set with the other piece consisting of the IVPI or Independent Valuation Protection Institute that was part of the original Cuomo agreement. The IVPI is to be a clearinghouse established for consumers nationwide to call if they believe the appraisal process has been tainted or if they have been harmed by appraisal fraud and to serve as a contact for appraisers themselves if they believe their independence has been compromised. Only until the IVPI is also created will the HVCC be complete and as effective as intended.

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