



DAVID L. LEDFORD

SENIOR VICE PRESIDENT
HOUSING FINANCE AND LAND DEVELOPMENT

March 2, 2009

Regulatory White Paper
The Appraisal Foundation
1155 15th Street, NW, Suite 1111
Washington, DC 20005

Subject: White Paper on Appraiser Regulatory Reform

Dear Sirs:

On behalf of more than 200,000 members of the National Association of Home Builders (NAHB), I am pleased to respond to the Appraisal Foundation's request for comments in conjunction with the Foundation's White Paper initiative. I understand that the Foundation is developing this document to identify key appraisal issues and to make recommendations for reform to the appraisal regulatory system.

The Foundation's request for comment identifies eight areas for examination:

1. Broader enforcement powers for the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC)
2. Require greater due diligence from federal financial institutions
3. Improve enforcement among the states
4. Implement national licensing or registration requirements for Appraisal Management Companies (AMCs)
5. Make Appraiser Qualifications Board (AQB) licensed, trainee and supervising guidance mandatory for the states
6. Make federally related transaction sales data available to appraisers
7. Improve Temporary Practice and Reciprocity between the states, and
8. Explore the need for a more defined set of best practices for appraisers performing federally related transactions.

NAHB applauds the Appraisal Foundation's efforts to highlight shortcomings in the appraisal regulatory system. The present economic situation as it relates to real estate has brought to the forefront the importance of effective appraiser regulation. In its role as the host organization for the Appraisal Standards Board and the Appraiser Qualifications Board, the

Foundation is well positioned to address systemic appraisal regulatory problems and to recommend reforms.

Although it is not covered in the request for comments, NAHB's members have in recent months frequently expressed concern that appraisers have often used sales of homes in foreclosure or other distressed circumstances as comparables for appraisals of new homes without having made the appropriate value adjustments. Properties that are used as comparables are not subject to the same degree of scrutiny as the subject property. In the case of new home appraisals, comparable properties are often older and, if involved in a foreclosure or distressed asset sale, may suffer from neglect and damage that would not be known unless the appraiser conducted thorough interior and exterior inspections. Unfortunately, most agencies require only cursory reviews of the condition of comparables, which means that appraisers may overlook damage and neglect and, as a result, insufficiently adjust the values of properties that are used as comparables. NAHB has asked Fannie Mae and Freddie Mac to review and reiterate their guidance to seller-servicers in this regard.

The concern about inappropriate choices of comparables or insufficient adjustments is frequently voiced by NAHB members in conjunction with observations that the appraisers in question are from outside of the area of the subject property and are working under contract with an AMC at a level of compensation that is less than the prevailing rate in the area. Below-market appraiser compensation, when combined with short turnaround times, may mean that appraisers who perform appraisals for AMCs are the least experienced and therefore less competent to perform appraisals during these times of turbulent market conditions.

Appraisers bear the responsibility to "disclose the lack of knowledge or experience to the client before accepting the assignment." under the standards as promulgated in the Uniform Standards of Professional Appraisal Practice (USPAP).¹ While the foregoing requirement is very clear, it is not clear that the AMC has an obligation to inform the client that the appraiser lacks the appropriate level of knowledge regarding a market with which he or she may not be familiar. NAHB hopes that the final White Paper addresses these concerns.

The request for comment also does not mention the importance of regulating the use of Automated Valuation Models (AVMs) in conjunction with lower-risk transactions as the federal financial regulators recently proposed.² As NAHB stated in its comment letter to the regulators, "While the use of AVMs may be appropriate in certain circumstances, no process currently exists for independent third party testing and certification of AVMs. For this reason, NAHB recommends that financial institutions that use AVMs should be encouraged to verify the accuracy of AVMs either internally or through testing by an entity that is independent from a provider of AVM models." A copy of NAHB's comment letter is attached for your reference.

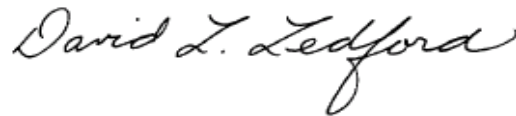
¹ Uniform Standards of Professional Practice 2008-2009 edition, Appraisal Standards Board, p.U-11

² Proposed Interagency Appraisal and Evaluation Guidelines, 73 FR 69647 (November 19, 2008)

Effective enforcement of appraisal rules and guidelines is lacking in many areas, and is another serious problem noted by NAHB's members. NAHB supports the concepts of broader enforcement powers for the ASC and the use of the ASC as a conduit to provide adequate funding to the state appraiser regulators. Too often, states reallocate appraiser registration and licensing fees to their general funds, which leaves the appraisal regulator with insufficient funding to perform investigations and enforcement actions that could serve as effective deterrents to improper appraisal practices. The issue of qualifications of members of state appraisal regulatory boards is also critical and should be included in the White Paper.

In closing, I appreciate this opportunity to comment on behalf of NAHB. Please direct questions regarding this matter to Bill Renner, NAHB's Director of Single Family Finance. Bill can be reached at 202-266-8597 or via e-mail at Wrenner@NAHB.com.

Sincerely,

A handwritten signature in cursive script that reads "David L. Ledford". The signature is written in dark ink and is positioned to the right of the typed name.

David L. Ledford
Senior Vice President
Housing Finance and Land Development

DLL/wsr

Attachment



HOUSING FINANCE & LAND DEVELOPMENT

DAVID L. LEDFORD
SENIOR STAFF VICE PRESIDENT

January 20, 2009

Office of the Comptroller of the Currency
250 E Street, SW
Mail Stop 1-5
Washington, DC 20219
Docket ID: OCC-2008-0021

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Ms. Mary F. Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428
Docket: RIN 3133-AD38

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve
System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Docket: OP-1338

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Docket: OTS-2008-0012

**Subject: Proposed Interagency Appraisal and Evaluation Guidelines
73 FR 69647 (November 19, 2008)**

Dear Sirs and Mesdames:

On behalf of the more than 200,000 member firms of the National Association of Home Builders (NAHB), I welcome the opportunity to respond to the proposed guidance (Proposal) issued jointly by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration, collectively, the Agencies. The Proposal outlines the Agencies' supervisory expectations for the

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conduct of appraisals and evaluations of real estate assets that serve as collateral for loans held by the financial institutions that are regulated by the Agencies.

NAHB is a national trade association representing individuals and companies involved in the production of housing and related activities. NAHB's builder members are mostly small and medium-size businesses with limited capital of their own. These businesses depend almost entirely on commercial banks and thrifts for credit to finance land acquisition and development and housing production. Individuals who purchase homes produced by NAHB's members rely on mortgage lenders and credit unions, many of which are regulated by the Agencies.

Background

NAHB appreciates the Agencies' concerns relating to the separation of appraisal and credit management functions within regulated financial institutions. The proposed Guidelines call for measures that would allow real estate appraisers to complete their assignments without undue pressure or influence from loan originators and other parties of interest to a particular real estate transaction. In this respect, the proposed Guidelines follow closely the Home Valuation Code of Conduct, which was adopted on December 26, 2008, by Fannie Mae, Freddie Mac, and the Federal Housing Finance Agency.

In addition, the proposed Guidelines would augment the Agencies' 1994 Interagency Appraisal and Evaluation Guidelines by incorporating the guidance that has been provided through the Frequently Asked Questions on Residential Tract Development Lending, which was issued by the Agencies on September 8, 2005, and by providing further clarification, particularly with regard to the Appraisal Exemptions contained in Appendix A; the Evaluation Alternatives contained in Appendix B; and Appendix C, the Glossary of Terms.

NAHB Position

NAHB's comments and recommendations regarding the proposed Guidelines primarily concern: deductions and discounts for proposed construction, renovation and tract developments; selection of appraisers; and, automated valuation models (AVMs).

Deductions and Discounts for Proposed Construction, Renovation and Tract Developments

NAHB members have noted that appraisers have frequently used distressed and foreclosed property sales as comparables in conjunction with appraisals on newly constructed homes. These types of distressed sales should not be used unless no other comparable property sales are available and, if used, lenders' review appraisers must ensure that the appraisers have made the appropriate adjustments. Financial institutions typically require that appraisers only conduct exterior inspections of properties that are to

be used as comparables. Too often, properties in foreclosure have issues relating to deferred maintenance or internal damage that an external inspection simply cannot reveal. A prospective purchaser would most assuredly recognize the differences between a newly built home and a distressed property that is damaged or not properly maintained. NAHB submits that appraisers should be instructed to consider the overall condition of a property when selecting comparables.

NAHB members have encountered numerous situations during the past several months in which a financial institution lending to a housing developer has determined that the appraised value of a housing development in process has declined. In some of these circumstances, third party valuations have declined even while homes in these developments have been selling. There appears to be a heavy use of foreclosed properties and/or liquidation prices which are inappropriately driving down values. Some of the appraisals are well below replacement cost, and do not reflect the long term value of the properties. Nevertheless, institutions are relying on these appraisals and requiring developer/builder borrowers to put additional equity into projects, even on current loans with underlying projects that are performing well. NAHB encourages the Agencies to advise financial institutions to ensure that ongoing sales of homes within residential developments are appropriately factored into the decision-making process before a developer is required to invest additional capital into a development. In addition, institutions should be advised to make long-term property values the primary consideration in evaluating the loan-to-value status of outstanding loans.

Selection of Appraisers

In the subsection of the background information titled “Selection of Persons Who May Perform Appraisals and Evaluations,” it is mentioned that the person selected to perform an appraisal or evaluation should possess the “... requisite education, expertise, and competence to complete the assignment;” and, “The person selected to perform an appraisal holds the appropriate state certification or license.” Further guidance is needed in this area. NAHB suggests that the Agencies should encourage financial institutions to include an examination of appraisers’ credentials, continuing education, and industry affiliations as a part of the appraiser selection process. We also note that appraisers who meet state requirements to become licensed appraisers have met their states’ *minimum* requirements to perform appraisals. Financial institutions should be encouraged to engage state certified appraisers whenever possible.

Automated Valuation Models (AVMs)

The Guidelines also provide for the use of Automated Valuation Models (AVMs) in certain lower-risk transactions. While the use of AVMs may be appropriate in certain circumstances, no process currently exists for independent third party testing and certification of AVMs. For this reason, NAHB recommends that financial institutions that

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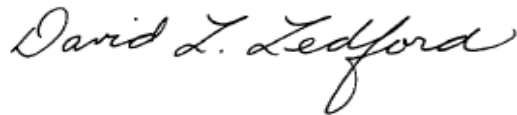
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use AVMs should be encouraged to verify the accuracy of AVMs either internally or through testing by an entity that is independent from a provider of AVM models.

Thank you again for the opportunity to comment. Please direct any questions you may have concerning this letter to William Renner, NAHB's Director of Single Family Finance, at 202-266-8597 or WRenner@NAHB.com.

Sincerely,

A handwritten signature in cursive script that reads "David L. Ledford".

David L. Ledford
Senior Staff Vice President
Housing Finance & Land Development

DLL/wsr