

APPRAISAL TODAY

Fannie and Freddie - what do they really say about risk scores, 1004mc, forms redesign, data discrepancies, etc.?

Editor's notes: I did not have time to include this in the June newsletter. I ran out of space, but I don't think there have been many changes since 4/24/17, the date of the webinar. This article focuses on comments that were made, especially comments from Fannie's Zach Dawson, Director of Collateral Strategy.

In the April newsletter I had a writeup of a Fannie seminar done in March, but higher level employees were not the presenters. This seminar has info "straight from the top". I have identified his comments (and personal opinions) and those of Freddie's representative, Scott Reuter, below.

Source: April 24, 2017 Appraisal Institute Webinar, Fannie Mae Collateral Policy Update (1 hour webinar plus 1 hour Q and A).

Presenters

- Zachary Dawson, Director of Collateral Strategy, Fannie Mae. Prior to joining Fannie in 2012 he managed appraisal fulfillment and collateral underwriting for multiple business channels at GMAC mortgage and started his career as a licensed appraiser and real estate salesperson in the state of Minnesota. He played a lead role in the launch of

Day 1 Certainty which uses CU to allow customers freedom from reps and warranties on appraised value and enhanced Property Inspection Waivers.

- Scott Reuter, Chief Appraiser, Director of Valuation, Freddie Mac. He joined Freddie Mac in late 2016 and is a State Certified General Appraiser with over 30 years of experience in valuation, appraisal and collateral risk management concerns. His management positions include Goldman Sachs, Bank of America and General Electric. At Freddie he works on risk management, underwriting products, and quality assurance. He and his team interact with both sellers/clients and stakeholders across the appraisal industry.

Who attended the webinar

According to a live poll:

Appraisers	86%
Lender	2%
Underwriter	7%
Other	5%

Area of focus - appraisers

Residential	66%
Commercial	9%
Both	25%

Why appraisals are important to Fannie Mae (Dawson comments)

Fannie wants to make it easier for lender's underwriters.

Integrity of data is important when underwriting the loan. The underwriter needs a good understanding of subject, comparables and the market. "Anything that impedes the underwriter from making a sound lending solution is problematic." Values are not declining now in the cycle, but this is a good time to make sure everything is going well.

Dawson has heard "Borrowers default on loans, not appraisals."

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when prices are declining. But, their data shows there is a very strong correlation between risk of default and over valuation. When borrowers have financial problems and have equity, they can sell. But, if underwater on loan, cannot do that. For Fannie, their risk increases with lower LTVs. *VALUE IS THE "V" IN "LTV"*

CU was built for Fannie's use first

Fannie Mae acquires up to 2 million loans per year. They don't have people reviewing every loan, so have to be intelligent about which loans they dedicate their human resources to. Originally built for sampling for post-acquisition QC.

What became apparent quickly was instead of Fannie using it for post-funding QC, why not provide it to their customers to use before submitting their loans to Fannie.

Since CU was rolled out in early 2015 (as of March 2017) there are

- Registered lenders: 1,935
- Registered Users underwriters, QC persons): 18,474
- Appraisal submissions (since 2012 with UAD): Over 25 million, growing at the rate of 15,000 to 20,000 appraisals per day
- About 3 million appraisals reviewed by lender partners

CU is a tool to help underwriters.

Fannie's Goal: make sure that all stakeholders look at appraisals the same way

Goal: Let's get appraisals done right the first time. Try to train lenders.

CU messages have declined

When CU first rolled out, underwriters and appraisers felt overloaded with appraisal messages. 60% had none or one messages. 80% had 2 or fewer messages.

Number of CU messages Quarter 1, 2017:

None	30%
1	31%
2	20%
3	10.5%
4	5%
5	4%

Message frequency by type

- Data discrepancy	46%
- Comp selection	10%
- Adjustments	43%
- Reconciliation	1%

Comp selection typically affects value, over or under valuation, so it is important even though it has a lower frequency.

Fannie sees comps 6-7 times on average.

Comp includes the transaction, such as the sale of 123 Main St. for \$XXX on XXX date.

Data discrepancy measured several different ways

1. They compare the subject and the comps from an appraisal:
Has the appraiser used this comp previously? Is it reported the same way? Most discrepancies are GLA, bedrooms, bathrooms, Condition(defaulting to 3 and 4) and Quality. Be sure to do absolute Q and C.
2. Defaulting to \$25 GLA for lots of appraisals, whatever it is. Big problems.

Recommendations for appraisers

Know that reliance on arbitrary guidelines may have unintended consequences. Appraisers, AMCs, and lenders have long-relied on many "rules-of-thumb" to determine quality. Compliance with these rules-of-thumb does not necessarily guarantee an accurate valuation or well-supported appraisal. Sometimes the best appraisals violate rules of thumb.

Take necessary steps to ensure accurate and consistent data for the subject and comparables. Double check sales prices and property attributes with MLS data, public records, and other available resources. If you use comparable sales in multiple reports, be sure data is accurate and consistent with prior reports.

Don't let your MLS search obscure your view of the market. Understand that an overly-restrictive search in MLS may fail to yield all relevant data points that are necessary to inform your market analysis, comp selection, and opinion of value. For example comment: "I searched within a ½ mile radius for sales in the last 6 months, 3 bedroom, 2 baths" For example, an identical comp sold 7 months ago for \$15,000 less and the appraiser missed it.

Don't over-engineer. Look at the market qualitatively and holistically.

Make market based adjustments for time, location, and property attributes. Remember that failure to make market-based adjustments is a violation of Fannie Mae policy. Adjustments should be based on statistical analysis and reflective of the market's reaction to differences in the properties. For appraisers, Dawson says this is the one area where appraisers need improvement.

Provide your clients with thoughtful commentary and responses. Avoid reliance on canned commentary and defensive responses to lenders' questions. Thoughtful commentary and exhibits can reduce further requests for correction and clarification.

Dawson says there are way too many canned responses. The lender is trying to meet many guidelines: Fannie, regulators, etc. and they need appraisers to cooperate and help them understand the subject, neighborhood, etc.

Day 1 Certainty

This program focuses on borrower data such as verification of income and assets by using databases instead of pay stubs from the borrower. This makes the loan process much faster and safer, with fewer errors and hassles. No paper.

Appraisals with Risk Scores of 2.5 or below (60-65% of appraisals) are eligible. They are still reviewed. Corrections are fewer. Started in December 2016. Already seeing a reduction in resubmission rates.

Property Inspection Waiver

Fannie has done them back at least to year 2000. Look for a prior appraisal, CUs analysis of appraisal. If okay, will use data from the appraisal and will waive the appraisal requirement Doing this a little bit more. For the 40,000 to 50,000 appraisers who have their appraisals submitted to Fannie, there will be only a few appraisals over a year that get a PIW (Property Inspection Waiver).

Policy changes

B4-1.1-05, Disclosure of Information to Appraisers (12/6/2016)

UPDATED: Contract changes after the appraisal is completed

(Editor's comment: Reduces appraisal revision requests for specified changes to the sales contract.)

If the contract is amended after the effective date of the appraisal in a way that does not affect the description of the property, then the lender is not required to provide the amended contract to the appraiser nor obtain a revised appraisal.

Some examples of amendments that do not require the lender to provide the amended contract nor obtain revisions to the already-completed appraisal report include:

- sale price
- transaction terms
- financing concessions
- seller-paid closing costs
- names or initials
- closing date and
- correction of minor clerical errors such as misspellings.

Comments by Zach Dawson: This is for changes to the sales contract after the appraisal is completed and after the effective date of the appraisal. He talked to a lot of their lender partners and appraisers, he had one AMC chief appraiser say that 25% of purchase appraisals had to go back to the appraiser after the effective date, after the appraisal was done to reflect some change in the contract that really was of no consequence to the appraisal or the appraised value.

His example: "Perhaps somebody estimated in the original contract \$6,000 in closing costs and it ended up being \$5,800 in seller paid closing costs. I think it is pretty clear in those cases" that it does not affect the value. The underwriter wants to know that because of interested party contributions etc, but it is not critical to providing a credible valuation. "The value is what it is."

Another example: "Buyer and seller agree to a sales price of \$200,000. The appraisal comes back at \$190,000. Buyer and seller renegotiate at \$190,000. Seems unnecessary to send the appraisal back to the appraiser just to update it with a sales price of \$190,000. Fannie policy: The purchase price or the value, whichever is lower is the basis for the LTV. It was unnecessary back and forth and appears to affect quite a few purchase transactions.

B4-1.3-08, Comparable Sales

(01/31/2017)

UPDATED: New (or Recently Converted) Condos, Subdivisions, or PUDS

In the event there are no closed sales inside a new subject project or subdivision because the subject property transaction is one of the first units to sell, the appraiser may use two pending sales in the subject project or subdivision in lieu of one closed sale. When the appraiser is using two pending comparable sales in lieu of a closed sale, the appraiser must also use at least three closed comparable sales from projects or subdivisions outside of the subject property's project or subdivision.

Dawson comments: This addresses where there have been no closed sales inside the condo, subdivision or PUDs. Fannie will allow two pending sales from that development in lieu of one closed sale. This only applies when there are no closed sales available within the project.

**B4-1.3-09, Adjustments to Comparable Sales (01/31/2017)
UPDATED: Sales or Financing Concessions**

Fannie Mae recognizes that the effect of sales or financing concessions on sales prices can vary with the amount of the concessions and differences in various markets.

Adjustments must reflect the difference between what the comparables actually sold for with the sales or financing concessions and what they would have sold for without the concessions so that the dollar amount of the adjustments will approximate the reaction of the market to the concessions. If the appraiser's analysis determines that the market's reaction is the full amount of the financing concession, a dollar-for-dollar adjustment is acceptable.

Dawson comments: There has been some confusion about whether or not dollar for dollar adjustments could be done.

Fannie has clarified their policy to say "As a matter of course appraisers should not just default to using the full amount of the sales concessions to make their adjustments unless their analysis of the market indicates a dollar for dollar adjustment is appropriate then they are comfortable with appraisers doing so."

Q&As

Q and As

Underwriter training

Dawson: When CU was first rolled out, underwriters were used to "rules of thumb" such as 12 mo. vs 6 month time for comps. Over time, both Freddie and Fannie have been training them.

Their data shows that the number of times an appraisal is resubmitted has been decreasing. But, they still have a lot of room for improvement.

Condition ratings

C1 is fairly accurate. There is a fine line between C3 and C4. 20% of the comps have different ratings when comparing appraisal reports. C4 and C5 are not often mixed up.

Underwriters focus on appraisals where there is more than one difference between the ratings. For example, one appraisal has C3 and others have C5.

Use of trainees

Fannie has always allowed trainees to complete reports.

In a very preliminary analysis, Dawson said they could not see any material difference between appraisals done by trainees vs. licensed appraisers. His message was that there is no degradation in quality with trainees.

Use of regression by appraisers

Reuter (Freddie) said the bottom half of the grid is not worth much. They like to see it and kudos to those who use it.

Dawson said there was more regression in appraisals in the past year or two than previously.

Fannie tested GLA and found that many appraisers used outdated, typically low, GLA adjustments in their reports. But, changing something you have done for many, many years is difficult. Defaulting to \$65 per sq.ft. is much easier.

Dawson related his personal expe-

rience when he did his first appraisal in 2002. His supervisor said to use \$20 per sq.ft. and \$30 if it was an expensive home.

My comment: GLA is one of the easiest adjustments to get from regression. When I tested regression software in early 2015, GLA adjustments were fairly accurate, per the software. I increased my adjustments after running my own appraisals through the regression software.

Risk score - pressure to get to 2.5 or below

Fannie said that 2.5 was not a "magic number". Some above 2.5 had property eligibility issues, i.e., undervalued. Freddie said 3 and 4 ratings could be complex properties.

1004MC

Dawson (personal opinion) understood and appreciated it when the 1004mc was implemented - we needed support for time adjustments. They have more confidence in HPI and are less concerned with 1004mc.

Reuter (personal opinion) says may be less useful now.

My comment: Before 1004mc, many appraisers were trained not to make any time adjustments, plus or minus, on lender appraisals. When I started my appraisal business in 1986, this was very common. I know of at least one appraiser who lost almost all his clients when he refused to not make negative time adjustments. Fortunately, I never had a lender client who did that. I was very lucky.

Why is the CU data not available to appraisers?

Reuter: the appraiser in him wants to share, but Freddie and Fannie do not want to drive the market. They are open to creative ideas.

Dawson: CU is intended for their use. However, CU has only been around for a few years. Loan Prospector (automated underwriting) has been in use for a long time and has evolved. They do not want any "unintended consequences" and are working with their lender partners.

Editor's comment: They do not want appraisers using Fannie CU data, instead of their own observations, for their reports. It is hard not to be influenced by other data sources. An example today is some appraisers "adjusting" their building sketches to match public records. I did relocation appraisals for many years, with 2-3 appraisers appraising the same home. If the GLAs were the same, it was suspicious.

Do you see a day when lenders want/require support for adjustments?

Reuter: some appraisers already do it.

Dawson: it can help get through underwriting faster. There "changing dynamics and paradigms", but they are "not on the doorstep of requiring it".

Form redesign

Reuter: has a joint effort with Fannie, but not much is available publicly. It will take awhile as all stakeholders are involved. The last forms were in 2005 and there have been lots of data changes. They have not started on it yet.

Dawson: anxious to do it. Agrees with Freddie. Scraping data from forms designed for typewriters. Some data could be provided to appraisers.

Advice for success next year, 5 years and 10 years

Dawson: embrace change and analytics. For 2017 and beyond, the value is in taping and photos. Rethink your strategy: what can you do that models can't do, or you can do better.

Reuter: Change is already here. But, we are historically slow to pivot and adapt. Appraising is a great tradition, but needs to change. Lenders would "eliminate appraisals in a heartbeat". The easy appraisals are going away.

**Where to get more information
Appraiser page**

www.fanniema.com/singlefamily/appraisers

CU info

www.fanniema.com/singlefamily/colateral-underwriter

Housing values in Colorado are going up in smoke

By Tony Pistilli

In January of 2012, Colorado became the first state in the country to legalize marijuana for recreational use. Amendment 64 passed with a 55% approval from the Colorado voters. The state law decriminalized recreational marijuana and allowed local municipal governments to create laws to allow the use of marijuana by adults. It is legal for resident adults, 21 and over, to possess up to 1 ounce of marijuana, ¼ ounce for non-residents.

Although growing, possessing and smoking marijuana remains a schedule 1 illegal drug under federal laws, last year alone, marijuana sales in Colorado totaled nearly 1.3 billion dollars and generated over 200 million in state tax revenues. This is due to the 29% tax on marijuana sales. An ounce of high quality marijuana can range in price from \$200-\$300 according to "the price of weed" website.

As a result of the extremely high tax rates on marijuana, the cities that have adopted recreational marijuana laws have seen their budget surpluses swell from increased tax revenues amid booming business in their communities. From a purely economic perspective, legalization of marijuana has had an enormously positive effect on tax revenues, job creation new business opportunities, and housing values as well!

A recent study "The Effect of Legalizing Retail Marijuana on Housing Values: Evidence from Colorado", conducted by Cheng Cheng, Walter Mayer and Yanling Mayer, examines the impacts of recreational marijuana laws on housing values. Their research examined the difference in housing values in those municipalities that have enact-

ed recreational marijuana laws and those that did not to determine if there was a causal relation between legalizing marijuana and increasing home values.

By August of 2015, only 17% of Colorado's cities had adopted retail marijuana laws. This represents about 30% of the total population of Colorado. The group's study focuses on pre-legalization home prices and post legalization home prices. It considers many other potential influences on property values and isolates the sole impact of legalizing recreational marijuana on home values.

The study concluded that recreational marijuana laws contributed to an increase in home values of about 8% or approximately \$20,000 per property. The increases are similar in different geographic areas of the state and across all property types. The report concluded increases in value are the strongest in lower and moderately priced homes, those homes under \$500,000.

Since the first marijuana dispensaries opened their doors on Jan. 1, 2014, the median home sale price in the state has increased from \$248,000 in the first six months of 2014 to \$298,000 in the first six months of 2016, according to Realtor.com analysis.

There has been a rush of economic development since the laws were enacted contributing to the housing value increases. Much of the economic increase can be attributed to new job growth related to commercial growers, dispensaries and ancillary retail businesses selling a variety of forms of the now legal drug. The opportunity for being in a new business in a new state had the effect of attracting residents from other states to Colorado due to the new laws. Commercial grow houses, pot-friendly hotels and retail sales stores have opened and created new employment opportunities in those municipalities that have passed the laws.

Along with the positives, the study also considered the negative societal impacts, or costs, that the new law has created, such as an increase in social programs, law enforcement efforts, motor vehicle crashes and chemical dependencies. One statistic cited in the study showed that marijuana-related impaired driving increased by 45 percent, compared to 2013, before the recreational marijuana laws were enacted.

The study considered both the pros and cons of the new recreational marijuana laws and concluded the capitalized benefits of the recreational marijuana laws outweighed the negative impacts - from a purely economic perspective.

Seven other states, Oregon, Washington, Alaska, California, Nevada, Massachusetts, and Maine, have legalized recreational marijuana use since Colorado in 2012. To date, no empirical studies have been performed in the other states related to the recreational marijuana laws' impact on housing values. It will be interesting to see if the increases in property values that have occurred in Colorado will continue in other states and what this will mean for the real estate and appraisal industries.

As more states enact recreational marijuana laws, will the uniqueness diminish and the novelty wear off or will the same economic benefits seen in Colorado be borne out in the other states as well?

As appraisers, do we include this in our comparable selection? Our market trends analysis? Do we know if homes in communities that have recreational marijuana laws sell quicker? Are these price increases sustainable or are they merely temporary and artificially "high"?

It is important for appraisers to be tuned to these types of phenomena. Whether it be the legalization of marijuana or the gas/oil industry, high-tech, agriculture, etc., if there is an industry that impacts housing values, positively or negatively, it is important for us to be aware of and consider it in our analysis and opinion of value.

We will see the answers to these questions in the other states that have approved marijuana laws as the impacts on housing values play out over time. In the interim, real estate agents in states where marijuana is legalized may no longer suggest to home owners that they have a freshly baked loaf of bread or chocolate chip cookies on the kitchen counter during open houses. Instead they may opt for suggesting a few strategically placed bowls of munchies throughout the home during open houses!

About the author

Tony Pistilli is the Chief Appraiser and Director of Collateral Risk & Policy for Pacific Union Financial. He is a member of several appraisal industry organizations and was a subject matter expert for The Appraisal Foundation in the area of declining markets. He holds a Certified Residential Appraiser license and is an AQB-Certified USPAP Instructor, as well as a classroom instructor for McKissock Learning.

Vacation Time for Appraisers

By Doug Smith, SRA, AI-RRS

"Every now and then go away and have a little relaxation. To remain constantly at work will diminish your judgment. Go some distance away, because work will be in perspective and a lack of harmony is more readily seen." - Leonardo DaVinci

Summer is approaching and with it thoughts of time off and vacations. Appraisers as a group generally deprive themselves of vacation time. While enjoying the freedom and satisfaction that comes from being a solo entrepreneur, appraisers are reluctant to give up any part of the revenue stream that may be interrupted by time away from the office.

Indeed, any interruption of the business process does result in reduced revenue. Most work in progress must be completed before leaving, requiring appraisers to taper off, and sometimes turning away work in the process. Without some means of accepting orders while on vacation, there may be some delay in getting back to an even and regular workflow.

Appraisers are dependent on the good will of clients for repeat business and if the appraiser is not available, some clients will likely select another firm rather than wait for the appraiser to return. After an absence from work, the appraiser will likely experience a thinning of cash flow, slowing down payments of invoices that have accumulated in their absence.

Appraisers find many other solid reasons to forego a vacation perhaps forgetting that old saw that says, "No one on their death bed, ever wished they had spent more time at the office." In this vein, appraisers often do not fully appreciate that their revenue stream and workflow is driven

by their own productivity.

When viewed in a broader perspective, rather than focus on a temporary loss of revenue, appraisers would do well to approach planning and organizing, to not only provide for vacation time, but to improve the overall productivity of the appraisal business.

Why take a Vacation?

It is a common trait of appraisers as self-employed persons to be reluctant to take time off. There are however, acknowledged benefits that outweigh short-term financial and scheduling concerns. Stress and fatigue are not only hazards to mental well-being, but to physical health as well.

Without rest and time to refresh, appraisers jeopardize their overall health reducing their mental alertness. Working day after day without a sustained break dulls the ability to solve problems and an appraiser may very well lose his/her edge.

Vacation time is family time. A vacation can help a person connect with family, providing stronger long-term support for every aspect of life's experiences. Appraisers must keep in mind that the objective is to increase overall productivity and time spent away from the office may very well result in improving office output.

Being away often allows time to see things differently. A break from the mundane day-to-day running of a business may be just the impetus to come up with new ideas and new ways of doing things at the office.

For the appraiser, the benefits of taking a vacation may very well result in a revived outlook and ability to work more productively. This alone can contribute to increasing total revenue to the firm making it more "affordable" to take time away from the business.

The key is to recognize that a vacation is an accrued benefit that is derived from total annual revenue. The objective is to maximize the annual revenue by productivity gains to make it possible to take a vacation. Taking the focus away from the time spent away from the workplace, and placing more attention on organizing and planning will make it possible to take time off and avoid the burden of thoughts of the revenue not earned during the time spent away from the business.

Handling business while on vacation

Before going on vacation, appraisers find that they have to slow down their work flow and begin to turn down work so they are not working up to the last minute. When they return, they must wait for more orders. These problems focus on the fact that most appraisers stubbornly work solo, doing all of the work of turning out their work product from start to finish.

When the appraisal process is broken down into steps, it quickly becomes apparent that much of the workflow is routine and clearly could be done by a clerical person. For most appraisers, such work does not require a full time person. The first step, then, in increasing office productivity is to find and train office support staff.

Begin to delegate. Shift the day-to-day tasks of the appraisal business to another more suited to carry them out. If there are concerns about running a payroll, office staff can be contracted with a temporary staffing agency.

Today, it is possible for small offices to set up payroll with such programs as Quick Books. Having a support staff on hand solves many problems for the self-employed per-

son going on vacation. More work can be accepted prior to a vacation and orders can be accepted and work started while the self-employed person is on vacation.

If the firm has support staff, it is important to list the employees' work priorities while the appraiser is on vacation. This should be followed up with a list of tasks and projects that must be completed while the appraiser is out of the office. This sets a certain agenda and helps the staff person know what is expected.

Support staff should be instructed to carry out the other administrative duties. Mail can be sorted, calls returned and e-mail can be managed. All this will be of great assistance and make transition back to work more efficient.

If a part-time person is beyond consideration, initiating a strategic alliance with another similar firm to provide assistance while on vacation is another possibility. Set up carefully, calls might be forwarded to the cooperating firm and work can be completed while the appraiser is away.

The key is to designate someone to be in charge while absent. If the relationship with another firm is carefully built on referral business during the year, workflow can be evened out between the two firms over time to the mutual benefit of both. Trust and mutual understanding is essential to this relationship, but it is not impossible under the right circumstances and with the right personalities.

Along these same lines, it is critically important that a contact person be designated to reach the appraiser in emergencies and only in case of emergencies. This may be a company contact, but it can also be an attorney, accountant, a close relative or someone that can be trusted... That person should be someone who knows when and when not to make contact.

When is a good time to take a vacation?

Appraisers have a learning curve when contemplating taking vacations. It is best to start with short vacations and begin to build toward longer ones as the shorter ones get easier and go more smoothly. Appraisers find there is no perfect time to take a vacation.

They must choose times that fit into the work cycle. In the winter, the two weeks after Christmas have been traditionally slow. Over time, I have noticed that the week around the 4th of July is also often slow. It is important to study each individual's workflow over the year and select times when volume is less.

Stealth Vacations

Some appraisers choose to take a "stealth" vacation. They don't let their clients know they are on vacation and some even take work with them working off laptops to maintain client continuity. This may work for some, but for most, it is best to call or e-mail key contacts at least two weeks in advance before leaving.

Some appraisal management companies such as LandSafe and many others have a place on their website for listing vacation times. Some Appraisal Management Companies e-mail a vacation form each year. The VA provides a system for pre-notification of being away from the office when orders will be diverted.

Re-entry preparations

Appraisers set in motion re-entry by making a list of work priorities when returning from vacation. This list allows the appraiser to take his/her mind off work while they are gone.

There will be many items deserving attention when returning, but having a preset list better prepares the appraiser for the process of getting back to business. Before leaving it may be helpful to get all files in order and clean up the appraisal office workspace.

Appraisers must be smart in terms of office and phone security when away. A recorded phone message announcing you absence is a sure invitation to thieves intent on breaking into the business. It is a good idea to delegate someone to check on the office and let the local police know the length of the absence.

Just do it!

Appraisers can take vacations. It takes careful planning and organization to make it happen. For personal health and benefits to family life alone, being able to take a vacation can be a fundamental objective of any business. In the context of maximizing overall productivity of the firm and by solving some of the challenges that now hinder taking a vacation; appraisers can improve the overall viability of the appraisal firm.

About the author

Doug Smith has an appraisal practice in Missoula, Montana, and is a certified general appraiser doing both residential and commercial appraising. He has an MBA from the University of Montana and the SRA designation from the Appraisal Institute. He can be contacted at hotelman@montana.com.

Doug takes at least one vacation every year!!

Working on the Regulatory Side: The Future of the Residential Appraiser (Part Deux)

By Barry Bates

(The opinions expressed by the Author of the article below (Barry Bates) are his alone, and do not necessarily reflect the opinions of the Appraisal Today newsletter, its publisher, advertisers or employees, who are likewise not responsible for the accuracy of any of the information supplied by the Author in the context of those opinions.)

Okay. Hopefully, in the last couple of articles for Appraisal Today, I made some headway in convincing normal, Luddite, change-averse residential appraisers that they are soon to be toast. [Toast.jpg]

I did get some heat, however, mostly from folks who believe that taking a selfie involves polluting one's soul. I've written this piece in the form of an *imaginary* FAQ as I think it will make it easier to understand, especially the gobbledygook about artificial intelligence.

Why are you so sure that residential appraising will disappear?

AVMs are still not used much in originating first mortgages. Why do you see a threat now?

I may have suggested this before, but the question is similar to the philosophical, rhetorical inquiry about why a dog licks his genitalia: because he can.

If WE could, we'd never get anything done. Though most observers agree that the nature of a residential appraiser's job is almost certain to change radically (to the extent that the job title may cease entirely to exist), regulators will still need valuation experts to monitor AVM structure and output.

Despite the technical changes that will cause an eventual decline in lend-

ing appraisal orders, *the procedure in getting a position with government in property valuation* is not likely to change much.

The good news is that certified valuers may escape the valuation degree requirement, the bad is that they will almost certainly need an undergraduate or even post-graduate degree in *cybernetics, systems engineering, cognitive science and robotics*.

If you're not afraid of that stuff, and are more than 5-10 years away from retirement. the time to start learning it is NOW.

If you can't go back for formal education, you can achieve pretty much the same security and income by reading the "for Dummies" series on programming and using your home PC as a practice field.

It's almost like the old days, when you could become an appraiser out of high school and still call yourself a "professional". Those who bemoan the degree requirement need to understand that the USA is nearly the only country on earth that still grants licenses without a college degree with an emphasis on business, economics or real estate.

Also, the louder one yells about the unfairness of the degree requirement, the more obvious it becomes to the public that appraisers are undereducated.

One big, unanswerable remaining question is whether government will consider that a license to "manually" appraise real estate will be necessary or even desirable. I would suggest that the answer is yes: you can't successfully vet a software program that handles complex real estate valuation algorithms without somebody who understands valuation methods and techniques. Those with deep experience in the Old World will have an

advantage.

Thus the certification or license becomes a building block, and the requirement to stay in the trade is to become a geek. [Geek.jpeg]

It wouldn't hurt to lobby your honest, fearless representatives in Washington NOW to establish regulations and policies, especially at Freddie and Fannie, to require the valuation expertise.

As noted earlier, the GSE requirement that all first mortgages be accompanied by 1004s is being quietly, but swiftly eroded. There's no reason to remain in appraisal unless you love it, and a lot of appraisers do. What other trade keeps you out and about, often gives you a fleeting rush of power, teaches you something new every day and allows you to keep your relationships cheap and superficial?

Why I went to work at the Bureau of Real Estate Appraisers (BREA) in California

My own experience in getting on at the State of California was fairly typical, according to my BREA colleagues, and is offered as an assist to those who are considering government employment, especially as a hedge against disruptive forces in property valuation and markets.

By late 2012, my corporate chief appraiser persona had evaporated, and I was holed up in the appraiser's favorite Wo/Man Cave, i.e., bedroom #3, spending 8 hours a day putting lipstick on pigs. [JPG: Lipstick Pig] I remember I was on contract with a hybrid AMC/AVM outfit, reviewing "desktops" at \$30 each, totally non-USPAP, fortunately unsigned, mostly used for book value or pricing in mortgage servicing and asset disposition, but fortunately unsigned. I was getting tired of it despite earning

about \$270 per day or about \$72K per year, and of working at home in South Philly while my bride finished her four-year Certificate at the Philadelphia Academy of Fine Art (pafa.edu).



Kathleen's old painting

Usually, work for servicers is fairly easy, but my client was passing complainers directly to me to justify my number, which often didn't fit what they "needed". At least five times a day, I was asking the rhetorical question, "If you don't like my opinion, why do you still ask for it?"

It was time to do something else. I was pushing 67, still needed to work, and was willing to work as hard as I ever have, but I was getting bored.

For months, I had been surfing the state and federal job sites (jobs.ca.gov, usajobs.gov) almost daily, looking for an appraiser or investigator gig. It seemed that at any given time, there were at least 4-5 appraiser jobs open at the state level, most of them at the mammoth Department of General Services in its Real Estate Services Division, or at the Board of Equalization to analyze property taxes. (Those drooling to become tax appraisers are trained by the Board under a different type of licensing/registration. DGS performed technical services to every other state agency.)

As it happened, there were two

"open examinations" for BREA investigators when I was job hunting, one at the basic level, the second for a Senior Property Appraiser/Investigator. I applied for the latter job. I personally knew a few appraisers who were already employed at the BREA, and hoped that would not be a deal killer, because they had been my employees at some point in a prior subprime incarnation.

The "exam" really consisted only of a 2-part interview by a panel composed of BREA employees and a preternaturally nasty state HR specialist, but I was impressed that the process was fair and independent.



Nasty HR specialist

Today I'm still convinced that I earned the job on my own merits, but I must admit a work history replete with hallucinations. One of the senior managers had been my Assistant Chief Appraiser at The Money Store. He wasn't on the hiring panel, but he had strongly encouraged me to apply for the job when I called him from Philly for advice.

I thought my go-forward contribution to the world and to the industry should be passing along my 40-odd years of experience in the form of consultation or review. I rejected consultation, because it just means "unemployed", and involves borrow-

ing someone's watch and then telling them what time it is.

I had a cop's or spy's mentality from my Army days, and was intrigued by the thought of working at the Bureau of Real Estate Appraisers in California, handling consumer complaints. Customer service these days is awful (IMHO), as you well know, and I loved doing a good job of it. I had citizens bestowing the blessings of God upon me! In other words, I was washed up.

I harked back to my days as an Army wiretapper and Russian linguist, delivering my conversation summaries directly to NSA. At age 19, I loved the positive feedback, learning curve and lack of production pressure. At the BREA and NSA, you were given as much time as needed to do a creditable job. Government understood that delivery pressure resulted in fatal errors and missed opportunities.

Most legal advisers to appraisers say you might as well fight a complaint because you'll probably win. There's some truth to that, because the Bureau will usually settle if the appraiser will move toward compliance. But, keep in mind that some of these investigators are good.

Is the work interesting? Absolutely! Investigating appraisal complaints from consumers on the basis of appraisal compliance, competency and conduct sounded like fun.

How long does an investigation take?

Most of my investigations took about 40 hours. Complex ones could run a lot longer. (That doesn't mean that one of my fellow investigators [MAI, FRICS] shouldn't have been chastised for taking two years to write a report.

It turned out, however, to having been well worth the extra effort and research, because his Respondent's errors in a mitigation banking report under the Clean Water Act reflected

unsupported value inflation to the tune of hundreds of millions of dollars (about 30%).

With the case resulting in the return of funds to the State and the appraiser's license revocation. (He reapplied for a license after the statutory 5 years, and it was granted on a probationary basis. He THEN had to submit a monthly log, whereupon an investigator would select an appraisal for administrative review. Revocation could be reinstated if the report failed the review.)

Is supervision competent and fair?

There's a wide margin of supervisory expertise at the BREa and other agencies I observed, and it seemed that management did not receive the same quality or quantity of training as did the rank and file.

The dominant problem in government appears to be that instead of agencies toeing the line of upper level

agencies and directors, there is insufficient oversight at the department level, above boards and bureaus.

Weird and poorly-thought-out policies and procedures (if they even exist) develop in a vacuum of feedback. The personal focus on retirement packages discourages managers from looking down the org chart to make sure that smaller agencies are fulfilling their missions and are not creating additional liability for higher-ups.

One senior manager at BREa, though extraordinary competent, talented, assertive and effective, was nonetheless short on critical thinking. Policies and procedures were rolled out at staff meetings that had unforeseen consequences. The manager did not accept suggestions in the spirit which they were intended. Instead, he felt threatened and often lashed out in anger.

Like other appraisers I have known, I also suffered from the delusion that there is justice and fairness in the world, and that I ineffably always knew right from wrong. I left the Bureau with a dark mark (letter of reprimand) on that same record I had in high school.

I had offered the help of the BREa to a senior manager at the California

Department of Business Oversight. In the private sector, I was accustomed to jumping on such an opportunity as a way to get the camel's nose under the tent flap for future work.

I was told afterward that I had overstepped my authority, because other agencies had often bled BREa dry of support, then never paid the invoice. The letter noted several other "incidents" in which I was judged insubordinate or overreaching.

In most of the cases, it seemed to me, I was reacting as a good manager would, leaving the caller or outside party delighted with the responsiveness of the BREa. (In some cases, I was probably was also acting on subconscious resentment of authority. The effect was exacerbated by the manager's fear that I was trying to take over. If you bridle at oversight, try 7-11 stores, they are always looking for good people.)

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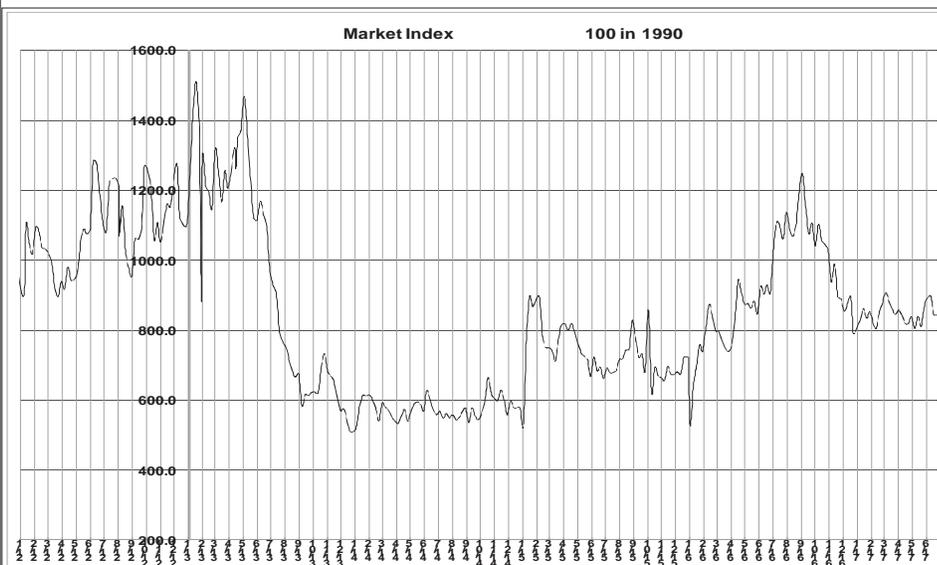
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MBA Loan Volume Application Index – 1/12 to 6/17





Camels look better in Lipstick than pigs, but are their noses really Situated above the eyeline? Creepy...

Was the job what you expected it to be?

Yes. I loved the work from start to finish. My first Respondent (appraiser responding to our Demand Letter) was a practitioner with a home office in Escondido, who had just done seven drive-bys (2055s) in the Crescent City area in 3 days for a giant bank lender.

Crescent City was about 831 miles from his home office, in which home territory he had just done a couple of simple house reports both before and after his light-speed road trip. Google Maps told me it would take 14 hours and 1 minute to get to Crescent City from Escondido by car, reducing his working field time to two days, assuming he never slept.

What a guy! We investigators were abuzz with admiration. In the interview, unfortunately, he displayed a pampered ego the size of San Diego County. Sadly, all 7 of his reports contained front photos of the subject that were identical to the Google Street Views. The street shots were the same, plus the cloud and street level shadows (always very important evidence) demonstrated his presence in all 7 locations within 3 hours of each other.

The complaint had been submitted by the appraiser's client, its appraisal review department of the same huge national bank. (During the rest of my tenure, that bank's review quality continued to deteriorate, and con-

sumer complaints spiked, as "sales guys and gals" from newly acquired institutions were put in charge of loan origination, and the bank's AMCs agreed not to bill for reports that contained value opinions that killed loan requests. Once a paragon of fair dealing, the bank's reputation has since slid into the margins of respectability.)

I guess drive-bys can be a profitable work segment if you don't bother to drive to the subject and the comps. The appraiser stated that he DID drive them as per the boilerplate Scope of Work. His invoice total of \$1,925 bore out this principle.

I suspected he never visited the properties, but I would have to prove that if BREA wanted to file an accusation that would rise to the level of conduct over competency. The appraiser could claim that the pictures were taken onsite and that he flew his private plane to Crescent City and back. It was a discouraging aspect coming with the new job for some investigators: many at the BREA would've been more content with some kind of summary execution, perhaps flaying alive.

Since the BREA's mission was to inculcate compliance rather than punishment, discipline sometimes seemed weak. I was never told until Demand Letter time, after my investigative report was complete, what management was contemplating with respect to appropriate sanctions, only whether to proceed or not with an investigation.

We had rough guidelines about how to figure fines and education appropriate to a prospective Citation (like a speeding ticket) or an Accusation (suspension, revocation, referral to the AG for criminal activity, etc.).

I found evidence of a property inspection this same appraiser conducted in San Diego on the second day of his "stay" in far-away Crescent City, which would require

molecular transport if not shape-shifting.

The appraiser averred that he had "geographic competence" in the area of the drive-bys because he had "worked on" a state project "ten years ago" that gave him adequate competence with area market forces, attributes and detractors.

At the hearing, he stammered out a description of the local market that was historically accurate, but seemed to be heavily reliant on the Wiki article on Crescent City. The dude's arrogance irritated me (he was so convinced of his superior intelligence), but in the end I felt sorry for him for having to pay a fairly heavy price for that sudden assignment windfall, and for letting himself get sucked into temptation.

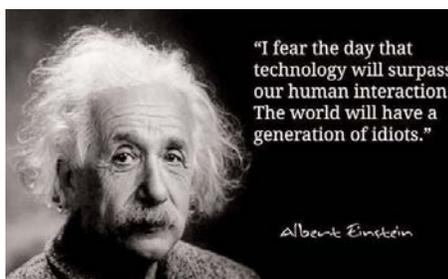
What frosted me still was that his client's overwhelmed review function failed in this case because of loan officer pressure. The sales guy promised to protect the appraiser if the inspection issue surfaced. I wondered how he could have accomplished that.

In this case, the discipline the appraiser actually got was okay with me. Five grand and a ton (I think 50 hours) of specific education courses that couldn't be used for license renewal. The coursework was designed to reeducate the appraiser on competency and ethics. Though conduct was certainly an element of the case (he knew what he had done), the clear violations of USPAP were used as the basis of determining sanctions. Again, ostensibly because the Bureau didn't want to revoke appraisers' licenses, it wanted them to comply with USPAP.

Overall, I was astonished by the quality of the "appraiser/investigators" at the BREA. I expected worn-out hacks like myself, yet I'm pretty sure that 2 or 3 of the 12 investigators were certifiable geniuses (IQs over 140), even though I am not qualified to judge.

Others were clearly capable of making a lot more money in the private sector, but were tired of floating up and down with volatile markets and dealing with AMC gum-chewers who thought appraiser support had to do with hernia trusses.

High intelligence and careful lifestyle selection didn't mean they were great investigators, but they thoroughly understood the federal and state laws and regulations, and sometimes went to impressive depths in conducting phone interviews, determination of inconsistent testimony and gathering of evidence.



Einstein didn't chew gum. (I prefer the The Dollar Tree's 1928 vintage Dubble Bubble pack. Mmmmm.



One of them, almost the senior of the bunch, had been at the Bureau nearly 12 years and had long won the prize for the most successes in court. He had a marvelous talent for critical thinking, and many a Respondent was "boxed into" self-recrimination once the testimony was underway. If the Respondent loses at hearing, he or she can file an appeal in Superior Court. Some did, but none succeeded in this investigator's cases (he had never lost one).

Sadly, though being a loveable guy, he never got any serious kudos from management for making the Bureau

look good. They seemed to want investigators to remain "barefoot and pregnant". Like most "irreplaceable" employees, he became also "unpromotable".

What's this got to do with the future of the residential appraiser?

Nothing except to establish a baseline of what the job looks like today. And to introduce some of the dysfunctions that may confront the newbie trying to survive amidst a declining count of residentially certified appraisers by moving into the regulatory environment.

It can be done. After all, the BREA hired me at age 67! In a decade, there will still be work for certified appraisers in the regulatory world, although a strong emphasis on the ability to apply data analytics to valuation review will become a paramount skill for your résumé.

In my last two articles in this five-article series, I presented some very strong indicators, including a 2013 Oxford white paper on the subject, noting that robotics and artificial intelligence (AI) will be taking over the valuation of residential property, at least in mortgage lending and securitization.

The gig has survived to this point partly because there has been no all-in technical solution to handle the three components: field inspection, value quantification and report writing. Lenders will accept the coming GSE AI AVM (someday we'll all be speaking exclusively in three-letter acronyms).

But won't the lender always need the "eyes and ears of the appraiser on the ground"?

No. Surely you've heard that residential appraisal "is not rocket science". My previous articles provided ample support for a future AMC AVM that will become a standard valuation for mortgage origination.

I don't think that an appraisal by a carbon-based life form would last as a

requirement for complex properties. Because again, the AVM will handle such cases (i.e., if you tell it that the subject is next to a sewage treatment plant, it will look for comps with negative externalities and compute the required adjustments).

With regard to the inspection, the ability of infrared satellite photography to estimate age of the roof, and other cool gadgets like drones, will eventually replace the "head and shoulders" of the appraiser if not the property inspector.

To close the question on the issue of the loving relationship that has always existed between those paragons of virtue, mortgage originators, and real estate appraisers, see the question below on artificial intelligence.

But would I fit in as an investigator?

You be the judge. For only the NEAR future, there are still major upsides. On the one hand, there's significant time allowed for working remotely (encouraged by state and attractive to working parents, especially the single ones), financial help with childcare, very little deadline pressure (quality of report is valued over production), reimbursable CE courses).

Plus, there are lots of calendared holidays and non-sick time, challenging puzzles for resolution on a daily basis, an awesome learning curve for understanding law and appraisal, generally liveable morale, usually positive vibes between investigators and staff.

Also, there is free training by the Feds in investigative techniques, with completion certificates (usually 2 or 3 days in a hotel in a big city, where you can meet and quiz and get loaded with fellow investigators from other state agencies).

The downsides?

Low pay (vs. great benefits



[including full retirement vesting, usually at 5 years], some minor disrespect or loathing from your fellow resi appraisers "in the trenches" for being a snitch or just for being a cop (though strong appreciation from the average "Joe" is a given, especially when you can take the thorn out of the paw).

Finally, bureaucratic rigidity and diligent enforcement of silly-ass rules will discourage you unless you've learned to just "be here now".

How can I know I'm a good candidate for regulation?

You may be attracted to law enforcement or the law in general because of your personality. You may enjoy the "feelgood" of being the regulator instead of the regulated. Also, it can help if you enjoy torturing small field animals. You may have company in the next cube.

If you're tired of field work or of working with vampiric AMCs, you'll get some relief, as by law investigators cannot appraise, thus keeping you safe from appraiser liability and having to buy E&O.

There's political pressure in the direction of performing Standard 3 reviews in the future. It's a big controversy between states.

If you're agoraphobic or hate talking before crowds, consider that maybe once a year you may have to support your investigative report on the witness stand at a formal hearing. Relatively few cases go that far, most are settled in arbitration, which saves the State a ton of money.

Everybody jokes (or moans) about government waste and corruption these days. Is it really that bad?

In small agencies and bureaus, generally no. But appraisers are peculiar creatures and are accustomed to making rules based on their own personal preferences.

The following example shows the enormous critical/ functional damage can be done when the agency's director and chief counsel agree to support a specious interpretation of a law or regulation.

Is office morale pretty good?

I mean, do bosses stick up for employees, does the Director stick up for the agency, does the rank and file get acknowledged for jobs well done?

In any state agency, disastrous consequences can arise when operating regulations or statutes are misinterpreted, deliberately or not, especially when the interpretation might be regarded as self-seeking.

In government service, protection of your retirement package is a huge issue, and sometimes decisions are made that are detrimental to the agency mission, its employees, its management, and the citizens or consumers the agency was set up to protect. That protection is the stated mission, goal and holy writ of the organization.

Somewhere back in the history of the BREA, an unwritten policy was implemented relating to how the BREA would comply with the law regarding its clear prohibition of ex parte communication. The outcome was similar to the cautionary tale of the caged monkeys and the banana: "But we've always done it this way!"

The policy was based on the interpretation of the agency's counselor at law who was, in my opinion, just one of those brilliant people who don't like to work. It may be because of outside interests, whether intellectual,

financial or personal. In some cases, the individual has a business outside of the agency that provides a significant portion of the individual's income.

In the case of the BREA, the departing counsel announced at the agency retirement lunch that "I've never been able to work more than four hours a day since I was in kindergarten."

In fact, cases submitted for legal review by the director, enforcement managers, investigators or other agency employees might sit in the counselor's "in-basket" for months at a time. Or become lost in situations where the matter was unpleasantly complex or likely to test the expertise of the counselor in a very public way. The Chief of Enforcement occasionally referred to the counselor's office as "a black hole".

In California's Bureau of Real Estate Appraisers, the agency's director is somewhat hamstrung by that policy interpretation drawn around ex parte communication.

In general, ex parte is a fairness doctrine that prohibits the presentation of information arguments to the trier of fact by one party in a dispute unless the other party or its representative is also present.

Every U. S. agency, federal or state, has to comply. It makes sense. If the car dealer I'm suing for breach of contract has a meeting with his lawyer and the hearing judge, I or my lawyer (or both) must be present, otherwise the dealer may obtain an unfair advantage at or before the hearing.

If I'm not noticed about the meeting, anything communicated to the judge prior to hearing must be stricken or disregarded in adjudication.

At the BREA, the staff counsel convinced everyone that the Director, and other managers, could not assist or oversee investigations without violating ex parte rules. What was omitted was the fact that ex parte applies only when a proceeding has been calendared in the matter at hand.

Thus in administrative law, all ex parte communication must cease as both sides are informed that a proceeding will be required. This signals a completed investigation. **Prior to that awareness, the Director, deputy directors and chiefs may manage all activities related to the case that a proceeding is scheduled.**

After I had been at the BREA for about a year, the State AG referred back to the Director a decision which the Director could have accepted or rejected because the Director always had the last say as a trier of fact.

In American courts and legislatures, the trier of fact is usually a judge. In California administrative hearings, the same holds true except that at the option of the agency chief, the matter may be referred back to the agency for approval or rejection of the Office of Administrative Hearings and its Administrative Law Judge.

In one case, the chief declined to decide the matter, leaving the OAH decision to stand. It allowed the agency director to avoid the time and trouble it would take to handle any high-profile appeal to Superior Court, which case might stretch beyond the Director's retirement date.

It assured that the agency counselor would not be bothered either. Finally, it could give the public the impression that the case could have been decided differently if the Director privately held a different point of view.

Unfortunately, the issue was an important one because it later affected the ability of investigators to hold a

respondent's feet to the fire when he or she had lied to the investigator.

Effectively, the counselor had answered a question posed by the Director related to ex parte (maybe just, "I can work with the investigators, right?"), to the effect that the director could not consult with staff investigators regarding Bureau business (namely investigations) without violating State ex parte rules.

However, my reading of those rules, as well as the section in the Administrative Procedures Act on ex parte, which included a paper written in 2008 by California Research Bureau analyst Charlene Wear Simmons, Ph.D., and titled "*Ex Parte Communications: The Law and Practices at Six California Boards and Commissions.*"

Her brilliantly written paper suggested that, contrary to the counselor's opinion, the Bureau could comply with the law without "creating a firewall around the director".

In other words, until a hearing on a matter was calendared or projected, the Director and counselor were free to tackle cases directly and in a "hands on" manner.

During a courtroom training class, I asked a senior attorney in the Legal Division of BREA's parent agency, the Department of Consumer Affairs, whether such a communications firewall was appropriate. He replied, "Of course not! How then could the director run his agency?" Ms. Simmons analysis proved that ex parte procedure was incorrectly and dangerously applied in daily operations across six sample agencies.

The worst outcome at BREA was that the Director was released and prevented from directing the agency in important investigations, and the work of the agency's counselor is likewise drastically reduced.

This maneuver has long been known in government circles as "retiring on the job". Over several years, the Director's job was limited

basically to public relations and staff meetings.

When asked about future initiatives and changes at the Bureau, he would often say, in a supposedly kidding manner, "What do I care? In three years, I'll be out of here."

The mythical firewall around the director was extended to include the managers of the Enforcement and Licensing Divisions. Since the Director relied on counsel's bad advice in assuming that he could not involve himself in cases (he thought), he could not properly oversee the Enforcement Director's activities, nor could the Enforcement Director actively control the two deputy directors.

These individuals enjoyed a special autonomy because of limited oversight, allowing them at times to make the lives of investigators utterly miserable.

After a while, there was very little practical recourse for an investigator to senior management when disputes occurred, because the deputy could not consult with the directors.

Investigators were afraid to file grievances as union members because they couldn't count on any member of management to back them up or protect them from retaliation.

As a result, morale among the lowest common denominators-again, investigators-became negative, and questionable management practices went unopposed and uncorrected.

The quality of the working environment deteriorated and investigators tended to leave state employment or just keep their heads down till retirement. They, too, only had their retirement credits to worry

about. Their investigative reports reflected the positions of management instead of their own analyses.

When I called Ms. Simmons about her white paper on ex parte, she said, "I'm retired now and don't want to rake over those old reports." My internal translation: "I got in trouble over that one and nobody did anything to change the wild disparity in practices around ex parte despite the evident risks presented by my report."

The report is easily locatable on the web and provides entertaining insight into ways that ex parte policy was observed, not observed, or nonexistent. It does not recommend changes or identify any agencies as "doing it wrong" even though some were downright scary.

The six agencies operated so differently that a couple of notable ones were clearly in danger of serious ex parte violations or violations related to inappropriate internal ex parte policies and procedures that were destructive or counteractive to the agency's mission.

The Big Picture

So, if we back off about 5,000 feet and observe state government through heavy lenses in its variegated forms across the country, we can see that sometimes, rather surprisingly, small and midsize regulatory agencies have too much autonomy, not too little.

In the BREA's case, there are periodic "sunset audits", but they are held only to determine whether the agency is still needed. They do not examine internal operations.

Major audits are complaint-driven, and the agency director in essence has no boss who performs frequent "sanity checks" to assure that policy and operations are legal and fair.

Operating in a vacuum, policy can evolve into a monster. Perhaps the appointment system is partly to blame. In states where such agencies or bureaus are led by persons

appointed by the Governor, those persons are likely not to have optimum management expertise related to the entity regulated.

Where such agencies are led by a board of directors, the selection of those directors, like the appointment of a single director, are often infused with the exigencies of politics instead of those that keep the agency "on mission".

Moreover, the installation in each agency of a staff counselor to handle legal matters creates additional isolation. If all of the agencies had to draw legal assistance from the state attorney general, decisions might be more consistent and departures from reasonable policies and procedures might be less frequent.

In several states, investigation is handled in that fashion. When any agency needs an investigation, it must be ordered from the "Investigation Division", which can apply investigative procedures fairly and equivocally. When agencies operate as if they were located in the Wild West, serious liability rears its ugly head.

About the author

Barry Bates entered the appraisal profession in 1972, after four years in the US Army, and another four at the University of California, Berkeley, where he majored in English Literature and minored in Slavic Languages and Criminology.

He had many appraisal-related lender jobs after that, including Countrywide and Morgan Stanley Mortgage Capital in Boca Raton, Florida. In 2006, Bates founded InsideValuation, a provider of commercial broker price opinions and IAG evaluations, which was sold to Lighthouse Real Estate Solutions. His last job, described above, was at BREA, the California state appraisal regulator.

At 71, Barry has had wide-ranging experience and a technological perspective in a fast-paced career that serves as a testament to the fact that he has never been able to hold down a steady job.

He is now "retired" and lives in Pittsburgh, Pennsylvania with his wife, Kathleen and their two dogs. He writes for real estate publications and, in his own words, tries to get into more trouble. In 2008, he filed whistleblower suits against MERS (on behalf of county recorders) in 12 states, all of which failed miserably.

Barry Bates wants to hear from you!

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