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APPRAISAL TODAY

Bifurcated Appraisal Reports and USPAP Compliance

Julie Friess, SRA, AI-RRS, MA

Editor's Note: I recently attended an all day residential symposium in a nearby city. Julie Friess gave a very interesting, dynamic presentation. She was the last speaker and did not have enough time for her full presentation. We all wanted her back with more time allocated. My opinion of bifurcated appraisals is that it is a business decision, assuming your state board allows them.

Over the past 12 years I have had the privilege of being employed as the USPAP credibility, compliance and forensic fraud expert for more than 200 federal, state and local litigation cases, in almost every state in the country.

I have worked alone and on litigation and negotiation teams, which I prefer. I have come to know some of the finest professional real estate appraisers, this country has.

When groups of honest, hardworking appraisers (and people) with the purpose of only seeking to find accurate answers, while focusing on impartiality and independence put their minds together, they discover that there is ALWAYS more to learn. Just when you thought you knew it all, you find out you didn't know anything and have so much more learning to do!

So, let's talk about bifurcated appraisal reports!

An alternate or "bifurcated" appraisal is an appraisal where the licensed or certified appraiser does not complete a piece of the appraisal data collection, but someone else does. In the case of the bifurcated report (it has been named this by Fannie Mae), the on-site inspection is completed by someone else, and the information gleaned by that person during this process is provided to the appraiser as data, or information to use while the appraiser is developing their desktop appraisal report.

If you wrap your mind around this concept, it isn't really any different than doing any other desktop assignment, but you're scope of work within this particular assignment requires you as the appraiser, to consider the data collected by a person who has been sent out to inspect the Subject Property and provide you with additional information.

Who might provide this information to the appraiser and what are some examples of related activities?

Possibly another appraiser, a real estate agent, home inspector or other person who is just hired and trained to inspect properties completes the on-site inspection along with some additional parts of the "field" portion of the appraisal. The results are provided to the desktop appraiser. The desktop assigned appraiser's job doesn't change at all except for the scope of work has now increased. There is now more data to consider and this data is different than what the appraiser is accustomed to utilizing.

IN THIS ISSUE

What does USPAP say about data sources?

Per USPAP, the appraiser determines which data sources are credible to use in their appraisal assignments, typically cites them, and their peers use them as well. In this type of appraisal report, someone unfamiliar to the appraiser is collecting data and providing it to them. Now the appraiser must examine and study this new data source, and decide whether or not they believe, based on comparing it to their typical data sources available to them, if the information received from the on-site inspector is credible to use for their appraisal and why or why not.

Then the desktop appraiser must discuss this analysis in the report. In some cases, an appraiser may need to make an extraordinary assumption about all, or part of the information received by the on-site inspector. There are multiple reasons why this may occur, but it should occur almost every time (regardless of what Fannie Mae says. USPAP says otherwise,)

For example, this may occur if there is a discrepancy between the data sources typically used by the appraiser between the GLA and the on-site inspectors GLA. The appraiser should make an extraordinary assumption irrespective of which GLA they decide to use and explain why in the report.

Bifurcated appraisals are Desktop appraisals

What's most important to understand here is that this is just a desktop appraisal report with the same USPAP requirements it always has had. The assignment will not be faster or easier. It should take longer because there will be more information to analyze and research, not less.

It is always the appraiser's responsibility to validate all information in every appraisal assignment and to use data that creates credible assignment results. If the information provided is deemed not credible by the appraiser, then this should be stated in the report and the report should be written using the information the appraiser deems credible only. It does not mean the appraisal report cannot be written.

Appraisers have been writing desktop appraisals without someone providing an onsite inspection for them since desktop appraisals were created. If you as the appraiser do not believe that the information provided to you is credible, you are the one who decides if you will use it or not.

The appraiser and their peers determine which data sources are credible in their geographic market areas, not the lender, investor or homeowner, or anyone else for that matter.

What about data pre-filled by AMCs?

Be aware that depending upon whom the third-party vendor is (better known as the Appraisal Management Company) the REPORTING FORMAT may be already populated (filled in) conveniently for the appraiser (as if this is a bonus for you!)

If this is case, the appraiser must still do their due diligence and verify that all information, whatever it is, is accurate, and explain in the report how it was derived and verified, per USPAP. If the appraiser does not do this in every appraisal report, the appraisal is in violation of USPAP. (No if, ands or buts about it. It just is.)

Relying blindly on second- or third-party data fillers without verifying the information to speed up the completion of an assignment will, in the long run, be the end of a professional career. I sincerely don't recommend it. It will also speed up the demise of the housing market.

Please do not participate willingly in another Great Recession. Do your due diligence and verify every single bit of information and comply with your Uniform Standard of Professional Appraisal Practice (USPAP.) They are not difficult to follow and without them there is no profession.

(Don't say I didn't tell you! :0))

Fees?

I had an AMC offer me one of these and try to sell me on it with this statement, "You can complete this report in one half hour and we will pay you $45."

No, I can't. If you can, but complete it correctly, then go ahead and do it. I can't. I decided to binge-watch Netflix instead. At least by doing that I didn't have to worry about an Appraisal Board complaint or a lawsuit in a year or two because I decided I needed $45 now? That's not even the deductible to take myself to the doctor or the gas it would cost me to attend the initial file review for the Appraisal Board complaint?

What was that saying Nancy Reagan was trying to push in the 80's… **"Just say NO!"**

Forms are not compliant, Appraisers are.

Please remember that **Forms are not compliant, Appraisers are.**

Fannie Mae can release notice after notice about what THEY don't require, but THEY do not have to comply with USPAP, Appraiser's do. Writing on an appraisal report that Fannie Mae did not require "something" (cost approach or whatever) so it was not completed does NOT release the appraiser's responsibility, per USPAP and federal law, to complete whatever it was if it was applicable to writing a credible report!

When or if the appraiser ends up before their state board or in court, they will still be held accountable and where will Fannie Mae be? Not there!

KNOW WHAT YOU ARE DOING OR ASK FOR HELP!

Feel free to email me with any questions or concerns, but please be nice to me. I am a nice person and I am always rooting for the appraiser and on the appraiser's side. This constant competitive "attack" mode just really brings my mood down and I like to be happy and smiling! Have a wonderful day! Thanks everyone!

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About the author

Julie Freiss has a lot of varied experience.

Appraisal experience: 31-year veteran of the appraisal industry. Currently Certified in Arizona and Florida as a residential appraiser and working on her PhD in Criminal Justice with an Emphasis on White Collar Crime.

USPAP and expert witness: AQB Certified USPAP Instructor. Recent experience, within the preceding 3-4 yrs.: working as an expert consultant/witness directly related to the understanding and appropriate interpretation of USPAP in loss mitigation, repurchase demands, negotiation in buybacks/default & appraisal credibility/compliance cases in the federal bankruptcy court and other federal/state courts.

Mortgage fraud: 20-year history & experience working on federal & state litigation cases involved with the FBI mortgage fraud task force. AZ Dept. of Financial Institutions terrorist & short sale investigative division. US Marshalls Office, Yavapai County condemnation department, Mayor Andrew Cuomo & the HVCC, Rachel Dollar Esq mortgage fraud cases.

Appraisal Institute: AI Appraisal Journal Editorial Board; AI National Diversity Board; AI South Florida Director to the Board; former AI Regional Representative (2018-2019).

What's UP in technology

By Wayne Pugh, MAI, CRE, CCIM, FRICS

moasure.com

A NEW WAY TO MEASURE

Moasure is a 1,000' tape measure, ruler, protractor and a goniometer (angle measurer)…and it's free, convienent and easy to use by appraisers using an iPhone 6 or higher. Because of the iPad's larger size, the Moasure App is not able to provide accurate measurements.

After a simple setup procedure and a run through a variety of video turorials, Moasure is ready for use.

As an example, simply move your phone from one point to another point and Moasure displays the distance or height difference between the two points, or the angle between them.

There's no tape, no laser beam or camera images. Instead, Moasure uses the technology used in rocket guidance systems coupled with the iPhone's accelerometers and gyroscopes to calculate the distance between two points

Moasure can measure the length, width, and height of objects, including the exterior of a house, as well as internal room dimensions.

Moasure screen shots

THE MOASURE APP…

+ Can measure distances from 4" to 1000', and retains its accuracy for distances greater than 30'.
+ Has measuring modes for objects, spaces, height difference and angles.
+ Can measure round obstacles.
+ Can label and save measurements, print and share via text or email.
+ Can display units in feet and other options.
+ Can measure the angle between two lines or surfaces.
+ Can measure distance with better than a 1% accuracy on iPhone 7 and 2% on iPhone 6. Angle accuracy is within 1 degree.

WHY CONSIDER MOASURE?

Convenient:
As an app on your iPhone, Moasure is available whenever and you need it. No Internet connection is needed, and no need for a tape measure or laser measuring device. All you need is your iPhone.

Easy To Use:
You don't need someone to hold the end of a tape measure, just move your smartphone from point A to point B and Moasure will measure the distance or angle.

Flexible:
Moasure can measure almost anything, from a home (inside or outside), garage, out building, patio or etc. If there's something in the way, like a wall, just walk round it and Moasure will measure straight through it.

Used By Professionals:
Moasure is a serious measuring tool, suitable for use by most real estate appraisers.

Reliably Accurate:
Moasure uses patented technology to get the most accurate and consistent results of any motion-measuring app available.

The accuracy of the measurement depends on the iPhone model, and the time it takes to complete the measurement. A visible and audible timer indicates when the accuracy starts to deteriorate.

For even greater accuracy, you can repeat the measurement a number of times and Moasure displays the average measurement.

Mosure has taken thousands of test measurements, covering all the different iPhone models, and in their experience, users should experience an accuracy* of between 1% and 3%, depending on the model of your iPhone.

These results are for measurements taking 2 to 3 seconds to complete. Measurements over a shorter period should be more accurate, while longer measurements will be less accurate. When using multi-step measurements, the accuracy is determined by the time period for each measuring step.

HOW TO IMPROVE YOUR ACCURACY

For more ways to improve accuracy when you are measuring see the following

Moasure's Smart Guide
(https://www.moasure.com/pages/smart-guide-for-moasure-app

Moasure's tutorial videos https://www.youtube.com/playlist?list=PLrbmVQCt6dXfycHUyLUO7M_KqpXdrXaY4

Moasure's Website
https://www.moasure.com

MOASURE ONE
Users that require greater measurement accuracy should check out ther Moasure ONE tool priced at $249 and offered at www.moasure.com/one. Try the free iPhone app to get familiar with the process, and if you find the app helpful, look into the Moasure One device to increase your accuracy and speed.

About the author
R. Wayne Pugh, MAI, is CEO of real estate consulting and appraisal firm R. Wayne Pugh and Co., the head of Software for Real Estate Professionals Inc. and a principal member of Real Estate Counseling Group of America. He formerly served as president of the Appraisal Institute and as chair of the Louisiana Appraisal Board.

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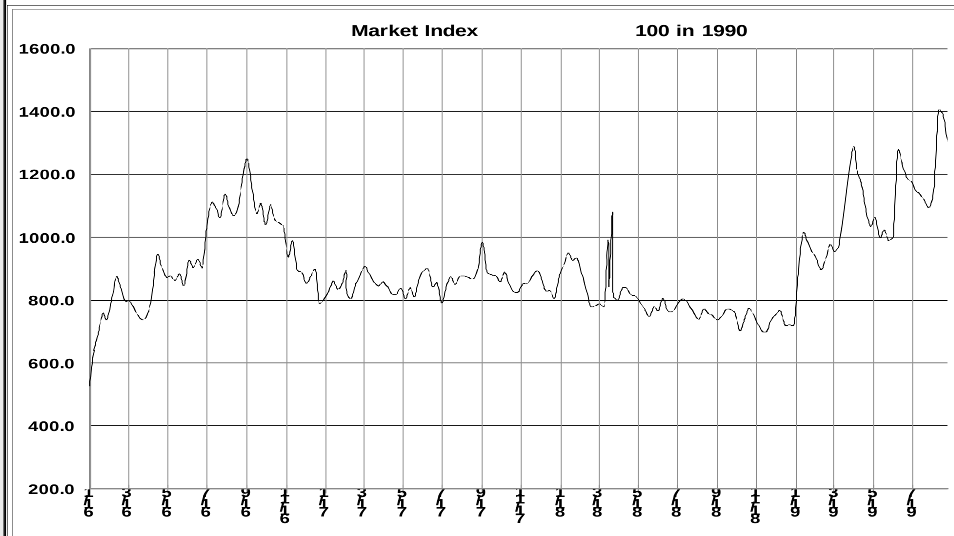
MBA Loan Volume Application Index – 1/16 to 8/19

Note: to see all the stats, go to www.appraisaltoday.com/mbastats.htm



Evaluations: Yes, No or Maybe? Part 1

By Timothy C. Andersen, MAI, MSc, MNAA, CDEI

Editor's Comments: The deminimus has been increased to $400,000. What will this mean for lender appraisals?

This article is part of a much longer article on Evaluations. Part 1 discusses many issues, such as what it means for appraisers, when lenders use evaluations, state boards, Appraisal Foundation, a peek into the future, etc. Part 2 describes the difference between an appraisal and an evaluation, including a table with side by side differences. This will be published in the in the next issue of Appraisal Today.

Reprinted with permission of the author. A shorter version of this article was originally published in Appraiser Focus Magazine by the National Association of Appraisers. Some material has been updated and rearranged.

Because of the use of footnotes, this article is a separate PDF attachment to this newsletter as it retains the layout of the footnotes.

The author invites the reader to engage in his/her own research to determine where s/he stands on this matter. This essay does not come down on one side or the other when it comes to evaluations. It merely asks the appraiser to look at both sides of the issue without bias or prejudice. Evaluations might be a valuable service to add to an appraiser's stable of services. Conversely, after proper reflection, an appraiser may conclude evaluations are an ineffective use of time. Nevertheless, those decisions are up to the individual appraiser.

Is There any Reason for Appraisers Not to Like Evaluations?

Bad for the Residential Lending Industry?

Many appraisers have expressed the opinion that evaluations are somehow "…bad for the profession…" Some of these claim that the use of evaluations (i.e., a decrease in the number of appraisals) will lead to another recession. This is *not* likely since there were lots of appraisals performed *before* the last crash, yet the performance of those appraisals did nothing to stop that crash. Other parties were to blame for that.

Consumer Protection?

Another reason appraisers oppose the use of evaluations is their claim it is the appraisal that lets the buyers know if they are paying too much for the house. Ironically, there are numerous studies available demonstrating that the vast majority (90%+) of lender-ordered real estate appraisals come in at or above the contract purchase price. Given this statistic, it is difficult to determine how an appraisal protects the buyer from paying too much for a property since this statistic gives credence to appraisers supporting the *lender's* position in the lending process, *not* that of the borrower/consumer.

Is the Appraiser Tasked with Protecting the Consumer?

Further, it is not the appraiser's job to protect the public or *anybody*. USPAP's *Preamble* states, "[t]he purpose of [USPAP] is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers" (ibid). Overlook the fact USPAP does not define or describe *Public Trust*. If it did require the appraiser to protect something, it might also describe from what the appraiser was obligated to protect the public and its trust.

Therefore, it requires a rather spectacular leap of logic to take USPAP's purpose to promote and maintain the public trust, and then extend that mandate to include the appraiser protecting the public from other parties to the purchase and sale transaction. Appraisers do *not* function as advocates.

An appraiser, by definition, is independent, impartial, and objective; a disinterested third-party observer whose job it is to provide an unbiased opinion of value. Therefore, if a party to the purchase and sale transaction wants to inure the appraiser with the mantle of "protector", that is a mantle the appraiser does not seek, and should not accept. If a consumer wants to know the value of a property, the consumer should hire an appraiser to tell him/her just that. Why in the world should a consumer wait until the last minute to use *the lender's* appraisal to determine if *the consumer* is overpaying for a house? That was never the purpose of that appraisal, nor is the consumer the appraiser's client.

On the other hand, while the consumer/borrower has no *right* to depend on the appraisal and report the lender commissioned the appraiser to complete, the consumer/borrower may use it that way. So, even though the appraiser has no responsibility or liability to an unintended user, common sense behooves the appraiser to prepare the appraisal and report to withstand the scrutiny to which an unintended user may subject it.

Will Evaluations Take Appraiser's Jobs?

Real estate appraisers also oppose evaluations because they claim evaluations will take appraisers' jobs. This claim, too, does not hold up to scrutiny. In all 55 states and jurisdictions only licensed or certified appraisers can perform appraisals for such lenders as Fannie Mae, et al. Therefore, evaluators cannot assume this position.

What just *might* cause appraisers to lose market share, however, is not that evaluators will begin to do appraisals since, as this essay shows, they cannot legally do so (unless the loan is below the de minimis. Even then, out of an abundance of caution, lenders tend to want appraisals from licensed or certified appraisers). However, this potential loss in market share will likely stem from *lenders choosing more evaluations over appraisals*. Thus, *the actions of lenders* will take jobs from appraisers, not merely the presence of more evaluators.

When are evaluations used/needed?

Evaluations are *very common* in the appraisal of commercial properties. As examples, (a) those properties that are the collateral for a line of credit, (b) when a lender *rates* a commercial loan (how likely is it the lender will have to foreclose the loan?), (c) a commercial loan is up for renewal, or (d) the purchase of a small commercial property. One of the reasons evaluations in the commercial space are common is that these loans are short-term. While they carry a 20- to 30-year amortization, the lender can call them in 5-, 10-, or 15-years. Thus, commercial mortgage loans are "less risky" in this aspect than are traditional 30-year self-amortizing residential mortgage loans.

Because commercial loans are shorter than residential loans, there is more need/demand for them, thus commercial appraisers are more disposed to make them part of their arsenal. In addition, since the requirements of the contents of a commercial property appraisal/evaluation are far less cut-and-dried[1] than are those of a residential appraisal and report, commercial appraisers are more willing to perform evaluations than are their residential counterparts.

Finally, while there *may* be some validity to the claim that the residential first-mortgage appraisal offers the borrower/consumer some protection against over-paying for a property, this is not the case in the commercial lending space. This is because commercial lenders consider commercial mortgagors to be more sophisticated than the typical residential mortgagor, thus not in need of any "protection".

This is not to say, however, commercial evaluations will replace commercial appraisals. They won't. However, in the four (4) examples (above), commercial lenders commission evaluations as they have done for some time. Commercial mortgagees have *not* seen any particular increase in mortgagor default due solely to the use of evaluations rather than more traditional appraisals[1] www.mba.org/cmf-newslinks/2016/september/mba-c/mf-newslink-9-22-16/news-and-trends/commercial-evaluation-or-commercial-appraisal

Can the Appraiser Switch Roles and Become and Evaluator?

Does USPAP allow the appraiser to take off his/her "appraiser hat" to put on his/her "evaluator hat"? Yes, USPAP is clear that an appraiser is an appraiser *only when acting as an appraiser*. Given this, then there are times when an appraiser can legitimately doff the appraiser hat and become a CPA, general contractor, firefighter, franchisee, lawyer, investor, and so forth. So, why can't the appraiser merely doff the appraiser's hat and then don the evaluator's chapeau? The appraiser *can*. However, many state boards do not understand or appreciate this flexibility. These boards take the position that an appraiser is an appraiser is an appraiser. Thus, while USPAP allows this flexibility, some state boards do not understand USPAP to this depth, thus do not allow appraiser's to doff and don separate professional hats as the situations present themselves to do so. Therefore, switching between roles, while possible under both USPAP and the IGs, may not be *practical*.

When Can a Lender Order an Evaluation Rather than an Appraisal?

The Criteria

It is long-established the IGs permit a lender to order an evaluation rather than an appraisal *under certain circumstances*. In relevant part, right from the IGs, here is that list of circumstances:

- "Has a transaction [i.e., loan] value equal to or less than the appraisal threshold of $250,000[2];
- "Involves an existing extension of credit at the lending institution, provided that:
  - "There has been no obvious and material change in market conditions or physical aspects of the property that threaten the adequacy of the

[1] https://www.mba.org/cmf-newslinks/2016/september/mba-c/mf-newslink-9-22-16/news-and-trends/commercial-evaluation-or-commercial-appraisal
[2] As of this writing, proposed to be increased to $400,000

institution's real estate collateral protection after the transaction, even with the advancement of new monies; or
    - "There is no advancement of new monies other than funds necessary to cover reasonable closing costs…

- "Loans with combined loan-to-value ratios in excess of the supervisory loan-to-value limits.
  - "Atypical properties[3].
  - "Properties outside of the institution's traditional lending market.
  - "Transactions involving existing extensions of credit with significant risks to the institution.
  - "Borrowers with high risk characteristics" (ibid; IGs, Section XI)

Therefore, if a potential loan cannot/does not meet these criteria, the lender has no choice *but to order an appraisal*.

Evaluations - Required Content

So, what should an evaluation contain? Per the IGs, Section XIII, "…[a]n evaluation should contain sufficient information detailing the analysis, assumptions, and conclusions to support a credit decision. An evaluation's content should be documented in the credit file or reproducible. The evaluation should, at a minimum:

- "Identify the location of the property.
- "Provide an estimate of the property's market value in its actual physical condition, use and zoning designation as of the effective date of the evaluation (that is, the date the analysis was completed), with any limiting conditions.
- "Describe the method(s) the institution used to confirm the property's actual physical condition and the extent to which an inspection was performed.
- "Describe the analysis that was performed and the supporting information that was used in valuing the property.
- "Describe the supplemental information that was considered when using an analytical method or technological tool.
- Indicate all source(s) of information used in the analysis, as applicable, to value the property, including:
  - "External data sources (such as market sales databases and public tax and land records);
  - "Property-specific data (such as previous sales data for the subject property, tax assessment data, and comparable sales information);
  - "Evidence of property inspection;
  - "Photos of the property;
  - "Description of the neighborhood; or
  - "Local market conditions.

[3] There is no definition in the IGs what an *atypical property* is. However, this is the lender's problem, not the appraiser's.

- "Include information on the preparer when an evaluation is performed by a person, such as the name and contact information, and signature (electronic or other legally permissible signature) of the preparer" (ibid; IGs, Section XIII).

This is extensive, although not as extensive as the content requirements of an appraisal. Nevertheless, compliance with the above does not appear to be something the appraiser can carry out in just a few minutes.

Should Appraisers be able to Perform Evaluations?

It might appear that appraisers should stay away from evaluations. Maybe they should. That is not the point of these arguments. If appraisers were able to perform evaluations (as are non-appraisers), then appraisers, on a level playing field, could compete with non-appraisers for this work. They could also choose *not* to compete with them by limiting their professional efforts solely to real estate appraisals. Right now, however, appraisers *do not have that choice*. This is a function more of state statutes, rather than USPAP limitations.

Will Evaluations Take Appraisers Out of the Mortgage-lending Continuum?

It is no secret the mortgage lending industry wants to eliminate appraisers. Per the mortgage lending industry, appraisals are too expensive[4], too time consuming[5], and too hard to accomplish in rural areas due to a "shortage" of appraisers. That others have refuted these arguments successfully is reason not to do so again here. Despite this refutation, however, mortgage lenders want to eliminate the appraiser.

That the mortgage lending industry is working to carry out this plan has evidence in the movement to increase the de minimis to $400,000. While this move, in and of itself, will *not* eliminate the appraiser, it will work toward giving lenders more latitude to let consumers choose between appraisals and evaluations. In risky situations, out of an abundance of caution, the lender will likely order the appraisal. In less risky situations, however, whether the loan will require an appraisal or an evaluation is more up-in-the-air.

How About AVMs?

There are no perfect AVMs. However, lenders are open to using AVMs to evaluate/appraise their real estate collateral since AVMs are quick, inexpensive, and mathematically accurate (and likely can be performed in-house, rather than contracted out). While AVMs have some practical limitations relative to appraisals, appraisers need to understand lenders that use AVMs can *budget* for typical losses (say to foreclosure or plain misadventure), and *insure* over extraordinary losses.

Note the IGs recognize AVMs as a *tool* in evaluations, but they specifically prohibit evaluating the collateral for a loan based *solely* on the output of an AVM. There must also be

[4] To save $500 on a $300,000 loan is to save about 0.18%. That lender's claim appraisals are too expensive is a claim the math does not support. If lenders want to save their customers money, then let the bank lower its fees and points by $500, get rid of the AMC middleman, and/or persuade lenders to use *licensed* appraisers, too.

[5] There is no evidence whatsoever that, from when the lender orders an evaluation thru an AMC to completion when the lender gets the evaluation back from the AMC, an evaluation takes any less time than does an appraisal.

corroborating data and analysis. Thus, AVMs *alone* are not going to remove appraisers from the mortgage-lending continuum.

Thus, appraisers' claims that AVMs cannot be used for appraisals since they cannot account for every variation in contributory value, while likely accurate, are not relevant. This begs the question that appraisers can account for those variations better than an AVM. No one has ever proved that claim.

Who/What Will Enforce Evaluations as State Appraisal Boards Enforce USPAP?

Since federal banking regulators do not consider evaluations to be appraisals, there is the issue of who/what will enforce evaluations as state appraisal boards enforce USPAP Standards, and so forth, against appraisers? Putting this question to those who are in the positions to know the answers revealed that *nobody has an answer to the question*. It was not the answers were ambiguous or those providing answers had no consensus among them. It was simply *there was no answer*.

Because, in those states that have taken a stand on the matter, evaluations are *not* appraisals[6], there is no question state appraisal boards cannot enforce them since, simply, they are not appraisals. As a result, they are not subject to state appraisal statutes.

The IGs, while apparently setting up "the rules" for evaluations, contain no enforcement or disciplinary language or mechanics. And, besides, if they did, who would enforce them, and by what authority? It is true the FDIC and other regulators can enforcement thru bank examinations (theoretically anyway). It will hold banks not having quality controls in place. But that is regulations of the lenders? Who will regulate the *appraisers*?

So, right now, if somebody bungles an evaluation, there is no enforcement/disciplinary authority by which to sanction/retrain that somebody. This silence raises the question that, without any enforcement authority, who shall decide when an evaluation (especially one done in-house) trips across that line between impartiality, independence, & objectivity (but wait, aren't those the hallmarks of an *appraisal*?) and advocacy on behalf of the lender? The concern is *how closely is anybody overseeing evaluations*? When it comes to lenders and the outcomes the mortgage-lending department wants, *how impartial is the twice-monthly paid employee really going to be?*

A Secret?

This is no secret: The GSEs, to their own loan underwriting satisfaction, via their own internal alchemy, already know what the property is worth *before* the appraiser sends in the appraisal report. The appraiser's data feed the GSE's alchemy-beast, so appraisers have been reduced to data providers rather than valuation experts. This is why the GSEs need us - to feed their beast, but *not to provide them with value opinions*. As a result, the GSEs want to feed this

[6] USPAP says evaluations are appraisals if an appraiser performs them. Some state appraisal boards have specifically decided evaluations are appraisals *if appraisers perform them*. Some state legislatures have decided evaluations are not appraisals, thus appraisers can perform them, yet not be subject to USPAP. Some state legislatures are silent on the matter. Per the IGs, *evaluations are not appraisals so both appraisers and non-appraisers can perform them*.

beast as cheaply as possible, which is one reason they want lower-cost evaluations over appraisals, as well as why they have initiated an increase in the de minimis to $400,000.

The second non-secret (but less well-known) is that *lenders prefer evaluations over appraisals*. Bank examiners (FFIEC) do not look at evaluations very critically, but scrutinize appraisals for every possible error, omission, lapse in logic, USPAP inconsistency, and so forth. So, if you were a lender, which would you rather have in your files, an evaluation or an appraisal? If the de minimis is increased to $400,000, and since most mortgage loans on real estate are for less than this, it is clear why the lenders want evaluations rather than appraisals.

Summary and Conclusions

Summary

Both appraisals and evaluations require a great deal of market research and analysis of relevant (sales) data on the part of the appraiser/evaluator before s/he can synthesize a value opinion or estimate. While the evaluation appears to require a far more attenuated development and reporting process than does an appraisal, the research and analyses necessary to form an estimate of value are generally similar to those of an appraisal (although slightly *less* for the evaluation), and with similar liability.

Appraisers can communicate the results of their research and analyses via the standard residential real estate appraisal reporting forms. The IGs require no such forms; indeed, the IGs don't have any forms). Using a 1004 form to communicate an evaluation could be interpreted as misleading. Some *lenders* have their own evaluation forms, which they encourage appraisers to use. However, there is no commonality between them and lender-A will usually not accept the forms of lender-B.

The training and educational qualifications to perform evaluations are far less than those pertaining to appraisers. *In essence, appraisers are over-qualified to perform evaluations*. While the IGs have no problem with appraisers performing evaluations, many state appraisal boards, as well as states' laws, have determined that when an *appraiser* reports a market value, it therefore is subject to USPAP. The IGs are silent on this matter.

When a lender orders an appraisal, it is for the benefit of the lender, for its specific purposes. Even though the consumer/borrower will likely get a copy of it, the consumer/borrower has no right to depend on it (since the consumer/borrower was not the client, nor the named intended user). Therefore, neither the appraisal the lender/client ordered, nor the appraiser the lender/client commissioned to perform the appraisal for the lender/client, is the last bastion against the consumer/borrower overpaying for a property. This is due to the fact the appraiser is ethically bound to be impartial, independent, and objective, thus not to cater to the needs of any party to the mortgage transaction. The consumer/borrower is free to commission his/her/its own appraisal to determine of he/she/it is over- or underpaying for the property.

Evaluators can use AVMs as part of their analysis of a property. However, the IGs recognize that AMVs alone cannot evaluate loan collateral; that involves the wisdom of human[7] input, too.

Before the GSEs receive the appraisal, they already know the value of the collateral because of the sophistication of their in-house AVMs. In the end, this may or may not be true. Nevertheless, *as far as the GSE are concerned*, their in-house algorithms are sufficient for their collateral evaluation needs.

Conclusions (With a Peek into the Future?)

The only constant in any business (and life!) is change. Trying to stop change is just as futile as trying to stop a tsunami with a whiskbroom and trashcan. Because of the desires of the mortgage-lending community to eliminate the appraiser, because of the potential increase in the de minimis, because of the advent and availability of Big Data (and the technology to utilize it), and because of the net decrease in the number of appraisers over time, appraisers are going to have to change, or face the inevitability of that wall of water.

Nevertheless, there is *no reason to conclude this change is a negative*. Just as all appraisers are free to come to understand the mechanics of evaluations, the appraiser is also free to choose *not* to engage in them. The problem is right now appraisers do not have that choice. Unless the ASB chooses to redefine an evaluation as not an appraisal (not likely), or until states' appraisal statutes allow appraisers the latitude to choose to do or not do evaluations (more likely), appraisers - those *most qualified* to perform evaluations - do not have the freedom to perform them. Those who are likely less qualified, however, have that opportunity.

Currently, appraisers are free to get into areas of appraising that are not at the whim of the mortgage-lending industry. These include such areas as relocation work, litigation support/expert witness work, estate work, ad valorem tax appeal work, pre-listing work, feasibility analyses, providing contracting services to other appraisers, and so forth.

Therefore, appraisers should have to opportunity to choose to perform or not perform evaluations, just as they are free to perform or not perform any of the above valuation services. One of the differences right now between an appraisal and an evaluation is an *appraiser* does not have the freedom to perform evaluations despite the fact that those less qualified to do so now provide those services. How much sense does that make?

Afterthoughts

Since I wrote this essay in June of 2019, there have been some changes worth noting. In August of 2019, The Appraisal Foundation (TAF) indicated it was looking into establishing standards for evaluations, something that currently does not exist (at least not as USPAP contemplates standards) [here]. Indeed, unless state law specifically equates evaluations and appraisals, USPAP's Standards 1 and 2 do not govern evaluations. Further the IAGs, while they state clearly what an evaluation must contain, do not set up a mechanism by which it is possible

[7] One reviewer, however, concluded this was not correct. To quote: "It is clear that a person does *not* need to be involved [in an evaluation]. [While] AVMs alone can't [produce] the whole evaluation because physical conditions, etc. must also be established (but [those] can be from a 7-month old photo, not [necessarily the] involvement of a human for analysis".

to judge the quality of an evaluations, nor a body or bodies to set/enforce the standards to which they must ascend, nor the vehicles necessary to determine their quality.

It is also interesting to note that, while Congress, via FIRREA, granted to TAF the responsibility to set real property appraisal standards, that legislation granted TAF no authority to regulate appraisals. Legislatively speaking, evaluations are not appraisals, so do not compose part of TAF's portfolio.

Then, there is the issue of state law. Assuming TAF even has the authority to set guidelines for evaluations, there are states in which, statutorily, there is no difference between an appraisal and an evaluation. Since those states do not distinguish between the two what, then, will be the purpose of evaluation guidelines? Even with such guidelines, evaluations, if an appraiser produces them, would still have to meet USPAP standards. Therefore, to appraisers, what purpose will a superfluous set of guidelines serve? How will such a set of guidelines promote and maintain the public trust in appraisers and the services they provide?

Now let's consider enforcement. If TAF constructs a set of guidelines for evaluations, those guidelines will affect only appraisers (since TAF has not sway over non-appraisers). Thus, another set of "rules" will burden the appraiser who wants to provide her/his clients with evaluations services, while non-certified practitioners who, even now, provide the bulk of evaluation services, will find themselves as unencumbered then as they are now, will not be subject to any guidelines. Thus, the guidelines TAF proposes will continue not to obligate those whom USPAP does not obligate now. That is analogous to building a house to an R-36 energy rating, when the building codes demand only R-20. In other words, what TAF proposes in a *functional obsolescence – superadequacy*.

It is also no great secret that the GSEs are well on their way to removing the appraiser from the typical, run-of-the-mill, first mortgage loan process. If they succeed (and there is every reason to conclude they will), then the bulk of the reasons for which USPAP even exists be rendered moot.

What, then, are the answers to the many dilemmas currently besieging the residential real estate appraisal industry? Those answers exist, but are the subject of another essay. Stay tuned.

About the author

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