



February 9, 2017

US House Financial Services Subcommittee on Housing & Insurance

Honorable Sean Duffy, Chairman

2330 Rayburn House Office Building

Washington, DC 20515

RE: Response to Hearing held 11/16/2016 - "Modernizing Appraisals: A Regulatory Review and the Future of the Industry"

Dear Chairman Duffy,

The Montana Board of Real Estate Appraisers supports the current status of the regulatory process and provides some additional information regarding the testimony provided by some of the witnesses. The Montana Board of Real Estate Appraisers met on Jan 26, 2017 and unanimously approved our position in supporting the current regulatory environment. The support includes maintaining The Appraisal Foundation and the Appraisal Subcommittee and their respective roles and authority. Specifically, we would like to address the concerns of the committee regarding the shortage of appraiser trainees and the lack of need for the Appraisal Subcommittee and Appraisal Foundation.

Several witnesses testified that the regulatory authority should be moved from the federal level to the state level. However, we would argue the regulatory authority already resides with the states and not with the federal government. The following is the Montana Statute outlining the powers and duties of the Montana Board of Real Estate Appraisers (which is quite similar in the 55 state and territorial jurisdictions):

37-54-105. Powers and duties of board. The board shall:

- (1) adopt rules to implement and administer the provisions of this chapter;*
- (2) establish and collect fees commensurate with the costs of processing an application for licensure and certification and renewal of a license or certificate;*
- (3) establish minimum requirements for education, experience, and examination for licensure and certification as set out by the appraisal qualification board of the appraisal foundation;*
- (4) prescribe the examinations for licensure or certification and determine the acceptable level of performance on examinations;*
- (5) receive and review applications for licensure and certification and issue licenses and certificates;*
- (6) review periodically the standards for development and communication of appraisals and adopt rules explaining and interpreting the standards;*
- (7) retain all applications and other records submitted to it;*
- (8) adopt by rule standards of professional appraisal practice in this state;*
- (9) reprimand, suspend, revoke, or refuse to renew the license or certificate of a person who has*

violated the standards established for licensed and certified real estate appraisers or registered appraisal management companies;

(10) regulate and establish minimum requirements and qualifications for real estate appraiser mentors; and

(11) perform other duties necessary to implement this chapter.

You will note that the state board has full authority over the regulatory process for licensed/certified appraisers and appraisal management companies (AMC's). This is true of all 55 states and territories. Each state is required to have statutes and rules in place to properly regulate its licensees and properly administer the regulatory program.

The function of the Appraisal Subcommittee (ASC) is to establish a baseline of rules and regulations that each state must follow so as to ensure a consistent and managed approach to the regulation of real estate appraisers and appraisal management companies. The mission statement of the ASC reads as follows:

To provide federal oversight of State appraiser regulatory programs and a monitoring framework for the Appraisal Foundation and the Federal Financial Institutions Regulatory Agencies in their roles to protect federal financial and public policy interests in real estate appraisals utilized in federally related transactions.

The ASC conducts routine audits to ensure each state is not only following federal regulations, but also following the laws and rules specific to each state. The ASC only sets minimum requirements to properly administer and regulate real estate appraisers and AMC's, but allows the states broad discretion in enacting and implementing stricter regulatory oversight. The ASC provides necessary guidance and support to ensure each state is applying the federal and state laws and rules in a consistent manner so as to provide certainty and stability, not only for state regulatory boards but also for individual appraisers who work in multiple states and jurisdictions. Without the oversight and guidance of the ASC there would be no way to ensure that all states are properly carrying out all state and federal requirements, which are necessary and required to properly administer and regulate real estate appraisers and AMC's.

Similarly, the function of the Appraisal Foundation (TAF) is to set the Congressionally authorized standards (USPAP) and qualifications for real estate appraisers, and provide **voluntary** guidance on recognized valuation methods and techniques for all valuation professionals. The work of TAF advances the profession by ensuring that appraisals are independent, consistent and objective.

Without the oversight by the ASC and the broad objective guidance by TAF, the industry would be in disarray. Appraisers and State Regulatory Boards need to rely on a set of rules and guide notes to ensure a fair, open, honest and consistent approach to operating an appraisal business and regulating the profession.

While we do not object to the examination and review of the regulatory process and are always open to suggestions to improve the system, we strongly object to abolishing the Appraisal Subcommittee (ASC) and the Appraisal Foundation (TAF).

Several witnesses testified that the reason for the lack of appraiser trainees was due to over regulation, which is false and misleading. There is nothing in federal statute, rule or the Uniform Standards of Professional Appraisal Practices (USPAP) that prevents a mentor or supervisor from mentoring trainees

or in any way restricts the use of trainees. Rather the problem lies directly with lender risk policies. Most lending institutions specifically restrict the use of trainees and as such most supervising or mentoring appraisers are reluctant to take on a trainee as they are restricted from doing any work. The incentive for a supervisor or mentor to take on a trainee has to be economically and financially beneficial.

Montana specifically passed a law during the 2015 legislative session to try and alleviate this problem. Below is the text of the law passed (emphasis added):

37-54-508. Limitations. (1) *An appraisal management company registered in this state pursuant to this chapter may not enter into contracts or agreements with an individual for the performance of appraisals unless the company obtains verification that the individual is licensed or certified to perform appraisals pursuant to this chapter. Verification by reference to information published on the website of the appraisal subcommittee of the federal financial institutions examination council must be considered acceptable for purposes of compliance with this section.*

(2) Unless prohibited by the policies of a client or an end user of an appraisal report, an appraisal management company may not prevent or otherwise restrict a licensed real estate appraisal trainee from performing work in accordance with the uniform standards of professional appraisal practice, pursuant to the requirements of the board, and under the supervision of a real estate appraiser mentor who is on the appraisal management company's appraisal panel.

(3) *Unless prohibited by the policies of a client or an end user of an appraisal report or by other state or federal law, an appraisal management company may not prevent or otherwise restrict a licensed or certified real estate appraiser from transferring an appraisal assignment to another licensed or certified real estate appraiser who is on the appraisal management company's appraisal panel if:*

(a) the transferee is an employee of the transferor; and

(b) the transferee can complete the appraisal assignment in accordance with the uniform standards of professional appraisal practice and pursuant to the requirements of the board.

This statute was quickly circumvented by the secondary markets and private lending institutions by added language to each engagement letter that specifically states the policy of each the client or end user agreement restricts the use of trainees. This not only demonstrates our states ability to create our own regulation requirements, but also our recognition of where the problem lies with respect to the shortage or lack of appraiser trainees in this industry. Reform or abolition of the ASC or TAF will not solve the appraiser trainee shortage in America, rather the educating and reformation of the secondary market and lending institutions risk policies.

In closing, while not perfect, we endorse the current appraiser regulatory system. We want to work to improve the existing system rather than dismantle it. Removing national oversight will result in significant compliance issues for regional and national users of appraisal services. The State of Montana Board of Real Estate Appraisers supports the current regulatory process and encourages the sub-committee to continue to support the ASC and TAF.

Respectfully Submitted,

Thomas G Stevens

Thomas G Stevens, Chairman

Montana Board of Real Estate Appraisers

Respectfully Submitted,

Peter J Fontana

Peter J Fontana, Vice Chair

Montana Board of Real Estate Appraisers



Cc:

Honorable Dennis A. Ross, Vice Chair – Florida

Honorable Emanuel Cleaver, Missouri, Ranking Member

Honorable Ed Royce, California

Honorable Jeb Hensarling, Texas, ex officio

Honorable Blaine Luetkemeyer, Missouri

Honorable Steve Pearce, New Mexico

Honorable Bill Posey, Florida

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Honorable Keith Rothfus, Pennsylvania

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Senator Steve Daines, Montana

Governor Steve Bullock

Labor Commissioner Pam Bucy

Chairs of the Regulatory Boards in the 55 Jurisdictions under ASC & AQB oversight

Association of Appraisers Regulatory Officials