Identifying Bias and Barriers, Promoting Equity:
An Analysis of the Appraisal Standards and Appraiser Qualifications Criteria

February 2022
OVERVIEW OF THE APPRAISAL STUDY

Part I: Background
• Report Origin & Goals
• Authors
• Importance of Appraisals
• Bias in Appraisals (Historical)
• Civil Rights Laws
• Bias in Appraisals (Current)
• The Wealth Gap

Part II: Analysis & Recommendations
• Governance of the Appraisal Industry
• Fair Housing Requirements & Training
• Barriers to Entry
• Need for Data
• Compliance & Enforcement

Part III: Questions
Part I: Background
## Report Origin & Goals

<table>
<thead>
<tr>
<th>Origin</th>
<th>Goals</th>
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<tbody>
<tr>
<td>• Commissioned by:</td>
<td>• Identify any instances in which the following facilitate or systematize racial/ethnic bias:</td>
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<tr>
<td>The Appraisal Subcommittee (ASC)</td>
<td>▪ Appraisal Standards: The Uniform Standards of Professional Appraisal Practice (USPAP),</td>
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<tr>
<td>• Managed by:</td>
<td>▪ Appraiser Criteria: The Real Property Appraiser Qualification Criteria, and</td>
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<tr>
<td>The Council on Licensure, Enforcement and Regulation (CLEAR)</td>
<td>▪ Appraiser Training</td>
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<table>
<thead>
<tr>
<th>National Fair Housing Alliance</th>
<th>Christensen Law Firm</th>
<th>Dane Law LLC</th>
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<tbody>
<tr>
<td>• Lisa Rice, President and CEO</td>
<td>• Peter Christensen, Principal</td>
<td>• Stephen M. Dane, Founder and Owner</td>
</tr>
<tr>
<td>• Morgan Williams, General Counsel</td>
<td></td>
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<tr>
<td>• Maureen Yap, Senior Counsel</td>
<td></td>
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<tr>
<td>• Scott Chang, Senior Counsel</td>
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Importance of Appraisals

Why are appraisals important?
Historical Evidence: The Appraisal System Historically Undervalued Homes in Communities of Color and Placed the Highest Value on White, Homogenous Areas

Mapping Inequality: Redlining in New Deal America

A: "Best"
B: "Still Desirable"
C: "Definitely Declining"
D: "Hazardous"
Bias in Appraisals

Historical Evidence: Appraisal Principles and Practices Further Perpetuated the Unfounded Association Between Race and Risk

1934: Hoyt’s Hierarchy
(FHA’s First Chief Economist)
1. English, German, Scots, Irish, Scandinavians
2. North Italians
3. Bohemians or Czechoslovakians
4. Poles
5. Lithuanians
6. Greeks
7. Russian Jews of the lower class
8. South Italians
9. Negroes
10. Mexicans

1938: FHA Underwriting Manual - “Areas surrounding a location are investigated to determine whether incompatible racial and social groups are present, for the purpose of making a prediction regarding the probability of the locations being invaded by such groups.”

1967: American Institute of Real Estate Appraisers Manual- “[The appraiser] must recognize the fact that values change when people who are different from those presently occupying an area advance into and infiltrate a neighborhood.”
Appraisal Discrimination Violates the Fair Housing Act

Statute

- It is unlawful “for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction or in the terms or conditions of such transaction” on a prohibited basis.

Regulation

- Prohibited practices include “[u]sing an appraisal of residential real property in connection with the sale, rental, or financing of any dwelling where the person knows or reasonably should know that the appraisal improperly takes into consideration” a prohibited basis.
Civil Rights Laws

Appraisal Discrimination Violates the Equal Credit Opportunity Act

Statute

• “It shall be unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction” on a prohibited basis.

Regulation Commentary

• “The general rule [prohibiting discrimination] covers all dealings, without exception, between an applicant and a creditor, whether or not addressed by other provisions of the regulation.”
Civil Rights Laws

Prohibited Basis

- FHA
  - Familial Status
  - Disability

- Both
  - Race
  - National Origin
  - Color
  - Sex*
  - Religion

- ECOA
  - Marital Status
  - Age
  - Source of Income
  - Exercise of Rights under the Consumer Credit Protection Act

*Includes discrimination on the basis of sexual orientation and gender identity
Appraisal Discrimination Can Be Proven Under the Disparate Treatment or Disparate Impact Theory of Discrimination

Disparate Treatment

- Direct Evidence or Circumstantial/Comparative Evidence
- Does not require proof of a conscious intent to discriminate

Disparate Impact

- Neutral policy/practice with a discriminatory impact
- No legitimate, nondiscriminatory purpose
  - Or, if so, there is a less discriminatory alternative
Even After Passage of Civil Rights Laws, Appraisal Discrimination Continued

1968: The Fair Housing Act

1973: American Institute of Real Estate Appraisers ("AIREA") Course Material - "As a general rule, homogeneity of the population contributes to stability of real estate values. Information on the percentage of native-born whites, foreign whites, and non-white population is important, and the changes in this composition have a significance."

1977: DOJ settlement agreement not to base appraisals on: Racial/ethnic stereotypes Racial/ethnic homogeneity
Today: The Sales Comparison Approach Continues to Allow for Broad Discretion, which is a Key Fair Lending Risk Factor
“And then up here, it’s getting better because of all of the Mexican people moving out…”

“I think people want to be near their own kind. And I feel 100 percent about that.”

“If I didn’t buy this house in [the majority Black] Fifth Ward today, what else am I going to buy?...[A]m I going to go to [the majority Latino] Second Ward? The demographics are completely different, and I don’t think that they directly compete because of that.”
“Black race population above state average”
“Storefronts supplying Jewish households”
“Predominately Hispanic”
“More Asian influence of late”
“Homogenous neighborhood with good schools”

Systemic Evidence: Federal Housing Finance Agency - Thousands of appraisal reports contained race-related language.
Individual Evidence (refinancing): Homeowners of color “whitewashed” their homes to get a fair appraisal.

<table>
<thead>
<tr>
<th>The Homeowner</th>
<th>Initial Appraisal</th>
<th>White Friend Who Posed as the Homeowner (or a relative)</th>
<th>Appraisal After “Whitewashing” the Home</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austin Family in CA</td>
<td>$995,000</td>
<td>$1,482,500 (+487,500)</td>
<td></td>
</tr>
<tr>
<td>Carlette Duffy in IN</td>
<td>$110,000</td>
<td>$259,000 (+149,000)</td>
<td></td>
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</table>
Systemic Evidence (refinancing): Fannie Mae – White-owned homes were overvalued more frequently than Black-owned homes.

Figure 1: Distribution of AVM comparison differences by racial groups

- White in majority-white: Median = 0.42%
- Black in majority-white: Median = -0.58%
- Black in majority-Black: Median = -0.25%
- White in majority-Black: Median = 1.84%

% of difference from AVM
Systemic Evidence (refinancing): Fannie Mae – For White-owned homes in Black neighborhoods, appraisers used comparable sales outside of the Black neighborhood.

<table>
<thead>
<tr>
<th>White borrowers in Black neighborhoods</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>CU overvaluation reason codes</td>
<td></td>
</tr>
<tr>
<td>Multiple factors</td>
<td>36.4%</td>
</tr>
<tr>
<td>Comparable location</td>
<td>16.5%</td>
</tr>
<tr>
<td>Market adjustments</td>
<td>8.3%</td>
</tr>
<tr>
<td>Comparable selection</td>
<td>4.1%</td>
</tr>
<tr>
<td>Room count GLA adjustments</td>
<td>5.8%</td>
</tr>
<tr>
<td>All other</td>
<td>28.9%</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

For white borrowers in majority-Black neighborhoods, the leading, separately identifiable reason category of overvaluation is “comparable location.” This indicates that the appraiser relied on comparable sales from outside of the subject property’s immediate area even though potentially more appropriate comparable properties were available closer to the subject property.

Data: Refinance loan acquisitions from July – September 2021
Systemic Evidence (purchase): Freddie Mac - Appraisers were more likely to find that the appraised value fell below the contract price in Black and Latino census tracts.

<table>
<thead>
<tr>
<th></th>
<th>% of Appraisals Lower Than the Contract Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>WHITE</td>
<td>7.4%</td>
</tr>
<tr>
<td>BLACK</td>
<td>12.5%</td>
</tr>
<tr>
<td>LATINO</td>
<td>15.40%</td>
</tr>
</tbody>
</table>
Bias in Appraisals

Systemic Evidence (purchase): The Freddie Mac Study – The majority of appraisers showed a statistically significant Black v. White “appraisal gap.”

That is, the majority of the appraisers in the sample were more likely to determine that the appraised value was below the contract values in the Black neighborhoods in which they worked than in the White neighborhoods in which they worked.
Systemic Evidence: Dr. Andre Perry, Brookings Institution – Appraisal undervaluations cost families of color and the U.S. economy billions.

- $48,000 average loss in home market value
- Amounting to $156 billion in cumulative losses

Homes of similar quality in neighborhoods with similar amenities are worth **23% less** in majority-black neighborhoods.
Discriminatory Policies and Practices Have Resulted in Today’s Homeownership and Wealth Gaps

White wealth surges; black wealth stagnates
Median household wealth, adjusted for inflation

Source: Historical Survey of Consumer Finances via Federal Reserve Bank of Minneapolis and University of Bonn economists Moritz Kuhn, Moritz Schularick and Ulrike I. Steins
THE WASHINGTON POST
Recommendaions

A: Governance of the Appraisal Industry
B: Fair Housing Requirements & Training
C: Barriers to Entry to the Profession
D: Compliance & Enforcement
Part II.A: Governance of the Appraisal Industry
# Governance Overview

## The Appraisal Foundation (TAF)
- Private, nonprofit entity
- Referenced in FIRREA (1989)
- Appraisal Subcommittee can “monitor/review”
- But no supervision/enforcement authority

## Board of Trustees (BOT)
- Majority of BOT must be active appraisers
- “Sponsors” pay application fee and annual donation for right to appoint BOT members

## Appraisal Standards Board (ASB) vs. Appraiser Qualifications Board (AQB)
- Appointed by BOT
- Promulgates the Appraisal Standards
- Appointed by BOT
- Promulgates the Appraiser Criteria
**LEGAL ISSUE** | **COMPARISON: CFPB** | **THE APPRAISAL FOUNDATION**
--- | --- | ---

Did Congress properly delegate rulemaking authority to the entity? | YES – CFPB is a government agency. YES – Dodd Frank Act provides CFPB with explicit rulemaking authority. | UNCLEAR – TAF is a private nonprofit. UNCLEAR – FIRREA only incorporates TAF by reference.|

Did Congress specify the limits of the rulemaking authority? | YES – Each consumer protection law specifies the coverage and limits. | UNCLEAR – FIRREA may limit the authority to “federally-related transactions.”|

Is the entity covered by the Administrative Procedures Act (APA)? | YES | UNCLEAR – FIRREA may require compliance with the APA.|

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**Problem**

- The Appraisal Foundation’s legal authority to promulgate standards and criteria is **not clear**.
Recommendation

• Congress and other stakeholders should consider The Appraisal Foundation’s legal authority, including under:
  • The Nondelegation Doctrine,
  • FIRREA, and
  • The APA.
Problem

- The Appraisal Foundation’s procedures tend to favor industry access and viewpoints, rather than the public interest.

<table>
<thead>
<tr>
<th>PROCEDURAL REQUIREMENT</th>
<th>COMPARISON: CFPB (Statute)</th>
<th>THE APPRAISAL FOUNDATION (Bylaws)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notice to the Public</td>
<td>YES – APA</td>
<td>ASB - YES AQB - NO</td>
</tr>
<tr>
<td>Specify the Legal Authority</td>
<td>YES – APA</td>
<td>ASB - NO AQB - NO</td>
</tr>
<tr>
<td>Public Participation</td>
<td>YES – APA</td>
<td>ASB – YES, but Advisory Opinions and FAQs are behind a paywall AQB – NO</td>
</tr>
<tr>
<td>Consumer Perspective</td>
<td>YES – Dodd Frank Act</td>
<td>ASB - NO AQB - NO</td>
</tr>
</tbody>
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Recommendation

• The Appraisal Foundation should:
  • State the legal authority for standards and criteria,
  • Provide the standards and criteria to the public for free, and
  • Consider the impact on consumers and neighborhoods (including those of color).
**Problem**

- The Appraisal Foundation’s process for selecting individuals to write the standards and criteria tends to favor a closed-loop system of industry viewpoints, rather than the public interest.

**Selection Process**

- Majority of BOT must be appraisers (industry)
- Industry “sponsors” pay application fee of $2500 and annual donation of up to $7500
- Industry “sponsors” have the right to appoint BOT
- ASB/AQB (industry) write standards and criteria
- ASB/AQB individuals do not have to step down from their current industry positions
- BOT (industry) appoint the individuals to ASB and AQB
- States have to adopt the standards and criteria

**Comparison:** Imagine if the CFPB had a similar process to select the rulewriting staff??
Recommendation

- The Appraisal Foundation should:
  - Repeal the requirement that a majority of the BOT must be appraisers,
  - Repeal the requirement of financial donations to appoint trustees, and
  - Provide advocates with equal opportunities to participate.
Part II.B: Fair Housing Requirements And Training
Problem

- The Appraisal Standards contain only a **vague and confusing** discussion of discrimination.

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**FAIR HOUSING REQUIREMENTS**

**ADVISORY OPINION 16 (AO-16)**

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.

SUBJECT: Fair Housing Laws and Appraisal Report Content

APPLICATION: Real Property

**ADVICE FROM THE ASB ON THE ISSUE:**

**Relevant USPAP & Advisory References**

- The PREAMBLE states, in part:
  
  It is essential that appraisers develop and communicate their analyses, opinions, and conclusions to intended users of their services in a manner that is meaningful and not misleading.

- The Conduct section of the ETHICS RULE states, in part:
  
  - An appraiser must not engage in criminal conduct.
  - An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.

- The COMPETENCY RULE states, in part:
  
  - An appraiser must: (1) be competent to perform the assignment; (2) acquire the necessary competency to perform the assignment; or (3) decline or withdraw from the assignment. In all cases, the appraiser must perform competently when completing the assignment.

- **The Conduct section of the ETHICS RULE states, in part:**
  
  An appraiser must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value.
The Appraisal Standards Board should revise the Appraisal Standards to clearly state that discrimination is prohibited.
The Appraisal Standards and the sales comparison approach provide the appraiser with broad discretion, which has long been recognized as a fair housing risk.
Recommendation

- The Appraisal Standards Board should review the appraisal process for fair housing risk (including discretion) and amend the Appraisal Standards to provide fair and equitable outcomes.
Problem

- The Appraiser Criteria contain only a **vague** requirement to include fair housing training in the initial course.

H. Valuation Bias, Fair Housing, and/or Equal Opportunity
Recommendation

- The Appraiser Qualifications Board should revise the Appraiser Criteria to clearly require comprehensive fair housing training for every appraiser.
The Appraisal Foundation’s recently-issued fair housing training for continuing education is incomplete, inaccurate, and misleading.

The main types of bias claims made against appraisers fall into two categories:

- Intentional bias (an appraiser is accused of deliberately acting with bias)
- Unintentional bias (the appraiser has no awareness of acting with bias)

Instead of standards for “intentional” and “unintentional” bias (which are not correct), the training should discuss “disparate treatment” and “disparate impact”
Recommendation

- The Appraisal Foundation should work with civil rights experts to immediately revise the training and develop a comprehensive course.
Part II.C: Barriers to Entry
Problem

- The Appraiser Criteria contain many barriers to entry.

Certified Residential Appraiser

- College Degree (or equivalent)
- 200 Appraiser Education Hours
- 1500 Experience Hours with a Supervisory Appraiser
- Pass a Standardized Test
  - Only 55-65% passage rate
Problem

- The appraiser workforce does not reflect the **diversity** of the U.S.
- There is an appraiser **shortage**.
Recommendation

- The Appraiser Qualifications Board should:
  - Analyze each barrier for disparate impact,
  - Expand outreach,
  - Monitor demographics, and
  - Prepare new professionals for the technology of the future.
Part II.D: Compliance & Enforcement
Need for Data

Problem

- Fannie Mae and Freddie Mac maintain a non-public database of millions of appraisal reports that (like HMDA) could be used to enhance oversight and conduct research.

Recommendation

- Government, the GSEs, and all stakeholders should work collaboratively to release the appraisal data.
**Problem**

- Lenders and other stakeholders cannot systematically track complaints to identify appraisers who consistently provide deficient or potentially discriminatory appraisals.

**Recommendation**

- Stakeholders should work collaboratively to develop a publicly-available complaints database.
Problem

• It is difficult for lenders and other stakeholders to manage fair housing risk.

Recommendation

• Stakeholders should work collaboratively to:
  • Develop robust compliance management systems
Problem

- It is difficult for consumers to challenge problematic or discriminatory appraisals.

Recommendation

- Stakeholders should work collaboratively to:
  - Consider identifying consumers as "intended users" (negligence), and
  - Develop standards for the reconsideration of value process.
Part III: Questions