

Executive Summary

The appraiser has the power to determine the value of a mortgage borrower's most important financial asset, which can hold the key to determining whether that borrower's family can purchase a permanent home rather than rent, access credit on reasonable terms, or build wealth for their family and generations to come. Over time, Americans have seen many crises related to homeownership (the Savings and Loan Crisis, the Great Recession, the COVID pandemic) and each time, the housing market players were heavily scrutinized and regulated to prevent harm to the American consumer's greatest asset. Given the importance of homeownership to so many people, the reforms were welcomed by homeowners and largely embraced by key housing market players, such as mortgage bankers, who understood the importance of protecting the housing market and saw borrowers of color as the future of the market.

Until recently, however, the appraisal industry seems to have escaped the type of regulation and scrutiny faced by other participants in the mortgage market. Our analysis finds that the appraisal industry has operated in a relatively closed, self-regulated framework. Recent news stories have presented the shortcomings of the appraisal industry in stark relief, where individual homeowners and researchers have demonstrated that discriminatory bias continues to plague the appraisal industry, undermining value and breaking a key rung on the ladder to the middle class for families of color. Given these circumstances, it is time to examine the structure and governance of the appraisal industry, particularly as they impact borrowers of color.

Several organizations have answered the call for appraisal reform, particularly as it affects borrowers of color. For example, in 2020, The Appraisal Foundation began a series of diversity and inclusion efforts.¹ In addition, on May 14, 2021, the Appraisal Subcommittee approved an initiative for a comprehensive and independent review of the Uniform Standards of Professional Appraisal Practice ("USPAP Standards" or "Appraisal Standards") and the Real Property Appraiser Qualification Criteria ("Appraiser Criteria").² The goal of the review is to ensure that USPAP Standards and the Appraiser Criteria do not encourage or systematize bias, and that the standards and criteria consistently support or promote fairness, equity, objectivity, and diversity in both appraisals and the training and credentialing of appraisers. The Appraisal Subcommittee contracted with the Council on Licensure, Enforcement and Regulation ("CLEAR") to manage the review, which contracted with this consortium, led by NFHA. Finally, on June 1, 2021, President Biden directed U.S. Department of Housing and Urban Development ("HUD") Secretary Marcia Fudge to lead a "first-of-its-kind interagency initiative to address inequity in home appraisals." Secretary Fudge and White House Domestic Policy Council ("DPC") Director Susan Rice established the Interagency Task Force on Property Appraisal and Valuation Equity ("PAVE").³ This report was developed in response to the Appraisal Subcommittee/CLEAR initiative, and the Appraisal Subcommittee, CLEAR, and the authors of this report have closely coordinated to share findings with the President's PAVE initiative.

¹ The Appraisal Foundation, *Promoting Diversity in the Appraisal Profession*,

<https://appraisalfoundation.sharefile.com/share/view/s07b3d65a193d47e6a626af02a7aad265>.

² Appraisal Subcommittee, *Review of USPAP and AQB Criteria; Focus on Fairness, Equity, Objectivity and Diversity*, (June 4, 2021), <https://www.asc.gov/Pages/ViewWhatsNew.aspx?ID=164>.

³ See PAVE Interagency Task Force at <https://pave.hud.gov/>.

We want to acknowledge that during the course of our research, we spoke to many appraisers and appraisal organizations who recognize the challenges the industry faces and are dedicated to developing solutions. We thank them for their insights and applaud them for their earnest efforts for change. We hope that the research and recommendations provided in this report open up the conversation to more key stakeholders in the appraisal and housing industry to seek workable, sustainable solutions that benefit the whole of the housing market, including borrowers of color.

Goals and Methodology

The Appraisal Subcommittee and CLEAR provided several goals for this report, including:

- Identifying any instances in which the Appraisal Standards, Appraiser Criteria, or training facilitate or systematize racial bias;
- Identifying opportunities for reform of the Appraisal Standards, Appraiser Criteria, or training, with the goal of supporting and promoting fairness, equity, objectivity, and diversity;
- Identifying whether the Appraisal Standards, Appraiser Criteria, or training present barriers of entry to the profession that disparately impact people of color and/or women; and
- Discussing the process used to promulgate changes to the Appraisal Standards, Appraiser Criteria, or training.

The research for this report was conducted by reviewing numerous appraisal and applicable civil rights materials, including:

Appraisal Standards

- Appraisal Standards Board: 2020-2021 Uniform Standards of Professional Appraisal Practice (“USPAP Standards”) (Effective January 1, 2020 through December 31, 2022)
 - Preamble
 - Rules and Definitions
 - Standards 1-4
- Appraisal Standards Board: USPAP Advisory Opinions
- Appraisal Standards Board: Frequently Asked Questions that are related to real property

Appraiser Criteria

- Appraiser Qualifications Board: Criteria, Interpretations of the Criteria, and Guide Notes (Effective January 1, 2021)

Training

- 2020-2022 15-hour National USPAP Course (required for initial appraiser credentials)
- 2020-2021 7-hour National USPAP Update Course and 2022-2023 7-hour National USPAP Update Course (a current USPAP Update Course is required once every two years for licensed or certified appraisers)

Finally, in addition to interviews with representatives from The Appraisal Foundation, interviews were conducted with the following organizations:

Appraisal Industry

- American Society of Appraisers
- Appraisal Institute
- Collateral Risk Network
- Real Estate Valuation Advocacy Association

Fair Housing Advocates

- Fair Housing Advocates of Northern California
- Fair Housing Center of Central Indiana

Mortgage Industry

- Housing Policy Council

Researchers

- Freddie Mac
- Dr. Elizabeth Korver Glenn
- Dr. Andre M. Perry, The Brookings Institution

Outline and Recommendations

Based on our research, interviews, and reviews, we provide the following recommendations, which are discussed in more detail in the main text of the report:

Questions About the Governance of the Appraisal Industry

Legal Authority. The appraisal governance structure is unique and complex with a private entity setting the minimum appraisal standards and professional entrance criteria that must be adopted by the states. Given the importance of appraisals to the residential housing market and individual consumers' finances, it is recommended that the complex questions regarding the extent of The Appraisal Foundation's legal authority be considered for further review, including questions about the extent of the legal authority under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), any potential obligations under the Administrative Procedures Act, and any potential issues under the Constitution's nondelegation doctrine.

Appointments and Elections Process. The Appraisal Foundation should consider the following steps to enhance inclusiveness, to provide a more intentional and meaningful way to incorporate the voices of civil rights and consumer advocates, and to improve the ability to issue USPAP Standards and Appraiser Criteria that benefit the whole of the housing market, including homeowners and neighborhoods of color:

- Repeal the requirement that a majority of the Board of Trustees must be appraisers.
- Repeal the requirement of financial donations to appoint board members.

- Provide a mechanism allowing industry groups and civil rights/consumer advocates to appoint an equal number of trustees. (For purposes of this report, the term “civil rights/consumer advocates” means organizations that have as their primary purpose the promotion of civil rights and/or consumer protection.)
- Provide a mechanism allowing industry groups and civil rights/consumer advocates to nominate an equal number of trustees to at-large elections.
- Require that at least four of the at-large trustees must be civil rights/consumer advocates.
- Form an advisory council consisting only of nonprofit civil rights and consumer advocates.
- Require that at least a third of the members of the Appraisal Standards Board and Appraiser Qualifications Board be civil rights/consumer advocates.

Rules of Procedure and Exposure Draft Process. The Appraisal Foundation should consider the following steps to enhance transparency and inclusiveness, and to improve the ability to issue USPAP Standards and Appraiser Criteria that benefit the whole of the housing market, including homeowners and neighborhoods of color:

- Require the Appraiser Qualifications Board to provide notice to the public, exposure of drafts, and an opportunity for public participation. (The Appraiser Qualifications Board currently engages in this practice but would benefit from having the practice codified in its bylaws.)
- Require the Appraisal Standards Board and Appraiser Qualifications Board to state the legal authority under which it is promulgating standards or criteria.
- Require the Appraisal Standards Board to make the complete text of USPAP Standards, including Advisory Opinions, available to both appraisers and the public for free.
- Require the Appraisal Standards Board and the Appraiser Qualifications Board to consider the impact of proposed standards and criteria on consumers and neighborhoods, including consumers and neighborhoods of color. As a best practice, many agencies that regulate the housing finance market set up specific and regular meetings to hear feedback from civil rights and consumer advocates.
- Require the Appraisal Standards Board and the Appraiser Qualifications Board to publish the final standards and criteria at least 30 days before the effective date.
- Require the Appraisal Standards Board and the Appraiser Qualifications Board to provide to the public an easily accessible system to request the issuance, amendment, or repeal of any standard or criteria.

Gaps in Fair Housing Requirements and Training

Clear Prohibition on Discriminatory Conduct. To make it easier for appraisers and the public to understand an appraiser’s fair housing obligations, the USPAP Standards and Advisory Opinion 16 should be revised to clearly state that discrimination in appraisals is prohibited.

Guidance on Discretion. Consistent with other aspects of the housing finance market, the appraisal process should be thoroughly reviewed for fair housing risk, particularly in the exercise of discretion, and the USPAP Standards should be amended accordingly in order to provide a baseline standard for fair and equitable outcomes.

Fair Housing Training Requirements. Quality fair housing training for appraisers is critically important and should be a requirement for every appraiser to obtain and maintain their credentials. The Appraiser Criteria should be revised to clearly require comprehensive fair housing training on federal, state, and local fair housing laws at every stage of the credentialing process and at renewal.

Fair Housing Training.

Recommendations for the Training Requirements:

- There should be comprehensive fair housing training included in the initial 15-hour USPAP course (not just in the 7-hour USPAP continuing education course).
- The fair housing training module in the current 2022-2023 7-hour USPAP continuing education course for credentialed appraisers should be revised immediately and developed with the participation of fair housing experts to ensure the training is comprehensive and contains important elements needed to educate professionals about how to comply with the letter and spirit of applicable federal, state, and local fair housing laws.
- At a minimum, the fair housing training should include:
 - The history of discrimination and segregation and the role of the appraisal industry in establishing and perpetuating both;
 - Information about the costs of appraisal bias for families, communities, the housing industry, and the nation, including the impact on the racial homeownership and wealth gaps;
 - An in-depth explanation of the federal fair housing laws and implementing regulations as well as the role of state and local fair housing laws;
 - Recent case examples of appraisal discrimination;
 - The appropriate use of the free-form text sections of the appraisal report, including a reminder that the racial and ethnic composition of the neighborhood should never be a factor that influences the value of a home;
 - An explanation of how compliance with fair housing laws and standards benefits the appraisal and housing industry, consumers, communities, and the greater society; and
 - Best practices to ensure compliance with the letter and spirit of the fair housing laws.
- The Appraisal Foundation should collaborate with HUD, the U.S. Department of Justice (“DOJ”), the Federal Housing Finance Agency (“FHFA”), and other regulators and enforcement agencies to develop, improve, and implement fair housing training. In addition, The Appraisal Foundation should consider inviting civil rights experts to provide the fair housing training for appraisers.

Recommendations for the Existing Training:

- The introduction to the existing training should be revised to focus on fair housing laws and their requirements. Similarly, the overall tone of the module should be revised from one of raising questions about perception and reputational risk for appraisers to clearly identifying fact patterns that represent illegal discrimination and avoiding harm to consumers.
- The background section should be revised to focus on the history of appraisal discrimination and its impact on borrowers and communities of color.
- The legal section should be revised to accurately state the law. Currently, the module inaccurately focuses on intentional bias and unintentional bias rather than disparate

treatment and disparate impact. The definitions and commentary also require revision to explain what constitutes disparate treatment and disparate impact and how appraisers can comply with legal requirements and follow best practices.

- The illustrations and case studies should be revised to clearly identify fact patterns that represent illegal discrimination. The fact patterns should focus on situations that are common and clearly covered by the Fair Housing Act.
- The instructor's manual should be revised to provide more explicit guidance. Also, in connection with fair housing topics, the instructor's focus should be on the law first and USPAP and other guidelines second.

Barriers to Entry to the Appraisal Profession

Barriers to Entry. It is recommended that each of the barriers to entry to the appraisal profession be reviewed for disparate impact by analyzing the burden on potential appraisers of color, the business justification for the requirement, and whether there is a less discriminatory alternative that can achieve the business interest. Below is a description of each barrier and a more detailed recommendation.

Multiple Levels of Credentials. The credentialing criteria should be reviewed to consider streamlining the credentials to just two certifications: 1) certified residential appraiser and 2) certified general appraiser. This approach would:

- Follow the model of other professions where the individual is fully licensed or certified after passing the exam (e.g., real estate broker, accountant, lawyer);
- Follow the model of many large lenders and appraisal management companies, which already require appraisals to be conducted by a certified appraiser; and
- Provide a more realistic way for new entrants to earn a living in the profession.

College Degree Requirements. The criteria should be reviewed to consider whether the college degree is necessary for the profession, including whether this requirement has appreciably improved the quality of appraisals.

Appraiser Education Hours. The appraiser education hours criteria should be reviewed to consider whether the extensive hours are necessary and whether the content of the courses should be revised to better prepare the student to conduct the work of an appraiser.

Experience Hours. Given the clear racial disparate impact of the experience hours and Supervisory Appraiser criteria, this requirement should be thoroughly reviewed to consider less discriminatory alternatives, including:

- Improving the content of the education courses so that the student is better prepared to conduct appraisals after passing the exam;
- Improving the content of the exam by including a practice-based component that ensures a prospective appraiser has a clear understanding of industry practices; and
- Replacing the current experience requirement with an exam that, once passed, makes the individual a certified appraiser.

Standardized Tests. The Appraisal Foundation should collect data on race, ethnicity, and gender to measure the impact of the examinations. Also, the examinations should be reviewed for validity and consistency with federal anti-discrimination laws.

Pipeline and Future of the Profession. The Appraisal Foundation and other appraiser organizations should continue and expand their outreach to women and people of color. In addition, The Appraisal Foundation and other appraisal organizations should monitor the demographics of individuals entering the profession or renewing their credentials and share this information publicly to ensure that the demographics of the profession are more transparent. Finally, appraiser organizations should ensure that new professionals are prepared for the future with respect to the use of technology, automation, and artificial intelligence.

Compliance and Enforcement

Need for Data. Government, the Government Sponsored Enterprises (“GSEs,” that is, Fannie Mae and Freddie Mac), lenders, appraisers, researchers, and civil rights/consumer advocates should strategize and work together for the release of appropriate elements of the appraisal data sets to reduce bias and develop more robust compliance and monitoring systems. In addition, after public input and collaboration, a public repository and accessible database of complaints involving appraisals for mortgage lending should be developed to identify trends in the filing of complaints, including instances of alleged discrimination, and to identify appraisers and appraisal management companies that may be engaging in repeatedly deficient or discriminatory appraisal activity.

Compliance Management Systems. Government, the GSEs, lenders, appraisers, researchers, and civil rights/consumer advocates should use knowledge of data science and appropriate examples from the mortgage and homeowners’ insurance industries to develop more robust compliance management systems to monitor, remedy, and prevent fair housing risk and/or violations in appraisals.

Duty of Care. Fair housing advocates working on behalf of borrowers indicate that fair housing legal issues in appraisals often overlap with appraiser professional negligence. Because appraisers’ legal accountability for professional negligence under applicable case law typically extends only to those parties whom the appraiser has identified as “intended users” within the meaning of USPAP Standards and because appraisers generally do not identify borrowers as such intended users, appraisers often have no legal accountability to borrowers for instances of negligence. To increase the accountability of appraisers to borrowers who have been injured by appraisal negligence, the Appraisal Standards Board should consider amending the USPAP Standards to require appraisers to identify mortgage borrowers as “intended users” of appraisals prepared in relation to residential mortgage transactions.

Reconsideration of Value Process. A “reconsideration of value” is the term used to describe the *ad hoc* process by which borrowers challenge appraisal values. It is a process that varies highly from lender to lender and that is without any legal structure. Fair housing advocates indicate that lack of fair consideration and clear communication in the process often occurs at the beginning of fair housing claim situations. Government, the GSEs, lenders, and The Appraisal Foundation should develop standards and guidance for appraisers regarding the fair handling of and increasing the transparency and accountability in the Reconsideration of Value process.

Note on the language in this report: We are aware that there is no universal agreement on the appropriate race or ethnicity label for the diverse populations in the United States or even on whether particular labels should be capitalized. We intend in all cases to be inclusive, rather than exclusive, and in no case to diminish the significance of the viewpoint of any person or to injure a person or group through our terminology. For purposes of this report, we have utilized the following language (except in cases where a resource, reference, case, or quotation may use alternate terminology): Black, Latino, Asian American, and White. We are aware that some use the term “African American,” but there are some who argue that this term is exclusive, and we intend to be as inclusive as possible. We are also aware that many people prefer the term “Hispanic” or “Latinx.” We intend in this report to include those who prefer “Hispanic” or “Latinx” in the term “Latino” and intend no disrespect. We refer to “neighborhoods of color,” “communities of color,” “people of color,” or specify the predominant race(s), rather than utilizing the term “minority.” We also use the term “disability,” rather than “handicap” (the term used in the Fair Housing Act).