

February 8, 2023

Jim Park, Executive Director  
Appraisal Subcommittee  
1325 G Street, NW  
Washington, DC 20005  
appraisalbiashearing@asc.gov

Re: Advocate Comments regarding Appraisal Bias

Dear Mr. Park:

We the undersigned civil rights and consumer advocacy organizations are writing to provide feedback on the issue of appraisal bias, which was the subject of a hearing held on January 24, 2023.<sup>1</sup> We commend the Appraisal Subcommittee (“ASC”) for holding a public hearing on this important topic and for continuing to press for reform. While there are many critical areas to address, our remarks focus on those most relevant to the work of the ASC. We urge the ASC to:

- **Hold a public hearing on each of these important appraisal reform topics; and**
- **Set public goals and timelines for reform in each area.**

While we were pleased to hear widespread consensus regarding the need to diversify the appraisal industry, action in all of these reform areas is needed in order to prevent appraisal bias and the harm it causes.

An appraisal has the power to determine the value of a consumer’s most important financial asset, which can hold the key to determining whether the consumer can purchase a permanent home rather than rent, access credit on reasonable terms, and build wealth for generations to come. However, numerous news stories<sup>2</sup> as well as research by the Federal Housing Finance Agency, Fannie Mae, Freddie Mac, Drs. Junia Howell and Elizabeth Korver-Glenn, the Brookings

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<sup>1</sup> Appraisal Subcommittee, *Hearing on Appraisal Bias* (Jan. 24, 2023), <https://www.consumerfinance.gov/about-us/events/archive-past-events/appraisal-subcommittee-hearing-on-appraisal-bias/>.

<sup>2</sup> See, e.g., Julian Glover and Mark Nichols, *Our America: Lowballed*, ABC (Dec. 2022), <https://abc7.com/feature/our-america-lowball-home-appraisal-racial-bias-discrimination/12325606/>.

Institution, and the National Fair Housing Alliance<sup>3</sup> have documented the serious and systemic problem of appraisal bias for consumers and communities of color. Appraisal bias exacerbates the large and growing Black-white racial wealth gap by causing Black families to get lower returns from home equity than white families.<sup>4</sup> Moreover, appraisal discrimination violates the Fair Housing Act and other federal, state, and local civil rights laws.<sup>5</sup> Our organizations believe that in the coming months the ASC has a unique opportunity to promote fair and accurate appraisals and prevent appraisal discrimination.

## **Governance**

As Consumer Financial Protection Bureau (“CFPB”) Director Chopra aptly noted during the hearing, the governance structure of the appraisal industry and The Appraisal Foundation (“TAF”) is “weird.” Among other governance issues, we are deeply concerned that TAF has not yet reformed two critical aspects of its “pay-to-play” structure. First, industry sponsors pay an initial application fee and annual “donations” for the right to appoint a trustee to the Board of Trustees. (See Appendix A for details.) The trustees then select the individuals who will write the appraisal standards (known as the “Uniform Standards of Professional Appraisal Practice” or “USPAP”) and the Appraiser Qualification Criteria. In effect, the industry pays for the right to write the standards and criteria. “Sponsorship Fees” and “Industry Advisory Council Fees” are TAF’s second largest source of revenue. This structure seems to create a conflict of interest that may make TAF more responsive to industry than to consumers. While some standard-setting organizations may take donations, we are not aware of any that allow industry to pay for a seat on the board or to select the rule-writers.

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<sup>3</sup> See FHFA, *Reducing Valuation Bias by Addressing Appraiser and Property Valuation Commentary*, FHFA Insights Blog (Dec. 14, 2021), <https://www.fhfa.gov/Media/Blog/Pages/Reducing-Valuation-Bias-by-Addressing-Appraiser-and-Property-Valuation-Commentary.aspx>; Jake Williamson and Mark Palim, *Appraising the Appraisal*, Fannie Mae (Feb. 2022), <https://www.fanniemae.com/media/42541/display>; Melissa Narragon, et al., *Racial and Ethnic Valuation Gaps in Home Purchase Appraisals*, Freddie Mac Economic and Housing Research Note (Sept. 2021), <http://www.freddiemac.com/fmac-resources/research/pdf/202109-Note-Appraisal-Gap.pdf>; Dr. Junia Howell and Dr. Elizabeth Korver-Glenn, *Appraised: The Persistent Evaluation of White Neighborhoods as More Valuable than Communities of Color*, Eruka (Nov. 2, 2022), <https://www.eruka.org/appraised>; Andre M. Perry, Jonathan Rothwell, and David Harshbarger, *The Devaluation of Assets in Black Neighborhoods*, The Brookings Institution Metropolitan Policy Program (Nov. 2018), [https://www.brookings.edu/wp-content/uploads/2018/11/2018.11\\_Brookings-Metro\\_Devaluation-Assets-Black-Neighborhoods\\_final.pdf](https://www.brookings.edu/wp-content/uploads/2018/11/2018.11_Brookings-Metro_Devaluation-Assets-Black-Neighborhoods_final.pdf); National Fair Housing Alliance, Dane Law LLC, Christensen Law Firm, *Identifying Bias and Barriers, Promoting Equity: An Analysis of the USPAP Standards and Appraiser Qualifications Criteria*, (Jan. 2022), <https://nationalfairhousing.org/groundbreaking-report-identifies-bias-and-systemic-barriers-in-real-estate-appraisals/>.

<sup>4</sup> See Tom Shapiro et al., LDF Thurgood Marshall Inst. & Inst. on Assets and Soc. Pol’y at Brandeis Univ. *The Black-White Racial Wealth Gap* 2-3 (2019), <https://tminstituteldf.org/wp-content/uploads/2019/11/FINAL-RWG-Brief-v1.pdf>.

<sup>5</sup> See 42 U.S.C. § 3605.

Second, TAF keeps USPAP and related guidance behind a paywall. That is, TAF claims a public power to issue the standards, but then uses these standards as a private benefit for the organization. In fact, “Publication Revenue” is TAF’s largest source of revenue. (See Appendix A for details.) TAF’s “pay-for-access” approach means that appraisers must spend their own funds to access the rules that govern them, and members of the public are denied transparency and insight into industry governance. We are not aware of any other standard-setting organization that keeps its standards behind a paywall.

***We urge the ASC to work with TAF to set public goals and timelines to convert TAF’s governance to a fairer and more democratic structure that serves the public interest.***

### **Appraiser Qualification Criteria**

TAF’s Appraiser Qualification Criteria pose at least three major challenges. First, the appraiser profession suffers from an acute shortage and a unique lack of diversity (97% White, 70% male), mainly due to the many barriers to entry. The appraiser profession requires several levels of licensing and certification. By comparison, for other professions – such as real estate brokers, accountants, and lawyers – the individuals are full-fledged members of the profession once they pass the certification examination. Moreover, for appraisers, each level of licensing and certification represents additional barriers in the form of college degree requirements, appraiser education hours, experience hours, and standardized tests, each of which is an additional hurdle. (See Appendix B for a chart summarizing the various credentials and requirements.) Despite these longstanding issues, TAF has not begun a public, transparent collaboration with civil rights experts to review each barrier to entry. Each requirement should 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.

Second, TAF has yet to release robust and comprehensive fair housing training for appraisers. Recently, TAF released a replacement for the inaccurate fair housing training it had previously required appraisers to pay for and take as part of the 7-Hour National USPAP Update Course. While the new material is accurate, it cannot be framed as “training” because it is not written in a format that appraisers can understand. Moreover, there is no additional online learning or webinar to help appraisers who already took the prior, inaccurate course understand this critical and complex area. TAF should be concerned that appraisers that previously received inaccurate information need special training to ensure that they are not misinformed about the law. The current approach leaves appraisers open to liability and does little to prevent harm to consumers and communities of color.

Finally, as various groups encourage women and people of color to enter the appraiser profession, TAF has yet to ensure that new entrants are joining a profession that is viable, sustainable, and focused on the future. TAF should ensure that appraisers fully understand

artificial intelligence, machine learning, automated valuation models, and other data-driven technologies. As various stakeholders move to more data-driven processes, TAF has yet to focus on preparing new entrants to succeed in an era of data, innovation, and technology.

***We urge the ASC to work with TAF to set public goals and timelines to eliminate unnecessary and discriminatory barriers to entry to the appraisal profession; ensure robust and practical fair housing training for all appraisers; and promote education requirements that prepare new entrants for valuations in an era of data, innovation, and technology.***

### **Appraisal Standards**

TAF's USPAP standards allow appraisers broad discretion in the sales comparison approach, which can result in inconsistent and unfair results for consumers, particularly consumers of color. TAF has yet to propose an exposure draft or advisory opinion that would provide guidance to appraisers to limit discretion in order to provide more accurate appraisals and to prevent harm to consumers and communities. 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. The USPAP Standards should then be amended accordingly in order to provide a baseline standard for fair and equitable outcomes

***We urge the ASC to work with TAF to set public goals and timelines to thoroughly review USPAP for fair housing risk and amend the standards to limit that risk.***

### **Automated Valuation Models**

During the hearing, several comments were made recommending Automated Valuation Models ("AVMs") as an alternative to traditional appraisals and as a method of reducing the potential for human bias. While we support more objective, data-driven approaches, we caution that AVMs are not a panacea. Algorithmic bias is a persistent and pervasive issue across industries.<sup>6</sup> AVMs may simply automate, replicate, and perpetuate a flawed valuation approach, and may be based on data that perpetuates the undervaluations of formerly-redlined communities of color.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") requires the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, National Credit Union Administration, Federal Housing Finance Agency, and the

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<sup>6</sup> Testimony of Lisa Rice, President and CEO, NFHA, House Financial Services Task Force on Artificial Intelligence's Hearing Equitable Algorithms: How Human-Centered AI Can Address Systemic Racism and Racial Justice in Housing and Financial Services (May 7, 2021), <https://nationalfairhousing.org/wp-content/uploads/2022/01/Lisa-Rice-House-Testimony-on-AI-5-7-21.pdf>; NAACP Legal Defense & Educational Fund, Inc., Comment on the Federal Trade Commission's Advanced Notice of Proposed Rulemaking on Commercial Surveillance and Data Privacy (Nov. 21, 2022), <https://www.naacpldf.org/wp-content/uploads/LDF-Comment-on-FTC-Rulemaking-on-Commerical-Surveillance-and-Data-Security27.pdf>.

CFPB, in consultation with the ASC and TAF, to promulgate regulations to implement quality control standards for AVMs.<sup>7</sup> In February 2022, the CFPB issued a request for comment on an Outline for the Small Business Advisory Review Panel for the AVM Rulemaking. Consumer, civil rights, technology, and other advocates submitted a joint letter that, among other things, stressed the importance of adding “nondiscrimination” as a factor in quality control.<sup>8</sup> The automation alone does not guarantee a non-discriminatory result.

***We urge the ASC to work with the other federal regulators to ensure fair and accurate AVMs and to set public goals and timelines for issuing a rule.***

***Finally, we urge the ASC to coordinate with the other agencies in the PAVE Task Force to ensure a consistent whole-of-government approach to addressing appraisal bias.*** By working together, the PAVE Task Force agencies can send a strong and consistent message about the importance of promoting fair housing opportunities for all consumers.

Thank you for considering our views. We look forward to continued dialogue on this important issue.

Sincerely,

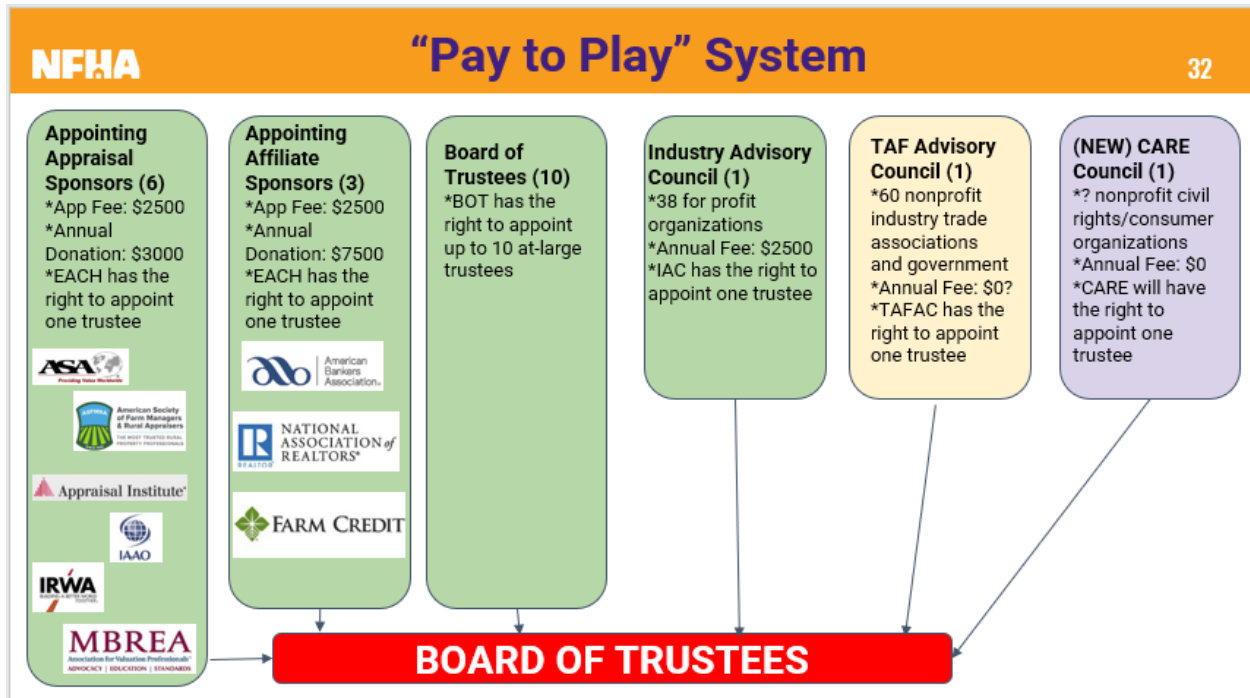
Illinois People’s Action  
Long Island Housing Services, Inc.  
NAACP Legal Defense and Education Fund, Inc. (LDF)  
National Action Network  
National Coalition for Asian Pacific American Community Development (National CAPACD)  
National Community Reinvestment Coalition  
National Consumer Law Center (on behalf of its low-income clients)  
National Fair Housing Alliance

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<sup>7</sup> 12 U.S.C. § 3354.

<sup>8</sup> See NFHA Press Release, *Leading Civil Rights, Consumer, and Technology Advocates Urge the CFPB and Other Federal Regulators to Promote Fairness in Automated Valuation Models* (May 18, 2022), <https://nationalfairhousing.org/leading-civil-rights-consumer-and-technology-advocates-urge-the-cfpb-and-other-federal-regulators-to-promote-fairness-in-automated-valuation-models/>.

**APPENDIX A - The Appraisal Foundation's "Pay-to-Play" Structure**



**NFHA The Appraisal Foundation Revenue Sources 33**

### FINANCIAL STATEMENTS

Statements of Activities and Changes in Net Assets  
December 31, 2021

REVENUE	
Publication Revenue	\$ 3,460,567
Grants Revenue	-
Course Approval Program Fees	161,056
Instructor Certification Courses	93,535
Sponsorship Fees	86,532
Industry Advisory Council Fees	90,000
Other Revenue	-
Investment Income (loss)	1,136,627
<b>TOTAL REVENUE</b>	<b>\$5,028,317</b>

Annotations:

- Unlike federal agencies, TAF can keep rules, advisory opinions, etc. behind a paywall to generate revenue.
- TAF declined Appraisal Subcommittee grants and thus avoids ASC oversight.
- Unlike federal agencies, TAF can charge to approve the courses it requires and to certify the course instructors.
- Unlike federal agencies, TAF can charge fees for the right to appoint trustees, who then select the rulewriters.

## APPENDIX B - Appraiser Qualification Criteria

### Appraiser Licensing and Certification (subject to individual state laws)

CREDENTIAL	COLLEGE DEGREE REQUIREMENT	EDUCATION HOURS	EXPERIENCE REQUIREMENT*	EXAM	PERMITTED TO APPRAISE
<b>Trainee Appraiser</b>	None	-75 hours -Supervisory Appraiser/ Trainee Appraiser Course	None	No exam	-Properties that the Supervisory Appraiser is permitted to appraise
<b>Licensed Residential Appraiser</b>	None	-150 hours	1,000 hours in a minimum of 6 months (requires a Supervisory Appraiser)	Licensed Residential Exam	-Non-complex 1-4 residential units with a transaction value of less than \$1 million -Complex 1-4 residential units with a transaction value of less than \$400,000
<b>Certified Residential Appraiser</b>	-Bachelor's degree, OR -Associate's degree in a focused field of study, OR -30 college semester credit hours in specified topics, OR -CLEP exam	-200 hours	1,500 hours in a minimum 12 months (requires a Supervisory Appraiser)	Certified Residential Exam	-Any 1-4 residential units, regardless of complexity or transaction value
<b>Certified General Appraiser</b>	-Bachelor's degree	-300 hours	3,000 hours in a minimum of 18 months; 1,500 hours must be in non-residential work (requires a Supervisory Appraiser)	-Certified General Exam	-All real estate types, including commercial real estate

\*Can complete the experience requirements while completing the appraisal education hours; hours are cumulative across credentials.

Source: Appraiser Criteria