



The Most Trusted Rural Property Professionals

ASFMRA



April 8, 2010

The Honorable Shaun Donovan
Secretary
U.S. Department of Housing and Urban Development
451 7th Street S.W.
Washington, DC 20410

Dear Secretary Donovan:

On behalf of the more than 35,000 members of our professional appraisal organizations, we urge HUD to clarify how fees charged for mortgage-related appraisals and for appraisal processing services are to be reported under the Real Estate Settlement Procedures Act (RESPA). Based on our review of the "New RESPA Rule FAQs" and other relevant documents, we seek confirmation of our conclusion that fees charged by Appraisal Management Companies (AMCs) for ordering and processing mortgage-related appraisals are correctly reported as "Origination" or "Other Settlement Services" fees in Blocks 1 or 3 of the Good Faith estimate (GFE); and on the "origination charge" line 801 of the HUD-1.

We believe a clarification by HUD is necessary to avoid consumers paying unnecessarily for services reported on the Appraisal line of the HUD-1 that are actually part of a lender's cost of doing business. Many consumers today are under a false impression that appraisal costs have increased in recent months, when in fact, many thousands of appraisers are being denied customary and reasonable fees in their local market.¹ The reason for the reported increase is simple – many lenders have added AMC processing charges – traditionally regarded as a cost of originating a loan – to the Appraisal line of the HUD-1. We do not believe this practice is fair to consumers, as "lumping" these fees together may result in misleading information to the consumer.

Further, we are concerned the current interpretations found in the "New RESPA Rule FAQs" contributes to a significant problem facing real estate appraisal companies and independent real estate appraisers today – forced fee reductions and widespread "cramdowns" in fees to appraisers, by as much as 50 percent, according to our members in a recent survey. We believe such adverse circumstances are, at least, partially the result of RESPA policy interpretations that mistakenly allow AMC fees to be reported as appraisal fees on Line 804 of the HUD-1 Settlement Statement, instead of their correct grouping as appraisal processing and administrative fees (reported on Block 1 of the Good Faith Estimate and Line 801 of the HUD-1). It is imperative that HUD clarify that AMC fees should be assessed for their actual function - appraisal processing and administration - to help ensure that highly qualified, competent and ethical appraisers offer appraisal services in the mortgage market. This is particularly important given the safety and soundness of our financial institutions are at risk, mortgage fraud continues to run rampant, complex market dynamics exist, and new and important issues, such as energy efficiency in green buildings, is advancing.

To illustrate our concern, we provide the following example. Lenders typically have two options for conducting appraisal management - manage the process internally or outsource it to a third party. Staff time and overhead costs for internal appraisal departments typically are funded through interest rate charges or general overhead expenses assessed through the interest rate or loan processing charges. As an example, a lender may maintain an internal appraisal department and conduct a significant percentage

¹ A recent survey of the National Association of REALTORS® indicates that consumer appraisal costs have increased approximately \$100 in recent months. Available at http://www.realtor.org/wps/wcm/connect/b83165804ef0b3338f18af2db4a1e62f/government_affairs_hvcc_research_results.pdf?MOD=AJPERES&CACHEID=b83165804ef0b3338f18af2db4a1e62f

of their business through this department. Consumers are charged a certain fee – \$400 dollars, for example – for appraisals ordered through this department. In addition, a small portion of their work may be outsourced to two or three AMCs, constituting a percentage of the total appraisal volume. When using the third parties to handle appraisal administration, consumers are assessed something more – say, \$475 – to cover both the AMC fee and the fee paid for the actual performance of the appraisal by an appraisal company.

The fees paid to the local appraisal company could and sometimes remain near the reasonable and customary area fee for services. This is especially true for lenders that use AMCs that bill lenders for their services and pay customary and reasonable fees. In those cases, the lender costs for appraisal administration remain at the same level as in the past. But, frequently, the AMC business model calls for a "no compromise" fee to the appraiser that is less than a reasonable and customary fee, often even as much as 50% less. This model is a tool used to market AMC services by promising significantly lowered overhead costs to the lender. Even more insidious is the fact that some lenders have realized a new profit center by organizing their own AMC's, which both lowers their internal appraisal management costs and creates profits for their AMC business, while adding both additional costs for the consumer and coercive conditions to the appraisal process.

Adding to the urgency, enactment of the Home Valuation Code of Conduct (HVCC), effectively has caused a sudden and dramatic shift of approximately two-thirds of the residential appraisal process to AMCs (according to an AMC operator). Historically, appraisal management companies have held a 15- to-20% market share. Pressure is mounting daily, and without HUD clarifying the appraisal and appraisal management roles, we fear the soundness of the residential loan origination process may be diminished.

We note that a trade group representing AMCs recently published an article outlining services that are performed by AMCs. It lists a range of services that are traditionally borne on lenders and oftentimes carried out by internal appraisal departments, such as selecting the best appraiser, taking product delivery, monitoring the progress of the appraisal report, reviewing the appraisal, or fielding any client (lender) questions¹. We believe all of these services are related to administrative and processing functions for the lender, not services to the appraiser, and should not be interpreted as appraisal fees or assessed against consumers as such. While some AMCs claim to offer services to appraisers, like billing and collection, such benefits are insignificant to the actual operation of an appraisal company since appraisers still have to bill the AMC. They pale in comparison to those AMC services actually provided to lenders. Further, these services are vastly different than those related to the performance of the appraisal, which is certified in accordance with the Uniform Standards of Professional Appraisal Practice. Altogether, we believe services such as appraisal review are a cost of doing business in the financial services industry, and we question the merits of passing this cost onto consumers, particularly if it's without their knowledge.

To address these concerns and provide clarification to the AMC issue, we request the following:

- Retention of the interpretation found in Question 9 of the Good Faith Estimate stating what charges are to be included in Block 1 of the GFE, including appraisals and any processing and administrative services required to perform these functions as origination services (Page 26)².
- Clarification that appraisal management services are actual "processing and administrative" services within Question 12 of the GFE section (Page 7).
- Clarifying Question 8 the FAQs relating to the HUD-1 to include "appraisal management" in the list of examples of processing and administrative functions (Page 40).
- Correcting Question 11 of the HUD-1 to make clear that the fee paid to ABC Appraisal Company must appear on Line 804 of the HUD-1 and the fee paid to XYZ Appraisal Vendor Management Company must appear on Line 801 (Page 46).

² From January 29, 2010 version of "New RESPA Rule FAQs," available at <http://www.hud.gov/offices/hsg/ramh/res/resparulefaqs.pdf>

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Lastly, we believe that such an interpretation wholly is consistent with the recently released Mortgagee Letter 09-28, which corrects FHA's policies relating to AMCs. Specifically, it recognizes that there are two distinct functions – appraisal and appraisal management – and it correctly allows both to float at market or customary and reasonable levels. Our request for policy change only seeks to eliminate a troubling incentive to seek reductions in appraisal fees from appraisers and allow appraisers their right to charge customary and reasonable fees.

We would appreciate the opportunity to meet with you to discuss these issues in person. Our staff will follow up with your secretary to schedule an appointment with you or the appropriate staff. If you should have any questions, please contact Bill Garber, Director of Government and External Relations, at 202-298-5586 or bgarber@appraisalinstitute.org or Peter Barash, Government Relations Consultant, American Society of Appraisers, at 202-466-2221 or peter@barashassociates.com.

Sincerely,

Appraisal Institute
American Society of Appraisers
American Society of Farm Managers and Rural Appraisers
National Association of Independent Fee Appraisers

Cc: The Honorable David Stevens, FHA Commissioner
Ivy Jackson, HUD RESPA and Interstate Land Sales
Vicki Bott, HUD RESPA and Interstate Land Sales
Margaret Burns, Director, FHA Office of Single Family Program Development

ⁱ http://www.tavma.org/index.php?option=com_content&task=view&id=191&Itemid=32