

MAY NEWSLETTER

5/24/2010

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COALITION OF ARIZONA APPRAISERS

ARIZONA BOARD OF APPRAISAL

CoAA would like to take this opportunity to welcome Mr. Daniel Pietropaulo as the new Executive Director of the Arizona Board of Appraisal. Mr. Pietropaulo's official start date was April 19, 2010, but he attended the joint appraisal organization meeting sponsored by CoAA, which was held in Phoenix on April 7th, and he provided the group some insight into his goals as the new Executive Director. His experience is in both residential and commercial appraising as a fee appraiser, and he was recently employed as the Chief Appraiser with Arizona State Land Department.

CoAA would like to welcome Mr. Pietropaulo to his new position and give him our blessings and support. We have also offered our help and advice to the AZ Board of Appraisal and Mr. Pietropaulo and will be meeting with them in the months ahead to help fulfill the Board's mission statement.

CoAA's Board of Appraisal Committee has been refining their initial goals. Both Julie Friess & Roger Beagle attended the AARO (Association of Appraiser Regulatory Officials) conference in San Diego, May 1 to May 3, 2010. The information that was available at this conference will help our Board of Appraisal Committee to continue looking at ideas and ways for the AZ Board to better serve the public and appraisers in Arizona.

CoAA would like any information and ideas from all appraisers throughout Arizona as to how the Board of Appraisal could better serve the public and appraisers. Please send your comments and ideas to: Roger Beagle roger@beagleappraisals.com or Julie Friess reappraiser80@aol.com.

Remember, your help and ideas are necessary and appreciated.

NATIONAL APPRAISAL COALITION MEETING

NATIONAL APPRAISAL COALITION, INAUGURAL MEETING:
San Diego, CA – May 2, 2010

A joint coalition meeting took place in San Diego in conjunction with the AARO meetings in early May. It was orchestrated by ICAP (Illinois), coordinated by CCAP (California), and attended by AZ, CA, NV, NM, TX and VT. The intent was to meet and discuss how the various state coalitions could effectively come together to help one another and address the many issues affecting the appraisal profession today.

The group discussed dissemination of important and timely news, how to help new coalition's start-up, and how to help one another plan and battle legislation and raise lobbying money. They also discussed coordinating local and mass media campaigns and having a lead writer provide the copy. The group also discussed how to further gather support from the appraisal community and our industry partners to help the individual states coalitions achieve their goals.

ICAP's Steve Thomas shared a "Starter Kit" that ICAP developed to help new coalitions get up and running and a beta website that the National Appraisal Coalition could adopt for use in disseminating data and for promoting itself. The group discussed how a National network of coalitions can benefit all the states coalitions by providing national coverage and larger member base.

Minda McGonagle (NM lobbyist), encouraged the individual States to find and make legislative connections through their appraiser network. She indicated that the road ahead for the appraisal profession will require political backing and this support needs to be fostered... from every districts in the state.

A study group was established to determine how a national organization could effectively be set-up to benefit all. We will keep you posted on the National Coalitions progress.

> Become a member of CoAA by visiting our Website:

> www.azcoaa.com

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> Email us with

> Questions,

> Suggestions,

> Or to Volunteer.

>

> information@azcoaa.us

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AMC BILL

A Wild Ride to a Successful Appraisal Management Companies Bill

by Ann Susko, Co-Chair Legislative Committee of CoAA

During the final hours of the tumultuous 2010 Legislative session, CoAA's Appraisal Management Companies Bill was passed. Governor Brewer signed it into law on May 11, 2010 with it becoming effective July 29, 2010. Rules must be written to implement the registration and other provisions, and enforcement of the law.

Considering the stalling of HR 1728 which contained details establishing requirements for registering and regulating Appraisal Management Companies (AMC), our newly formed Coalition of Arizona Appraisers decided in the summer of 2009 to step up and write our own bill for registering and regulating AMCs in Arizona. Several other states had already made that determination with over 20 moving forward and a couple having successfully passed a law. Sue Miller, Jay Delich and I set out to craft a bill utilizing information from other states and assistance from the Appraisal Institute's Manager of State and Industry Affairs. By the end of the year we had sponsors (legislators to introduce and advocate for the bill), Senator Jay Tibshraney, Senator Barbara Leff and Representative Michele Reagan plus the well respected lobbying firm of Lasota and Peters, and Elaine Arena, lobbyist for AI-Phoenix. Everyone was astonished and pleased that we had the semblance of a bill already written which just required some modifications by Legislative Counsel.

For our bill to have an easy journey through the legislative process would be wishful thinking. Considering the industry the bill was written to regulate meant strong opposition from the AMCs (primarily Rels Valuation) and the banking lobby. We had the support of the Realtors since they had concerns with the HVCC and AMCs, but that support did not develop until after the bill was passed in the Senate. We had a few meetings with Rels and the bankers to attempt to iron out any differences in our philosophies. Some were productive and some confrontational. It is extremely important for everyone who will be impacted by this law to understand that you don't get everything you want. Law making is a compromise. We did exceptionally well for the first attempt.

After our bill passed the Senate and went to the House and we were able to gain Realtor support and some support from some local Banks. During this time we recognized that some clarifying verbiage would provide a better end product for the appraisers in Arizona. Amendments were written, critiqued, criticized and rewritten several times based upon input from all stakeholders. The final Amendment was accepted by our sponsors and was in place for presentation to the House for a floor vote. But in the weeks prior to the end of the session, our bill and many others were stalled. Caucuses were not scheduled and time lapsed. In the final two days of the session, our bill finally moved through House caucus and committee of the whole, and we were told by our sponsors that we still had time (1 day) to get the amendment in. During the final days and hours much discussion was had amongst the lobbyists, sponsors, and the CoAA team on how to proceed--do we try to push for the amendments to be added to the Senate version of the bill, will there be time for all of the necessary legislative steps, or do we just go with the Senate engrossed bill and not risk losing everything. Our lobbying team verified with our sponsors, staffers and legal counsel if an amendment could possibly be voted on in the House, engrossed (re-written), reviewed by legal counsel and then presented to the Senate for vote—all in less than a day. The Coalition Board, CoAA Sponsors and our lobbyist concluded the risk was very high for Amendment approval, and in the last tense hours, the decision was made to go for the Senate engrossed bill and work on any necessary amendments in the next session.

To review a copy of the bill, go to www.azleg.gov and click on "Bills". Ours is SB1351.

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AMC BILL CONTINUED

Continued...**A Wild Ride to a Successful Appraisal Management Companies Bill**
by Ann Susko, Co-Chair Legislative Committee of CoAA

There are some idiosyncrasies about politics and law making that may not be understood by those not intimately involved: a) We should be careful to not put into law items that may require timely changes (i.e., USPAP Update requirements for a specific year vs a general statement); b) Legislators do not like to deal with setting or controlling "fees"; c) You must recognize all of the stakeholders who could be impacted by the law; d) And, some issues that might be considered a hot button by one group may be a business decision to the opposition group. Here are two specific examples:

1) Fees: The fee charged for an appraisal should be determined by the complexity of the assignment and the estimated amount of time it would take to complete it. That determination is a business decision between the appraiser and client. Some appraisers felt the law should include a minimum fee paid to the appraiser. That would mean establishing a minimum fee for every form from a 2075 to a commercial consulting assignment. Not only does that not make business sense, but it could very well turn out to be something less than you believe is fair and equitable.

2) Removal from an AMC's list: The law states that an AMC cannot remove an independent appraiser from an appraiser panel without prior written notice to the appraiser. Some say removal should be only for a Standard 3 violation. What if the AMC needs to pare down their panel due to a downturn in business? What if an appraiser forgot his/her business etiquette and used inappropriate language to the client or borrower? What if the client gets numerous complaints about an appraiser's conduct, appearance or lack of competency? What if the appraiser is continuously late in meeting due dates? Any client would have the right to fire an appraiser for these reasons which do not fall under USPAP. Allowing AMCs to remove the "dead wood" from their lists provides an opportunity for an appraiser with better skills to apply for an open position on an AMCs list.

The Rules process entails writing guidelines for implementation of the AMC Law, and produces forms for application and complaints, rules for the certification and registration process of the AMCs, identification of who the applicants are and who they are not, what the application fees will be and how paid, and how the AMC Law ties to the current Appraisal Law. CoAA has provided the Arizona Board of Appraisal copies of the Rules established in other states and will aid the Board in anyway possible to finalize this last step in the process. The Rules process will fill clarify the in intent of the law and answer some of the appraisers concerns; it may also uncover deficiencies in our Bill. Any deficiencies we plan on addressing in the fall legislative session.

Everyone involved with the effort to enact an AMC bill considered all the suggestions that appraisers contributed to the committee. The final days were a collaborative effort of a number of knowledgeable participants. Many thanks go to the members of CoAA who gave their input, responded to "alerts" and wrote legislators and the Governor in support of our efforts. We may not have gotten everything we wanted on the first try, but we can make some adjustments this fall, as needed. By then many more states will have enacted AMC laws (thus far 14 states have passed AMC legislation). Since we are all working together by forming a nationwide appraiser coalition, sharing of information can only improve the outcome of our endeavor.

CHANGING A SALE PRICE IN YOUR REPORT MAY TRIGGER A FRAUD ALERT!

By Debbie Rudd

*The story goes like this....*Recently a couple entered into a contract to purchase a foreclosed home, and applied for FHA financing. The appraisal came back with the Market Value being the same as the sales price. The appraisal was submitted to Landsafe (Landsafe is owned by B of A, who was going to purchase this loan), and was reviewed by their LARA program which is used for technical reviews. The review resulted in a lower value by \$7,500. The borrower's received a copy of the appraisal and the review. They were told that due to the review, the underwriter's were requiring an additional \$7,500 be paid for the difference shown in the review, to receive the loan. Instead, the borrower's negotiated with the seller to lower the sales price.

The underwriter conditioned the loan approval on the appraisal being corrected to show the amended sales price. The appraiser revised the appraisal, keeping the same effective date, but correctly changing the date of the report (signature date).

Unfortunately, this turned out to be the wrong thing to do. Although it was B of A's Landsafe review that stated that the value should be lower (based on an AVM), they now refused to buy the loan due to the lowered (altered) sales price.

It seems by changing the sales price on the appraisal after it was reviewed is a sign of fraud per the Mortgage Asset Research Institute (M.A.R.I.).

This appears to be in conflict with the new FAQ shown in the 2010-2011 USPAP guidelines:

112. DOES CHANGING THE SALE PRICE RESULT IN A NEW ASSIGNMENT? (NEW)

Question: I recently completed an appraisal for mortgage financing purposes in a purchase transaction and delivered the report to my client. My opinion of value did not support the pending sale price. As a result, the purchase transaction was not consummated. However, one week later the buyer and seller entered into a new purchase agreement where the sale price coincided with my appraised value. My client asked if I can provide a revised report that includes the analysis of the newly agreed-upon sale price. To provide a revised appraisal report, must I consider the client's request as a new assignment?

Response: If the client does not require a more current effective date, USPAP would not mandate treating the request as a new assignment. However, if the client does require a more current effective date, the request must be treated as a new assignment.

In this example, regardless of whether the effective date is changed, the date of the report would have to change to accurately reflect the appraiser's consideration of the newly obtained agreement of sale. Because the new purchase agreement was obtained *after* the date of the first report, the revised report would need to have a date of report that is the same as or later than the date the new purchase agreement was obtained by the appraiser.

In addition, the new report would also need to reflect the appraiser's analysis of the prior agreement of sale. In the development of an appraisal, an appraiser is required under Standards Rule 1-1(b), to *not commit a substantial error of omission or commission that significantly affects an appraisal*. Since information about the prior agreement of sale is known by the appraiser and that information is relevant to the appraisal problem, it must be considered.

In summary, it may be somewhat confusing for the appraiser to know what way to proceed with this type of request. This is what I have been advising our underwriter's to do at my employing bank: Do not request a change in sales price with the appraiser. I believe the underwriter can handle the situation to the satisfaction of the secondary market without involving the appraiser, thus not triggering any Fraud alerts with M.A.R.I. Next time this happens to you, I suggest asking the client if the underwriter would be willing to handle this, to avoid problems with the purchase of the loan.

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COAA MEMBERS WORKING FOR ARIZONA APPRAISERS

Ann Susko, Phoenix area appraiser, was a guest speaker on two panels discussing Coalitions and AMCs at the AARO meetings in San Diego in early May. AARO is the Association of Appraiser Regulatory Officials and they meet semi-annually to discuss appraisal industry issues and to share information. The AARO conference was attended by several of our Appraisal Board members and Arizona's new Executive Director. Ann also met with FNMA this past week, as part of her involvement on the Joint Government Affairs Committee (JGA). The Government Affairs Committee pushed for FNMA to use "qualified appraisers". They also reported that FNMA has now, for the first time, an appraiser run office in Washington, DC. The JGA Committee will also testify to the House Financial Services Committee on current market challenges of commercial real estate.

Julie Friess-Johnson, Sedona area appraiser, attended the CRN conference in later April, in New Orleans. The CRN is the Collateral Risk Network Group which is comprised of Lenders, Government Agencies, Wall Street, Vendor Management Companies, and Appraisers. She is one of the only independent appraiser members of that group to date. The CRN is a powerful resource for investors, lenders, servicers, AMCs and other appraisal organizations to bring ideas together in a "think tank" environment that helps identify the challenges faced by the appraisal industry and provides meaningful recommendations to improve and shape its future. This particular conference included intense discussions and round-tables on AMC legislation, BPOs and alternative to the BPO's, and other industry related topics. Julie was a strong proponent of lenders paying the costs for AMC services separately from the appraiser's fee, and paying the appraisers appropriately for their appraisal services, versus that fee coming off the appraisers back. She also was a strong opponent of BPO usage, explaining the conflicts and inaccuracies of these reports to the bankers, AMCs, FNMA and others in attendance. Since this conference Julie has been invited to speak at other conferences around the country to represent appraisers on disclosure of fees by AMC's, appropriately compensating appraisers for appraisals, inaccuracies of BPO's and fraud related to them and other topics like these.

Kathleen Holmes and Sue Miller, Phoenix area appraisers, were among those who briefed federal Financial Fraud Enforcement Task Force members on the changing face of mortgage fraud during a March 26 summit in Phoenix. Among the topics discussed were broker price opinions, appraisal management companies and automated valuation models. The appraisers stressed the importance of using qualified and knowledgeable appraisers vs broker advocates or inaccurate AVMs for valuations on foreclosures and on all loan files.

Tony Roach, Payson area appraiser, was instrumental in getting media attention to the AMC Bill and appraisal profession in a recent article written in the White Mountain Independent. Sue Miller, Phoenix area appraiser, worked on AMC legislation articles with Craig Anderson of the Arizona Republic, who covered stories during and after signage of the Bill. Ron Slovan, Tucson appraiser, was featured on Channel 4 Tucson television on the appraisal profession and AMCs earlier this spring.

Jay Delich, Scottsdale appraiser, will be receiving an honorarium at the National ERC Conference this week for his life-time dedication to the industry and to the Employee Relocation Council organization. Jay is also on the national forms writing committee, and says a new ERC form will be out soon.

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LEGISLATIVE ALERT

Elections are just a few months down the road, so now is a good time for Arizona Appraisers to get connected with their legislators! We have made some political in-roads this spring, but we will need additional legislative support for our upcoming legislation endeavors. You can all help by getting to know your legislators and/or by volunteering or contributing to their campaigns. Let them know that CoAA is working to improve the appraisal profession and to protect the public! Please inform the CoAA Legislative Committee about your political contacts, as they develop.

APPRAISER TOOL

Dear Appraiser, here is a tool you can use to educate your client about Appraiser Independence laws.

FBI Mortgage FRAUD Warning / Appraiser Pressure is FRAUD per Arizona Revised Statutes - 32-3633

Dear (client):

Please be advised, that person (s) who pressure an appraiser for higher values than are justified, and appraisers who cooperate, are committing FRAUD. Any person who induces or influences the actions of an appraiser for purposes of securing an appraisal that is grossly misleading, or fraudulent, is guilty of a class 6 felony in the state of Arizona per Arizona Revised Statutes-32-3633.

According to current LAW and the FBI Mortgage Fraud unit, the FBI will investigate person's that make false statements or willfully overvalue any land or property, in a loan and credit application for the purpose of influencing in any way the action of a financial institution.

Below are links to State and federal agencies that are currently or can actively investigate mortgage or real estate FRAUD.

Respectfully;

Your name

Arizona State Attorney General
communityservices@azag.gov
<http://www.azag.gov/>

FBI's Phoenix Field Office
phoenix@ic.fbi.gov
<http://www.fbi.gov/contactus.htm>

Department of Justice
AskDOJ@usdoj.gov
<http://www.justice.gov/>

HUD-Office of the Inspector General (OIG) hotline@hudoig.gov
<http://www.hud.gov/offices/oig/hotline/index.cfm>

Federal Trade Commission
<https://www.ftccomplaintassistant.gov/>

TARP IG Calls for Appraisals in HAMP

Some good news for a change...The Inspector General of TARP after auditing the HAMP (Housing Affordable Mortgage Program) has recommended that all alternate valuation methods currently employed by HAMP for mortgage write downs be abandoned in favor of FHA's appraisal standards. In other words, you write-down or modify a loan, you have to have an appraisal. *Somebody got the message that AVM's and BPO's aren't very reliable!*

To read Barofsky's full testimony, visit

<http://finance.senate.gov/hearings/hearing/?id=bc66e07e-5056-a032-5230-8f0a007f3611>.

To view SIGTARP's latest quarterly report to Congress in its entirety, visit

www.sig tarp.gov/reports/congress/2010/April2010_Quarterly_Report_to_Congress.pdf.