

Appraiser Independence

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WHAT IS APPRAISER INDEPENDENCE?

The role of the appraiser is to provide an independent and impartial analysis of real property. This analysis is a critical component of the mortgage transaction and, over the past three years, new laws, rules, and regulations have been implemented in an effort to protect the independence of the appraiser.

The National Association of Realtors® strongly supports the independence of appraisers and the appraisal process. Compromising independence impacts the quality of appraisal reports adding risk for both consumers and lenders.

WHERE DO APPRAISER INDEPENDENCE REQUIREMENTS COME FROM?

FIRREA

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA, P.L. 101-73) created a federal framework to oversee the state licensing and certification of real estate appraisers. The Act established the Appraisal Subcommittee (ASC) within the Financial Institutions Examinations Council (FFIEC). The ASC provides grants to the Appraisal Foundation under which the Appraisal Standards Board (ASB) develops and amends [*The Uniform Standards of Professional Appraisal Practice*](#) (USPAP). USPAP is a set of standards for professional appraisal of real estate, personal property, business and mass appraisal. State Appraiser Certification and Licensing Boards, federal, state, and local agencies and appraisal trade associations require compliance with USPAP.

Home Valuation Code of Conduct (HVCC)

In the spring of 2009, New York Attorney General Andrew Cuomo, Fannie Mae and Freddie Mac, with support from the Federal Housing Finance Agency, developed a set of appraisal rules called the Home Valuation Code of Conduct ([HVCC](#)). HVCC was adopted to isolate parties with a financial interest in a mortgage loan transaction from appraiser selection and retention.

Dodd-Frank Wall Street Reform and Consumer Protection Act

In 2010, Congress enacted The Dodd-Frank Wall Street Reform and Consumer Protection Act ([Dodd-Frank Act, P.L. 111-203](#)). Dodd-Frank includes appraiser independence provisions similar to the Home Valuation Code of Conduct (HVCC) and sunsets the HVCC. Dodd-Frank required the Federal Reserve to amend the appraisal independence rules in Regulation Z of the Truth in Lending Act. The [interim final rule](#) was effective April 1, 2011 and applies to all consumer credit transactions secured by a consumer's principal dwelling. Fannie Mae and Freddie Mac's servicing guidelines reflect this rule:

https://www.fanniemae.com/content/fact_sheet/appraiser-independence-requirements.pdf
http://www.freddiemac.com/singlefamily/appraiser_independence.html

CAN AGENTS COMMUNICATE WITH APPRAISERS AND MAINTAIN APPRAISER INDEPENDENCE REQUIREMENTS?

Dodd-Frank, TILA, GSE Servicing guidelines and USPAP all address appraiser/agent communications. None prohibit appraisers from speaking with real estate agents during the appraisal process. Agents may talk with appraisers and provide additional property information, including a copy of the sales contract for purchase transactions. An agent may not intimidate or bribe an appraiser and an appraiser may not disclose confidential information at any time. The language from Dodd-Frank is as follows:

“The requirements of subsection (b) shall not be construed as prohibiting a mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, consumer, or any other person with an interest in a real estate transaction from asking an appraiser to undertake 1 or more of the following:

- (1) Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support and appraisal.*
- (2) Provide further detail, substantiation, or explanation for the appraiser’s value conclusion.*
- (3) Correct errors in the appraisal report.”*

According to Freddie Mac’s appraiser independence guidelines, if an appraiser chooses to consider additional information from anyone with a financial interest in the sale or financing of the property, the information must be verified by disinterested third-party sources such as public records, MLSs or other real estate professionals who do not have an interest in the property.

CAN AGENTS TALK TO APPRAISERS ONCE THE REPORT HAS BEEN SENT TO THE CLIENT?

Once an appraisal assignment is completed and sent to the client, USPAP prohibits an appraiser from discussing the results of the report to anyone but the client who ordered the appraisal, or parties designated by the client. In order to ask an appraiser to correct errors in the appraisal report, an agent must use the client, typically the lender, as an intermediary. The client may choose to provide additional data to the appraiser for consideration. The language from USPAP’s Ethics Rule is as follows:

“An appraiser must not disclose 1) confidential information; or 2) assignment [appraisal] results to anyone other than:

- the client;*
- persons specifically authorized by the client;*
- state appraiser regulatory agencies;*
- third parties as may be authorized by due process of law; or*
- a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.*