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Connections

Official Publication of the
Association of Texas Appraisers, Inc.



Ken Pruett, ATA-R
ATA President

I'm not complaining, but how long is this ride?

A year ago, we were all wondering what fate was coming. As we slide out of the pandemic mindset, we are still confronted with more uncer-

tainties.

The world goes from one shortage to another, and the resulting rise in prices, and we don't appear near the end of this market swing. About the biggest over supply that appears to be occurring, still, is the amount of unsolicited "turn and fee" appraisal offerings from previously unheard of perspective clients. My office even got a call from me (spoofed my own phone number) to ask if I wanted to join their (mine?) panel. I have written in the past about knowing your worth, and it is times like these, that those that have recognized my value are reaping the benefits of that loyalty. Bluntly, I just do not have the time to research a property to assign an appropriate fee. The turn time, well that's easier, not this month. It is hard enough fitting in the work of my clients.

Last year, when I wrote about the upcoming uncertainty, I wrote about taking a break from it all, and to "unplug and reboot." Now is a good time to recall what life was like prior to the "new normal." Like having to deal with traffic. I sure do miss those empty roadways! Take that extra breath, and remind yourself of all the consequences that come with those empty roads, I can deal with the extra travel time.

There is much that is afoot in our profession. Extended USPAP, but still with the biannual education requirement, alleged systemic racism within the appraisal profession, new limitations on appraisal liability (HB 1939), new markets for exploration with evaluations (HB2533), and Fannie Mae/Freddie Mac planting the seeds of the new reporting system coming in the not too soon future. And did I mention continued consolidation within the Appraisal universe? Even big ol' Corelogic was purchased! Now is not a good time to stay buried in your work. Stay abreast of what is going on, and to that end, between the ATA and National Association of Appraisers, we will continue to keep you informed, and minimize the "surprises." Don't be afraid to reach out to your Board if you have any questions, concerns, ideas, or just would like to say Hi! (Insert Teresa's phone number...lol)

I pray for everyone's continued good health, good fortune, and good riddance to any and all unwelcome viruses.

Is it time for the flu shots yet?

Ken

P. S. I just ran across this article from Freddie Mac's Chief Appraiser, Danny Wiley, on Appraiser Capacity During the Pandemic.

<https://sf.freddiemac.com/articles/insights/spotlight-on-appraiser-capacity-during-the-pandemic>

Upcoming Industry Meetings:

- ATA Annual Meeting, Oct. 1-2, San Antonio, TX
- IAC, Oct. 14, Washington, DC
- ASB Public Meeting, Oct. 15, Washington, DC
- AARO, Oct. 15-18, Washington, DC
- TAF BOT, Oct. 21-23, Atlanta, GA
- Appraisal Summit, Nov. 6-9, Las Vegas, NV
- NAA Membership Meeting, Nov. 8, Las Vegas, NV
- AQB Public Meeting, Nov. 18-19, Torrance, CA
- Appraiser's Conference and Trade Show (ACTS), April 10-12, 2022, Charleston, SC

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*Message from the
President*

New Members

The ATA President and Board of Directors would like to welcome our newest members:

Amber Ainsworth, Hemphill
Josue Arellano, New Braunfels
John Benton, Plano
Rita Brown, Houston
Ramon Cardenas, Houston
Tom Carle, Spring Branch
Tranae Davis, Cypress
Garrett Dominguez, Katy
Angelique Edl, Dripping Springs
Barbara Hodges, Sealy

Cyril Jose, Rosharon
Zach Kirkpatrick, Fulshear
Judo B Neal, Houston
Bill Palmer, Round Rock
Sydney Porter, Huntsville
Melissa Townsend, New Braunfels
Callie Trimble, Gladewater
Andrien Trujillo, Dallas
Ryan Watson, Arlington
Tyler Watson, Arlington
Jason Williams, Spring
Woody Woodrum, Longview
Ana Wright, Houston

Are you interested in joining ATA. Log on to www.txappraisers.org and click on join us.

Welcome!

ATA's 16th Annual Meeting

ATA's 16th Annual Meeting and Education Conference will be held **October 1-2** at the San Antonio Marriott Northwest, 3233 NW Loop 410 San Antonio. The following events will be held at this annual meeting:

- Friday morning - 8:00 a.m. - Noon - **TREC Legal Update II*** - Separate Registration Fee) The instructor is Candy Cooke. (4 hours*)
- Friday morning - 9:00 a.m. - 11:00 a.m. **ATA Board of Directors Meeting** (Session 1)
- Friday afternoon - 12:30 p.m. - 1:00 p.m. - **Welcome and Update**, Ken Pruett, ATA-R, ATA President.
- Friday afternoon - 1:00 p.m. - 4:00 p.m. - **TBD**, (3 hours)
- Friday evening - 4:15 p.m. - 5:15 p.m. - **ATA Membership Meeting**
- Friday evening - 5:15 p.m. - 5:30 p.m. - **ATA Board of Directors Meeting** (Session 2)
- Friday evening - 5:15 p.m. - 6:30 p.m. - **Networking Reception**
- Saturday - 8:00 a.m. - Noon - **TBD**, (4 hours)
- Saturday - 1:00 p.m. - 5:00 p.m. - **TBD**, (4 hours)

Attendees will have the opportunity to network with fellow appraisal professionals at the continental breakfast, breaks, lunch, and at the networking reception Friday evening.

Who Should Attend

Anyone who needs to stay on the leading edge of appraisal issues, as well as professionals who are responsible for

keeping appraisal processes in compliance.

Hotel Accommodations

ATA has contracted a rate of \$109. This rate expires when our contracted room block is sold out **or on August 30 (whichever comes first)**. Call the San Antonio Marriott Northwest (210) 377-3900 to reserve your room today and mention ATA.

This hotel is conveniently located near San Antonio Airport and is just 15 minutes from the San Antonio Zoo, University of Texas San Antonio, and Six Flags Fiesta Texas. Other nearby attractions include The Alamo, San Antonio River Walk, San Antonio College, Sea World and of course, downtown San Antonio.

Registration Fees

The fee to attend this meeting is \$150 for ATA members and \$300 for non-members (not a member, [join now!](#) Fees increase \$20 14 days before the meeting.)

Registration with payment must be received at least five business days in advance of the conference to guarantee your registration. If you have not received an e-mail confirmation one week prior to the conference, please call ATA at (210) 837-7123, M-F, 9:00 a.m.-4:00 p.m. to confirm your registration.

Exhibitors/Sponsors

If you have questions about exhibiting or sponsoring, please contact info@txappraisers.org. You can



download the [exhibitor/sponsor form](#) here or pay on-line.

Cancellations/Refunds

Written requests received three business days prior-full refund; fewer than three business days prior-no refunds will be issued.

Top Things to do in San Antonio:

- San Antonio Riverwalk
- Natural Bridge Caverns and Wildlife Ranch
- The Alamo
- Japanese Tea Gardens
- Mission San Jose
- San Antonio Missions Natural Historical Park
- San Antonio Botanical Gardens
- San Antonio Zoo
- Witte Museum
- Sea World
- San Fernando De Bexar Cathedral
- Mission Trail
- Tower of Americas
- San Antonio Aquarium
- King William Historic District
- Pearl Brewery
- Six Flags

*Approval Numbers:
TREC Legal Update II is offered by Texas Realtors; Provider #0001; CE: 37797

Trainees Looking for Sponsors

First Name	Last Name	City	Zip	Phone	Email
Crystal	Jordan	Houston	77219	832 792-9300	crystaljay595@yahoo.com
David	Carroll	Arlington	76017	817 808-7362	dwcarroll@yahoo.com
Rachel	Carpenter	Austin	78759	512 771-6042	rachacarpenter@gmail.com
William	Massey	Montgomery	77356	719 210-7561	wildbillmassey@hotmail.com
Rebecca	Armstrong	Midland/Odessa/DFW		469 777-8632	rebecca@trinityrealestategroup.com
Raul	Garcia	South Texas		956 550-1354	earthrealtyrraul@aol.com
Philip	Yeatts	Denton		214 784-7676	pyracer@yahoo.com
Jimmy	Jackai	Dallas		214 372-0039	JJackai@aol.com
Michael	Bragdon	New Braunfels	78130	901 359-7670	bragdonmichael@gmail.com
Carlos	Mugica	San Antonio	78213	210 273-2102	candtproperties@sbcglobal.net
Mark	Abeyta	Katy	77494	214 960-0596	markabeyta2@gmail.com
Erik	Garza	Donna (will go anywhere in TX)	78537	956 223-3444	e-garza-5@hotmail.com
Lee	Brooks	Conroe	77304	936 520-0980	leebrookslandman@gmail.com
Shelia	Ireland	Gainesville	76240	817 907-9871	shelia@cfaith.com
Melchor	Besheer	San Antonio	78154	210 331-0290	melbesheer400@gmail.com
Aaron	Lay	San Antonio	78208	214 457-0705	aaron1130@hotmail.com
O'Ryan	Ethington	Austin		512 689-6988	o.ethington@gmail.com
Frank	Hendricks	San Antonio		512 557-2273	Frankehendricks@gmail.com
Ronald	Reed	Austin	78669	512 914-8236	rakreed@sbcglobal.net
Dirk	Alvarado	Manchaca	78652	650 619-7254	dirkalvarado@aol.com
Placido	Vasquez	San Antonio		210 777-5882	placido@housetohomere.com
Raul	Pena	Austin, Georgetown, San Antonio		210 364-0720	raul.c.pena@gmail.com
Becky	Ackley	San Antonio/Austin/Corpus Christi		284 352-3697	backleyetp@gmail.com
Teresa	Stearns	Austin		512 960-7137	teresa.stearns@yahoo.com
Frank	Ditta	Anywhere in Texas		832 457-6019	frank.ditta@gmail.com
Grant	Jacobs	Boerne		830 446-8306	grantfamilyfirst@gmail.com
Ron	Richardson	New Braunfels		281 795-6774	ronrichardsonjr@gmail.com
Marisol	Garcia	Austin		512 903-5030	marisolgarcia2@gmail.com
Rick	Shurtz	Austin		512 350-7289	rcshurtz@gmail.com
Linda	Dlugosch	Victoria		361 935-5717	linda@jacobrealtytx.com
Stacy	Mellish	Cedar Park		832 264-3852	stacym1225@gmail.com
Corey	Rowland	Wimberley (GC Trainee)		830 313-0636	corey.p.rowland@gmail.com
Troy	Taylor	Austin		512 285-0721	troytaylor787@gmail.com
Joe	Rivera	Ft. Worth		817 301-6823	rjoe2045@gmail.com
Garrett	Page	Aledo (DFW)	76102	817 249-1490	garrettpage@gmail.com
Dominic	Smith	Dallas	75204	214 597-2647	walterdominicsmith@gmail.com
Amber	Marvin	DFW		253 651-2801	amberlynnmarvin@gmail.com
Warren	Walker	Katy		470 214-2397	warwalk@gmail.com
Chris	Solimine	Austin		512 429-3662	chrissolimine@realtyaustin.com
Gayle	Wooten	Tyler		281 380-1280	gaylebwooten@gmail.com
Lori	Bridier	Cleburne		817 300-2968	lolidarling@live.com
Michael					
Shane	Watson	Cleburne		312 354-0514	michaelwatson85@icloud.com
Don	Ferris	Moving to Corpus Christi		970 903-0030	donferrisrealestate@gmail.com

Trainees Looking for Sponsors (Con't)

First Name	Last Name	City	Zip	Phone	Email
John	McKenzie	San Antonio		210 834-5550	jmmck25@outlook.com
Ryan	Campbell	Spring		817 938-2700	wrcampbell24@gmail.com
Tyler	Overbay	Pflugerville		806 220-5269	tyler.overbay@yahoo.com
Kyle	Henson	San Antonio		915 539-5315	hensonkyle1@gmail.com
Ashley	Collier	Brackettville		210 627-1651	ashleytxrealtor@gmail.com
Frank	Atherton	Fort Worth		817 986-3560	frank.atherton24@gmail.com
Jarrold	Anderson	Allen		972 832-8514	jerrod.d.anderson@gmail.com
Jacob	Byrd	North Richland Hills		214 681-6884	byrd.jacob@gmail.com
Alan	Burkett	Beeville		361 350-1629	burkettappraisal@yahoo.com
Misty	Lux	New Braunfels		830 312 8983	misty_greenlotus@outlook.com
Joey	Saldana	San Antonio		603 203-4053	ajeditm@gmail.com
Scott	Griffith	Pearland		402 830-6494	scottg702@att.net
Cheri	Himmer	Georgetown		253 686-3571	cherihimmer@gmail.com
Michael	Roberts	Dallas		302 354-3370	michael.j.roberts@icloud.com
Heather	Robertson	Houston		281 782-4705	robertsonhr4@gmail.com
Drey	Lord	Austin		512 903-9591	dreylord1@gmail.com
Brown	Rita	Houston		832 995-7609	ritabrown@kw.com
Justin	McZeke	Austin		254 278-3755	Jdmaczeke60@gmail.com
George	Popescu	DFW		214 403-9843	george.popescu@yahoo.com
Ben	Butt	Corpus Christi		361 251-2432	benbutt98@gmail.com
Fallon	Huff	Houston		832 283-2873	fallon@thefallonco.com
Thomas	Stone	Austin		619 917-8284	thomas.w.stone@gmail.com
Bryan	Neal	Houston		361 205-2121	loki1492@gmail.com
Tranae	Davis	Cypress		832 297-0589	tranae.davis@hotmail.com
Josue	Arellano	New Braunfels		210 585-1168	arellano.josue@gmail.com
Beverly	Smith	San Antonio		301 318-8730	beverlysmith1983@yahoo.com
Kalen	Mills	Kerrville		512 850-8698	kalen.r.mills@gmail.com
Garrett	Dominguez	Katy		713 256-1296	gdominguez19@gmail.com
Melanie	Richardson	Tomball		713 392-3105	melanie.richardson@realmpro.com
Chris	Murphy	San Antonio		210 885-0950	smurfcm@satx.rr.com
Megan	Real	Adkins		210 216-2723	meggreal@gmail.com
Amanda	Ballard	Highlands		281 786-6460	amandaballard281@gmail.com
Juliette	Kroeger	Kyle		512 636-0561	juliette4029@gmail.com
Callie	Trimble	Gladewater		903 241-0999	callielauren12@gmail.com



87th Session of the Texas Legislature Update

On May 31, 2021 the 87th Session of the Texas Legislature drew to a close. Among the several thousand bills introduced in the House and Senate between January and May, two that passed both the House and Senate and went on to the Governor for signature are of extreme interest to Texas real estate appraisers.

HB1939

The first bill is HB 1939.

This is one of the most significant statutes benefitting appraisers to come out of Austin in years because it finally provides some parameters relating to lawsuits previously lacking in Texas.

The Bill amends Chapter 16 of the Civil Practices and Remedies Code and **identifies limitation periods for certain suits against real estate appraisers and appraisal firms. This is also referred to as Statute of Repose.**

Prior to the passage of this bill, appraisers in Texas had no protection from lawsuits regardless of passage of time. The intent of this bill was to establish limitations relating to lawsuits filed against appraisers, review appraisers in Texas, and includes definitions for appraisal, appraisal review, real estate appraisal firm, and real estate appraiser.

The specific language of the bill as enrolled is as follows:

Except for an action for fraud or breach of contract, a person must bring suit for damages or other relief arising from an appraisal or appraisal review conducted by a real estate appraiser or appraisal firm not later than the earlier of: (1) Two years after the day the person knew or should have known the facts on which the action is based; or (2) Five years after the day the appraisal or appraisal review was completed. HB 1939 was signed by the Governor and becomes effective September 1, 2021.

HB2533

The second referenced bill relates to the ability of real estate appraisers in ATA Connections

Texas to complete **evaluations** and has a bit more content than HB1939.

Prior to the passage of HB 2533, appraisers credentialed by the Texas Appraiser Licensing and Certification Board (TALCB) were required to comply with USPAP, including Standard 1 Development and Standard 2 Reporting. This created an uneven playing field when competing with individuals who were not credentialed by the TALCB and were able to complete evaluations for bank and non-bank lenders, especially in the valuation of commercial properties in Texas. This has become increasingly problematic for commercial appraisers since the Agencies increased the threshold requirements for real estate appraisals.

The Bill amends Section 1103.405 of the Texas Occupations Code as follows:

1103.405. PROFESSIONAL STANDARDS, subsection (a) requires ***a person who holds a certificate, license, or registration issued under this Chapter to comply with (1) the most current edition of the Uniform Standards of Professional Appraisal Practice (USPAP) adopted by the Appraisal Standards Board of the Appraisal Foundation; or (2) other***



standards provided by board rule that are at least as stringent as the Uniform Standards of Professional Appraisal Practice.

Subsection (a) was amended to include “except as provided by Subsection (b) “

Subsection (b) has been added and applies specifically to the completion of evaluations by individuals credentialed by the TALCB.

Subsection (b) ***A certified or licensed appraiser is not required to comply with the standards described in Subsection (a) to provide: (1) an evaluation of real property described by Section 1103.004(4) or (2) an analysis, assessment, opinion, conclusion, notation, or compilation of data concerning the value of an interest in real property described in Section 1103.004(5) for use by a non-bank financial institution.***

Within the Bill, a non-bank financial institution is defined as:

- A. A residential mortgage loan company licensed under Chapter 156, Finance Code; (Mortgage Broker)
- B. A mortgage banker regulated under Chapter 157, Finance Code; (Mortgage Banker or Mortgage Loan Originator) or
- C. A regulated lender licensed under Chapter 342, Finance Code. (Consumer Loans)

Subsection (c) has been added which states ***A document provided under Section 1103.004(4) or (5) must contain on the first page of the document the following notice: “This is not an appraisal performed in accordance with the Uniform Standards of Professional Appraisal Practice.”***

The Bill has been forwarded to the Governor for signature, but the language within the Bill stipulated that it takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution.

87th Session of the Texas Legislature Update (Con't)

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If this Act does not receive the votes necessary for immediate effect, this Act takes effect September 1, 2021.

The Bill received more than two-thirds vote of all members elected to each house.

For those who wish to do a deeper dive into the Bill content, below is a summary of the entire Bill content.

HB 2533 also includes revisions to Section 1103.003, Occupations Code by adding definitions for automated valuation model (AVM), a federally regulated financial institution, a federal credit union, or state credit union, a non-bank financial institution. These are the covered institutions involved in the ordering of evaluations. AVMS are referenced in Appendix B, 12/2/2010 Interagency Appraisal and Evaluation Guidelines.

The Bill mentions individuals currently completing valuation assignments outside of USPAP in the section titled - **Applicability of Chapter**, which identifies who the Chapter does not apply to, which include:

1. A person who is authorized by law to perform an evaluation of real property for or to provide an evaluation of real property for another

person; (This would be an individual who meets the criteria identified in the 12/2/2010 Interagency Appraisal and Evaluation Guidelines, Title VI – Selection of Appraisers or Persons Who Perform Evaluations)

2. A real estate broker licensed under Chapter 1101 or a sales agent acting under the authority of a sponsoring broker who provides to another person a written analysis, opinion or conclusion relating to the estimated price of real property if the analysis, opinion or conclusion.
 - a. Is not referred to as an appraisal
 - b. Is given in the ordinary course of the broker's business and
 - c. Is related to the actual or potential acquisition, disposition, encumbrance, or management of an interest in real property.

Note: The 12/2/2010 Interagency Appraisal and Evaluation Guidelines distinguish the above-described CMA or BPO as not meeting the content requirements of an evaluation.

3. An appraiser certified by a jurisdiction other than Texas who performs an appraisal review of an appraisal performed on real property within the state of Texas, if the appraiser

4. An employee of a federally regulated financial institution or any other person engaged by the institution who performs an evaluation of real property for use by the institution in a transaction for which the institution is not required to use the services of a licensed or certified appraiser under federal regulations adopted under Title XI, Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), or under applicable state law;
5. An employee of a non-bank financial institution or other person engaged by the institution who provides an analysis, assessment, opinion, conclusion, notation, or compilation of data concerning the value of an interest in real property for use by the institution; or
6. The procurement or use of an automated valuation model.

Thank you to ATA's Legislative and Current Affairs Committee member, Greg Stephens for providing this update.

Appraiser Awards/Scholarship

Don't forget ATA's **Regional Outstanding Service Awards**. If you feel someone is deserving of one of the Awards, you can nominate them for an Outstanding Service Award. You can also self-nominate.

Also, don't forget about the **Pospisil Scholarship Award**. You can nominate (or self-nominate) to receive \$100 toward your education.

[Click here](#) for links to the Outstanding Service Award Nomination and Pospisil Scholarship Award forms.



For those of you that missed our April 1-2 meeting, looks like things are getting back to normal. We had approximately 100 in-person and 40 on-line. Welcome back! We missed you!

How to Fight Blacklisting



Isaac Peck,
Working RE

Being blacklisted by a real estate agent, lender or appraisal management company (AMC) is familiar to most appraisers—it's either happened to you or to someone you know. It can cost an appraiser time,

money and more than a few sleepless nights. Here is what you should know, whether you've been blacklisted or not, and how to fight back if you need to.

It usually starts when an appraiser comes in "low" on a purchase transaction appraisal—delivering an appraised value that is lower than the contract price between the buyer and seller. The deal subsequently falls through and the listing agent or the buyer's agent (or both) hold a grudge against the appraiser and make their best effort to "blacklist" that agent with their favorite lenders/AMCs, resulting in a loss of work for the appraiser.

In my role at OREP/WRE magazine, I frequently speak with insureds/ appraisers facing this issue who are seeking advice and counsel about what their options are. Typically, unless the blacklisting is coupled with a state board complaint (which sometimes happens) or includes some other threat of legal action, it is not something that involves your E&O insurance at all, but we still do our best to give our insureds advice and support whenever we can.

This article explores what appraisers face when blacklisted with some advice on what you can do if you find yourself in this very difficult and frustrating situation.

How It Happens

When a real estate agent "blacklists" an appraiser, the result is often that the agent's lender/AMC contacts will stop using the appraiser completely (at the agent's request), or occasionally, the

lender will continue to use the appraiser but not assign the appraiser any of the transactions that that particular agent works on. In the case of the latter, sometimes the appraiser will be assigned an order only to have it cancelled later that day once the real estate agent sees the appraiser on the order and calls the lender or mortgage broker to complain. I've talked to appraisers who have this happen several times a year with the same agent.

More harmful to the appraiser, however, is to be completely removed from a lender or mortgage broker's panel, as this can mean a significant loss of work. I spoke to an appraiser recently who reported losing between \$10,000 and \$15,000 in appraisal work per year after she "missed value" on a transaction between two powerful and successful real estate brokers. The two brokers immediately blacklisted the appraiser and she saw work from a few of her local clients completely dry up. To this day, if she ever receives an order where one of these brokers is involved in the transaction, it is subsequently cancelled and reassigned.

To make matters worse, this scenario is most common with real estate agents who are well-known locally and very successful in the area, as lenders and mortgage brokers are more inclined to aim to please (i.e. break the law for) the agents who are wildly successful and refer a high volume of business their way. This sets up the perfect storm for the appraiser as those agents who are doing the most transactions in an area have the most clout with the lenders and mortgage brokers, and consequently can cause more financial harm to the appraiser by blacklisting them.

Having an order cancelled and reassigned is sometimes the first and only indication to the appraiser that something fishy is going on, but some ap-

praisers who abruptly stop receiving work from a client often don't have to look far to figure out why. While "blacklisting" is sometimes more discreet, some appraisers actually have the real estate agent call them and tell them explicitly that they are going to actively prevent the appraiser from ever working on one of their transactions.

What the Law Says

Anyone, including a real estate agent, who blacklists or otherwise attempts to retaliate against an appraiser for a "low" appraisal value is in violation of Appraiser Independence laws. In 2010, the Dodd-Frank Act amended Section 129E of the Truth in Lending Act (TILA), establishing new requirements for appraiser independence, including making "coercion" of appraisers illegal.

(1) Coercion. In connection with a covered transaction, no covered person shall or shall attempt to directly or indirectly cause the value assigned to the consumer's principal dwelling to be based on any factor other than the independent judgment of a person that prepares valuations, through coercion, extortion, inducement, bribery, or intimidation of, compensation or instruction to, or collusion with a person that prepares valuations or performs valuation management functions.

(i) Examples of actions that violate paragraph (c)(1)

include:

(C) Implying to a person that prepares valuations that current or future retention of the person depends on the amount at which the person estimates the value of the consumer's principal dwelling.

(D) Excluding a

person that prepares a valuation from consideration for future engagement because the person reports a value for the consumer's principal dwelling that does not meet or exceed a predetermined threshold; and Dodd-Frank's interim final rule clarifies that the defini-

(Continued on page 8)

I spoke to an appraiser recently who reported losing between \$10,000 and \$15,000 in appraisal work per year after she "missed value" on a transaction between two powerful and successful real estate brokers."

How to Fight Blacklisting (con't)

(Continued from page 7)

tion of "Covered Person" extends to real estate agents.

This, of course, is not news to appraisers. Attempting to influence, coerce, or blacklist an appraiser to "hit the number" is illegal. Furthermore, Fannie Mae, the Federal Housing Finance Agency (FHFA), and Freddie Mac developed the Appraiser Independence Requirements (AIR) which provides very detailed protections for appraisers and specifically forbid a real estate agent from "selecting" appraisers—which is an obvious conflict of interest. It follows here that any lender or mortgage broker who goes along with a real estate agent and assists in blacklisting an appraiser is also breaking the law.

Several Remedies

One of the main problems that appraisers face in this situation is a lack of evidence. Years ago, Working RE reported on a case where a bank official sent around an email calling the appraiser a "BUTCHER" while demanding the appraiser be blacklisted ("Smoking Gun Allows Appraiser to Sue over Blacklisting"). Other appraisers report actually seeing comments placed directly into the MLS, with some agents even including a clause in the listing agreement that the seller must sign which states: "Appraiser XYZ is not allowed to appraise the property."

In these cases, the bad behavior is obvious and explicit, but unfortunately gathering evidence of illegal activity isn't always so easy. Did the real estate agent say anything to you directly, threaten you, or attempt to influence you before or after the assignment? If you have it in writing, that is even stronger evidence. Without a "smoking gun," you can speak with the agent directly, speak with the lender, and interview other parties to gather information, but it is more difficult to fight back if you don't have any direct evidence of being blacklisted.

Here are some potential actions an appraiser who has been blacklisted by

a real estate agent might consider taking:

Contact the Agent and/or Managing Broker

Richard Hagar, SRA, and popular appraisal education instructor, says that he has seen this happen many times to both himself and other appraisers he knows. His recommendation is to try to be nice and educate the agent/broker at first. "In this business, you don't want to be stepping on anyone's toes, but you do want to explain to the agent that blacklisting an appraiser is problematic and in violation of federal law. The nicer you can be in explaining this, the better, because they are probably already pissed at you," says Hagar.

For these conversations, Hagar advises to start documenting everything and taking notes of who you talked to and when.

If you don't make any progress talking to the agent, Hagar advises going to



the managing broker." Usually the managing broker will shut it down. Take the same civil approach—be nice but list the federal laws being violated. It is illegal for agents to handpick appraisers. I've seen managing brokers fire agents over things like this," Hagar reports.

If the managing broker doesn't listen, or perhaps is the offender, Hagar recommends contacting the agency's corporate office. If the agent is working under a big brand like RE/Max or Keller Williams, you can contact their Corporate Headquarters and let them

know about the bad behavior that is happening at one of their offices.

Contact the Lender and/or AMC

Discussing the issue with the lender or the AMC is the next step to escalate the situation. It's best to ask to speak to the Chief Compliance Office or the Chief Appraiser. If the appraisal assignments are going through an AMC, you can contact both the lender and the AMC.

Hagar advises notifying the lender in writing. "Notify the lender that there's been a direct attempt to influence the appraiser. Send them a letter, not an email. If you send an email, it's easier to just delete, but a physical letter is not as easy for a bank to rip up and throw it away. A written letter carries more importance and more weight; and if you want to add even more legitimacy, then send it Certified. It will get their attention. Mail it specifically to a senior official at the bank or AMC who oversees appraisals and/or compliance," advises Hagar.

Many states have requirements to notify the appraiser if they have been removed from a panel, so if you've completely stopped receiving work from a client, you can inquire if you were removed from their panel. Try to be respectful and non-accusatory while explaining the situation, but you should be clear that you believe a violation of appraiser independence has occurred and that the lender/AMC has a legal obligation to not "play along" with the real estate agent. This is a conversation you want to approach with care, especially if you are still doing work for the client in other areas, as taking an accusatory stance with a current client can harm the relationship.

File Complaints with Real Estate Commission

Coercing, intimidating, and/or blacklisting appraisers are all activities that violate appraiser independence and are illegal in all 50 states. Consequently, if you decide to fight back directly, you can file a complaint against the

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How to Fight Blacklisting (con't)

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agent/broker with your state's Real Estate Commission. This is where you will need evidence because without it, the complaint is unlikely to stick. Working RE has reviewed several state board complaints from appraisers against real estate agents dealing with this issue (Stay tuned for follow up stories exploring them!).

File Complaints with the Realtors' Association

This approach only works if the real estate agent/broker is also a Realtor®, but most active agents are Realtors®. Breaking the law and attempting to influence the appraiser is against the Realtors' Code of Ethics and is something the local or state Realtors' association might investigate and "sanction" a Realtor® for. A few years ago, Sehar Siddiqui, the National Association of Realtors' (NAR) regulatory policy representative, spoke publicly about this issue and reminded agents that it is an ethics violation to interfere with the appointment of an appraiser. NAR has publicly stated on numerous occasions that it "strongly supports the independence of appraisers and the appraisal process." It is admittedly rare for Realtors® associations to get involved in these types of complaints, but it has happened.

Furthermore, Article 15 of Realtors' Code of Ethics states that: "Realtors shall not knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices."

Hagar reports that he's personally witnessed a case where an agent, who

had previously been very vocal about one appraiser's "egregious" errors, was forced to make a public retraction/clarification after the matter went before the local Realtor association.

File Complaints with GSEs, FHA, and VA

Depending on the type of loan in question, appraisers can also file complaints with Fannie Mae, Freddie Mac, the Federal Housing Administration (FHA), and the Department of Veteran Affairs (VA). Each organization has their own guidelines that protect appraiser independence. Fannie Mae, for example, encourages appraisers to call the Appraisal Complaint National Hotline (877-739-0096) or use the "Contact Us" form on the Appraiser Page on its website to report deviations from its policies.

File Complaints with State and Federal Regulators

If all else fails, a more nuclear option is to file complaints against the lender in question with the Federal Deposit Insurance Corporation or the Office of the Comptroller of the Currency, and report the incident. The Appraisal Subcommittee has also built a tool called Refer My Complaint which directs to you the appropriate regulatory authorities to file complaints regarding violation of appraiser independence. (Click here to access "Refer My Complaint".)

In these cases, you are not filing complaints against the real estate agent directly, but against the AMC or lender involved. You can also contact your state's banking regulator with your complaint against the lender. If an appraisal management company (AMC) is involved, you can report them to your state AMC enforcement agency.

In many states this will be your local appraisal board, but AMCs are regulated by different boards/commissions in some states, so check who regulates AMCs in your state.

Conclusion

Each step of the way, Hagar advises appraisers to try to educate (and be nice) at first, whether you are dealing with an agent, managing broker, lender, or AMC." Not everyone is aware of just how serious it is to attempt to 'handpick' appraisers and have real estate agents involved in the appraiser selection process. So, when you have those first conversations with the agent and your AMC/lender clients, your goal should be to inform and educate. But if they don't change their behavior then it's time to push back and fight back. Agents and banks will try to push appraisers around and bully them because they don't expect the appraiser to fight back—so you've got to stand up and fight back when necessary," says Hagar.

To learn more about how to maintain independence and fight back, check out Working RE's webinar How to Limit Liability, Maintain Independence, & Fight Influence, presented by Richard Hagar.

About the Author

Isaac Peck is the Editor of Working RE magazine and the Vice President of Marketing and Operations at OREP.org, a leading provider of E&O insurance for appraisers, inspectors and other real estate professionals in 50 states. He received his master's degree in accounting at San Diego State University. He can be contacted at isaac@orep.org or (888) 347-5273.

Appraisal Office for Sale

Brad Ferguson is retiring and would like to sell his appraisal business. He is located in Spicewood and his market is all of Austin and the Highland Lakes.

If you are interested (or know someone that is), please contact him at (512) 645-5501



The opinions and statements expressed herein are those of the individual authors and do not necessarily reflect the viewpoints of the Association of Texas Appraisers or of its individual members.

TALCB Proposed and Recent Rule Changes

The following is a list of proposed and recently adopted changed to the TALCB Rules. For the complete version, go to the [TALCB Rules Page](#) or to the [Secretary of State's website](#).

Proposed Rules

Rule #	Rule Name	Proposed	Earliest Possible Date of Adoption
22 TAC §153.8	Scope of Practice	05/14/2021	08/20/2021

The proposed amendments implement changes adopted by the Appraiser Qualifications Board (AQB) which became effective on January 1, 2021. The change was based on federal law which increased the threshold for residential real estate transactions requiring an appraisal from \$250,000 to \$400,000. The proposed amendments increase the transaction threshold for licensed residential appraisers from \$250,000 to \$400,000 to align TALCB rules with AQB requirements and federal law.

22 TAC §153.21	Appraiser Trainees and Supervisory Appraisers	05/14/2021	08/20/2021
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The proposed amendments clarify rules related to qualification requirements for supervisory appraisers as adopted by the Appraiser Qualifications Board (AQB). To be eligible to supervise an appraiser trainee, a certified appraiser must not have had practice-interrupting discipline in the prior three years. The proposed amendments clarify that this only applies to disciplinary actions. Administrative actions do not prohibit an appraiser from acting as a supervisor.

Adopted Rules

Rule #	Rule Name	Proposed	Adopted	Earliest Possible Date of Adoption
22 TAC §159.155	Periodic Review of Appraisals	02/26/2021	05/14/2021	06/06/2021

The amendments specify that an appraiser performing an appraisal review must perform a scope of work sufficient to ensure the appraisal subject to review complies with USPAP and remove specified requirements for a minimum scope of work.

22 TAC §157.51	Petition for Adoption	02/26/2021	05/14/2021	06/06/2021
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The new rule implements a statutory requirement that states agencies must prescribe by rule the form for a petition for adoption of rules and the procedure for its submission, consideration, and disposition.

22 TAC §155.3	Certain Use of Logo or Name Prohibited	02/26/2021	05/14/2021	06/06/2021
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The new rule prohibits certain uses of the Board Logo and Name.

TALCB Board Meeting

Mark your calendar for the next TALCB meeting, scheduled for August 20 at 10 a.m. The website says this meeting will be held at:

Stephen F. Austin Building, Room 170
1700 North Congress
Austin, TX 78701

ATA encourages every Texas appraiser to attend these board meetings as often as you can. This board determines your future!

Log on to <https://www.talcb.texas.gov/> and download the agenda and meeting materials.



Racial Bias is Unacceptable in our Profession, Period



William Trombly
Trombly Appraisal LLC

There are numerous policies currently in place to promote fairness in American housing. These practices of lending, appraising, and transactions of residential property is so well-regulated in this country, the world economy plays a role in the American housing system. Appraisers have numerous certification and guidelines to adhere to that prohibit discrimination. In fact, the development of a credible opinion of value is done so in a manner that prohibits the opportunity to be racially biased in an appraisal. If an appraisal was performed in a manner to be racially biased, it would be done so with some obvious errors that would be easy to identify by a review appraiser. If you believe you have been discriminated by an appraiser, get that appraisal reviewed. Any geographically competent appraiser will be able to see if the scope of work was skewed, whether the comparable sales were reasonably chosen, and did the appraiser develop the final opinion credibly. If you able, get it reviewed multiple times. And with this in mind, why is it we have so many more instances in the marketplace suggesting housing discrimination? Well, there are a lot of reasons. I would like to clarify that I do not know if there is housing discrimination by appraisers in our industry. If there indeed is racial bias in our profession, we have no room for it, and I have absolutely **ZERO tolerance** for that behavior and even mindset whether it be done intentionally or not. It is unacceptable! The many instances and articles being written regarding housing discrimination I believe, is a symptom of many other issues in the mortgage industry and real estate markets.

The value of homes in market areas is typically determined by the demand and supply of housing, and the ability to afford housing in the area. Foreign investors

are prevalent, and the buying up of inventory throughout the country by hedge funds and the like show tremendous support for the idea that real estate is an excellent investment still. This is made possible because of independent, unbiased 3rd party appraisers like myself. We have an enormous responsibility, not just to American citizens. The **WORLD** of finance is heavily influenced by the ability of assets to perform and be accurately valued including real property. Now with that in mind, the American housing market has a far-reaching influence, and our housing market is also heavily influenced on the performance and betterment of American citizens.

The ability to afford housing is an important factor to consider due to the influences of the finance industry. What lenders are willing to lend is based on the risk, collateral, and returns on the mortgage process. Many lenders reinvest returns after sale of the mortgage note to the secondary mortgage market. Those returns, the rate of those transaction completions, and the amount of money invested in lead generation are tremendous factors to consider for the industry stakeholders. The cost to originate a loan according to the Mortgage Bankers Association in 2018 was on average approximately \$10,000. Do you think a lender wants to go and spend money for another appraisal, or move on to the next borrower? When the borrower has a property under contract and has been waiting two weeks due to the AMC-Lender model, after a property inspector came out, after an insurance quote has been made, after negotiations of the contract

and finding the property to buy, after competing with a waiting list of buyers pursuing the same property, do you think the borrower (buyer of the property) wants to give up after so much commitment? The purchase process for real estate in the United States using lending that requires the AMC model is terribly cumbersome, and everyone in the industry knows it.

So, finance is certainly one aspect of affordability in an economy that traditionally doesn't hold much in cash assets and the need to get a home loan. And it isn't just the ability to afford a property, but the ability for that property to appraise is also important to many borrowers. The rate of mortgages is at an all-time low, which has reduced available inventory and increased the number of sales and refinances. In addition, loan approval is an important part of the process. The typical buyer is unaware that they don't have to use a bank that sells their mortgage on the secondary mortgage market which requires an appraisal on a 1004 form and has standard requirements to be approved. They could use private lending or smaller banks that don't have the same system. Many lenders will not even approach the idea of lending differently than what is the value on the appraisal, this is a huge limitation to lending practice and affordability problems. **Therefore, finance practice is ALSO an important factor.** I believe that buyers and sellers in the purchase of residential property are not as well informed as they could be, and depend greatly on service providers that adhere to minimum standards due to the need to compete. This is another issue

in our industry that I could go on and on about. While the ability to purchase a property is important to the betterment of American citizens, it can also be an opportunity to purchase more than what a property is worth of the life of a mortgage.

Imagine buying a property in a booming economy, and you had to compete with numerous other buyers in the marketplace. You or your client

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Racial Bias is Unacceptable (con't)

(Continued from page 11)

ended buying the home for a premium. The appraisal that you received for your home says that the value is even above the contract price on that effective date. Will that home always be worth what is on the appraisal? Certainly not, homes fluctuate for a variety of reasons. Are you willing to purchase that home and pay the mortgage for a 30-year term? Remember home values fluctuate. Although an appraisal is developed with an effective date, there is no consideration to reliability scoring, or forecasted values and influences on a property in the LONG RUN. This is due to not being able to see the future, a lack of demand for this service, and there is no crystal ball to do this with. But in the short run, there should be consideration that just because a property is worth something today, doesn't mean 6 months from now a property value may no longer be inflated. There does not need to be a concrete opinion stating that this decline is guaranteed to happen, but a possibility, and even an estimate of probability may be desirable to the savvy client. Although these ideas sound difficult to implement, borrowers should be made BETTER aware of these issues and clients can request them from statistically inclined appraisers.

These observations create the following issue: let's blame the appraiser. This is being heavily discussed among appraisers right now. The idea that bias, whether it be racial or not, needs to be addressed in the industry. The current media portraying articles of appraisers having racial bias are terrible detriments to the industry. I would ra-

ther we worked together and helped resolve these issues rather than point fingers. But with all things to an economics major, this to me is an indicator of market needs and our industry needs to make some changes, not to help appraiser feasibility and resilience, but the needs of the one and only important stakeholder in the long run, **the homeowner**. If we make changes with the wrong intention (like making sure appraisers are needed, or making assumptions that these instances of racial bias are not a symptom of these other systemic issues) we will be back here again with a new problem to address in the short term. In addition, let's make some changes as individuals (not on a policy level) that create public trust as we the appraiser intended. These changes will require some additional skills including:

- Understanding the history of racial bias, if applicable, in market areas and deriving judgements and assumptions regarding modeling data. Has the history of a market area influenced the current value of real property? Is an area of racial bias being identified as such by a 3rd party unbiased opinion, and what are the qualifications of that person or organizations?
- Establishing reporting requirements and evidence-based valuation standards for determining racial bias influence on home sales. (Which may require analysis outside of MLS listings and sales).
- Close interaction with local organizations to help determine racially biased market areas influences on real property sales, if applicable.

- Economics on a Micro and Macro level needs to be better understood in our profession regarding not just housing, but also what influences the housing market like employment, GDP per capita, doughnut economics, sustainability policy, green home building tech. advances, and much more. We should never stop growing our skills base.
- Stronger analytical skills and performing better evidence-based analysis in appraisals.
- Community outreach from the appraisal industry, from individuals, and small grassroots groups to cultivate public trust.

Those that are in power attempt to control the narrative, interpret the past, and pave the way for the future. Politics is a business and it concerns money just like any other, but also change. And although many, if not all, politicians have good intentions, someone somewhere will always pay for the changes made by another. I personally don't believe that far sweeping legislation is going to fix these issues. I believe that the marketplace, and well-informed borrowers have the ability to make the choices best available to them, and for lenders and appraisers to address those needs. If the best available choices aren't available to an American citizen, then that needs to be fixed.

Thank you for your attention.

William J Trombly Jr Certified Residential Appraiser
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