Email from Mortgage Broker Don Opeka:

Jim,

Your article is interesting, but there are more problems coming. All one has to do is look back to the old days of FHA and VA to see what is coming. It becomes a nightmare for Realtors and is even worse for borrowers and sellers. Since the purpose of this “new” system (It’s really a repeat of what FHA and VA used to do.) is to take away any ability of the mortgage originator to change appraisers. The result will be:

1. No control over reasonable value. In a typical arms length transaction, the value a buyer and seller agree to is a good indication of property value. In times past, FHA and VA appraisers routinely undervalued properties in an attempt to control the market. Look forward to the appraiser using the lowest REO sales in the neighborhood as comps and then applying a declining market factor when appraising the best house in the neighborhood. This IS coming! You will be lucky if they stay in the neighborhood and don’t go outside to find lower comps. They WILL use the lowest comps they can find.

2. No control over time to get an appraisal. I had a loan at one of my investors that needed a review appraisal. The investor only uses a captive appraisal management company for these reviews. It laid around for three weeks because the appraiser was “sick” and they would not reassign the job. Look for appraisals to take weeks or months. Loan rate locks will expire. Rates will change. Your bank sellers will collect penalties. Deals will crash.

3. Appraisals are supposed to become portable between lenders. Look for the appraiser to register the appraisal in a database. Once a property is appraised, you will be stuck with the value. If the seller improves the property with paint, carpet, or scrapes and rebuilds it you will have trouble justifying a higher value.

4. There will be no incentive for an appraiser to correct a low value. When the appraiser is subject to criticism for overvaluing a property, and has no incentive to please anyone, he protects his job by setting the appraisal at the lowest value he can justify. The catch is that the value may be below what a seller will accept, and below what the buyer is willing to pay. Remember, the loan amount is set based on the lower of the sale price or appraised value. If the buyer and seller agree to a price of $500,000 and the buyer wants an 80% loan to avoid private mortgage insurance, the buyer needs $100,000 down. If the appraiser decides the property is only worth $400,000, the buyer needs $180,000 down to get an 80% loan and avoid private mortgage insurance. Under the new rules, the appraiser gets paid regardless of how many transactions he kills. No one has any recourse. Once the value is recorded in a database, the seller is stuck when he tries to get a higher appraisal regardless of how much a buyer is willing to pay over the appraised value.

The obvious question that someone should be asking is “If this is so good, why did FHA and VA abandon essentially this system?” As always, when we ignore history, we must repeat it. It’s only as I get older that I appreciate the cost of the do overs.

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You should note that this had nothing to do with the “Bush Administration”. It started with a settlement between Andrew Cuomo and Fannie Mae. Credit the New York Attorney General with imposing nonsense on Colorado. Look forward to more of this.

By the way, if we really want to put an end to foreclosures forever, the government could simply outlaw mortgage financing. The January 18, 2009 Denver Post had an article by Al Lewis describing the Detroit market. He said “the median price of a home sold in Detroit last month was $7,500”. He described five houses listed for $1. At these prices, there is no need for mortgage financing. Almost any house could be financed with a MasterCard. Is this really what we want? Be careful what you ask for, because you might get it.

Thank you for the opportunity to be of service. Don't hesitate to call us if you have additional questions, or if we can be of service in any other way.

Don Opeka - President
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Email from Mortgage Broker Norm Lewis

Hey Jim- good column. I really don't have any suggestions/ corrections beyond what you have said. I will add that I am very skeptical of [the AMC] procedure, even though for the most part it won't apply to us. I think it is another nail in the coffin of mortgage brokers.

Actually, I have one observation that I think is quite pertinent, but I doubt you have time or room in your column to include it. I think that this new appraisal assignment procedure will be very costly to consumers in actual appraisal dollar costs. For potential appraisal applications, I frequently call one of my appraisers and ask them to do a comp search on the subject property. The appraiser does this work as a courtesy. If the appraiser is of the opinion that he cannot make the value we need, based on comparable sales, I am able to advise my client that the refinance is not going to work out, thereby saving them the $350 appraisal fee. Under the new procedure this type of service will not be possible. We are currently sending away at least half of the refinance inquiries we receive based on lack of equity in the subject property, resulting in thousands of dollars in savings to the homeowners. Using "assigned" appraisers would result in dozens of useless appraisals.

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Email from Mortgage Broker Shelley Ervin:

Hello, Jim,
Regarding the new rule that requires the use of appraisal management companies, I have already had a few experiences working with these organizations...and I must say, my experiences cause great concern. My first experience involves the purchase of a townhome in Winter Park. The townhome was a very desirable property, as there were only 12 units, it had a two car garage, and was 100% owner occupied (unusual in this resort town). The property was in excellent condition—it had never been a rental. It was a 3 bedroom 2 bath plus a loft. Because this condo project was so stable, there had been no sales in the complex for 12 years, but there were lots of good comparable sales in Winter Park. The appraisal was submitted and the lender required comparable sales within the complex...since there were none, the lender employed their appraisal management company to do a desk review appraisal (the appraiser does not go to the site, but looks up all the information on the internet). The desk review came back and the lender's appraiser had dropped the value $50,000! I reviewed the document, and saw that this appraiser had used comparable sales in Fraser (none in Winter Park), that all the comparables were 2 bedroom units, were not townhomes, and had no garages; in addition, all the units had been short term ski rentals. It was obvious to me that an error had been made...perhaps they had mixed up my property with another they were working on? Unfortunately, that was not the case...I took my issues to the top, and the higher I went the more frightened I became. No one would admit that any errors had been made...they stuck to their story! We had to move the loan to another lender...and that lender accepted the original appraisal and we closed the transaction on time.

The most recent experience I had is the one you mention in your column. The first appraisal (from my highly qualified appraiser) was dissected by the underwriter; she asked that the appraisal be redone with additional comparable sales (once again, not available). The only option I was given was to order a new appraisal from the lender's appraisal management company. The appraisal management company guarantees their appraisals, because not only do they claim to employ only the most experienced professionals, but they also review the appraisal in their "Quality Assurance" department. I think maybe the name of this department is actually "Lack of Quality" assurance, as this appraisal was filled with errors: the "seller paid concessions box" (seller was paying $5,000 towards buyers closing costs) showed NO SELLER CONCESSIONS. The property taxes were understated by half (the appraiser obviously looked at the amount due for half versus the total annual taxes). If I had allowed this appraisal to be submitted before performing my OWN quality assurance program, the lender would have NOT ALLOWED THE SELLER PAID CLOSING COSTS OF $5,000, and would have changed the tax escrows, causing the borrower to come up short next year at tax time. When I pointed out these errors to the management company, at first they challenged me; I directed them to the exact line in the real estate purchase contract, and emailed a copy of the tax certificate. They contacted the appraiser and the changes were made.

I believe that the best appraisers have been working successfully as independent small business owners...something

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that had made this country great. Now, these new rules (sponsored by the government) will prevent talented entrepreneurs from succeeding...most will only have the choice to join an appraisal management company. And the appraisal management company will be most successful only if they become clients of the big banks...wait a minute, wasn't it the big banks that got us into this trouble?

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Email from a Licensed Appraiser:

Jim,
In reference to your article on appraisal fraud, from an appraiser's point of view, as with every industry, you have your good appraisers mixed in with the bad. There will always be the few who tend to ruin it for everyone. This is never more evident than with the new Home Valuation Code of Conduct (HVCC) set to be implemented in May of 2009. It was much simpler for the powers that be (Federal Housing Finance Agency) to implement a sweeping set of changes without fully understanding the ramifications it would have on the mortgage and appraising industries.

For honest and ethical appraisers, this new legislation will force us to sign on with appraisal management companies in order to survive, as the misperception is out there that all banks, mortgage lenders and mortgage brokers must use Appraisal Management Companies (AMCs) to order their appraisals. This is not true! The HVCC is designed to force mortgage brokers to order appraisals through AMCs, not banks or mortgage companies. What's the difference? Mortgage brokers are actually "brokering" a loan between the bank/mortgage company and the buyer. The logic here is the mortgage broker has no "buy-in" to ensure the transaction is impartial. However, many banks and mortgage companies are fleeing to AMCs because they have been bullied by the AMCs into believing that they are required to utilize them. Shame on the AMCs for their bullying tactics and shame on the banking and mortgage industry for not understanding the HVCC!

I would like to address the comments made by Mr. Opeka in his email to you as well. Mr. Opeka stated "Look forward to the appraiser using the lowest REO sales in the neighborhood as comps and then applying a declining market factor when appraising the best house in the neighborhood." Wow! This is a pretty broad interpretation for Mr. Opeka to make. What he fails to say is the pressure appraisers receive from real estate agents and mortgage brokers to "hit" a number they have established for a property! As a professional appraiser, I don't care what the sales price of a property is, my job is to determine what the market value of the property is based on recent sales in the neighborhood for similar properties. It is entirely untrue and unethical for appraisers to stray from a neighborhood for additional comps unless there are no viable comparables in the Subject's neighborhood. I found it extremely insult-

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ing that he would suggest that an appraiser would search for comps outside a neighborhood in an effort to find lower comps.

As to the time it takes to get an appraisal done, yes, this will change dramatically if AMCs are used as the turnaround time is dragged out as the appraiser must now send their work through the AMC who reviews it and sends it on to the client. We have just added another "layer" to the process to create the illusion of impartiality. Keep in mind that appraisers are now going to be making approximately two thirds of their original appraisal fee in most cases with the AMC keeping the rest.

I am not sure where Mr. Opeka is getting his information on the portability of appraisals. That has never been the case. As an appraiser, when I perform an appraisal for a client, it becomes that client's work. I do not "own" that appraisal and I cannot just transfer this work to other lenders. I do not know of any database where appraisals are recorded and an individual is now "stuck" with this value unless he is referring to the FHA database which is in place to prevent the "shopping for value" problem which has contributed to the market we are suffering today.

Keep in mind it is my job as an appraiser to determine the market value for a property based on what properties are selling for in the neighborhood. It is insulting for Mr. Opeka to say appraisers "low ball" the value. It is this type of attitude that has put us in the crisis we are in today. If an appraiser "over values" a property, a client gets a loan and then can't repay it, then the property goes up for sale again. If the appraiser over valued that property based on a sales contract price, when the property is re-listed for sale, there is every possibility that the property will now go into foreclosure because it was originally sold over its market value. Keep in mind, the price is what the market will pay, not what one individual buyer will pay!

As an appraiser, it is my job to determine market value for a property regardless of what someone thinks their property is worth. Being pressured by Realtors or mortgage brokers to "hit a number" is part of the reason the housing market is where it is today. The appraisal industry has tightened its guidelines to eliminate the bad appraisers who contributed to this problem. It is up to each homeowner to make sure they understand the process of selling/buying a home and that they are working with reputable individuals. It is too easy to lay blame at someone else's door. It is high time that we all take responsibility for our own actions and the consequences that come with this responsibility.

[Name withheld on request]