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LIABILITY FOR APPRAISER BIAS AND APPRAISER INDEPENDENCE RULES: A CONUNDRUM FOR HOME MORTGAGE LENDERS

This article is an update of a prior article on the subject of appraisal bias, specifically, appraisal bias that results in undervaluations. It discusses efforts from the beginning of 2024 until the present by federal and state governmental entities and courts to deal with the problem. It explains how these efforts create a conundrum for mortgage lenders faced with complaints of appraiser bias from loan applicants: If they take action with regard to such complaints, they risk violating existing appraiser independence rules (by “directly or indirectly” attempting to influence the third-party appraiser’s “independent judgment”); but if they refuse to take action, they risk violating, or aiding and abetting a violation of, federal and/or state anti-discrimination laws. And it offers some suggestions to lenders on ways they may be able to reduce these risks.

By Bob Jaworski *

This is the second of two articles addressing the problem of undervalued home appraisals resulting from appraiser bias.¹ The first article discussed the harm that biased appraisals can cause to individual homeowners, potential homebuyers, and the communities in which the appraised homes are located. It explained several

initiatives taken by the Biden Administration to deal with the problem. And it pointed out the potential adverse impacts those initiatives can have on home mortgage lenders and some steps they can take to protect themselves from such impacts.

This article addresses more recent developments concerning this topic. It is divided into three sections. The first section repeats some essential background information that was contained in the earlier article, e.g., what is meant by the term “appraiser (or appraisal) bias,” how does it translate into undervaluations, what harm

¹ Jaworski, R. and Schultze, M., “Appraisal Bias: What The Government Is Doing About It And Why Mortgage Lenders Need to Pay Attention,” THE REVIEW OF BANKING AND FINANCIAL SERVICES,” v. 39, no. 12 (Dec. 2023) (“Jaworski/Schultze”).

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