

Submitted May 1, 2023

**Testimony of
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Appraisal Standards Board
The Appraisal Foundation**

Public Hearing on Appraisal Regulatory System

Appraisal Subcommittee

May 19, 2023



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INTRODUCTION

Madam Chair and members of the Appraisal Subcommittee, I greatly appreciate the opportunity to be here today as the Chair of the Appraisal Standards Board to offer the board's perspective on the regulation of real estate appraisers and combatting bias and discrimination in the profession. There are often misconceptions over the role of the Appraisal Standards Board and the Uniform Standards of Professional Appraisal Practice (USPAP). I would like to begin by explaining the role of both the board and the standards in the context of the appraiser regulatory system.

First, I would like to explain what USPAP is and what it is not. The Uniform Standards of Professional Appraisal Practice are the nationally recognized professional standards of appraisal practice.

Professional standards among all professions typically are a set of guidelines, principles, and expectations that establish the generally accepted standards of conduct. They define the level of competence, behavior, and ethical conduct expected of individuals working in that field. These types of standards may be developed by professional organizations, regulatory bodies, as well as by other types of industry stakeholders.

Like most other professional standards, USPAP addresses the following minimums for the appraisal profession:

1. Competence and proficiency in the required skills and knowledge of the profession.
2. Ethical conduct and behavior, including honesty, integrity, and accountability.
3. Professional communication including the requirement to not be misleading.
4. Compliance with applicable laws and regulations.
5. Maintenance of confidentiality and privacy of sensitive information.
6. Continuous professional development and learning.

USPAP does not micromanage the appraisal process; the standards do not instruct an appraiser which methods to use or when to use them but requires an appraiser to employ a standardized set of procedures, known as the appraisal process. USPAP simply sets general obligations and performance benchmarks as to how an appraiser will go about completing their work in both an ethical and competent manner.

It is important to note that these standards are not, by themselves, laws or regulations, but they can be adopted by government entities and thus given the force of law or regulation.

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Failure to adhere to these professional standards can result in disciplinary action, loss of professional license or certification, or damage to one's professional reputation, and damage to the public trust.

The role of the ASB is to develop, interpret and amend the Uniform Standards of Professional Appraisal Practice (USPAP), which state regulatory agencies require appraisers to follow for certain types of appraisal assignments.

Neither the Foundation, nor the Appraisal Standards Board is a government entity and neither has the power to make, judge, or enforce law. The ability to regulate appraisers and enforce USPAP was a power entrusted to state regulatory agencies and the ASC. Given this three-part system, coordination among each of these three entities is critical to properly upholding standards and building public trust.

To provide a full update on the Appraisal Standards Board's work relating to recommendations made by the PAVE task force, I've included the Foundation's most recent update letter to PAVE as an appendix. The appendix also contains a chart outlining the appraisal process, to assist readers who are not appraisers in understanding exactly how appraisers develop their value conclusions.

SPECIFIC TOPICS OF DISCUSSION REQUESTED BY THE SUBCOMMITTEE

The Appraisal Regulatory System

The ASB was granted the authority to write and maintain standards for real property appraisers in Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. This congressional authority works in tandem with state and federal regulators who are tasked with enforcement responsibilities.

This collaborative regulatory system has now been in place for more than three decades, and appraisers and users of appraisal services have benefited from this partnership which has resulted in high quality, effective standards.

The ASB's role is to fulfill its congressionally authorized duties. The Board does not perform any functions related to studying the efficacy or challenges of the regulatory system.

However, the ASB does observe one challenge related to its work, and that is the effective enforcement of USPAP.

For any set of professional standards to be effective, they must be adequately enforced. This role falls to entities that include the Appraisal Subcommittee, and the individual state regulatory bodies.

To our knowledge, when the Appraisal Subcommittee conducts audits of how states are carrying out their responsibilities under FIRREA, which includes requiring appraisers to comply with USPAP, the ASC does not perform a compliance check to determine if the state is effectively and fairly enforcing USPAP. The ASB strongly encourages the ASC to use its authority to check compliance and enforcement of USPAP. USPAP standards, without enforcement, cannot be effective and meaningful.

Appraisal Bias

At no time in its history has the ASB faced an issue that has impacted the public trust as much as the issue of appraisal bias. Knowing that any actions the Board took related to appraisal bias would be important to the President of the United States, his administration, federal regulators, government sponsored enterprises, the Department of Justice, civil rights and fair housing advocates, state regulators, appraisers, consumers and the public, the ASB made this work its highest priority.

USPAP has always prohibited an appraiser from discriminating against protected classes, but recent headlines made it clear that this prohibition was not apparent to anyone who reads the standards. This made it clear to the ASB that we needed to take action, and we launched a comprehensive review of the Ethics Rule to determine what

changes might need to be made to address these concerns. The ASB issued its first exposure draft of proposed changes to USPAP in fall 2021 and has issued four subsequent exposure drafts since. Each was the result of months of outreach, study, research and debate.

Unless the ASB is presented with sound reasoning or valid concerns from a stakeholder stating why it would not be in the best interest of the public trust to adopt this proposed draft, the Board will make the decision at its public meeting on May 5th to adopt these proposed changes. If the proposed changes are not adopted, the board will continue its work, and a Sixth Exposure Draft will be developed and released for public comment.

The Board spent hundreds of hours in discussion and consultation with many stakeholders and experts from both inside and outside the Foundation. These discussions were often detailed and laborious; sometimes days were spent debating just a single word in a sentence, to ensure that the proposed revisions would best serve the interest of public trust.

The Board has proposed the addition of a new section to the Ethics Rule, which is applicable to appraisers of all disciplines and all services that are part of appraisal practice. There is no place in the appraisal profession for an appraiser to act in a biased or discriminatory manner, and the Board believes these proposed changes will make that crystal clear to the public, regulators and appraisers alike.

Sales Comparison Approach

USPAP outlines the standards all appraisers should follow to complete an assignment in a manner that is fair and impartial. It provides options for appraisers to use a variety of methods and techniques that may apply to a given assignment. But there is a common misperception that USPAP dictates which method or technique an appraiser should use in a specific situation. This is not the case.

Methods and techniques are outside of the scope of the Appraisal Standards Board's purview. USPAP requires that an appraiser use recognized valuation methods and techniques, but it does not instruct appraisers what methods to use or when to use them.

Appraiser membership organizations and education providers use experts who possess advanced knowledge in a given area to educate appraisers on methods and techniques to solve questions asked in an appraisal assignment. Appraiser membership organizations are also the ones who develop new methods as changes occur in markets that require updated solutions. The Appraisal Foundation and the Appraisal Standards Board look to these entities to provide education to appraisers on these topics, and they are better suited to speak to the efficacy of the sales comparison approach.

APPENDIX A – Letter to PAVE



February 2, 2023

Ambassador Susan Rice
Assistant to the President for Domestic Policy
Director
White House Domestic Policy Council
1600 Pennsylvania Avenue, NW
Washington, DC 20500

The Honorable Marcia Fudge
Secretary, U.S. Department of
Housing and Urban Development
451 7th Street, SW
Washington, DC 20210

Dear Ambassador Rice and Secretary Fudge:

Thank you for your January 17th letter on the *Real Property Appraiser Qualification Criteria* and the changes proposed in the Property Appraisal and Valuation Equity (PAVE) Task Force Action Plan.

We appreciate our shared commitment to building an appraisal profession that is truly reflective of the United States, and we are pleased to have the opportunity to work together. The Appraiser Qualifications Board has been carefully reviewing the recommendations made in the Action Plan and has been conducting research on how these proposed changes would impact the profession. I would like to take this opportunity to provide you with a brief update on where we are on a wide range of PAVE Task Force Commitments, including the specific recommendations cited in your letter.

Strengthening guardrails against unlawful discrimination in all stages of residential valuation

Clarify the application of the Fair Housing Act and ECOA to the appraisal industry to ensure appraisers have clear guidance on antidiscrimination obligations under current federal laws.

In fall 2022, the Appraisal Standards Board released an update to the 90-minute section of the 7-Hour National USPAP Update Course focused on bias and discrimination. The update to these course materials was conducted with the advice of fair housing law firm

Relman Colfax. With their guidance, the Appraisal Standards Board added relevant citations of fair housing laws and additional information about each of these laws is now included as well. This is a required course for all appraisers, and the updated information in this section was sent to all appraisers who had previously taken the course.

Issue guidance and implement new policies to improve the processes by which a valuation may be reconsidered if the initial valuation is lower than expected.

In conjunction with subject matter experts, The Appraisal Foundation developed a White Paper on Reconsideration of Value that offers proposed best practices for those who wish to build a more relationship-driven and consistent method. This White Paper is available [here](#) on our website. In addition to this White Paper, the United States Department of Veterans Affairs' Tidewater Initiative has been a well-received Reconsideration of Value process and can be looked to as a model for those who wish to develop their own Reconsideration of Value procedure.

Address potential bias in the use of technology-based valuation tools through rulemaking related to Automated Valuation Models (AVMs).

The Appraisal Foundation's Industry Advisory Council brought together industry leaders and subject matter experts to form an AVM Task Force. The product of their initial efforts was [published](#) last year. This publication examines the current generation of Automated Valuation Models used in housing and makes recommendations on potential standards for AVMs going forward.

Following the publication of this first task force report, the group was asked to present their findings to the federal banking regulator interagency work group charged under Dodd-Frank with drafting regulations for AVMs. This presentation was well received, and the task force has turned their attention to crafting more detailed guidance on proposed regulations.

Develop a legislative proposal that modernizes the governance structure of the appraisal industry to improve transparency and public participation in the establishment of appraisal standards and appraiser qualification criteria, and to advance diversity in the profession.

The Appraisal Foundation prides itself on its transparent process for maintaining standards and minimum qualification criteria for real property appraisers. The process followed by our independent boards closely mirrors federal rulemaking with frequent opportunities for public comment. The PAVE Task Force Report led us to expand that public participation through a new web form where comments, questions, and requests for the boards may be submitted on any topic at any time.

The observations of the PAVE Task Force Report also helped us identify where we were lacking in receiving public feedback on proposed rules: consumer and civil rights organizations. This led to the creation of the Council to Advance Residential Equity (CARE). This council is made up of non-profit organizations with a mission of civil rights, fair housing, or consumer advocacy. Identifying this gap also spurred the Board of Trustees to eliminate the requirement that a majority of trustees be appraisers and has

sparked outreach specifically aimed at advocates of consumers, fair housing or civil rights to apply for open public interest trustee seats. This targeted outreach has brought perspectives The Appraisal Foundation was missing to the table and has helped the independent boards get more feedback from these important stakeholders in the appraisal profession.

Enhancing fair housing/fair lending enforcement and driving accountability in the industry

Strengthen coordination among supervisory and enforcement agencies to identify discrimination in appraisals and other valuation processes.

The Appraisal Foundation strongly supports this commitment to more robust and coordinated enforcement, and we encourage the enforcement entities to use their authority to root out discrimination and require adherence to USPAP. To assist regulators in these efforts, the Appraisal Standards Board has been conducting a comprehensive review of the Ethics Rule resulting in proposed changes that make it crystal clear that bias and discrimination against protected classes has always been prohibited by USPAP and that appraisers must comply with all relevant fair housing laws. These proposed changes were developed with advice from fair housing law firm Relman Colfax and with input from federal regulators. The Appraisal Standards Board hopes that these proposed changes will offer regulators stronger tools for enforcement.

We are eager to identify opportunities to collaborate with the Appraisal Subcommittee to further this goal. Possible suggestions we have made to the Subcommittee include reinstating the Investigator Training program which was a partnership of the Appraisal Subcommittee, Association of Appraiser Regulatory Officials, and the Foundation. This training program offered free training to state regulators on how to investigate appraisal complaints and was well-received for many years.

We also urge the Subcommittee to use their position providing oversight to state regulators to ensure that state boards are correctly applying USPAP to their complaint reviews and ensuring they are requiring their state's appraisers to comply with the anti-bias mandates contained within USPAP.

Building a well-trained, accessible, and diverse appraiser workforce

Update appraiser qualification criteria related to appraiser education, experience, and examination requirements to lower barriers to entry in the appraiser profession.

Based on information shared at the fall Board of Trustees meeting, we anticipate that Pathways to Success grant recipient the Appraisal Institute will submit their Practical Applications of Real Estate Appraisal (PAREA) module to the Appraiser Qualifications Board for review and approval this spring. We look forward to reviewing their module along with any other modules the Board receives this year. In addition, we are in the early stages of working to develop a scholarship program that could assist aspiring appraisers in defraying the costs of a PAREA module.

We are also pleased to share that nearly 40 states have approved PAREA as an acceptable

alternative to the traditional experience model. The Appraiser Qualifications Board is actively working with the remaining states to answer questions as they work to incorporate PAREA into their laws and regulations.

In addition to the traditional supervisor/trainee experience model and the forthcoming PAREA modules, there is a third alternative available for aspiring appraisers to fulfill their experience requirements: practicum. Practicum programs are approved by the state and give aspiring appraisers hands on experience in a classroom and field setting. We are appreciative of the Appraisal Subcommittee's grant program to support states in building these practicum programs and hope more states will open up this additional pathway to aspiring appraisers.

In 2017 - 2018, the Appraiser Qualifications Board conducted a comprehensive review of the experience requirement with input from state and federal regulators, appraisers, consumers and users of appraisal services. As a result of this careful study and public input, the Appraiser Qualifications Board made the decision to cut the experience requirements for aspiring residential appraisers in half. At that time, there was solid consensus that public trust was best protected by aspiring appraisers having experience. With the advent of PAREA and practicum as additional models for obtaining experience, aspiring appraisers now have more options than ever to fulfill these requirements. The Appraiser Qualifications Board looks forward to partnering with you to continue examining these requirements to ensure they uphold public trust.

In terms of the education requirements, the Appraiser Qualifications Board is working in conjunction with the Board of Trustees' Special Committee on Diversity, Equity and Inclusion to grow the number of degrees approved through the Real Estate Degree Review Program, specifically focusing on Historically Black Colleges and Universities, Hispanic Serving Institutions and women's and tribal colleges. Students who have a degree from an approved school can potentially fulfill all their education requirements with the exception of the 15-Hour National USPAP Course to become an appraiser.

The Appraiser Qualifications Board is continuing to study the additional recommendations made in the PAVE Task Force Report relating to the college degree requirement for Certified General appraisers and a comprehensive examination. The Board members are looking forward to the opportunity to meet with you to discuss these action items in more detail to ensure that the minimum qualification criteria provide meaningful assurances that public trust will be protected by new appraisers entering the profession.

Increase engagement with states' appraisal regulatory agencies to help remove barriers to entry and advance diversity in the appraiser workforce.

Organizations from Fannie Mae to the Appraiser Diversity Initiative have pointed out that additional state criteria that go beyond the Appraiser Qualification's Board's minimum criteria are having a negative impact on bringing new, diverse appraisers into the profession. We strongly support the Appraisal Subcommittee's letter to the states encouraging states to harmonize their criteria to the Appraiser Qualifications Board's *Real Property Appraiser Qualification Criteria*. We appreciate the Subcommittee's encouragement that states be able to justify any additional criteria they have in place.

Require appraisal anti-bias, fair housing, and fair lending training for all appraisers who conduct appraisals for federal programs and work with the appraisal industry to require such trainings for all appraisers.

The Appraiser Qualifications Board has released an exposure draft of proposed changes to the *Real Property Appraisal Qualification Criteria* that would require fair housing education for incoming and existing credential holders, building off a recommendation from the National Fair Housing Alliance report on the appraisal profession released in 2022. This draft was developed with guidance from fair housing law firm Relman Colfax, and they partnered with the Appraiser Qualifications Board to draft a recommended course outline for these required courses as well. The exposure draft of proposed changes is currently available for public comment with a comment deadline of March 13. Following this period, the board will consider the comment received to determine whether another exposure draft is needed or if these proposed changes are ready for adoption.

Empowering consumers to take action

Update and clarify government resources for consumers who believe they may have experienced appraisal bias.

The Appraisal Foundation's [Consumer Resources webpage](#) offers a host of resources for consumers looking to learn more about the appraisal process. For those consumers who believe they may have experienced appraisal bias, there is an entire section of this webpage with regulatory links to guide them to those state and federal groups who are responsible for enforcing appraisal standards. We have recently published a new video which outlines what action a consumer can take if they need to make a complaint.

We hope the Appraisal Subcommittee will join us in these efforts by strengthening the Appraisal Complaint National Hotline to provide resources for consumers who believe they may have experienced appraisal bias. In addition, the ability to track the complaints the Appraisal Subcommittee receives and how they are adjudicated would be a valuable resource in developing future appraiser education on issues around fair housing, bias and discrimination. We hope the Subcommittee will work with us to ensure these resources are strengthened for the public and the profession.

Incorporate appraisal bias information into first-time homebuyer education courses.

In 2016, The Appraisal Foundation developed a module geared toward first-time homebuyers titled "[What Every Homebuyer Should Know About an Appraisal.](#)" This program is designed to assist those teaching first-time homebuyer education classes around the country. It includes vital information and resources for consumers on what an appraisal entails, how an appraiser determines value, and how to interpret an appraisal report. We would be pleased to build off this initial offering to provide further expertise to those educating first-time homebuyers.

We welcome the opportunity to meet with Executive Director Melody Taylor and other PAVE Task Force members to begin a collaborative conversation on how we can move forward and share more details on the updates I have provided here. Please send us dates and times that would be convenient for your team, and we will be pleased to schedule the

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first of hopefully many meetings. We look forward to working together with you on this important issue.

Sincerely,



David S. Bunton
President



Brad Swinney
AQB Chair

cc: Melody Taylor, Executive Director
PAVE Interagency Task Force
Via email: Melody.C.Taylor@hud.gov

James R. Park, Executive Director
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APPENDIX B- The Appraisal Process

