

United States Senate  
WASHINGTON, DC 20510-3101

May 25, 2004

Mr. Steven D. Fritts  
Chairman, Appraisal Subcommittee  
Federal Financial Institutions Examination Council  
Federal Deposit Insurance Corporation  
550 17th Street, N.W.  
Washington, D.C. 20429

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Dear Mr. Fritts:

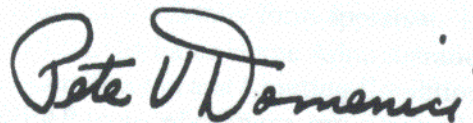
Because of my desire to be responsive to all inquiries directed to me, and knowing that you share this desire, the attached letter is referred to you for consideration.

I would very much appreciate your evaluating the information presented and taking whatever action is required to resolve the situation. Consistent with all federal laws and regulations, I appreciate your consideration of this request.

At your earliest convenience, I would be grateful if you could respond directly to Mr. Robert Mize at his New Mexico address. In addition, please forward a copy of your response to my Washington office to the attention of Clint Taylor.

Thank you for your assistance.

Sincerely,



Pete V. Domenici  
United States Senator

PVD: cht

Enclosure

# ROBERT MIZE & ASSOCIATES

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**CRA**

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April 16, 2004

The Honorable Pete V. Domenici  
United States Senator  
328 Hart Senate Office Building  
Washington, DC 20510-101

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Dear Senator Domenici:

I am absolutely disgusted with what the Appraisal Standards Board (ASB) and the Uniform Standards of Professional Appraisal Practice (USPAP) have done to the real estate appraisal business, especially the residential appraisal business. So disgusted that after 32 years I have closed my appraisal business and quit appraising. Following the Savings and Loan debacle, Congress passed FIRREA, which mandated the licensing of real estate appraisers. Out of that came the Appraisal Foundation, ASB, and a whole pot full of alphabet soup acronyms for the names of other regulatory agencies to "solve the problem of crooked appraisers." Every year the ASB issues a new USPAP with so many changes that they require appraisers to take a course on those changes to renew their licenses. The constant changes really make it the Non-Uniform Standards of Distorted Appraisal Practice. They certainly are not "Uniform," and they are written with the primary focus for narrative appraisals of commercial real estate with no consideration as to the impact on residential appraising. There are probably 1000 residential form appraisals made for each commercial narrative appraisal. The tail is wagging the dog, and USPAP has been an abysmal failure at solving the problem of "crooked" appraisers.

Recently, the ASB through USPAP made minor, insignificant changes to the Certification and Limiting Conditions in appraisal reports. In my opinion it is change for the sake of change, to inflate already over-inflated egos and for job preservation to show they are doing something. The changes are no problem for a narrative appraisal, but not for a single family form appraisal. In a residential appraisal report, FNMA, FHLMC, FHA, VA, GNMA, the Farm Home Administration, and most mortgage investors require that the standardized Certification and Limiting Conditions be unchanged or the report is REJECTED. If I make those USPAP required changes, my client rejects the appraisal report. If I don't make the changes I am subject to fines and loss of my appraiser's license. It takes years for FNMA and the other agencies to agree on a forms change. It appears that the ASB could care less about those yucky single family appraisals; they have made a change to almighty USPAP. Yes, I know how to get around the problem, but the problem should not exist.

USPAP is so contorted and complicated with minutiae that I don't know if I can write a report using the Uniform Residential Appraisal Report (URAR) form that completely meets USPAP. The URAR is the most common appraisal report form used in appraising single family residences. It takes a ridiculous amount of time to make sure all of the unnecessary catch phrases, wording, and discussions of the "Departure Provision" are included, and being sure to state all of the Scope, data sources, and other insignificant nit-picking USPAP requirements. This detail may be needed in a commercial narrative appraisal, but are standard, with several obvious variations, for every residential form report.

A lender client already knows this information, and it is needless boilerplate in the vast majority of single family residential appraisals. To make certain that I comply with all of the ridiculous nuances that USPAP has dumped on residential appraising for every appraisal, I would need to hire and train someone for the sole purpose of reviewing each form report to make sure I meet USPAP. I would need to double my appraisal fees, which puts a real hardship on the borrower. I would also need to lengthen what is already 17-page report. With all of that unnecessary time, expense, and gobbledegook required by USPAP, the reasoning and final estimate of value is completely unaffected. The final estimate of value is almost always irrelevant to USPAP. Failure to comply to the letter with USPAP can mean a substantial fine and/or loss of license even if the analysis and final estimate of value is absolutely sound and well supported in the report. That means that USPAP does almost nothing to address or solve the problem of "crooked" appraisers.

The "Appraisal Process," which is the process by which one appraises a property, is unchanged since I learned it at the University of Idaho in 1966. There are a few new forms of business and ownership that have caused some different techniques to be developed, but the Process is the same. When I started appraising in 1972, FHA had a one sided form that you filled out in pencil and you were paid \$15 each. You gave a basic description of the house and showed the comparable sales you used to arrive at your "final estimate of value." The "Green Hornet" was a two-sided form for non-FHA lenders, and you were paid \$25 for those. If you wrote small enough or used a typewriter you usually could explain your reasoning in the space available. If there was not enough room, you could add an attachment, but the lenders didn't like it when you added an attachment. Now the same "Estimate of Value" requires at least 15 pages, costs \$425, and it is an "Opinion of Value" because that term is "less confusing." Except for adding a floor plan and photos of the subject and comparable sales, little has been added to improve those original reports and provide a means for finding distorted appraisal reports. "Neighborhood" is now "Market Area," and you have to make sure that no human beings appear in your photos of the subject property or sales because that is "Red Lining."

This paragraph is a perfect example of why I have nothing but contempt for USPAP. An appraiser, whom I graduated with from [DELETION] in 1963, has been fined and required to take continuing education courses because he stated in a report that *"The Income Approach is not appropriate for this appraisal."* That statement is true for at least 95% of all of the single family residential appraisals I have ever done. The State felt that he did not sufficiently explain his reasoning to USPAP standards. USPAP requires something like *"The subject property is located in an area of owner-occupied homes that do not sell for their income producing capabilities. There are few rentals and insufficient sales data on sales of rental homes to adequately develop an Income Approach. The Income Approach is not appropriate for this appraisal assignment. Since the Income Approach is not included because it is not appropriated, the departure provision of the Uniform Standards of Professional Appraisal Practice (USPAP) was not needed and this appraisal report is a Complete Appraisal Analysis and Summary Appraisal Report."* Had he not used the Income Approach at the request of the lender, as is often the case, he would have had to state *"The Income Approach was not considered at the request of the client. The Departure Provisions of the Uniform Standards of Professional Appraisal Practice (USPAP) have been invoked. This is a Limited Appraisal Analysis and Summary Appraisal Report"* One of those two statements is required in every appraisal report. Over 95% of the time the Income Approach is not appropriate for a single family residential appraisal, and everyone in the mortgage lending business knows it. What he states is true. Why require all of the other garbage? If it is not true, then punish him. This is the level of stupidity in USPAP.

The real problem with "crooked" appraisers is that some lenders pressure appraisers to "come in with the numbers" to make the deal, and some appraisers do it. When I started appraising savings and loans or banks made most mortgage loans, and there were a few mortgage brokers. Since the S&L's and banks kept many of their loans; they were vitally interested in having a good, well-reasoned estimate of value from a knowledgeable independent third party appraiser. The loan officers were paid a salary, so they did not have a personal financial interest in whether the loan closed or not. The real estate agent might pressure the appraiser in order to save their sales commission, but not the client. The client was the lender then, and is still the client today. Almost all new mortgages are now sold at least once within the first 30 days. Today, the loan officer is paid on commission for loans closed and is pressured by the mortgage banking employer to make quota, so there is real pressure on the loan officer to close the loan, no matter what. The real estate agent is in the same boat being paid only if the deal closes. The manager of the mortgage banking office is under quota pressure too, and gets a commission on every deal closed in the office. Since the loan will be sold within days anyway, who cares what the real value is, you don't get paid if the loan doesn't close. The owner wants the highest price possible. The buyer (the mythical "Informed Buyer") knows that if the appraisal does not come in at purchase price that tie or she cannot get that 97% to 105% loan, and they don't have enough savings to make up the difference as increased down payment. Is there any wonder why there is pressure on appraisers to "come in with the numbers?" In addition, if an appraiser's value loses that deal for some lenders, the loan officer will find another appraiser who will "come in with the numbers" for all future appraisal orders. I see it all of the time. Not all mortgage bankers work that way, and I have continued to do business with them. There are many lenders who will not send me appraisal work because I don't "come in with the numbers." I do a very thorough analysis, and average 10 hours per appraisal. I know appraisers who complete two or more appraisals per day. Many of those appraisers do work for those lenders that I won't work for.

USPAP has prohibited needed valuation services which would save borrows money. Years ago before USPAP, I used to get assignments from Albuquerque National Bank with basic information on a house in an area of, say, \$ 100,000+ homes, showing a \$30,000 existing first mortgage and saying there was a request for a \$20,000 line of credit or second mortgage. The lender wanted to know if the house was the house worth at least \$70,000? I would pull comparable sales, take a look at the house and comparable sales, and say yes, no, or it is too close to tell, get a complete appraisal. There was a huge savings for the borrower. That is now illegal under USPAP. The reasoning is that some appraisers would "fudge the numbers," and it isn't a complete appraisal. A good appraiser doesn't fudge the numbers. It is the same appraisers that "come in with the numbers" for complete appraisals that cause the problem. If I went to a house that was obviously not going to appraise for enough to make the loan, I could walk away and charge an inspection fee. That too would save the borrower's money. That is now illegal under USPAP because I did not make a complete appraisal. When friends would call me and say they need an idea of the value of their home, I used to show them the comparable sales and help them develop their own estimate. That is now illegal under USPAP. I was on a radio show last month and callers asked what improvements tend to help improve the value the most. I could not respond because of USPAP since it was not a complete appraisal, and I can't express an opinion on value without a complete appraisal being completed on the specific property being discussed.

I am an honest General Certified appraiser with 32 years experience, who takes the time to fully develop my "estimates of value." I am experienced in and certified for both commercial and residential appraising. I have never had a complaint filed against me. Several clients have told me that they give me the most difficult assignments because they know I will take the time to do a good job. I

April 16, 2004

will not succumb to client pressure, but I have had it with USPAP. USPAP is not "Uniform," or it would not change every year! It completely ignores the residential appraiser and the legitimate needs of the single family mortgage market. USPAP is incompatible with standard form appraisals. It punishes the competent appraiser and puts him or her at risk for regulatory harassment, fines, and/or loss of license for insignificant omissions of certain words that have nothing to do with the quality of the analysis or estimate of value. It has driven up the appraisal costs to the homeowners, and done virtually nothing to reduce the real problem of pressure on appraisers to "come in with the numbers!" I have had it. As the song says "Take This Job and Shove It!" I QUIT! I have stopped accepting appraisal assignments. I have purchased a company that manufactures and sells cloth book covers nationally. USPAP is doing a great job of running the honest appraisers out of the business, but has accomplished little else. It is totally out of control. There has been recent testimony in Congress about the problems of USPAP and especially the problems with residential appraising, and I think that you should know that it is absolutely true.

Sincerely,

A handwritten signature in black ink that reads "Robert T. Mize". The signature is written in a cursive style and is positioned to the left of a vertical line that extends from the "Sincerely," above down to the typed name below.

Robert T. Mize, CRA  
New Mexico General Certificate No. 14