



Hearing on
Appraisal Bias and Regulatory Reform

Testimony of Morgan Williams
General Counsel, National Fair Housing Alliance

Before the
Board of the Appraisal Subcommittee
May 19, 2023

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EMBARGOED UNTIL 5/19/2023

Introduction

Distinguished members of the board of the Appraisal Subcommittee,

Thank you for inviting the National Fair Housing Alliance to testify today on the extremely important issue of appraisal bias and regulatory reform, which affects millions of people across the country.

My name is Morgan Williams and I am the General Counsel of the National Fair Housing Alliance® (“NFHA™”). NFHA is the country’s only national civil rights organization dedicated solely to eliminating all forms of housing and lending discrimination and ensuring equal opportunities for all people. As the trade association for over 170 fair housing and justice-centered organizations and individuals throughout the U.S. and its territories, NFHA works to dismantle longstanding barriers to equity and to build diverse, inclusive, well-resourced communities.

An appraisal has the power to determine the value of a consumer’s most important financial asset, which can hold the key to determining whether the consumer can purchase a permanent home rather than rent, access credit on reasonable terms, and build wealth for generations to come. However, numerous news stories¹ as well as research by the Federal Housing Finance Agency, Fannie Mae, Freddie Mac, Drs. Junia Howell and Elizabeth Korver-Glenn, the Brookings Institution, and the National Fair Housing Alliance² have documented the serious and systemic problem of appraisal bias for consumers and communities of color. Appraisal bias exacerbates the large and growing Black-White racial wealth gap by causing Black families to get lower

¹ See, e.g., Julian Glover and Mark Nichols, *Our America: Lowballed*, ABC (Dec. 2022), <https://abc7.com/feature/our-america-lowball-home-appraisal-racial-bias-discrimination/12325606/>.

² See FHFA, *Reducing Valuation Bias by Addressing Appraiser and Property Valuation Commentary*, FHFA Insights Blog (Dec. 14, 2021), <https://www.fhfa.gov/Media/Blog/Pages/Reducing-Valuation-Bias-by-Addressing-Appraiser-and-Property-Valuation-Commentary.aspx>; Jake Williamson and Mark Palim, *Appraising the Appraisal*, Fannie Mae (Feb. 2022), <https://www.fanniemae.com/media/42541/display>; Melissa Narragon, et al., *Racial and Ethnic Valuation Gaps in Home Purchase Appraisals*, Freddie Mac Economic and Housing Research Note (Sept. 2021), <http://www.freddiemac.com/fmac-resources/research/pdf/202109-Note-Appraisal-Gap.pdf>; Dr. Junia Howell and Dr. Elizabeth Korver-Glenn, *Appraised: The Persistent Evaluation of White Neighborhoods as More Valuable than Communities of Color*, Eruka (Nov. 2, 2022), <https://www.eruka.org/appraised>; Andre M. Perry, Jonathan Rothwell, and David Harshbarger, *The Devaluation of Assets in Black Neighborhoods*, The Brookings Institution Metropolitan Policy Program (Nov. 2018), https://www.brookings.edu/wp-content/uploads/2018/11/2018.11_Brookings-Metro_Devaluation-Assets-Black-Neighborhoods_final.pdf; National Fair Housing Alliance, Dane Law LLC, Christensen Law Firm, *Identifying Bias and Barriers, Promoting Equity: An Analysis of the USPAP Standards and Appraiser Qualification Criteria*, (Jan. 2022) (“NFHA Consortium Report”), <https://nationalfairhousing.org/groundbreaking-report-identifies-bias-and-systemic-barriers-in-real-estate-appraisals/>.

returns from home equity than White families.³ Moreover, appraisal discrimination violates the Fair Housing Act and other federal, state, and local civil rights laws.⁴

Through oversight of The Appraisal Foundation (“TAF”), the Appraisal Subcommittee (“ASC”) is in a unique position to remedy the bias in the valuation process and has taken important steps to address the urgent need for reform. In January of 2022, the ASC commissioned NFHA, along with Dane Law and the Christensen Law Firm, to examine whether the structure of The Appraisal Foundation, the Real Property Appraiser Qualification Criteria, or the Uniform Standards of Professional Appraisal Practice contribute to racial bias.

The results were stunning and groundbreaking. The research showed that severely outdated methods of governance, professional criteria, and professional standards support and exacerbate the disparate impact on consumers and communities of color. Fifty five years after the passage of the Fair Housing Act, it’s clear that the promise of fair and equitable housing is unfulfilled. But meaningful improvements are within reach. Based on NFHA’s outreach to civil rights and consumer advocates, the appraisal industry, the mortgage industry, researchers, and academics, we respectfully offer the following recommendations to the ASC:

- **Governance**. Work with TAF to set public goals and timelines to convert TAF’s governance to a fairer and more democratic structure that serves the public interest.
- **Appraiser Qualification Criteria**. Work with TAF to set public goals and timelines to:
 - Eliminate unnecessary and discriminatory barriers to entry to the appraisal profession;
 - Adopt robust fair housing training requirements as soon as possible; and
 - Ensure comprehensive, practical, and accurate fair housing training is provided to appraisers as soon as possible.
- **Appraisal Standards**. Work with TAF to set public goals and timelines to
 - Thoroughly review USPAP for fair housing risk and amend the standards to limit that risk.
- **Coordination**. Coordinate with the other PAVE Task Force agencies to ensure a consistent whole-of-government approach to addressing appraisal bias.

³ See Tom Shapiro et al., LDF Thurgood Marshall Inst. & Inst. on Assets and Soc. Pol’y at Brandeis Univ. *The Black-White Racial Wealth Gap* 2-3 (2019), <https://tminstituteldf.org/wp-content/uploads/2019/11/FINAL-RWG-Brief-v1.pdf>.

⁴ See 42 U.S.C. §§ 3604, 3605.

Governance. We urge the ASC to work with TAF to set public goals and timelines to convert TAF’s governance to a fairer and more democratic structure that serves the public interest.

As Consumer Financial Protection Bureau (“CFPB”) Director Chopra aptly noted during the first ASC hearing on appraisal bias, the governance structure of the appraisal industry and TAF is “weird.”⁵ Among other governance issues, we are deeply concerned that TAF has not yet reformed two critical aspects of its “pay-to-play” structure. First, industry sponsors pay an initial application fee and annual “donations” for the right to appoint a trustee to the Board of Trustees. (See [Appendix A](#) for details.) The trustees then select the individuals for the Appraisal Standards Board (“ASB”) who write the appraisal standards (known as the “Uniform Standards of Professional Appraisal Practice” or “USPAP”) and the individuals for the the Appraiser Qualifications Board (“AQB”) who write the Real Property Appraiser Qualification Criteria (“Appraiser Qualification Criteria”). In effect, the industry pays for the right to write the standards and criteria. “Sponsorship Fees” and “Industry Advisory Council Fees” are TAF’s second largest source of revenue. This structure creates a conflict of interest that may make TAF more responsive to industry than to consumers. While some standard-setting organizations may take donations, we are not aware of any that allow industry to pay for a seat on the board or to select the rule-writers. The ASC should work with TAF to reform the pay-to-play board appointment structure.

Second, TAF keeps USPAP and related guidance behind a paywall. That is, TAF claims a public power to issue the standards, but then uses these standards as a private benefit for the organization. In fact, “Publication Revenue” is TAF’s largest source of revenue. (See [Appendix A](#) for details.) TAF’s “pay-for-access” approach means that appraisers must spend their own funds to access the rules that govern them, and members of the public are denied transparency and insight into industry governance. We are not aware of any other government-endorsed standard-setting organization that keeps its standards behind a paywall. The ASC should work with TAF to ensure that its standards and interpretations are free to the public.

Appraiser Qualification Criteria. We urge the ASC to work with TAF to set public goals and timelines to:

- Eliminate unnecessary and discriminatory barriers to entry to the appraisal profession;
- Adopt robust fair housing training requirements as soon as possible; and
- Ensure comprehensive, practical, and accurate fair housing training is provided to appraisers as soon as possible.

⁵ See CFPB, *Appraisal Subcommittee Hearing on Appraisal Bias* (Jan. 24, 2023), <https://www.consumerfinance.gov/about-us/events/archive-past-events/appraisal-subcommittee-hearing-on-appraisal-bias/>.

The AQB's Appraiser Qualification Criteria pose at least three major challenges. First, the appraiser profession suffers from an acute shortage and a unique lack of diversity (97% White, 70% male),⁶ mainly due to the many barriers to entry imposed by the criteria. The appraiser profession requires several levels of licensing and certification. Moreover, each level of licensing and certification represents additional barriers in the form of college degree requirements, appraiser education hours, and experience hours. (See [Appendix B](#) for a chart summarizing the various credentials and requirements.) Based on NFHA's research, the biggest barrier is finding a Supervisory Appraiser willing to share their time, fees, and business advantage to train their competition. Because most current appraisers are older, white males, the lack of social and professional connections in communities of color often perpetuates the pattern of new appraisers also being mostly white males.⁷ By comparison, for other professions – such as real estate brokers, accountants, and lawyers – the individuals are full-fledged members of the profession once they pass the certification examination. Despite these long standing issues, TAF has not begun a public, transparent collaboration with civil rights experts to review each barrier to entry. The ASC should work with TAF to review each requirement for disparate impact by analyzing the burden on potential appraisers of color and women, the business justification for the requirement, and whether there is a less discriminatory alternative that can achieve the business interest.

Second, the AQB has not yet adopted robust fair housing training requirements for appraisers. While we commend the AQB for proposing a thoughtful draft,⁸ the AQB failed to adopt the draft at the public meeting on March 22, 2023. This means that current and aspiring appraisers in some states will not be required to take the initial in-depth fair housing training until some time in 2026. If additional exposure drafts are needed, the timeline could be even longer. The Fair Housing Act was passed in 1968, but the AQB has yet to require meaningful fair housing training 55 years after the landmark legislation became law. The ASC should work with TAF to ensure that the AQB adopts robust fair housing training requirements as soon as possible.

⁶ See U.S. Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey*, (Jan. 22, 2021), <https://www.bls.gov/cps/cpsaat11.htm>.

⁷ During NFHA's research, several concerns were raised about the Practical Applications of Real Estate Appraisal ("PAREA"), which the AQB approved as an alternative to the experience hours requirement. Through PAREA, an individual would be able to bypass the experience hours by means of a virtual course in which the student handles simulated appraisal situations and completes mock appraisal exercises and assignments, removing the need to find a Supervisory Appraiser. However, there are several roadblocks to implementing PAREA as a viable alternative. First, proposed courses are still under development and none are actually available at this time. The timeline for deploying the course and the eventual cost to potential appraisers are unknown. Second, each state must adopt these new criteria, which may take years in some cases. Some states who have adopted the criteria have retained some of the experience hours requirements, meaning that the individual would still need to find a Supervisory Appraiser. See *NFHA Consortium Report* at 67.

⁸ AQB, *First Exposure Draft: Real Property Appraiser Qualifications Criteria* (Feb. 10, 2023), <https://appraisalfoundation.sharefile.com/share/view/s619e242a575d43b39c82a1ed5db4bd0e>.

Finally, TAF has yet to provide comprehensive, practical, and accurate fair housing training for appraisers. Recently, TAF released a replacement for the inaccurate fair housing training it had previously required appraisers to purchase and attend as part of the 7-Hour National USPAP Update Course. While the new material is accurate, it cannot be framed as “training” because it is not written in a format that appraisers can understand. Instead, it is crafted in legal and regulatory jargon that is not accessible to trainees and appraisers new to these important civil rights principles. Moreover, for those who already took the course, there is no additional online learning or webinar to help appraisers understand this critical and complex area. TAF should be concerned that appraisers that previously received inaccurate information need special additional training to ensure that they are not misinformed about the law. The current approach leaves appraisers open to liability and does little to prevent harm to consumers and communities.

To understand the urgency of deploying meaningful fair housing training, it is important to understand the history. Up through the 1970s, appraisers were trained to place the highest value on properties in White, homogeneous neighborhoods. For example, one training course provided the following instruction:

As a general rule, homogeneity of the population contributes to stability of real estate values. Information on the percentage of native-born whites, foreign whites, and non-white population is important and the changes in this composition have a significance.

-American Institute of Real Estate Appraisers (“AIREA”)

In fact, this training remained in place even after this type of activity was prohibited under the Fair Housing Act in 1968. It was not until the U.S. Department of Justice sued AIREA that AIREA agreed to remove the racially-explicit language in 1977.⁹ Because meaningful fair housing training has yet to be required for appraisers, some appraisers have never received proper instruction to override the principles learned in the 1970s. Moreover, researchers have found that some appraisers still adhere to the notion that the highest value should be reserved for properties in White, homogeneous areas.¹⁰ Given the importance of fair housing training in ensuring fair and accurate outcomes for all consumers and communities, we urge the ASC and TAF to ensure that appraisers are provided with comprehensive, practical, and accurate training as soon as possible.

⁹ *United States v. American Institute of Real Estate Appraisers*, 442 F. Supp. 1072 (N.D. Ill. 1977).

¹⁰ See Elizabeth Korver-Glenn, *Race Brokers: Housing Markets and Segregation in 21st Century Urban America* at 141 (2021) (finding that many of the appraisers in the study “assumed that White buyers were the standard for determining an area’s desirability, with White areas meeting this standard and receiving the highest values and non-White areas falling below the standard”).

Appraisal Standards. We urge the ASC to work with TAF to set public goals and timelines to:

- **Thoroughly review USPAP for fair housing risk and amend the standards to limit that risk.**

The Appraisal Standards Board's ("ASB") USPAP continues to pose fair housing risk. Although the Fair Housing Act was passed in 1968, the ASB only just recently adopted meaningful nondiscrimination standards on May 5, 2023, 55 years after the landmark legislation became law. We hope that the ASB will work more quickly to address the fair housing risk in USPAP more holistically. The ASB's USPAP allows appraisers broad discretion in the sales comparison approach, which can result in inconsistent and unfair results for consumers, particularly consumers of color. The ASB has yet to propose an exposure draft or advisory opinion that would instruct appraisers regarding how to limit discretion and improve quality control in order to provide more accurate appraisals and to prevent harm to consumers and communities. Other actors in the housing market - such as realtors, mortgage lenders, and homeowner insurance companies - have long been engaged in improvements to prevent fair housing violations. Similarly, the appraisal process should be thoroughly reviewed for fair housing risk, particularly in the exercise of discretion. The ASC should work with TAF to ensure USPAP Standards are amended to provide a baseline standard for fair and equitable outcomes.

Coordination. We urge the ASC to coordinate with the other PAVE Task Force agencies to ensure a consistent whole-of-government approach to addressing appraisal bias. We commend the ASC for the important steps it has taken thus far to address the urgent need for reform. We urge the ASC to use its expertise to work with the other PAVE Task Force agencies to address other critical areas for reform, including:

- Working with the Federal Housing Finance Agency ("FHFA") to ensure that revisions to the Uniform Residential Appraisal Report improve valuations and ensure consistent outcomes for all consumers and communities;¹¹
- Working with the FHFA, the Federal Housing Administration ("FHA"), the U.S. Department of Veterans Affairs ("VA"), and the U.S. Department of Agriculture ("USDA") to release loan-level appraisal data so researchers, advocates, and industry can understand and remedy the causes of appraisal bias;¹² and

¹¹ See, e.g., Fannie Mae, *Uniform Appraisal Dataset*, <https://singlefamily.fanniemae.com/delivering/uniform-mortgage-data-program/uniform-appraisal-dataset>.

¹² See, e.g., FHFA, *Uniform Appraisal Dataset Aggregate Statistics*, <https://www.fhfa.gov/DataTools/Pages/UAD-Dashboards.aspx>.

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- Working with the FHFA, FHA, VA, and USDA to provide clear and comprehensive standards for consumers to obtain a Reconsideration of Value or second appraisal.¹³

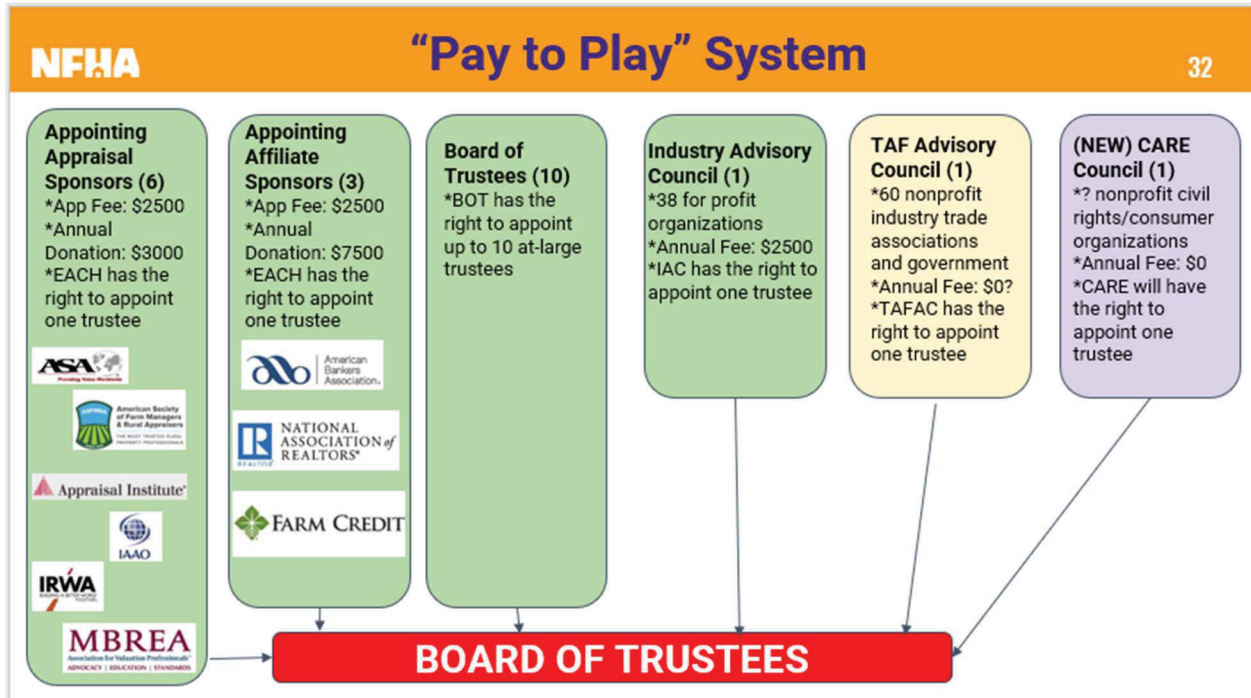
By working together, the PAVE Task Force agencies can send a strong message about the importance of promoting fair housing opportunities for all consumers and communities.

Conclusion

In conclusion, we thank the board of the Appraisal Subcommittee for its leadership on the critical issue of appraisal reform. We look forward to continued dialogue on this important issue.

¹³ See, e.g., FHA, *Draft Mortgagee Letter re Borrower Request for Review of Appraisal Results*, https://www.hud.gov/sites/dfiles/SFH/documents/borrower_req_review_appraisal_results_draft.pdf.

APPENDIX A - The Appraisal Foundation's "Pay-to-Play" Structure



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FINANCIAL STATEMENTS

Statements of Activities and Changes in Net Assets
 December 31, 2021

REVENUE	
Publication Revenue	\$ 3,460,567
Grants Revenue	—
Course Approval Program Fees	161,056
Instructor Certification Courses	93,535
Sponsorship Fees	86,532
Industry Advisory Council Fees	90,000
Other Revenue	—
Investment Income (loss)	1,136,627
TOTAL REVENUE	\$5,028,317

Unlike federal agencies, TAF can keep rules, advisory opinions, etc. behind a paywall to generate revenue.

TAF declined Appraisal Subcommittee grants and thus avoids ASC oversight.

Unlike federal agencies, TAF can charge to approve the courses it requires and to certify the course instructors.

Unlike federal agencies, TAF can charge fees for the right to appoint trustees, who then select the rulewriters.

APPENDIX B - Appraiser Qualification Criteria

Appraiser Licensing and Certification (subject to individual state laws)

CREDENTIAL	COLLEGE DEGREE REQUIREMENT	EDUCATION HOURS	EXPERIENCE REQUIREMENT*	EXAM	PERMITTED TO APPRAISE
Trainee Appraiser	None	-75 hours -Supervisory Appraiser/ Trainee Appraiser Course	None	No exam	-Properties that the Supervisory Appraiser is permitted to appraise
Licensed Residential Appraiser	None	-150 hours	1,000 hours in a minimum of 6 months (requires a Supervisory Appraiser)	Licensed Residential Exam	-Non-complex 1-4 residential units with a transaction value of less than \$1 million -Complex 1-4 residential units with a transaction value of less than \$400,000
Certified Residential Appraiser	-Bachelor's degree, OR -Associate's degree in a focused field of study, OR -30 college semester credit hours in specified topics, OR -CLEP exam	-200 hours	1,500 hours in a minimum 12 months (requires a Supervisory Appraiser)	Certified Residential Exam	-Any 1-4 residential units, regardless of complexity or transaction value
Certified General Appraiser	-Bachelor's degree	-300 hours	3,000 hours in a minimum of 18 months; 1,500 hours must be in non-residential work (requires a Supervisory Appraiser)	-Certified General Exam	-All real estate types, including commercial real estate

*Can complete the experience requirements while completing the appraisal education hours; hours are cumulative across credentials.

Source: Appraiser Criteria