

Briefing Summary Notes Cover Page

March 9, 2022

**APPRAISAL SUBCOMMITTEE
SUMMARY BRIEFING NOTES
DECEMBER 8, 2021**

ATTENDEES

ASC MEMBERS: CFPB – John Schroeder
FDIC – John Jilovec
FHFA – Robert Witt
HUD – Bobbi Borland
NCUA – Tim Segerson
OCC – James Rives

ASC STAFF: Executive Director – Jim Park
General Counsel – Alice Ritter
Grants Director – Mark Abbott
Attorney-Advisor – Ada Bohorfoush
Financial Manager – Girard Hull
Management and Program Analyst – Lori Schuster
Administrative Officer – Brian Kelly
Policy Manager – Claire Brooks
Policy Manager – Neal Fenochietti
Policy Manager – Kristi Klamet
Regulatory Affairs Specialist – Maria Brown

PRESENTERS: David Byerman – Council on Licensure, Enforcement and Regulation (CLEAR)
Morgan Williams – National Fair Housing Alliance (NFHA)
Joshua Walitt – Walitt Solutions

OBSERVERS: See attached list

The Briefing, held via Zoom, was called to order at 9:00 a.m. by Chair T. Segerson. The following items were discussed: (1) USPAP and AQB Criteria Review; and (2) Notice of Proposed Rulemaking on Temporary Waiver.

USPAP and AQB Criteria Review

J. Park said that D. Byerman, M. Williams and J. Walitt were present to discuss the Uniform Standards of Professional Appraisal Practice (USPAP) and the Real Property Appraiser Qualification Criteria (Criteria) Review. D. Byerman said that CLEAR contracted with J. Walitt to prepare a report showing changes made to USPAP since its inception in 1987. NHFA, along with Christensen Law Firm and Dane Law LLC, conducted a review of USPAP and the Criteria to ensure that these documents do not encourage or systematize bias, and that they consistently support or promote fairness, equity, objectivity, and diversity.

J. Walitt presented his report on USPAP showing the timeline of changes and the process for those changes. He reviewed each edition of USPAP along with Advisory Opinions (AOs) and Frequently Asked Questions (FAQs). The review was limited to Standards 1-4 relating to real property appraisal. There have been approximately 3,600 changes to USPAP since its inception. Many of those changes were to AOs which are only guidance and not part of USPAP. Changes were categorized as material changes, ethics changes and minor changes which included formatting and cosmetic changes. His key takeaways were problematic definitions, inconsistent use of definitions, errors, or confusion in FAQs, mislabeled and disorganized FAQs making it hard to find information, changes and reversals on appraisal reports and work product. Bias and discrimination are not explicitly addressed. The lack of clear technical writing is evident in USPAP. J. Schroeder asked J. Walitt if he believed all the USPAP revisions were unnecessary. J. Walitt responded that approximately one-third to one-half of the revised editions were for immaterial changes. J. Schroeder asked if the Appraisal Foundation (TAF) could have addressed changes differently other than publishing a new edition. J. Walitt responded that TAF could have published a notice of minor changes but that may have caused problems with enforceability. He added that if technical or legal reviews were conducted of USPAP, that could have decreased the number of revised issues. J. Walitt added that it is difficult for States to continually update regulations and statutes to enforce the current edition of USPAP, especially if a State Appraisal Program is in a department that oversees multiple occupations. He added that guidance is not enforceable. C. Holly asked how many editions of USPAP have been released. J. Walitt responded there have been 24 editions since 1987. There were also two mid-year supplements. The first edition was developed by the federal regulatory agencies and was adopted by TAF in 1989. TAF has overseen USPAP since then.

D. Byerman highlighted three elements of the USPAP/Criteria Review: (1) how does USPAP systematize bias, (2) how do the USPAP update courses benefit appraisers, and (3) does the USPAP update course or USPAP itself violate fair housing laws. M. Williams, the General Counsel for NFHA, said the Final Review will be submitted to the ASC and CLEAR by December 30th. He added the draft Review will be shared with TAF prior to public release. He noted that the appraisal industry has not been subject to as much oversight as other occupations. There have been numerous stories in the media recently on systemic bias in appraisals and how it personally affects individuals who are victims of bias. He noted reports done recently by the Brookings Institution and Freddie Mac. The topics in this Review include bias in the appraisal industry, civil rights laws and regulations, questions about governance, fair housing requirements and training, barriers to entry to the profession, compliance, and enforcement. The Review notes that there is a lack of input from the broader community on fair housing issues. Board members discussed and asked questions about the content of the Report. At the conclusion, the presenters thanked the ASC for their time and left the Briefing.

Notice of Proposed Rulemaking on Temporary Waiver

A. Ritter said the Notice of Proposed Rulemaking (NPRM) is an action item for the Special Meeting that will follow this Briefing. She thanked ASC members and agency staff for their work on the NPRM. If approved at the Special Meeting, the NPRM will be posted in the *Federal Register* after the holidays for a 60-day comment period. While notice and comment is not required for this NPRM as it is a procedural rule, it is a best practice. M. McQueeney wanted

clarification that the vote at today's Special Meeting is to approve the NPRM for publication in the *Federal Register* and would allow the ASC staff to make minor technical edits prior to publication. A. Ritter responded "yes."

The Briefing adjourned at 10:45 a.m.

Attachment: Observer List

Meeting:	Appraisal Subcommittee Briefing	Meeting Date:	December 8, 2021
Contact:	Lori Schuster	Location:	Zoom Meeting
Time:	9:00 AM ET	Alternate Contact:	Brian Kelly

Name	Affiliation
Deana Krumhansl	Consumer Financial Protection Bureau
Orlando Orellano	Consumer Financial Protection Bureau
Barbara Leslie	Department of Housing and Urban Development
Richard Foley	Federal Deposit Insurance Corporation
Patrick Mancoske	Federal Deposit Insurance Corporation
Mark Mellon	Federal Deposit Insurance Corporation
Lauren Whitaker	Federal Deposit Insurance Corporation
Maria Fernandez	Federal Housing Finance Agency
Sara Todd	Federal Housing Finance Agency
Carmen Holly	Federal Reserve Board
David Imhoff	Federal Reserve Board
Devyn Jeffereis	Federal Reserve Board
Matt McQueeney	Federal Reserve Board
Matt Suntag	Federal Reserve Board
Rachel Ackmann	National Credit Union Administration
Gira Bose	National Credit Union Administration
Will Binkley	Office of the Comptroller of the Currency
Stacey Fluellen	Office of the Comptroller of the Currency

Name	Affiliation
Kevin Lawton	Office of the Comptroller of the Currency

**APPRAISAL SUBCOMMITTEE
SUMMARY BRIEFING NOTES
JANUARY 12, 2022**

ATTENDEES

ASC MEMBERS: CFPB – John Schroeder
FDIC – John Jilovec
FHFA – Maria Fernandez
FRB – Keith Coughlin
HUD – Bobbi Borland
NCUA – Tim Segerson
OCC – James Rives

ASC STAFF: Executive Director – Jim Park
General Counsel – Alice Ritter
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Administrative Officer – Brian Kelly
Policy Manager – Claire Brooks
Policy Manager – Neal Fenochietti
Policy Manager – Kristi Klamet
Regulatory Affairs Specialist – Maria Brown

PRESENTERS: David Byerman – Council on Licensure, Enforcement and Regulation (CLEAR)
Melody Taylor – Task Force on Property Appraisal & Valuation Equity (PAVE)

OBSERVERS: See attached list

The Briefing, held via Zoom, was called to order at 10:00 a.m. by Chair T. Segerson. The following items were discussed: (1) PAVE Task Force; (2) USPAP/AQB Criteria Review; (3) General Staff Update.

T. Segerson noted that Melody Taylor, PAVE Executive Director, and David Byerman from CLEAR were present to provide updates.

PAVE Task Force

M. Taylor thanked the ASC staff and member agencies for their assistance and participation with PAVE. The draft recommendations have been circulated to PAVE members for review. Once finalized, they will be sent to the Office of Management and Budget (OMB) for clearance. She detailed PAVE’s work and the timeline for the release of the recommendations. PAVE hopes the recommendations will address issues with the consequences of misvaluing for individual homeowners, communities, and the nation. While existing problems will not be resolved immediately, PAVE hopes to create an opportunity to foster communications between federal

agencies, civil rights organizations, and consumer advocates to bring about change for both individuals and communities. She concluded her report and fielded questions from ASC members. K. Coughlin thanked M. Taylor for her presentation and PAVE's work. He asked if there is a timeline and communications strategy for publishing the recommendations. M. Taylor responded that PAVE hopes to publish the recommendations after mid-February. It will depend on when OMB completes its clearance process. PAVE will coordinate with the PAVE member agencies' Communications Offices to develop a release timeline. PAVE will also work with agencies on implementing the recommendations. J. Schroeder asked how the ASC's Review of the Uniform Standards of Professional Appraisal Practice (USPAP) and Real Property Appraiser Qualification Criteria (Criteria) will intersect with PAVE's recommendations and if PAVE saw the USPAP/Criteria Review. M. Taylor responded that PAVE has seen the Review and some of the recommendations align with PAVE's recommendations.

USPAP/AQB Criteria Review (Review)

D. Byerman provided a high-level overview of the Review including the goals and methodology. The National Fair Housing Alliance, Dane Law LLC, and the Christensen Law Firm (Consortium) were selected to conduct this Review. Interviews were conducted with the staff and Board members of the Appraisal Foundation (TAF) as part of the Review. ASC/CLEAR set expectations and facilitated open communications. ASC/CLEAR also received bi-weekly updates from the Consortium during the Review. The draft Review was submitted to the ASC on December 3rd with comments due on December 10th. The Final Review was received on December 17th. He summarized the key recommendations:

- (1) Complex questions on TAF's legal authority be considered for further review.
- (2) TAF's structure and procedures require evaluation and possible reform.
- (3) The recently released 7-hour USPAP Update Course should be revised immediately.
- (4) Fair housing training must be reframed and reassessed with the participation of fair housing/civil rights experts.
- (5) Further study is needed on disparate impacts for various appraiser qualification requirements.
- (6) Longstanding assumptions need to be challenged: Duty of care, data sharing, reconsideration of value.

He concluded with a plan for a coordinated rollout with PAVE and the White House. CLEAR will send embargoed copies of the Review to select reporters. This will be done 24-48 hours in advance of full release. Day-of Briefings will be held with advocates and trade groups in advance of the Press Release. Editorial opinion columns can be prepared for publication in major newspapers and trade journals. The Press Release from ASC/CLEAR will list findings of the Review. The Press Release must stress the independent work of the Consortium. This will tie to the release of PAVE's recommendations in February. The Executive Summary was shared at a meeting between ASC/CLEAR/Consortium and TAF in late December. K. Coughlin

suggested coordinating a rollout of this Review with PAVE's recommendations. This would allow member agency staff more time to vet the Review findings and share it with agency principals. He said a clarifying statement should note that the views and opinions expressed in the Review are those of the authors and do not necessarily reflect the official policy or position of the ASC or the agencies represented on its Board. T. Segerson said he was not in favor of waiting for PAVE to release its recommendations as he feels this Review is a lead in for PAVE's recommendations. D. Ueijo asked if TAF provided a response regarding its constitutionality regarding setting appraisal standards and criteria. D. Byerman said that TAF did not provide any comments or responses to the Executive Summary. J. Rives said that, while he understood K. Coughlin's concerns, he did not think release of the Review should be delayed. He noted that it is critical to stress the independence of this Review in any public communications. J. Jilovec clarified that there would be two separate press releases. D. Byerman responded "yes," one would come from the ASC/CLEAR and the National Fair Housing Alliance is also preparing a separate Press Release. J. Jilovec asked who would prepare editorial opinion pieces. D. Byerman said that has not been determined. He added that any op/ed pieces would lay out the recommendations in the Review. T. Segerson said a game plan needs to be completed regarding the release of the Review on January 19th and getting information out to the public. J. Schroeder agreed with this approach adding that the Press Release should highlight the independent nature of this Review. ASC agencies can discuss how individual agencies should respond once the Review is public. K. Coughlin asked for clarification of what will be in the Press Release. T. Segerson responded that the Press Release will emphasize the independent nature of this Review and how the ASC came to approve the Review, approve funding, publish a Request for Information and awarding a contract. The ASC commissioned this Review to be done independently and that will be stated in the Press Release. J. Park acknowledged a request from M. Taylor that PAVE and the ASC will work together for a balanced rollout of this Review and PAVE's recommendations.

General Staff Update

Due to time limitations, this item was not discussed.

The Briefing adjourned at 11:20 a.m.

Attachment: Observer List

Meeting:	Appraisal Subcommittee Briefing	Meeting Date:	January 12, 2022
Contact:	Lori Schuster	Location:	Zoom Meeting
Time:	10:00 AM ET	Alternate Contact:	Brian Kelly

Name	Affiliation
Deana Krumhansl	Consumer Protection Financial Bureau
Orlando Orellano	Consumer Protection Financial Bureau
David Ueijo	Consumer Protection Financial Bureau
Barbara Leslie	Department of Housing and Urban Development
Nathan Roth	Department of Housing and Urban Development – PAVE Task Force
Richard Foley	Federal Deposit Insurance Corporation
Patrick Mancoske	Federal Deposit Insurance Corporation
Mark Mellon	Federal Deposit Insurance Corporation
Lauren Whitaker	Federal Deposit Insurance Corporation
Julie Giesbrecht	Federal Housing Finance Agency
Carmen Holly	Federal Reserve Board
David Imhoff	Federal Reserve Board
Devyn Jeffereis	Federal Reserve Board
Derald Seid	Federal Reserve Board
Matt Suntag	Federal Reserve Board
Rachel Ackman	National Credit Union Administration
Gira Bose	National Credit Union Administration
Kevin Lawton	Office of the Comptroller of the Currency

Name	Affiliation
Joanne Phillips	Office of the Comptroller of the Currency
Mitchell Plave	Office of the Comptroller of the Currency
Marta Stewart-Bates	Office of the Comptroller of the Currency

**APPRAISAL SUBCOMMITTEE
SUMMARY BRIEFING NOTES
FEBRUARY 9, 2022**

ATTENDEES

- ASC MEMBERS:** CFPB – John Schroeder (Vice-Chair)
FDIC – John Jilovec
FHFA – Julie Giesbrecht
FRB – Keith Coughlin
HUD – Bobbi Borland
NCUA – Tim Segerson (Chair)
OCC – Enice Thomas
- ASC STAFF:** Executive Director – Jim Park
Deputy Executive Director – Denise Graves
General Counsel – Alice Ritter
Management and Program Analyst – Lori Schuster
Administrative Officer – Brian Kelly
- PRESENTER:** Maureen Yap – National Fair Housing Alliance (NFHA)
- OBSERVERS:** See attached list

The Briefing, held via Zoom, was called to order at 10:00 a.m. by Chair T. Segerson. The following items were discussed: (1) ASC Staffing; (2) 2017-19 TAF Grant Audit Update; (3) USPAP/Criteria Review; and (4) General Staff Update.

T. Segerson noted that his term as ASC Chair ends on March 31st. He is retiring in 2023 and will not run for a second term. He asked ASC members who are interested in the Chair position, which is a two-year term, to submit their name to L. Schuster. The FFIEC will appoint the ASC Chair at its March 22nd Meeting.

J. Park said that Maureen Yap, General Counsel at the NFHA, would join the Briefing at 10:30 to discuss the USPAP/AQB Criteria Review (Review).

ASC Staffing

A. Ritter announced that she will retire as General Counsel from the ASC this December. D. Graves said ASC staff is requesting to hire an additional Attorney-Advisor in advance of A. Ritter's retirement. This will allow for cross training with A. Ritter. Legal duties have increased in the past year as numerous contracts now require legal review, possible additional responsibilities resulting from the PAVE Task Force recommendations and legal work pertaining to the ASC Grants program. The ASC will need to approve this additional position and related budget revisions. ASC staff is proposing a Special Meeting within the next two weeks to act on this request. This is due to the lead time to prepare the position paperwork and assistance from the U.S. General Services Administration (GSA) and U.S. Office of Personnel Management

(OPM). T. Segerson asked if the Attorney-Advisor position would be permanent. D. Graves responded “yes, for the reasons noted above.” J. Schroeder voiced his support of this position. He asked if the ASC staff has reviewed whether additional staff positions may be needed. D. Graves responded “yes” and noted the Attorney-Advisor position is the most urgent need. She said that GSA and OPM will not allow the ASC to hire another General Counsel while the position is currently filled. She added that paperwork is being prepared to hire an additional Policy Manager and fill the vacant Policy Manager position that were approved in the Fiscal Year 2022 budget. J. Park said that additional hiring will depend on the PAVE Task Force recommendations. ASC staff will discuss this with the ASC in the coming months. J. Jilovec was supportive of the additional Attorney-Advisor position. K. Coughlin was supportive of hiring additional staff if the PAVE Task Force recommendations are approved. He would also like additional background information to justify the Attorney-Advisor position. T. Segerson asked if the Special Meeting would be Open or Closed since it relates to personnel matters. A. Ritter recommended an Open Special Meeting since this would be a budget amendment. She did not feel that this item could be handled via notation vote.

2017-19 Appraisal Foundation (TAF) Grant Audit Update

J. Park said that he received the draft audit report from the auditors, McBride, Lock and Associates, LLC. The auditors concluded that TAF generally accounted for and expended the grant funds in accordance with the *Generally Accepted Government Accounting Standards*. The audit found that TAF did not have a system for tracking and reporting on program income received. This leads to potential improper expenditures of amounts which should be accounted for as program income from USPAP sales in the three years ended September 30, 2019. TAF was provided with a copy of the draft audit report and disagreed with the finding; therefore, no corrective action was stated in the audit report. TAF contends that the agreements with the ASC were considered a contract and not a grant, therefore no income was generated using grant funds. The ASC staff has six months to submit a Management Decision which will be signed by the Executive Director. If TAF does not agree with the Management Decision, they can file an appeal with the ASC Board. He added that ASC staff is contracting with a grants administration consultant, RSM, to review the audit findings. RSM will not provide an opinion on the audit report but will assist with the preparation of a Management Decision as well as review ASC grant program administration. J. Schroeder asked for clarification on the program income finding. J. Park responded that if it is determined that the program income was earned using grant funds, the ASC could try to recover those funds after determining the amount. This would be a difficult task. If the ASC disagrees with the auditor’s finding regarding program income, the audit would be considered closed. Either of these options would have a significant impact on TAF. T. Segerson clarified that the ASC would need to decide on what actions to take after a Management Decision is issued. J. Park responded “yes,” including any needed resolution. J. Park said that since the ASC does not have an Inspector General, the Grants Handbook was developed to provide due process to grantees and divide responsibilities between the ASC staff and ASC Board. The ASC Board must be a fair and independent arbiter on any appeals filed. K. Coughlin asked if the draft audit report will be shared with ASC members. J. Park responded it was only shared with the ASC Chair and Vice Chair. K. Coughlin said that while this preliminary discussion is helpful, it is complicated as the draft report, or any

recommendations have not been shared with the ASC members. J. Schroeder said that he and T. Segerson wanted ASC members to be aware that ASC staff is working with a consultant on the next steps.

USPAP/Criteria Review

J. Park introduced Maureen Yap, General Counsel of NFHA, who was present for this portion of the Briefing to discuss the USPAP/Criteria Review (Review). He added that the ASC staff will share its recommendation with ASC members after M. Yap's presentation. M. Yap said the Review noted that the fair housing training module in the current 2022-23 seven-hour USPAP continuing education course should be revised immediately to ensure the training is comprehensive and contains important elements needed to educate professionals about how to comply with the letter and spirit of applicable federal, state, and local fair housing laws. TAF's response to that recommendation was that they develop training in-house. M. Yap presented excerpts from the seven-hour training course which seem to treat fair housing as an opinion and not law. Advisory Opinions issued by TAF do not focus on the history of appraisal discrimination and its impact on borrowers and communities of color. Recent Supreme Court decisions regarding fair housing are also not covered in the training. The training also does not cover civil rights laws nor is it covered in USPAP. J. Schroeder asked if TAF responded to the concerns noted in the Review. M. Yap responded that NFHA met with TAF in December to discuss the Review findings but has not heard from them since then. A. Ritter noted this could also be included on the agenda for the Special Meeting. Members were supportive of scheduling the Special meeting. T. Segerson thanked M. Yap for her presentation, and she departed the Briefing.

General Staff Update

J. Park introduced J. Giesbrecht as the new FHFA alternate. She replaced Robert Witt, who retired at the end of 2021.

The Briefing adjourned at 11:00 a.m.

Attachment: Observer List

Meeting:	Appraisal Subcommittee Briefing	Meeting Date:	February 9, 2022
Contact:	Lori Schuster	Location:	Zoom Meeting
Time:	10:00 AM ET	Alternate Contact:	Brian Kelly

Name	Affiliation
Deana Krumhansl	Consumer Protection Financial Bureau
Orlando Orellano	Consumer Protection Financial Bureau
David Ueijo	Consumer Protection Financial Bureau
Brian Barnes	Department of Housing and Urban Development
Barbara Leslie	Department of Housing and Urban Development
Richard Foley	Federal Deposit Insurance Corporation
Patrick Mancoske	Federal Deposit Insurance Corporation
Mark Mellon	Federal Deposit Insurance Corporation
Lauren Whitaker	Federal Deposit Insurance Corporation
Carmen Holly	Federal Reserve Board
David Imhoff	Federal Reserve Board
Devyn Jeffereis	Federal Reserve Board
Matthew McQueeney	Federal Reserve Board
Derald Seid	Federal Reserve Board
Matthew Suntag	Federal Reserve Board
Rachel Ackman	National Credit Union Administration
Gira Bose	National Credit Union Administration
Stacey Fluellen	Office of the Comptroller of the Currency

Name	Affiliation
Kevin Lawton	Office of the Comptroller of the Currency
Joanne Phillips	Office of the Comptroller of the Currency
Marta Stewart-Bates	Office of the Comptroller of the Currency