

Congress of the United States
Washington, DC 20515

September 24, 2019

Mr. Arthur Lindo
Chairman
Appraisal Subcommittee
1325 G St. NW
Suite 500
Washington, DC 20005

Dear Mr. Lindo:

We are writing to express our surprise and concern about the Appraisal Subcommittee's (ASC) recent decision to grant a waiver of appraiser certification and licensing to the state of North Dakota.

Congress created the ASC in 1989 to strengthen federal oversight of the appraisal process. Congressional action came after the Government Accountability Office (GAO) documented extensive appraisal failures in the years leading up to the savings and loan crisis.¹ The ASC's role was strengthened following the housing crisis of 2008, when it became clear that for years outside pressure to inflate appraisals had undermined the independent appraisal process, as was documented by the Financial Crisis Inquiry Commission.² In both of these cases, enhanced appraisal oversight requirements followed the widespread failure of financial institutions and a swell of foreclosures across the country that devastated families who found out that their home was not worth what they expected.

Congress has repeatedly recognized the essential role that appraisals play in both safety and soundness and consumer protection. That is why it is so concerning that the ASC, the primary federal organization with oversight over appraisal and appraiser standards, has acted to waive appraiser certification requirements with minimal justification. In its regulatory filings related to the waiver, the ASC cited survey data on appraisal wait times that was presented by the requesters as evidence of a licensed and certified appraiser shortage.³ Yet, as the ASC noted in its final order, contradictory data on the number of appraisers serving the state and wait times for appraisals was submitted by multiple organizations.⁴ No ASC members offered data from their agencies to justify the waiver.

¹ "Thrift Failures: Costly Failures Resulted From Regulatory Failures and Unsafe Practices," Government Accountability Office, GAO/AFMD-89-62, June 16, 1989, available at <https://www.gao.gov/assets/150/147799.pdf>.

² "The Financial Crisis Inquiry Report," February 25, 2011, available at <https://www.govinfo.gov/content/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf>.

³ "Appraisal Subcommittee; Final Order Granting in Part Temporary Waiver Relief," 84 FR 38630, August 7, 2019, available at <https://www.asc.gov/Documents/FederalRegisterDocuments/2019.08.07%20-%20Final%20Order%20-%20North%20Dakota%20Temporary%20Waiver%20Request.pdf>.

⁴ Letter from the North Dakota Real Estate Appraiser Qualifications and Ethics Board Re: Response to Temporary Waiver Request, June 17, 2019, available at file:///C:/Users/mc244426/Downloads/2019_06_17_-_Comment_from_Timothy_Timian_-_ND_Appraisal_Board.pdf; Letter from the North Dakota Appraisers

The ASC's waiver is unprecedented. The ASC has not granted any waivers since states and territories implemented Federal Financial Institutions Examination Council's (FFIEC) first appraisal rules. The only waiver was granted prior to full implementation, when one territory needed additional time to complete its certifying and licensing systems.⁵ It is extremely troubling that the ASC would grant such a waiver, over the objections of the Congressionally-recognized nonprofit seen as the entity best able to establish appraisal and appraiser standards⁶, as well as the North Dakota Real Estate Appraiser Qualifications and Ethics Board.⁷ Moreover, the waiver that has been granted only provides a waiver of the requirement that an appraisal be performed by a certified or licensed appraiser. The appraisal must still meet Uniform Standard of Professional Appraisal Practice (USPAP) requirements and any other standards established by the regulator. It remains unclear how an individual without the appropriate training will complete an appraisal that meets these standards.

To better understand the ASC's criteria for granting appraiser licensing and certification waivers under the statute and the practical implications the waiver will have for North Dakota consumers and financial institutions, please respond to the following questions.

- What types of data does the ASC consider when granting a waiver under Title XI? Has the ASC established a policy to determine minimum standards for reliability for any data submitted to be considered as part of the ASC's waiver consideration? If not, should the ASC establish such standards?
- In the event that there is a conflict between data sets submitted in official comments on a waiver request, how does the ASC resolve such conflicts?
- Do any of the ASC member agencies have access to data that could inform deliberations about granting a waiver under XX? If so, did any of the agencies supply such data in the process of deciding whether to grant or deny this waiver request? If not, should any of the ASC member agencies maintain such data?
- The median sales price of a single-family home was \$238,800 in the Bismark, North Dakota, market, the most expensive market in North Dakota reported by the National Association of Realtors.⁸ The approved waiver would impact single-family home transactions below \$500,000, more than twice the median home value. What percentage of North Dakota federally-related single-family transactions do you expect to be eligible for the waiver? Did the ASC consider market prices and the percentage of exempt transactions when setting the waiver terms?

Association Re: Response to North Dakota Temporary Waiver Request, June 28, 2019, available at [file:///C:/Users/mc244426/Downloads/Response_to_ND_Temporary_Waiver_Request_\(6-28-19\).pdf](file:///C:/Users/mc244426/Downloads/Response_to_ND_Temporary_Waiver_Request_(6-28-19).pdf).

⁵ "1993 Annual Report of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council," January 31, 1994, available at <https://www.asc.gov/Documents/AnnualReports/AnnualReport1993.pdf>.

⁶ Letter from the Appraisal Foundation RE: Docket ID: ASC-2019-004, June 28, 2019, available at file:///C:/Users/mc244426/Downloads/ASC_ND_Waiver_Letter.pdf.

⁷ Letter from the North Dakota Real Estate Appraiser Qualifications and Ethics Board Re: Response to Temporary Waiver Request, June 17, 2019, available at file:///C:/Users/mc244426/Downloads/2019_06_17_-_Comment_from_Timothy_Timian_-_ND_Appraisal_Board.pdf.

⁸ "Median Sales Price of Existing Single-Family Homes for Metropolitan Areas," National Association of REALTORS, available at <https://www.nar.realtor/sites/default/files/documents/metro-home-prices-q2-2019-ranked-median-single-family-2019-08-07.pdf>.

- What percentage of North Dakota federally-related commercial transactions do you expect to be eligible for the waiver? Did the ASC consider market prices and the percentage of exempt transactions when setting the waiver terms?
- Does the ASC expect that appraisals performed by individuals who are not licensed or certified appraisers will still be USPAP compliant and meet any other standards established by regulators?
- Will consumers, financial institutions, and regulators have the same oversight and recourse available if their appraisal is performed by an individual who is not a certified or licensed appraiser as they would have if their appraisal were performed by a certified or licensed appraiser? If not, how will any oversight or recourse differ?

Congress has long recognized the important role that appraisals play in meaningful oversight and consumer protection. Thank you for your prompt attention to this important matter.

Sincerely,



Sherrod Brown
Ranking Member
Senate Committee on Banking,
Housing, and Urban Affairs



Maxine Waters
Chairwoman
House Committee on Financial
Services

cc: Mr. Richard Taft, Vice Chair
Ms. Maria Fernandez
Ms. Marianne Hatheway
Mr. John Schroeder
Mr. Timothy Segerson
Ms. Bobbi Borland