

RE: HB12-1110 Support

To: Members of the House Finance Committee

Dear Chairman DelGrosso and Members of the Committee:

My name is Jo Stinett. I am a Certified Residential appraiser practicing in El Paso and Teller Counties. I am the current President of the Colorado Coalition of Appraisers, and the Colorado Association of Real Estate Appraisers. I am honored to have the opportunity to speak before you in support of HB12-1110.

A sound, independent appraisal industry is crucial for consumer protection, risk management, and the health of our economy. So much so, that FIRREA in 1989, the Interagency Guidelines in 1994 and 2010, the Home Valuation Code of Conduct in 2009, and most recently the Dodd-Frank Bill, all have Appraiser Independence Requirements addressing inappropriate influence on an appraiser.

Appraisal Management Companies (AMCs) are business entities that administer a network of independent appraisers to perform appraisal assignments on behalf of a lender. They provide a valuable service to the lender by providing the administration of appraisal assignments. This maintains the lender's compliance in separating the valuation process from the production process, which is mandated by the Appraiser Independence Requirements as mentioned. In addition to independent AMCs, many of the larger banks such as Chase, Wells Fargo, B of A, etc. established AMCs as associated entities to provide this service for their banks, as well as contract their services to smaller lenders.

The Home Valuation Code of Conduct (HVCC) was a result of an investigation during 2008 into appraisal manipulation by Washington Mutual and their AMC eAppraiseIT. States began enacting AMC legislation in 2009 due to inconsistencies in the business practices of AMC's which were eroding the integrity of the appraisal process. With the advent of the HVCC, the use of an AMC has significantly increased, and at last count represented close to 70% of all appraisals ordered. The Dodd-Frank Bill served to sunset the HVCC with many Appraiser Independence Requirements carried forward to the Bill.

The business model of an AMC is to charge the lender a flat fee for their appraisal management services. This flat fee is passed on to the consumer through the HUD-1 Settlement Statement as the "Appraisal Fee". The AMC then contracts with an independent fee appraiser to provide the appraisal service, with the spread between what the lender pays the AMC and what the AMC pays the appraiser covering the AMC's administrative costs and profit. The consumer is rarely advised of what they are actually paying for the services of a professional appraiser. The Consumer Finance Protection Bureau is currently reviewing the HUD-1 Settlement Statement and the possibility of disclosing these fees separately, in the interest of full disclosure for the consumer

I would like to share a few AMC practices that serve to erode the appraisal process.

- Appraiser's are selected for the AMC's "panel" based on location and an agreement by the appraiser to adhere to the AMC's fee structure and turn times. Little, if any, review of the appraiser's work product is performed based on USPAP requirements and competency before adding an appraiser to the panel.
- AMC's have an internal matrix for assigning appraisal orders which frequently does not take into consideration the competency of the appraiser; neither geographical or complexity of the assignment. This lack of competency may cause the appraiser's development of the appraisal to be low-quality, and the appraiser's opinion of value to be higher or lower than reality.
- Interaction of the appraiser with the AMC is by and large with staff that is untrained in USPAP and many times unfamiliar with the appraisal process.
- When an internal review appraiser is used by an AMC, this reviewer is many times across the continent from where the property is located, with no local knowledge or proficiency to accurately review the report.
- Appraiser quality ratings are routinely based on turn times and revision requests that are the result of internal checklists, rather than the actual quality of the appraisal report.

The following represent what I believe are the most critical reasons for passing HB12-1110:

- 1) HB12-1110 will put the focus back on the capable judgment of the professional appraiser, and allow the appraiser to promote and preserve the public trust in the appraisal profession.
- 2) HB12-1110 will allow transparency in the AMC's performance with best practices, and allow institutions a resource to perform oversight of Third Party Arrangements as mandated by the Interagency Guidelines.
- 3) HB12-1110 will allow the Colorado Board of Real Estate Appraisers to enforce the regulations necessary to maintain compliance and certification within our State for AMC and appraisal activities.

In the interest of consumer protection, lenders, mortgage brokers, title companies, and appraisers are licensed by DORA. The one participant that remains unregulated is the one that has most influence on the appraiser; the AMC.

I appreciate your time and welcome any questions.

February 23, 2012

RE: HB12-1110 SUPPORT

To: Members of the House Finance Committee

My name is Margaret Moxley. I am a Colorado Certified Residential Appraiser and a designated member of the Appraisal Institute as an SRA. I am writing this letter of testimony in support of HB12-1110. The AMC business model lacks the necessary focus on promoting public trust in the appraisal process. In fact, the promotion of public trust is not a business objective for the AMC's.

I have been working as an independent residential appraiser in Colorado for approximately 10 years. The mandatory introduction of AMC's into the mortgage lending process as a result of the HVCC altered my client base dramatically. I now conduct work with an entirely new set of clients, all of whom have adopted their own independent appraisal management divisions rather than turn to the AMC's for this service.

The majority of my pre-HVCC clients were not large enough to avoid the use of AMC's. To this day, these clients routinely appeal to me for help when they receive a sub-par appraisal ordered through an AMC. I also hear routinely from my real estate broker associates when an appraisal completed through an AMC appears to lack the necessary analysis. Each time I hear from a previous client or a real estate broker, the borrower / buyer has already seen the work completed by the AMC sponsored appraiser. Even as lay person, they are able to distinguish a good appraisal from a poorly created report and are upset with the results they received. In turn, their trust in the appraisal process is diminished.

In order to protect my business interests, I "signed-on" with several large national AMC's prior to the start date of the HVCC. It was and still is my experience that as an intermediary entity, AMC's seek to provide a service to their clients that is too often based on the speed of report delivery at the lowest possible cost to the AMC. The promotion of short turn-around times in the appraisal process has a very strong potential to allow for insufficient analysis and delivery of unreliable results in order to meet imposed deadlines. The business model is one that often allows the AMC to significantly pressure the appraiser to complete the appraisal assignment in an unrealistically short time frame. In addition, the automated metric systems utilized to rate appraisers are largely based on turn-around times. Most of these metric models lack the necessary diversity to fairly represent the complexity of the assignment and a reasonable completion time frame. As a result, the appraiser is rewarded with additional work by completing assignments in the fastest possible turn-around time with little or no regard for the quality of work performed. Public trust is once again undermined in the attempt to "speed-up" the appraisal process.

In addition, although AMC's work with state licensed appraisers, often these appraisers are not well trained or accept assignments outside of their competency range, either based on geography or the complexity of the assignment. Although AMC's require the appraiser's to accept only assignments for which they are competent, the AMC business model does not appear to enforce or review credentials in a meaningful manner so as to ensure compliance with the rule. That is, the AMC business model does not promote the public trust as it allows appraiser's to easily accept valuation assignments beyond their level of competency.

The appraisal review process associated with the AMC business model is inadequate. Stakeholders in the valuation process are allowed to request a reconsideration of value. Under the AMC model, most often the request for reconsideration of value is sent directly to the original appraiser for comment and or change, to little or no avail. An effective request for reconsideration of value process incorporates a intermediary who is qualified to assess both the merits of the request for reconsideration and perform at a minimum a desktop review of the original appraisal. Without a strong intermediary and a meaningful review process within the AMC, legitimate requests for reconsideration of value are often rejected, even in instances where the appraiser has made misleading statements, inadequately analyzed the data or performed the work outside of the area of competency. The lack of appropriate procedures for legitimate requests for reconsideration of value further degrades the public trust in the home valuation process.

Finally, the absence of state licensing for the AMC's further erodes public trust. As enacted in several other states, AMC licensing creates a channel for the development of much needed rules and regulations. If done correctly, AMC licensing will provide an avenue of recourse for the public as well as other user's of AMC services. To ensure public trust, all of the entities involved in the procurement of mortgage financing require licensing and regulation. The AMC's are no exception.

Chairman Liston and Members of the Economic and Business Development Committee:

I am Lisa Desmarais, I am a certified residential appraiser.

I am also a designated member of the Appraisal Institute with an SRA designation.

In addition to being an independent appraiser, I am an Assessment Hearing officer for Denver County and have worked for the Department of Regulatory Agencies as an investigating appraiser.

I am here in support of House Bill 12-1110.

I don't have a problem with the existence of AMC's.

There are a very few good AMC's that better the industry and are successful, nationwide companies.

The reason I am here, however, is because, unfortunately, this is the exception.

Appraising is like being a lawyer.

Every lawyer has his/her specialty.

As a lawyer, if your specialty is water rights, you probably won't accept work involving construction defects.

Thus, when a potential client calls, you take time to figure out if you are a match.

We do the same thing. I am not qualified to appraise every residential property.

If you want me to appraise your house, we need to figure out if we are a match.

In fact, we are required by the *Uniform Standards of Professional Practice* (*hold up a copy of USPAP*), our governing standards, to do exactly that: we are **required** to figure out if we are qualified for each specific job.

Many AMC's disrespect this process.

AMC's look for who will accept an order the fastest (some companies, literally, give you a maximum of 5 minutes between the time their email request is made to you and the time you have to accept it).

Others just email X amount of appraiser's all at once and the fastest one to accept it: gets it.

This means the appraiser is given no time to research the property to determine if they are even qualified for the job.

Thus, the very first interaction with many AMC's that appraisers have is a *request that violates our required industry standards*.

In addition to not knowing if the appraiser is qualified to complete the job, many AMC's also have set turn-times and set fees for every single job.

Every appraisal job is unique, some jobs take 1 day, others take a week.

As a result, those appraisers that choose to complete work for AMC's end up being pressed for time to complete the work correctly.

It is in this type of rush environment, that mistakes can be made.

Most AMC's are currently not equipped to identify these mistakes, therefore, non-USPAP compliant appraisals often make it through their system.

This harms the public trust we are working to build.

In fact, in my role as a USPAP Compliance Investigator for the Department of Regulatory Agencies, over 90% of the appraisal complaints I investigate, are of appraisals that were ordered through AMC's.

To eliminate these problems, AMC's must be required to qualify appraisers for work *and* they need to have a vested interest in making sure those appraisers are producing USPAP compliant work.

Since many AMC's very first interaction with an appraiser is asking them to violate USPAP, it tells me they have no interest in the quality of the product they are ordering.

I ask that AMCs have a percentage of our work reviewed by Certified Appraisers, that they know which market- area every appraiser is competent in and that they have employees who can identify USPAP compliant appraisals.

Most Appraisers must work for AMC's.

In reality, an appraiser always has a choice: work for AMC's, work for other types of clients or leave the business.

In practice, however, appraisers have as little choice to work for an AMC as a lender has to sell their loans to Fannie Mae: a few lenders can keep their loans in house, but most must sell their loans to Fannie Mae to survive. The same is true of appraisers, a small sect can survive without AMC work, but most must accept it to continue to be in business.

Lastly, AMC's currently have a contractual obligation to pay appraiser's for their work, however, they no impetus to actually do so, so they often don't pay.

Most appraisers are one-man/woman shops.

When an AMC doesn't pay us, what are we going to do? Sue each company?

It's not realistic, thus, we have no real recourse to collect payment.

If companies do like one AMC (Appraisal Loft) did and decide to not pay their appraisers for four months, then shut their doors and reopen under a new name: they can.

In conclusion, I will just summarize what our industry looks like today:

Most AMC's make it known that they only want the quickest, cheapest appraisal product and they don't care who produces it or if it meets USPAP.

We have approximately 40% fewer appraisers today in the industry than we did a few years ago, and almost nobody new is entering the profession. Since AMC's control 70% of the business, they directly impact appraisers' livelihoods.

Most AMC's don't take care to attract the most qualified appraisers. And, any business owner knows, you don't value the talents of your employees, then your talented employees go elsewhere. I am here to simply ask that AMC's be required to care about producing a good product not just A product.

Members of the General Assembly:

My name is Charles Tuttle. I am a Certified Residential Appraiser and an active Real Estate Agent in Colorado. I was asked to write this letter in support of the Legislation to regulate Appraisal Management Companies because I am concerned about how they work today and it's effect on our industry.

To illustrate my point about Appraisal Management Companies and their effect on the industry I am reminded of my early career and my relationship with Mortgage Brokers. I want to paint a quick picture of my relationships with Mortgage Brokers before they were regulated.

As a Registered Appraiser I would receive large amounts of spam e-mails from Mortgage Brokers wanting "comp checks". These "comp checks" are guesses as to a property value before the property was inspected. The appraiser, it seemed, who had the highest guess would more likely get the assignment. Then the Mortgage Broker would put pressure on the Appraiser to hit that value. I could not work under these conditions and had a 90-95% turnover rate with clients.

Then HVCC was introduced and I was pleased. It was put into place to level the playing field for everyone involved And to stop this kind of pressure or coercion between Mortgage Brokers and Real Estate Appraisers.

Now let's plug in the Appraisal Management companies.
They now dominate the Market.

I am now faced with a new set of concerns that do not serve the client any more than the previous time before HVCC. There are a few issues that concern me.

First. I am puzzled how it is ok that an unregulated portion of the industry can have so much control, influence and power over the appraisal ordering process. Some of these companies are outside of the United States. I am pressured to get a quick turnaround time. We are aware of the deadlines that need to be met for the client who is paying for an unbiased, fair and thorough analysis. This should not be compromised.

Secondly the issue of fees.

I have to negotiate fees with these companies that have asked me to sign documentation that indicates that the fee I agreed to is standard and customary for the market, when in fact they are not. I have had appraisal management companies ask me to sign documentation stating that they are not responsible.

When I get a condition on a report, I have no idea if it is coming from the Lender or an hourly paid employee from the appraisal management company who has limited experience in the appraisal process. These companies do not want any liability for the appraisal but they pick the appraiser based on the fee paid and the turnaround time and grade the appraiser on their internal check list.

I got a call from a loan processor letting me know that some of their appraisers were calling in and asking what they needed for values on appraisals. I informed them that I would not participate in this practice. I contacted the Appraisal Management Company about this; I was informed that the lender was in control of their approved appraisers list. I have been removed from their primary list and placed on their overflow list. Once again we have to stand up to create regulation that will encourage the best business practices. We Regulated Mortgage Brokers to stop fraud and bring fairness to the consumer so let's stop the unregulated Appraisal Management Companies that seem to be inclined to set up their own rules.

I respectfully request your support of HB12-1110. I am happy to take your questions.

Charles Tuttle
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