



February 4, 2009

The Honorable Ben Bernanke
Chairman
Board of Governors of the Federal Reserve Board
20th and Constitution Avenues, NW
Washington, DC 20551

Dear Chairman Bernanke:

This letter is in response to the Federal Reserve's (the "Fed") Homeownership Preservation Policy for Residential Mortgage Assets. As professional real estate appraisers, we stand strongly in support of swift action to assist consumers, lenders and communities in dealing with the current housing crisis.

We note that the Homeownership Preservation Policy utilizes an exemption to current appraisal requirements that would allow a Federal Reserve Bank or its agent to use "an appraisal, a broker price opinion or other valuation method that is reasonably designed to provide a fair estimate of the current market value of the property."

While our organizations stand in support of the Fed's overall initiative, we are deeply concerned about negative ramifications that will result from the use of broker price opinions (BPOs) and other inferior valuation products. With many real estate markets rapidly declining and presenting serious safety and soundness concerns to financial institutions and the federal government, it is imperative that the federal government understand the condition and quality of assets within their portfolio. The best and most consistent way to accomplish this is through a current, carefully prepared appraisal by a qualified appraiser.

Specifically, our organizations strongly urge the Fed to modify the Homeownership Preservation Policy to require the use of current appraisals, given market conditions and conflicts with state law. Such a requirement would protect both mortgage lenders and consumers by using the highest quality valuation service available – an objective, unbiased appraiser – and help restore stability and confidence in the mortgage market. The cost is small considering the overall big picture.

It is important for you to be aware that one-half of the states strictly prohibit the performance of BPOs for the way in which the Fed is intending. In fact, the Fed, through issuance of this policy, unintentionally will lead to violations of state law and contribute to the widespread, unauthorized practice of real estate appraisal. In 24 states, the performance of BPOs for anything other than establishing the sales or purchase price of property is strictly prohibited. For example, in Mississippi, it is only permissible for a broker or salesperson to "in the ordinary course of business, give[s] an opinion as to the price of real estate for the purpose of a prospective listing or sale. Unfortunately, many loan servicers and government agencies appear to be unaware or unconcerned about these state laws, despite clear statements from state law enforcement authorities outlining their misuse.¹

Many loan servicers and government agencies are inappropriately ordering BPOs (or establishing policies that encourage their ordering) because they are viewed as cheaper and faster alternatives to appraisals. We dispute this contention. Many brokers routinely advertise turnaround times similar to appraisals.

¹ One example includes a memorandum from the State of West Virginia Real Estate Commission to all Real Estate Associates, Associate Brokers, and Salespersons, dated December 5, 2007. Available at <http://www.wvrec.org/BPO-letter.pdf>

We do not dispute that BPOs often cost less than appraisals – this is due to the different nature of the product. BPOs often are “loss leaders” and performed with the hope of garnering a listing and earning a commission on the sale of the property. Further, one of the primary reasons that the ability of real estate brokers and salespeople to perform BPOs is very limited is because they are largely unregulated and are performed with little oversight and training. While licensed and certified appraisers are required to meet minimum education and experience requirements, and to perform real estate valuation assignments in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP), brokers have virtually no training requirements or standards and, therefore, are far less reliable.

Moreover, the turnaround time for appraisals is largely a function of the scope of work of the assignment. USPAP gives appraisers greater flexibility to develop a “scope of work” consistent with the needs of their clients. There is more than one type of real estate appraisal available for these circumstances. Our organizations have project teams actively working to create the appropriate appraisal tools (forms and processes) and to educate appraisers about their use. Such tools are being designed to strike a balance between cost and efficiency, and the risk associated with the transaction. We are working to ensure that appropriately qualified appraisers are ready to assist with the valuation of these properties.

In sum, given current market conditions, the great need for a consistent and reliable approach to valuing properties, and the numerous conflicts with state law, we strongly urge the Fed to reconsider allowance for evaluations (particularly BPOs) and, instead, utilize the services of real estate appraisers to determine all current value calculations with the Homeownership Preservation Program.

We respectfully request an immediate meeting to discuss these concerns with you or your designated staff member. We will follow up with your office to make these arrangements. Please contact Bill Garber, Director of Government and External Relations, Appraisal Institute, at 202-298-5586 or bgarber@appraisalinstitute.org, or Peter Barash, Government Relations Representative, American Society of Appraisers, at 202-466-2221 or peter@barashassociates.com, if you have any questions or require more information.

Sincerely,

Appraisal Institute
American Society of Appraisers
American Society of Farm Managers and Rural Appraisers
National Association of Independent Fee Appraisers