

THE REVIEW OF  
**BANKING & FINANCIAL  
SERVICES**  
A PERIODIC REVIEW OF SPECIAL LEGAL DEVELOPMENTS  
AFFECTING LENDING AND OTHER FINANCIAL INSTITUTIONS

Vol. 39 No. 12 December 2023

## APPRAISAL BIAS: WHAT THE GOVERNMENT IS DOING ABOUT IT AND WHY MORTGAGE LENDERS NEED TO PAY ATTENTION

*This article addresses the subject of appraisal discrimination based on race, also referred to as appraisal bias, particularly the type of bias – conscious or unconscious – that results in the homes of some minority mortgage loan applicants being undervalued. It describes the harm that such undervaluations can cause, discusses recent efforts and plans by the federal government to eliminate or reduce incidents of undervaluations resulting from appraisal bias, and explains several potential negative impacts of those efforts and plans on residential mortgage lenders and how lenders can best deal with those impacts.*

By Bob Jaworski and Morgan Schultze \*

Just over a year after taking office, President Biden, in a Memorandum to HUD Secretary Marcia Fudge (“Memorandum”),<sup>1</sup> unleashed an “all-of-government” effort to deal with longstanding problems minorities have experienced and continue to experience when attempting to buy a home or obtain a mortgage loan.<sup>2</sup>

---

<sup>1</sup> Memorandum on Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies | The White House (Jan. 26, 2021).

<sup>2</sup> Ironically, the federal government was instrumental in introducing bias into the appraisal process. For example, the 1938 version of the Federal Housing Administration's Underwriting Manual stated: “Areas surrounding a location are investigated to determine whether incompatible racial and social groups are present, for the purpose of making a prediction

One such problem – appraisal discrimination, also referred to as “appraisal bias” – has since been getting a great deal of attention at the federal level. And the type

---

*footnote continued from previous column...*

regarding the probability of the locations being invaded by such groups. If a neighborhood is to retain stability, it is necessary that properties continue to be occupied by the same social and racial classes. A change in social or racial occupancy generally contributes to instability and a decline in values,” quoted in National Fair Housing Alliance, “Identifying Bias and Barriers, Promoting Equity” (Jan. 2022) (NFHA Study), *available at*: 2022-01-14 NFHA et al\_Analysis.pdf (asc.gov) at p. 15.

---

*\*BOB JAWORSKI is of counsel at Holland & Knight, LLP in its Philadelphia, PA office. His practice focuses on federal and state consumer financial services regulation. He represents financial services providers of all types, including banks, mortgage lenders and servicers, consumer finance companies, retailers, and others. Bob is a former Deputy Commissioner of the NJ Department of Banking and a frequent author and speaker on financial services regulatory issues. Mr. Jaworski's e-mail address is Robert.jaworski@hkllaw.com.*

---

### INSIDE THIS ISSUE

● **AGGRESSIVE IN THE ENDGAME: THE U.S. BANK REGULATORS' PROPOSALS WOULD HIKE BANK CAPITAL, Page 153**