



The Appraisal  
**FOUNDATION**

Authorized by Congress as the Source of Appraisal  
Standards and Appraiser Qualifications

# Identifying, Avoiding, and Correcting for Bias in Appraisals Under USPAP

A presentation for the:  
National Conference of State Tax Judges

**October 28, 2022**



# Lisa Desmarais

Vice President of Appraisal Issues  
The Appraisal Foundation

# Agenda

- Introduction to Appraisal Practice
- What is USPAP?
- USPAP and Property Tax Appraisals
- The Public is Talking About: Appraisal Bias and Discrimination
- How USPAP addresses bias
- Identifying bias
- Correcting for bias
- Resources for you

# Introduction to Appraisal Practice

# SUPREME COURT JUSTICE ROBERTS

“The way to stop discrimination on the basis of race is to stop discriminating on the basis of race.”\*

\*2007 Parents Involved decision.

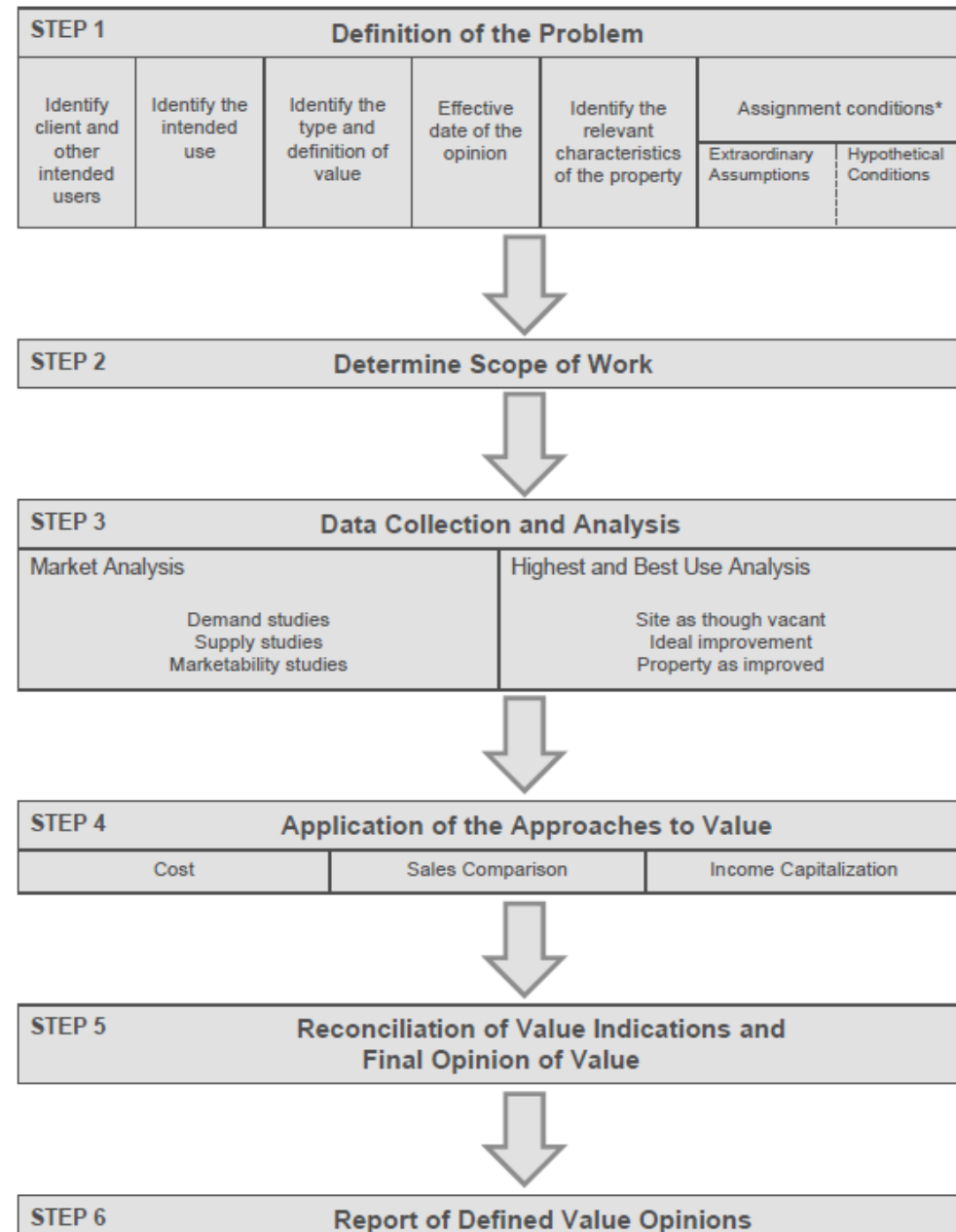
“Valuation is not a matter of mathematics, but an applied science, even a craft.”\*\*

“Property valuation, though admittedly complex, is at bottom, just ‘an issue of fact about possible market prices’.”\*\*

“Congress clearly permitted courts to question [an appraisers' selection of valuation methods] when it banned discriminatory [methods] and made true market value a question to be litigated in federal court.”\*\*

\*\*2007 CSX Transportation, Inc. v Georgia State Board of Equalization opinion of the unanimous court.

# The Valuation Process



\* Assignment conditions also include assumptions, laws and regulations, jurisdictional exceptions, and other conditions that affect the scope of work.

# What is USPAP?

# Who needs standards?

*The New York Times*

“Raising the Standards for Appraisers”

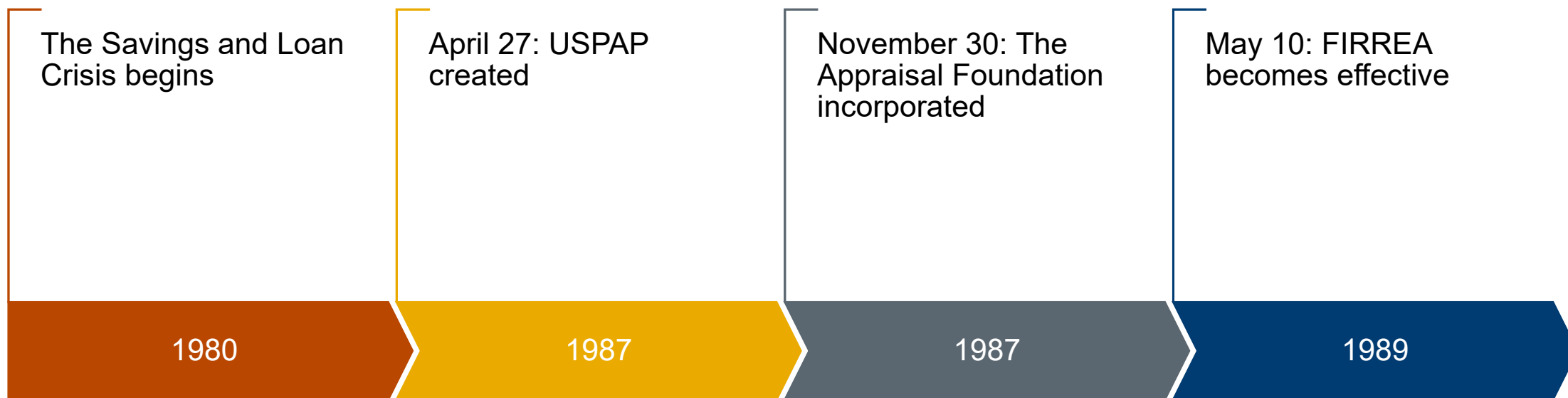
At worst, critics say, the appraisal industry engaged in widespread fraud during the boom of the 1980's, ignoring professional standards, surrendering to pressure from lenders and sanctioning highly inflated real estate prices. At best, according to many analysts, too many appraisers were simply asleep on their watch.

Even within the appraisal industry, executives acknowledge deep lapses. Although many appraisers are highly trained, they say a lack of uniform standards, combined with the rush atmosphere of the 80's, drew into the field many with little or no experience.

October 21, 1990



# The Creation of Uniform National Standards



# Background

The Foundation is **NOT**:

- A government agency or regulatory board;
- Created by Congress;
- An appraisal trade organization that offers designations.

The Foundation **IS**:

- A non-profit educational organization;
- Founded by 8 national appraisal organizations;
- Created to foster professionalism in appraising.

# What Appraisal Practice Standards Should Contain

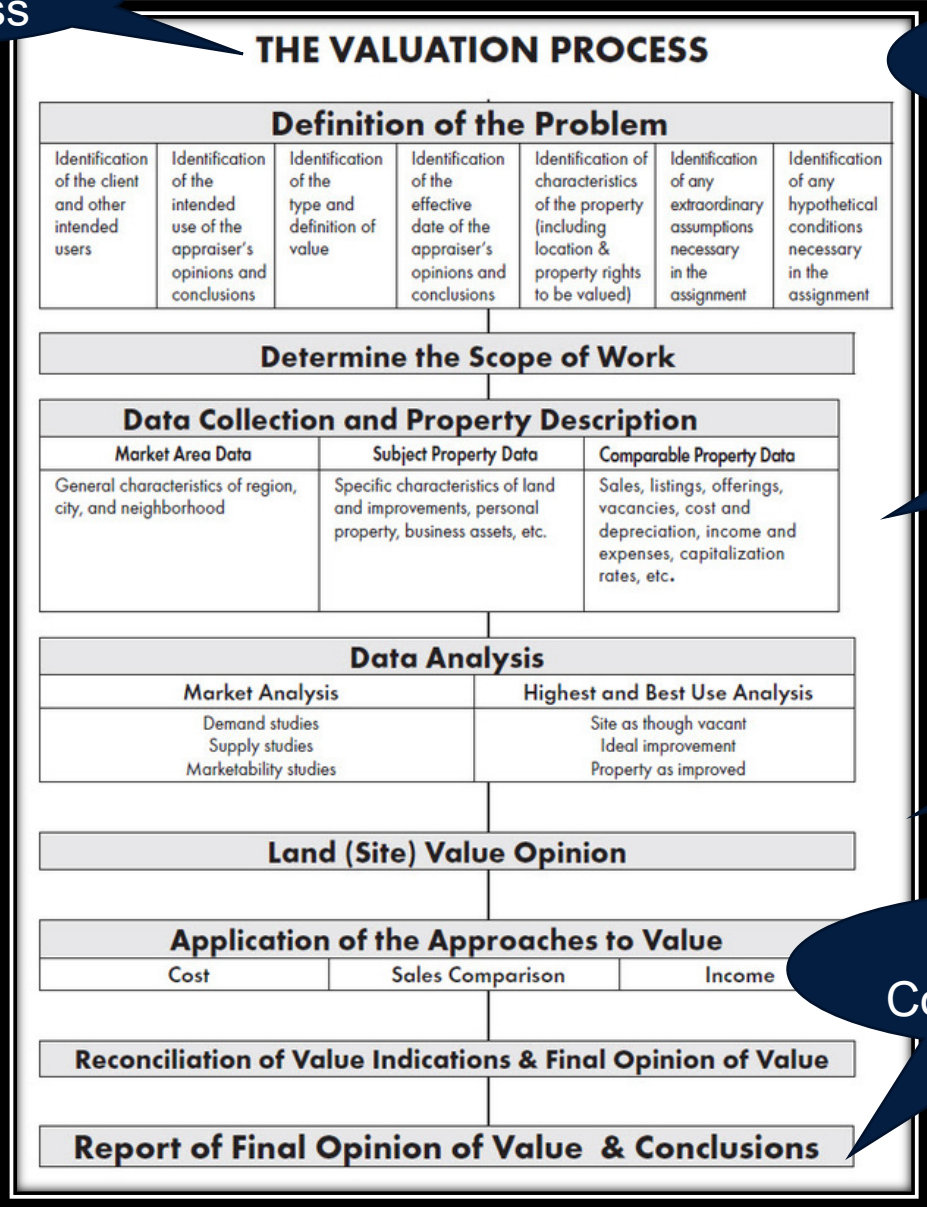
Consistent Process

Benchmarks to measure behavior

Objectivity

Competent Performance

Protects the Public Trust



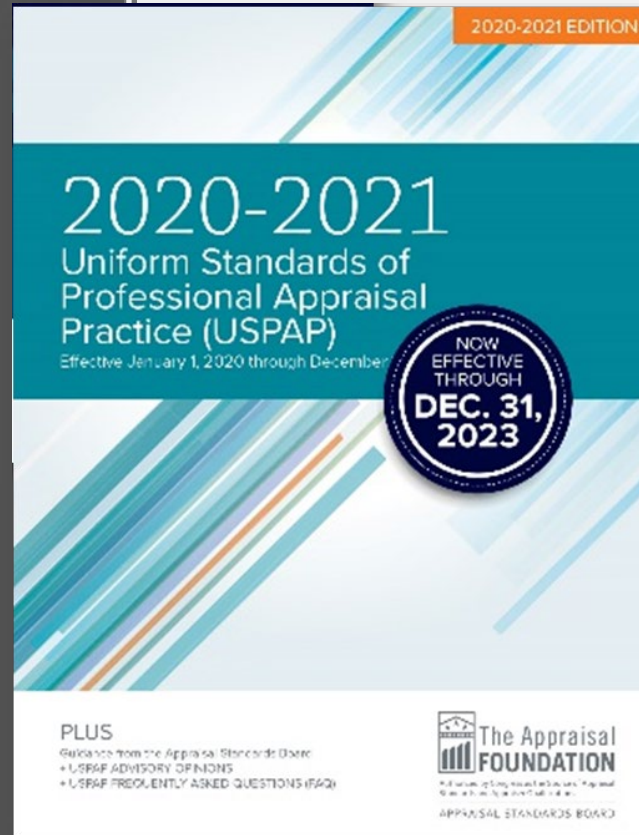
Impartiality

Ethical Behavior

Integrity

Clear Communication

# Uniform Standards of Professional Appraisal Practice



- PREAMBLE
- DEFINITIONS
- RULES
  - ETHICS
  - RECORD KEEPING
  - COMPETENCY
  - SCOPE OF WORK
  - JURISDICTIONAL EXCEPTION
- STANDARDS 1-10
- The USPAP Publication
  - USPAP
  - Advisory Opinions
  - Frequently Asked Questions

ETHICS RULE

COMPETENCY RULE

JURISDICTIONAL EXCEPTION RULE

**APPRAISAL PRACTICE:** valuation services performed by an individual acting as an appraiser, including but not limited to appraisal and appraisal review.

Comment: *Appraisal practice* is provided only by appraisers, while *valuation services* are provided by a variety of professionals and others.<sup>1</sup> The terms *appraisal* and *appraisal review* are intentionally generic and are not mutually exclusive. For example, an opinion of value may be required as part of an appraisal review assignment.

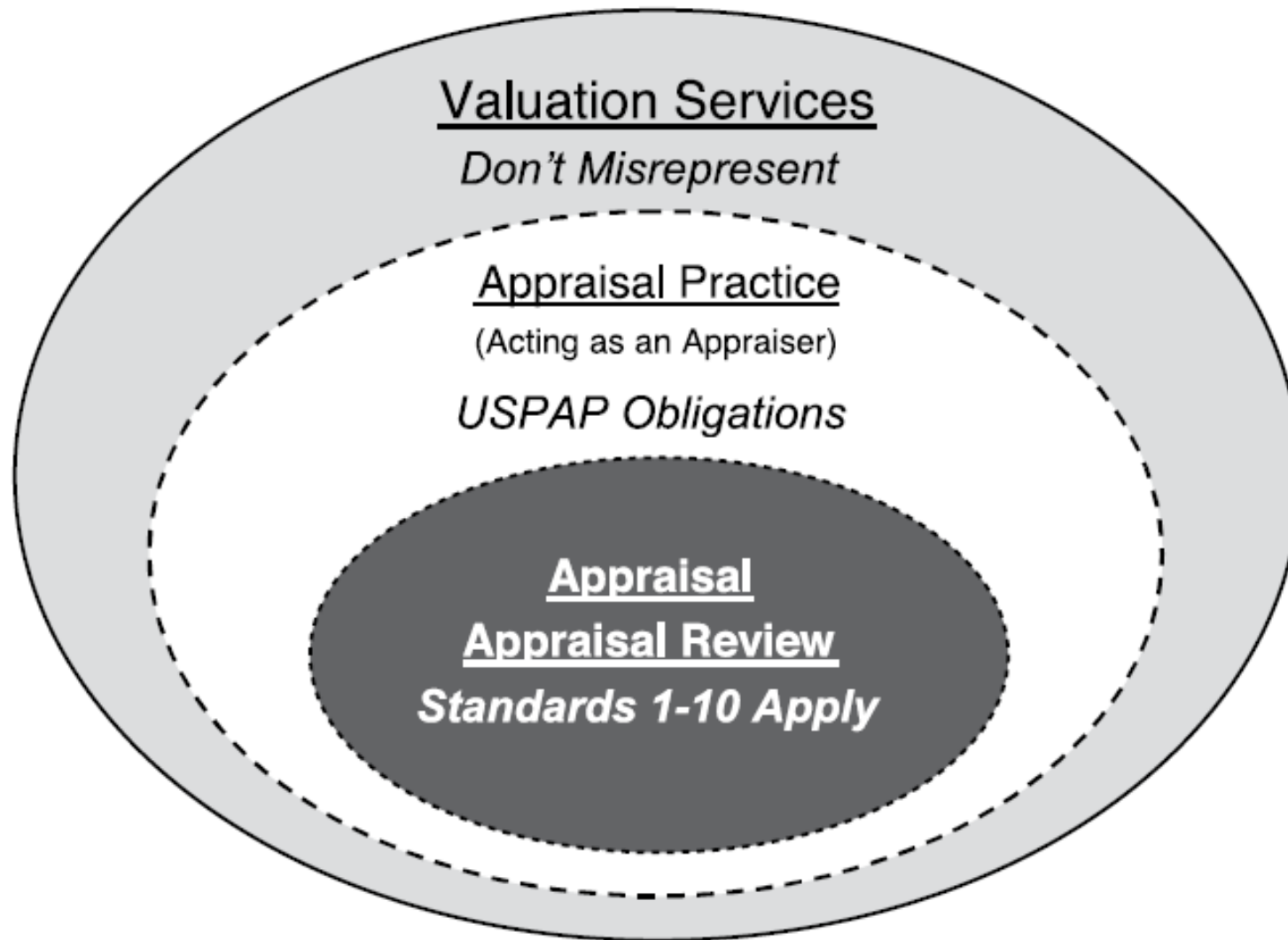
**APPRAISAL:** (noun) the act or process of developing an opinion of value; an opinion of value.  
(adjective) of or pertaining to appraising and related functions such as appraisal practice or appraisal services.

Comment: An appraisal is numerically expressed as a specific amount, as a range of numbers, or as a relationship (e.g., not more than, not less than) to a previous value opinion or numerical benchmark (e.g., assessed value, collateral value).

SCOPE OF WORK RULE

RECORD KEEPING RULE

STANDARDS 1-10



# USPAP

Valuation services requires compliance with just these 3 RULES.

ETHICS  
RULE

COMPETENCY  
RULE

JURISDICTIONAL  
EXCEPTION RULE

An appraisal assignment requires compliance with the above 3 RULES plus the below RULES and STANDARDS.

SCOPE OF  
WORK RULE

STANDARD 1:  
DEVELOPMENT

STANDARD 2:  
REPORTING

RECORD  
KEEPING

# USPAP

Contains general ethical requirements

**ETHICS  
RULE**

Contains general performance requirements

**COMPETENCY  
RULE**

For when a law precludes compliance with any part of USPAP

**JURISDICTIONAL  
EXCEPTION RULE**

Outlines the purpose of USPAP  
**PREAMBLE**

Establishes the application of certain terminology  
**DEFINITIONS**

**SCOPE OF  
WORK RULE**

Elaborates on general practice policies specific to appraisal and appraisal review

**STANDARD 1 & 5:  
DEVELOPMENT**

Elaborates on general practice policies specific to real property

**STANDARD 2 & 6:  
REPORTING**

**RECORD  
KEEPING**

Elaborates on general practice policies specific to appraisal and appraisal review



# Who must comply with USPAP

- USPAP does not establish who or which assignments must comply.
- An appraiser must comply with USPAP when either the service or the appraiser is required by law, regulation, or agreement with the client.
- Individuals may also choose to comply with USPAP any time that individual is performing the service as an appraiser.

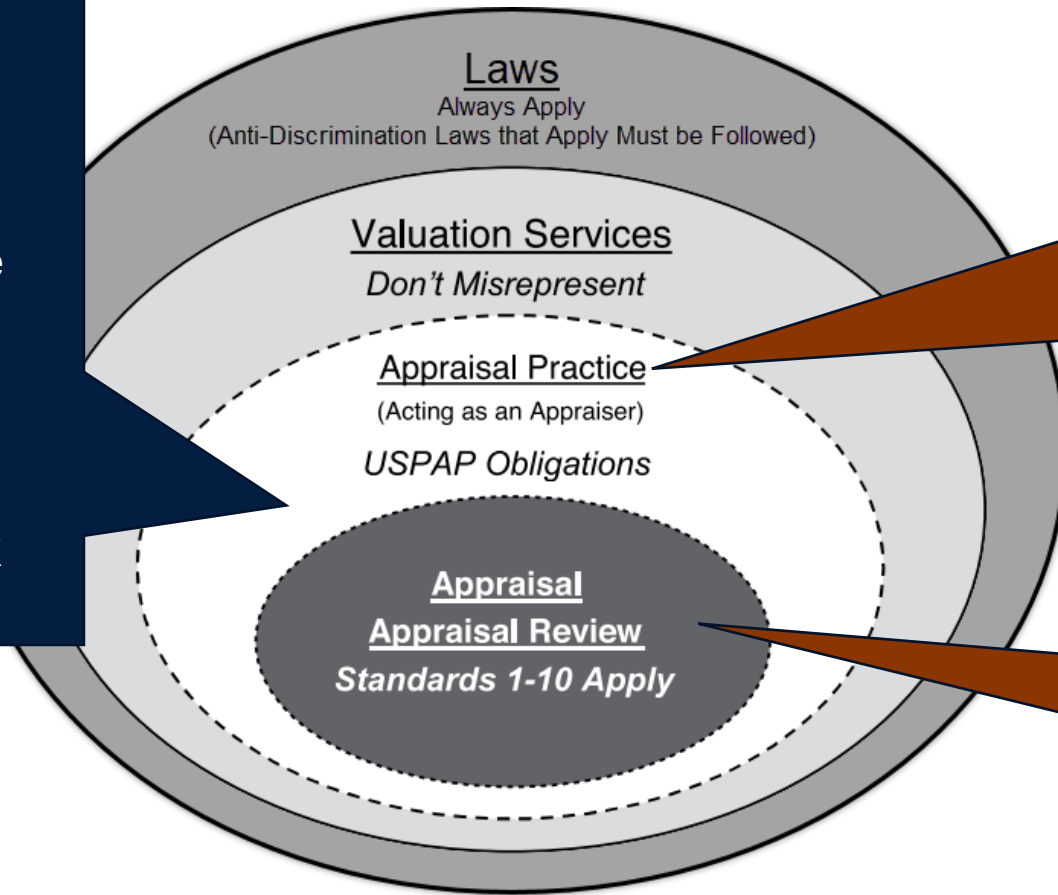
# What does it mean to comply with “USPAP”?

## GENERAL

- Act competently
- Ethical behavior
- Preclude following USPAP as laws state

## FOR APPRAISAL & APPRAISAL REVIEW

- Maintain workfile
- Follow scope of work rule



## Includes:

- Researching Market Data.
- Teaching Appraisal Courses.
- Mechanical Computations.
- Ad valorem tax consulting (when acting as an appraiser).
- Providing raw sales data.

## Appraisal

- Mass appraisal
- Appraisal of individual properties
- Appraisal Review

# Does your state require USPAP compliance?

- Is the individual required to comply with USPAP for:
  - All mass appraisal work
  - Individual appraisals
  - Appraisal Reviews
- What kind of credential does the assessor have?
  - Ad Valorem
  - Licensed Residential
  - Certified Residential
  - Certified General
- What does the credential qualify them to do?
- Who performs and completes the appraisal?

# USPAP and Property Tax Appraisals



# Mass Appraisal STANDARDS

## DEFINITION:

*“the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing”*

**STANDARD 5: MASS APPRAISAL, DEVELOPMENT**

983 In developing a mass appraisal, an appraiser must identify the problem to be solved, determine the  
984 scope of work necessary to solve the problem, and correctly complete research and analyses necessary  
985 to produce a credible mass appraisal.

986 **Comment:** STANDARD 5 applies to all mass appraisals of real or personal property regardless of the pur  
987 or use of such appraisals.<sup>96</sup> The reporting and jurisdictional exceptions applicable to public mass appraisal  
988 prepared for ad valorem taxation do not apply to mass appraisals prepared for other purposes.

989 A mass appraisal includes:

990 1) identifying properties to be appraised;  
991 2) defining market area of consistent behavior that applies to properties;  
992 3) identifying characteristics (supply and demand) that affect the creation of value in that market area;  
993 4) developing a model structure that reflects the relationship among the characteristics affecting value  
994 in the market area;  
995 5) calibrating the model structure to determine the contribution of the individual characteristics affecting va  
996 6) applying the conclusions reflected in the model to the characteristics of the property(ies) being  
997 appraised; and  
998 7) reviewing the mass appraisal results.

999 The JURISDICTIONAL EXCEPTION RULE may apply to several sections of STANDARD 5 because ad val  
1000 tax administration is subject to various state, county, and municipal laws.

1001 **STANDARDS RULE 5-1. GENERAL DEVELOPMENT REQUIREMENTS**  
1002 In developing a mass appraisal, an appraiser must:

1003 (a) be aware of, understand, and correctly employ those recognized methods and techniques necessary  
1004 to produce a credible mass appraisal;

1005 **Comment:** Mass appraisal provides for a systematic approach and uniform application of appraisal  
1006 methods and techniques to obtain estimates of value that allow for statistical review and analysis of re  
1007 This requirement recognizes that the principle of change continues to affect the manner in which apprai  
1008 perform mass appraisals. Changes and developments in the real property and personal property fields  
1009 have had a substantial impact on the appraisal profession.  
1010 To keep abreast of these changes and developments, the appraisal profession is constantly reviewing  
1011 and revising appraisal methods and techniques and devising new methods and techniques to meet  
1012 new circumstances. For this reason it is not sufficient for appraisers to simply maintain the skills and the  
1013 knowledge they possess when they become appraisers. Each appraiser must continuously improve his  
1014 skills to remain proficient in mass appraisal.

1015 (b) not commit a substantial error of omission or commission that significantly affects a mass appraisal;

1016 **Comment:** An appraiser must use sufficient care to avoid errors that would significantly affect his or her  
1017 opinions and conclusions. Diligence is required to identify and analyze the factors, conditions, data, and ot  
1018 her information that would have a significant effect on the credibility of the assignment results.

1019 (c) not render a mass appraisal in a careless or negligent manner.

<sup>96</sup> See Advisory Opinion 32, *Ad Valorem Property Tax Appraisal and Mass Appraisal Assignments*.

32 [GO BACK](#) USPAP 2020-2021 © The Appraisal Foundation

**STANDARD 6: MASS APPRAISAL, REPORTING**

STANDARDS OPINIONS FAQs

mass appraisal, an appraiser must communicate each analysis, opinion,  
that is not misleading.

6 addresses the content and level of information required in a report that  
fits of a mass appraisal.

dictate the form, format, or style of mass appraisal reports. The substantive c  
compliance.

**GENERAL REPORTING REQUIREMENTS**  
s appraisal must:

set forth the appraisal in a manner that will not be misleading;  
information to enable the intended user(s) of the appraisal to understand the repo  
tion for a mass appraisal for ad valorem taxation may be in the form of (1) prop  
and other statistical studies, (3) appraisal manuals and documentation, (4) m  
ing documentation, (5) regulations, (7) statutes, and (8) other acceptable form  
disclose all assumptions, extraordinary assumptions, hypothetical conditio  
ed in the assignment.

**CONTENT OF A MASS APPRAISAL REPORT**  
raisal report must be appropriate for the intended use of the appraisal and,  
e client, or if the client has requested anonymity, state that the identity is v  
but is retained in the appraiser's workfile; state the identity of any intende  
e client is an intended user, they must be identified in the report as such. Howev  
onymity the appraiser must use care when identifying the client to avoid violatio  
of the ETHICS RULE.

of the appraisal;  
ons or limiting conditions that result in deviation from recognized methods  
ect analyses, opinions, and conclusions;  
e of the appraisal and the date of the report;  
m taxation the effective date of the appraisal may be prescribed by law. If no  
bed by law, the effective date of the appraisal, if not stated, is presumed to b  
the data and appraisal conclusions.<sup>96</sup>

inition of value and cite the source of the definition;  
ype and definition of value also requires any comments needed to clearly ind  
definition is being applied.

lication and Disclosure of Client, Intended Use, and Intended Users. Also applicable to Standar  
pective and Prospective Value Opinions.

[GO BACK](#) USPAP 2020-2021 © The Appraisal Foundation

# Mass Appraisal Development Standards\*

## STANDARD 5: MASS APPRAISAL, DEVELOPMENT

983 In developing a mass appraisal, an appraiser must identify the problem to be solved, determine the  
984 scope of work necessary to solve the problem, and correctly complete research and analyses necessary  
985 to produce a credible mass appraisal.

FAQ

See also  
FAQ 127-  
264

986 Comment: STANDARD 5 applies to all mass appraisals of real or personal property regardless of the purpose  
987 or use of such appraisals.<sup>56</sup> The reporting and jurisdictional exceptions applicable to public mass appraisals  
988 prepared for ad valorem taxation do not apply to mass appraisals prepared for other purposes.

989 A mass appraisal includes:

- 990 1) identifying properties to be appraised;
- 991 2) defining market area of consistent behavior that applies to properties;
- 992 3) identifying characteristics (supply and demand) that affect the creation of value in that market area;
- 993 4) developing a model structure that reflects the relationship among the characteristics affecting value in  
994 the market area;
- 995 5) calibrating the model structure to determine the contribution of the individual characteristics affecting value;
- 996 6) applying the conclusions reflected in the model to the characteristics of the property(ies) being  
997 appraised; and
- 998 7) reviewing the mass appraisal results.

999 The JURISDICTIONAL EXCEPTION RULE may apply to several sections of STANDARD 5 because ad valorem  
1000 tax administration is subject to various state, county, and municipal laws.

\*These are not all of the Standards

# Mass Appraisal Development Standards\*

<b>(e) Identify, from sources the appraiser reasonably believes to be reliable, the characteristics of the properties that are relevant to the type and definition of value and intended use,<sup>59</sup> including:</b>	1036
	1037
<b>(i) the group with which a property is identified according to similar market influence;</b>	1038
<b>(ii) the appropriate market area and time frame relative to the property being valued; and</b>	1039
<b>(iii) their location and physical, legal, and economic characteristics;</b>	1040
<u>Comment:</u> The properties must be identified in general terms, and each individual property in the universe must be identified, with the information on its identity stored or referenced in its property record.	1041
	1042
When appraising proposed improvements, an appraiser must examine and have available for future examination, plans, specifications, or other documentation sufficient to identify the extent and character of the proposed improvements. <sup>60</sup>	1043
	1044
	1045
Ordinarily, proposed improvements are not appraised for ad valorem tax purposes. Appraisers, however, are sometimes asked to provide opinions of value of proposed improvements so that developers can estimate future property tax burdens. Sometimes units in condominiums and planned unit developments are sold with an interest in un-built community property, the pro rata value of which, if any, must be considered in the analysis of sales data.	1046
	1047
	1048
	1049
	1050

\*These are not all of the Standards

# And don't forget....

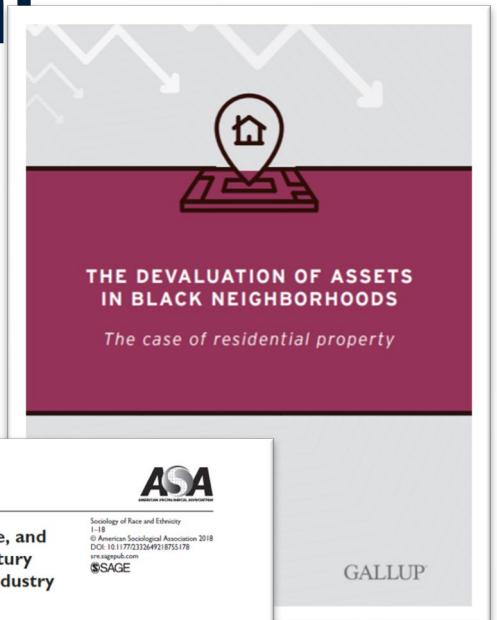
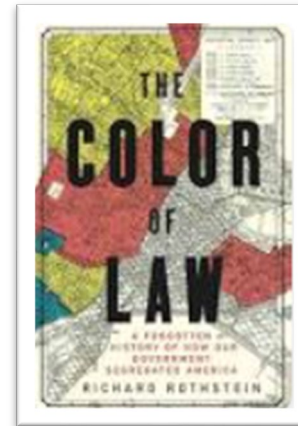
- STANDARD RULE 1: Real Property Appraisal, Development
- STANDARD RULE 2: Real Property Appraisal, Reporting
- STANDARD RULE 3: Appraisal Review, Development
- STANDARD RULE 4: Appraisal Review, Reporting
  
- STANDARD RULE 7: Personal Property Appraisal, Development
- STANDARD RULE 8: Personal Property Appraisal, Reporting
- STANDARD RULE 9: Business Appraisal, Development
- STANDARD RULE 10: Business Appraisal, Reporting



# The Public is Talking About: Appraisal Bias and Discrimination

# Building up to the Current Environment

- 2017 “*The Color of Law*” – contemporary (and bestselling) book discussing housing and racism
- 2018 “Devaluation of Assets in Black Neighborhoods” by Andre Perry
- 2018 “Neighborhoods, Race and the Twenty-first-century Housing Appraisal Industry” by Junia Howell and Elizabeth Korver Glenn



# 2020: The Year of Change

Are appraisals subjective?

## Black Homeowners Face Discrimination in Appraisals

Black homeowners routinely discriminated against by appraisers

For Black Homeowners, Unfair Appraisals Are All Too Common

# What Does Racism Have to Do With Real Estate Appraisals?

The owner thinks her lower home appraisal was skewed by her race and her neighborhood

(Continued on Page 4)

Mapes, head of the Drama De-

(Continued on Page 4)

ly in Arizona.

# A Campaign Promise

- **Tackle racial bias that leads to homes in communities of color being assessed by appraisers below their fair value.** Housing in communities primarily comprised of people of color is valued at tens of thousands of dollars below majority-white communities even when all other factors are the same, contributing to the racial wealth gap.
- **To counteract this racial bias**, Biden will establish a national standard for housing appraisals that ensures appraisers have adequate training and a full appreciation for neighborhoods and do not hold implicit biases because of a lack of community understanding. An objective national standard for appraisals will also make it harder for financial institutions to put pressure on appraisers to their benefit.

**BIDEN  
HARRIS**

# Studies



Economic & Housing Research **Note**

SEPTEMBER 2021

## Racial and Ethnic Valuation Gaps in Home Purchase Appraisals<sup>1</sup>

To follow up on several stories of potential appraisal bias in various news outlets,<sup>2</sup> Freddie Mac kicked off a study of whether minorities are more likely to receive an appraisal value that is lower than the contract price during purchase transactions.<sup>3</sup>

First, we examine the raw differences in the percentage of properties that receive an appraisal value lower than the contract price in minority tracts compared to those in White tracts.<sup>4</sup> We find substantial appraisal valuation gaps<sup>5</sup> for minority versus White tracts. Second, we examine the raw differences in the percentage of applicants that receive an appraisal value lower than the contract price and find that minority applicants are more likely to receive an appraisal value lower than the contract price.

After observing these gaps, we conduct exploratory research to begin to understand what causes the valuation gaps for minority versus White tracts. In the third section, we test whether the observed gaps are driven by only a few appraisers. Our analysis shows gaps for a large fraction of appraisers who provide valuations in both minority and White tracts. In the fourth section, we explore several possible explanations for the observed appraisal gaps in minority neighborhoods. Our research shows that differences in comparable sale (or comp)<sup>6</sup> distances, comp reconciliation,<sup>7</sup> variances in sale prices of comps, and possible systematic overpayment for properties by minorities cannot explain the appraisal gaps for minority tracts observed in our data. Finally, in the fifth section we build models to test whether the minority tract flag based on the minority concentration in the tract explains appraisal gaps beyond structural and neighborhood characteristics. Our preliminary modeling results suggest that a property is more likely to receive an appraisal lower than the contract price if it is in a minority tract.

<sup>1</sup> A purchase appraisal is one where the "assignment type" on the appraisal form is for a purchase transaction.

<sup>2</sup> "Black Homeowners Face Discrimination in Appraisals," August 25, 2020, *The New York Times*.

<sup>3</sup> "An Unconscious Bias? Biracial Denver Couple Says They Faced Discrimination on Home Appraisal," November 18, 2020, *Denver7*.

<sup>4</sup> "Appraisal Industry Leaders Acknowledge Bias in Home Valuations," March 3, 2021, Bloomberg Government.

<sup>5</sup> This study focuses on two minority groups, Black and Latino, with the White non-Latino group as the reference. The term "minority" refers to Black or Latino and the term "White" refers to White non-Latino throughout this Research Note.


<sup>6</sup> Tracts refer to census tracts. They are small subdivisions within a county typically containing between 1,200 and 8,000 people. In this Research Note, the word "neighborhood" and "tract" are interchangeable.

<sup>7</sup> For the purposes of this Research Note, an "appraisal gap" means the percent difference between minority and White groups in the share of properties or applicants receiving "appraisal value lower than contract price."

<sup>8</sup> In a residential appraisal, the value is developed primarily by examining other competitive homes that have been sold recently. Those sales are called "comparable sales," commonly called "comps."


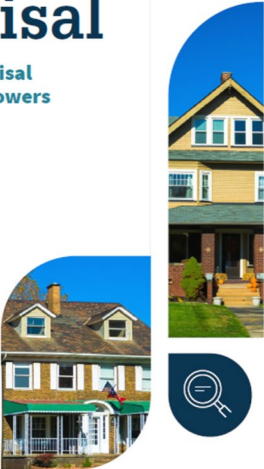
<sup>9</sup> "Reconciliation" refers to the process used by the appraiser to weight the conclusions of the individual comparable sales and derive a final opinion on the home value.

# Studies



## Appraising the Appraisal

A closer look at divergent appraisal values for Black and white borrowers refinancing their home



Jake Williamson  
Mark Palim  
January 2022

### Does Appraiser and Borrower Race Affect Valuation?

Brent W. Ambrose<sup>†</sup>, James N. Conklin<sup>‡</sup>, N. Edward Coulson<sup>‡</sup>,  
Moussa Diop<sup>§</sup> and Luis A. Lopez<sup>¶</sup>

October 27, 2021

**Abstract**

Following concerns about undervaluation of minority-owned homes, we examine the incidence of racial appraisal bias using a nationwide sample of refinanced mortgages from 2000 to 2007. A unique feature of our data is that they allow us to observe the race of the both the homeowner and the appraiser. We do not observe large, systematic differences in the ratio of appraised values to automated valuation model (AVM) estimates between Black- and White-owned homes. Moreover, the appraiser's race and its interaction with the owner's race are not related to valuations. Our findings suggest that racial appraisal bias is either uncommon in the mortgage refinancing market or has a relatively minor effect on valuations, on average.

<sup>†</sup>Smeal College of Business, University Park, PA  
<sup>‡</sup>Terry College of Business, University of Georgia, Athens, GA  
<sup>§</sup>UCI Paul Merage School of Business, University of California, Irvine, Irvine, CA  
<sup>¶</sup>Isot Price School of Public Policy, University of Southern California, Los Angeles, CA  
<sup>¶</sup>College of Business Administration, University of Illinois at Chicago, Chicago, IL



### How Common Is Appraiser Racial Bias - An Update

Edward Pinto – Director, AEI Housing Center (PintoEdward1@gmail.com)  
Tobias Peter – Assistant Director, AEI Housing Center (Tobias.Peter@AEI.org)  
May 2022

**Introduction**

Multiple stories in the news over the last several years have reported on assertions of racial bias by appraisers on home refinance or home equity loan appraisals. The stories unfold as follows: After getting a seemingly low first appraisal, a Black borrower requests and receives a significantly higher second appraisal—by our estimate from the stories an average of around \$126,000 or 25% higher than the first one. The stories generally note that the second appraisal took place after removing all traces of race and having a White friend stand in during the appraisal. The implication is that intentional and perhaps unintentional appraiser bias is commonplace, pervasive, or systemic and this results in large valuation gaps for Black borrowers relative to White borrowers.<sup>1</sup>

We undertook the first study, which we released in January 2021, to statistically examine the level of racial bias in human performed appraisals using a large dataset. We found that contrary to media allegations, racial bias by appraisers on refinance loans is uncommon and not systemic.<sup>2</sup>

In the meantime, a lot has occurred. The Interagency Task Force on Property Appraisal and Valuation Equity (PAVE), which was created to investigate claims of racial inequities in housing, recently made its recommendations.<sup>3</sup> Freddie Mac explored appraiser bias on purchase loans and FHFA released a blog post citing a few instances of racially charged language in the appraisal form's free-form text fields (more on these studies below). The above-mentioned studies and proposals are neither based on sound research nor provide appropriate policy solutions. On the other hand, rigorous statistical analyses by Fannie Mae and Ambrose et al., which rebuffed the narrative and conclusions of PAVE and Freddie Mac, were largely ignored.

<sup>1</sup> Media coverage uses the terms "pervasive", "systematic", and "widespread" to describe bias in the home appraisal industry: (i) [Study finds 'pervasive' bias in home appraisal industry](#), (ii) [The lesson in these stories is that if you want to get a fair appraisal and maximum selling price potential for your home, you might need to pretend to be white. That kind of individual bias is just one part of a broader, systemic problem, called 'appraisal discrimination' or the 'racial appraisal gap'](#), and (iii) [New report shows home appraisal bias is widespread](#). **Systemic** is an adjective that means "of or relating to a system." It is especially used to describe some phenomenon—an illness, a social problem—that affects every part of an entire system. Some near synonyms to systemic are structural, comprehensive, inherent, pervasive, ingrained, and extensive." **And another word for systemic is widespread.** For the purposes of the below thought experiments, we posit that for an occurrence to be systemic, pervasive, or widespread, it needs to have an incidence of at least 20%.

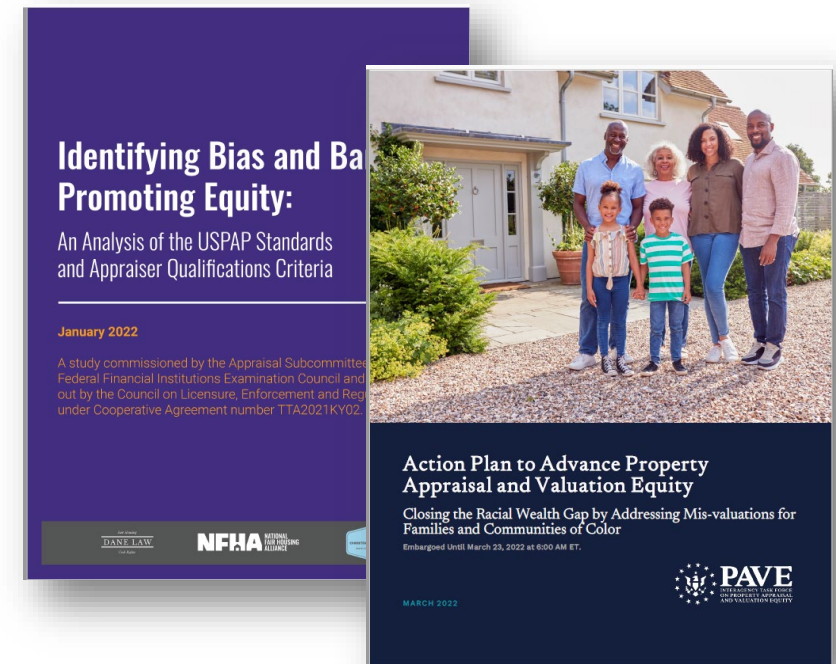
<sup>2</sup> See <https://www.aei.org/economics/special-briefing-on-appraiser-bias/>.

<sup>3</sup> See <https://www.aei.org/research-products/testimony/fairty-evidence-and-misdiagnosed-solutions/>.

1

# Bias and Discrimination

- Perhaps the biggest challenge the profession has faced in decades
- 2020: Press reports & Public Trust
- 2022: ASC and its NHFA Report
- 2022: **PAVE**: Property Appraisal and Valuation Equity – Task Force by the Biden Administration Report



# PAVE



**DPC**  
White House  
Domestic Policy  
Council



**HUD**  
U.S. Department of  
Housing and Urban  
Development



**ASC/FFIEC**  
Appraisal  
Subcommittee of the  
Federal Financial  
Institutions  
Examination Council



**THE FED**  
Board of Governors  
of the Federal  
Reserve System



**CFPB**  
Consumer Financial  
Protection Bureau



**FDIC**  
Federal Deposit  
Insurance  
Corporation



**FHFA**  
Federal Housing  
Finance Agency



**NCUA**  
National Credit Union  
Administration



**OCC**  
Office of the  
Comptroller of the  
Currency



**USDA**  
U.S. Department of  
Agriculture



**DOJ**  
U.S. Department of  
Justice



**DOL**  
U.S. Department of  
Labor



**VA**  
U.S. Department of  
Veterans Affairs



# U.S. House of Representatives Committee on Financial Services

Testimony of  
David S. Bunton, President  
The Appraisal Foundation

## Devalued, Denied, and Disrespected: How Home Appraisal Bias and Discrimination Are Hurting Homeowners and Communities of Color

U.S. House of Representatives  
Committee on Financial Services

March 29, 2022



1155 15<sup>th</sup> Street NW  
Suite 1111  
Washington, DC 20005  
202-347-7722

[www.appraisalfoundation.org](http://www.appraisalfoundation.org)

[DISCUSSION DRAFT]

117<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

H. R. \_\_\_\_

To establish an independent agency to be known as the Federal Residential Valuation Agency and a streamlined Federal procedure for reporting discrimination and misconduct in the provision of real estate valuations, including appraisals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_ introduced the following bill; which was referred to the Committee on \_\_\_\_

### A BILL

To establish an independent agency to be known as the Federal Residential Valuation Agency and a streamlined Federal procedure for reporting discrimination and misconduct in the provision of real estate valuations, including appraisals, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Ending Appraisal Discrimination Act of 2022".

#### SEC. 2. FEDERAL RESIDENTIAL VALUATION AGENCY.

(a) ESTABLISHMENT.—There is established an independent agency to be known as the "Federal Residential Valuation Agency", in this section referred to as

Michelle Czekałski Bradley  
Chair  
Appraisal Standards Board

Submitted Electronically on February 4, 2022

Dear Ms. Czekałski Bradley:

Thank you for the opportunity to provide comments on the Proposed Changes for the 2023 Edition of the Uniform Standards of Professional Appraisal Practice (USPAP). We are federal agencies charged with enforcing nondiscrimination standards under the Fair Housing Act (FHAAct) and the Equal Credit Opportunity Act (ECOA).

Our comments relate to the Appraisal Standards Board Ethics Rule (Ethics Rule) and Advisory Opinion 16. These provisions state that an appraiser may not rely on “unsupported conclusions relating to characteristics such as race, color, religion, national origin, sex, sexual orientation, gender, marital status, familial status, age, receipt of public assistance income, disability, or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value.” However, these provisions do not prohibit an appraiser from relying on “supported conclusions” based on such characteristics and, therefore, suggest that such reliance may be permissible.

But the federal b  
conclusions. An  
with, all applica  
Other federal, st  
the FHAAct and E

The FHAAct prob  
because of a per  
3604(a), (b), (d)  
based on those s  
exercise of their  
any person in ma  
residential real p  
sex, handicap, fa  
found at 24 C.F.

ECOA prohibits  
religion, nationa  
exercise of an ap  
implemented by  
Regulation B ap

The FHAAct and  
characteristics. F  
of or reliance on  
the conclusions  
practices that dis  
absent a less dis  
in prohibited dis

Please note that this response does not constitute approval of any specific content contained in the Ethics Rule or Advisory Opinion 16. We would welcome the opportunity to discuss these requirements and provide whatever further assistance may be appropriate. We believe that a full presentation of these requirements is an essential part of any guidance provided in the Ethics Rule or Advisory Opinion 16 to ensure compliance with fair housing and fair lending laws.

Sincerely,

Patrice Alexander Ficklin  
Fair Lending Director  
Consumer Financial Protection Bureau

Amy Frisk  
Acting Special Policy Advisor  
U.S. Department of Housing and Urban Development

Arthur Lindo  
Deputy Director, Division of Supervision and Regulation  
Federal Reserve Board

Sameena Shina Majeed  
Chief, Housing and Civil Enforcement Section  
Civil Rights Division  
U.S. Department of Justice

Donna Murphy  
Deputy Comptroller for Compliance Risk Policy  
Office of the Comptroller of the Currency

Mark Pearce  
Director, Division of Depositor and Consumer Protection  
Federal Deposit Insurance Corporation

Timothy Segerson  
Deputy Director, Office of Examination and Insurance  
National Credit Union Administration

James Wylie  
Associate Director of Fair Lending  
Federal Housing Finance Agency

# Federal Agencies Letter

CFPB (Consumer Financial Protection Bureau)

HUD (U.S. Department of Housing and Urban Development)

FRB (Federal Reserve Board)

OCC (Office of the Comptroller of the Currency)

FDIC (Federal Deposit Insurance Corporation)

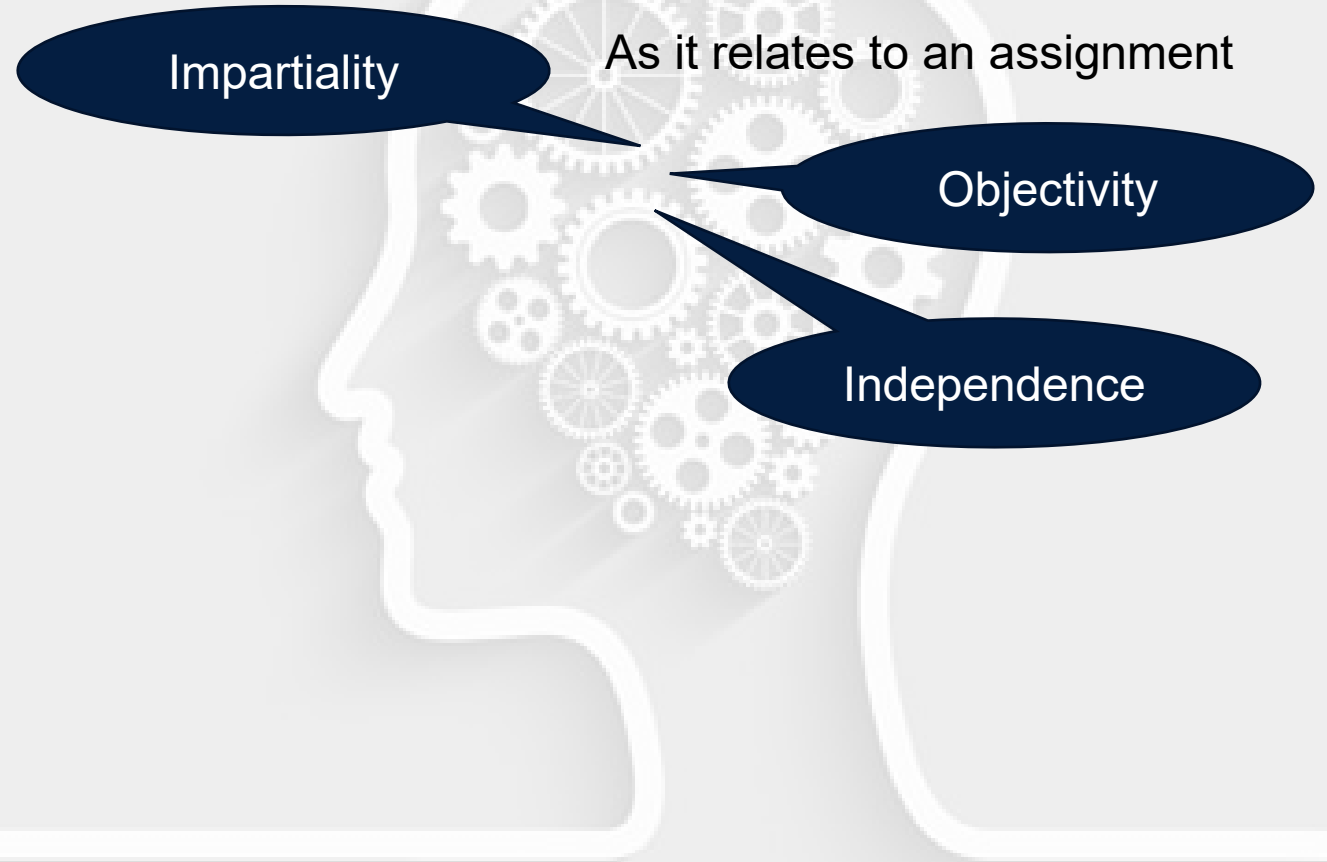
NCUA (National Credit Union Administration)

FHFA (Federal Housing Finance Agency)

DOJ (U.S. Department of Justice)

# How USPAP Addresses Bias

# Bias and the Appraiser



**BIAS:** a preference or inclination that precludes an appraiser's impartiality, independence, or objectivity in an assignment.

# Bias and the Appraiser

- The affirmations relating to development require the mental and emotional predispositions of being impartial, objective, and independent. Impartial, objective and independent signify different mental and emotional conditions.
  - *Impartial* describes a mental state that does not favor one side over another at the outset of an investigation.
  - *Objective* describes a mental condition that is opposed to the subjective. An objective opinion is based on what exists and what is known rather than on preconceived or personal views. Preserving objectivity is the best way to achieve impartiality.
  - *Independence* signifies freedom from outside influences or controls. Independence both mentally and emotionally enables an appraiser to be objective and impartial.
- All three of these together ensure that the appraiser's judgment and service is developed without bias or accommodation of personal interest.

**APPRAISER:** one who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.<sup>2</sup>

# Does USPAP address discrimination?

- Yes.....but lets dig deeper
- What is “discrimination”?
  - Can be a subset of “bias”
  - Definitions
    - Illegal discrimination
    - Unethical discrimination
    - Discrimination (as a distinction)
  - ASB discussing this topic currently

# USPAP prohibits illegal discrimination

## ETHICS RULE

**An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics.**

**An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.**

**An appraiser must not perform an assignment with bias.**

**An appraiser must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value.**

# USPAP prohibits illegal discrimination

## COMPETENCY RULE

**Competency requires recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment.**

Comment: Competency may apply to factors such as, but not limited to, an appraiser's familiarity with a specific type of property or asset, a market, a geographic area, an intended use, **specific laws and regulations**, or an analytical method. If such a factor is necessary for an appraiser to develop credible assignment results, the appraiser is responsible for having the competency to address that factor.....

**In all cases, the appraiser must perform competently when completing an assignment.**



# Why doesn't USPAP state “An appraiser must not discriminate in appraising”?

- **ETHICS RULE = APPLIES TO ALL OF APPRAISAL PRACTICE**
  - The ETHICS RULE sets forth requirements for integrity, impartiality, objectivity, independent judgement, and ethical conduct
- **APPRAISING = IS A SUBSET OF APPRAISAL PRACTICE**
  - To have a requirement that discrimination is only in appraising implies it is allowed in other parts of appraisal practice.
- **“APPRAISAL PRACTICE = INCLUDES DATA CRUNCHING**
  - Example: Freddie Mac study. Thus, there are times when it is acceptable and necessary to base conclusions on the protected characteristics of individuals (or groups).
- **“DISCRIMINATE” = NEEDS CONTEXT**
  - There is legal and illegal discrimination, as well as benign discrimination (i.e. defined as “distinguishing between things)

# Illustrations

STEPS RELATED TO PERFORMING AN APPRAISAL	USPAP REFERENCE	EXAMPLE OF POSSIBLE DISCRIMINATORY ACTION
<b>Actions taken prior to the appraiser agreeing to perform the assignment</b>	COMPETENCY RULE (Lines 309 to 310)	An appraiser refuses to accept any appraisal assignments in majority Black neighborhoods.
<b>Approaching the assignment with the right mindset</b>	PREAMBLE  (Line 40)	An appraiser is valuing a property in a predominately minority neighborhood and because of this fact, decides that they will value the property below the pending sale price, even before performing any research or analysis.
<b>Having the competency to complete the assignment</b>	COMPETENCY RULE (Lines 309 to 310)	Not knowing which laws apply to the appraiser or to the assignment, and thus, not following them (regardless of intent).
<b>Performing the assignment with impartiality, objectivity, and independence</b>	ETHICS RULE  (Lines 185 to 186)	The appraiser concludes an opinion of value below the property's market value because of the property owner's religious beliefs.
<b>Application of the approaches to value</b>	ETHICS RULE  (Lines 198 to 200)	The appraiser, after concluding the subject property may be occupied by a minority, intentionally selects comparable sales based on the perceived race of that occupant.
<b>Data collection and analysis</b>	COMPETENCY RULE  (Lines 306 to 310)	The appraiser checked census data regarding racial composition of the subject's subdivision and several competing subdivisions, then used that data to restrict the use of comparable sales from subdivisions with similar racial compositions.
<b>Reporting assignment results</b>	COMPETENCY RULE  (Lines 299 to 300)	The Appraisal Report contained the following words "According to census data, this neighborhood is comprised of 30% white occupants, 60% Black occupants and 10% are of a mixed race."
<b>Market analysis</b>	Standards Rule 1-3 (a)  (Lines 505 to 511)	The appraiser misleads the intended user by not researching the market to understand the characteristics relevant to the property's value, but instead bases conclusions on racist or stereotypical assumptions.

# Identifying Bias

# Appraisals: Objective or Subjective?

**Are Bank Mortgage Appraisals Subjective?**

**Are Real Estate Appraisals Too Subjective?**

June 30, 2022 / Blog

**The subjectivity of home appraisals**

By **Louise Bolger** - October 30, 2021

**Subjective Language in Appraisals**

# Judgment

---



Is commonly defined as

*the mental ability to come to opinions about things, power of comparing and deciding; understanding; good sense.*

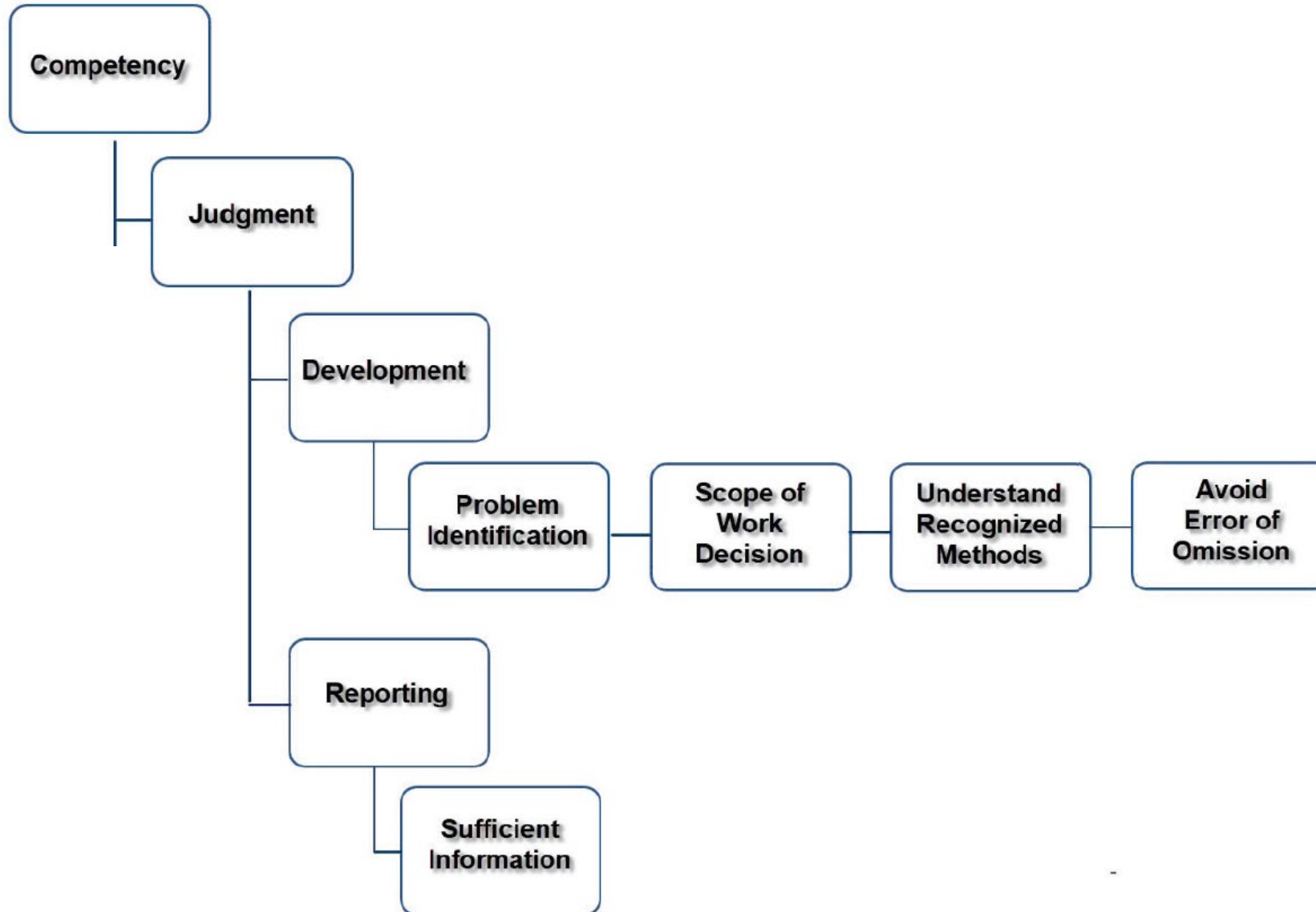


# Judgment

---

- Value is a judgment about the worth of property relative to a type of value.
- Completing an assignment competently requires proper judgment.
- Proper judgment (decision making) is alluded to in the **COMPETENCY RULE**:
  - Properly identify the problem to be addressed.*
- Each Standard Rule then describes in more detail the judgment involved with defining the problem.
- Problem Identification includes judgement and information.

# Judgment



# Risk factors associated with higher fair [housing] risk

- Substantial discretion to make decisions on transactions or properties
- Lack of clear policies, procedures, business rules, or decision criteria
- Use of factors in decision-making that are subjective rather than objective
- Use of geographic factors or different treatment of geographies
- Policies impacting outcomes that lack clear business justification
- Policies impacting outcomes that have not undergone review for effectiveness or need for a significant period of time
- Compensation criteria or other incentives that could lead to disparities in outcomes
- Reliance on third parties without appropriate oversight
- Unreliable or incomplete data
- Consumer complaints
- Employee statements indicating aversion to doing business in certain areas with relatively high concentration of residents sharing a protected class characteristic



# Establishing Disparate Treatment

The existence of illegal disparate treatment may be established either

- by statements revealing that an Enterprise explicitly considered prohibited factors (overt evidence), or
- by differences in treatment that are not fully explained by legitimate nondiscriminatory factors (comparative evidence).

Disparate treatment can also be shown through appropriate statistical analysis.

FHFA Advisory Bulletin 2021-04

## **OVERT**

Justifying a decision because a property is stated as being located “near Indian nation public housing” and that “buyers have a problem with that”.

## **Comparative**

Treating similarly situated properties differently where one property is located in a minority neighborhood and the other in a majority white neighborhood.

# Code Word Evidence of Disparate Treatment

Use of certain code words can be evidence of disparate treatment. Whether a code word is evidence of disparate treatment depends on

- the context,
- inflection (if spoken),
- tone of voice (if spoken),
- custom,
- and historical usage.

Examples of potential code words include describing minority neighborhoods as “crime-ridden,” “inner city” neighborhoods, or lacking “pride of ownership.”

*Code word evidence should be carefully evaluated in its full context before drawing conclusions.*

*FHFA Advisory Bulletin 2021-04*

# Correcting for Bias

# Actions to Take

- Awareness
  - Data (FHFA, State data, HUD data)
  - Education (Appraisers have more training)
- **Enforcement**
  - States (are charged with enforcing USPAP)
  - Appraisal Subcommittee (has oversight of states)
  - Clients, and regulators (Freddie, Fannie, VA, FHA, FHFA, HUD, etc.)
- Guidance can be provided from:
  - Clients
  - Federal Agencies
  - Appraiser Membership organizations
  - ASB (limited in what they can provide)

# The Appraisal Foundation Actions: Immediate

- The ASB and AQB are fully engaged in addressing the bias and discrimination issue. Often **changes** to the *Criteria* or USPAP **take** a considerable amount of **time** to have a measurable impact.
- **QUICK ACTION in 2021**: The 7-hour USPAP Update contains 90 minutes on bias and discrimination related topics, as they relate to USPAP. This material is being enhanced- expect to see an update soon!

# The Appraisal Foundation Actions: Forward Steps

- Strengthening guardrails against unlawful discrimination
  - Comprehensive review of Ethics Rule (more on this in a bit!)
  - Retaining Relman-Colfax
  - Adding *Advisory Council to Advocate for Residential Equity “CARE”*
- Building a well-trained (AQB goal), accessible, and more diverse (BOT goal) appraiser workforce
  - PAREA modules in development (more on this in a bit!)
  - 35 states now accept PAREA for experience requirement

# AQB

## Practical Applications of Real Estate Appraisal

# “PAREA”

TABLE OF CONTENTS

### PRACTICAL APPLICATIONS OF REAL ESTATE APPRAISAL (PAREA)

The goal of the following is to outline necessary Content Criteria that must be included in the development of exercises, examples, simulations, case studies, and applications as are appropriate to recreate the practical experience expected to be gained by an appraiser seeking a license credential. At least 3 USPAP compliant appraisal reports will be developed in the PAREA program for each licensing category. At a minimum, development and reporting of appraisals for single unit residences, 2-4 unit, and condominium units are essential.

#### MINIMUM CONTENT REQUIREMENTS – LICENSED RESIDENTIAL CLASSIFICATION


- I. Introduction
  - A. General Considerations and Responsibilities
    - 1. Discuss respecting the public trust
    - 2. Review and comment on appraiser independence
    - 3. Review and comment on the responsibilities to clients regarding reconsideration of value requests and other communication
  - B. Appraisal Software and Tools
    - 1. Overview of software options (vendors) and common forms
    - 2. Overview of Common tools: measuring devices, cameras, etc.
- II. Problem Identification
  - A. Understanding Assignment Parameters
    - 1. Perform initial review of order/engagement letter, determine authoritative lines of communication. Provide interactive exercises in extracting key information from engagement letter.
  - B. Understanding Assignment Elements and Competency Issues
    - 1. Examine appraisal request and other documents provided (e.g. title reports, surveys, purchase contract) to determine key assignment elements (Standards Rule 1-2(a)–Standards Rule 1-2(d)), and the SCOPE OF WORK RULE, and/or contractual obligations. Determine relevant appraisal assignment conditions. Understand common client, intended use, intended users, engagement letter terms, various assignment types, basis for assignment conditions, extraordinary assumptions, and hypothetical conditions (e.g., FHA, VA, USDA, etc.).
    - 2. Provide exercises for defining the problem. The goal is for participant to establish appropriate steps in appraisal process.
    - 3. Exercises should contain overlays introducing key engagement items that could affect scope of work
    - 4. Ensure that exercises demonstrate impact on both assignment conditions and elements.
    - 5. Include exercises where an appraiser can identify during problem definition process the existence of possible extraordinary assumptions and/or hypothetical conditions.
    - 6. Demonstrate how competency issues are identified and will be resolved.
  - C. Market, Neighborhood, and Subject Property Research
    - 1. Utilize preliminary online/archival research to gain basic market area and subject property information.
    - 2. Develop the general area and neighborhood market analysis.
      - a. Overview of available data sources for market area information.

30



## Revising ETHICS RULE

**Third Exposure Draft**  
 USPAP  
 July 26, 2022



Authorized by Congress as the Source of Appraisal Standards and Appraiser Qualifications  
 APPRAISAL STANDARDS BOARD

## 7 Hour USPAP Course (90-minute section)

### Table of Contents

Appraisal Bias and Illegal Discrimination.....	1
Introduction to Anti-Discrimination Laws .....	2
Enforcement Authorities .....	4
The Fair Housing Act: General Information .....	6
The Fair Housing Act: Specific Information .....	10
The Equal Credit Opportunity Act: General Information .....	12
The Equal Credit Opportunity Act: Specific Information .....	13
Disparate Treatment.....	14
Disparate Impact .....	17
Enforcement of FHAct and ECOA .....	19
Federal Guidance on Fair Housing and Fair Lending Laws .....	20
Lender Guidance on Valuation Bias and Fair Lending .....	22
USPAP and the Appraiser .....	23
Illustrations .....	26
USPAP .....	27
Resources .....	28
Sources for reports listed on the page 1:.....	29





# AVMs



# Resources for You

# Court Cases- Currently Ongoing

- Austin, et al. v Miller, et al.
  - DOJ issues a letter of interest
  - <https://www.justice.gov/crt/case-document/file/1472031/download>
- Connolly/Mott vs Shane Lanham Alleges appraiser undervalued the owner's home
  - Case 1:22-cv-02048-PBG Filed 08/15/2022

# Court Cases- Older

*United States v. Am. Inst. of Real Est. Appraisers of the Nat'l Ass'n of Realtors (AIREA)*, 442 F. Supp. 1072, 1076 (N.D. Ill. 1977) (This case describes the United States' complaint against four trade associations for promulgating appraisal standards that caused "appraisers and lenders to treat race and national origin as a negative factor in determining the value of dwellings," in violation of 42 U.S.C. §§ 3604(a), 3605, and 3617.)

*Swanson v. Citibank, N.A.*, 614 F.3d 400, 406 (7<sup>th</sup> Cir. 2010) (Swanson's complaint of racial discrimination in a home equity loan application under the Fair Housing Act was stated both as to the lender and the appraiser who valued the property \$70,000 lower than it's estimated value at the beginning of the transaction.)

*Barkley v. Olympia Mortg. Co.*, No. 04 CV 875 RJD/KAM, 2007 WL 2437810, at \*15, \*21 (E.D.N.Y. Aug. 22, 2007) (This case involved allowing a reverse-redlining claim under §§ 3604(b) and 3605 to proceed against an appraiser, developers, mortgage lenders, lawyers, and other appraisers who allegedly overvalued homes.)

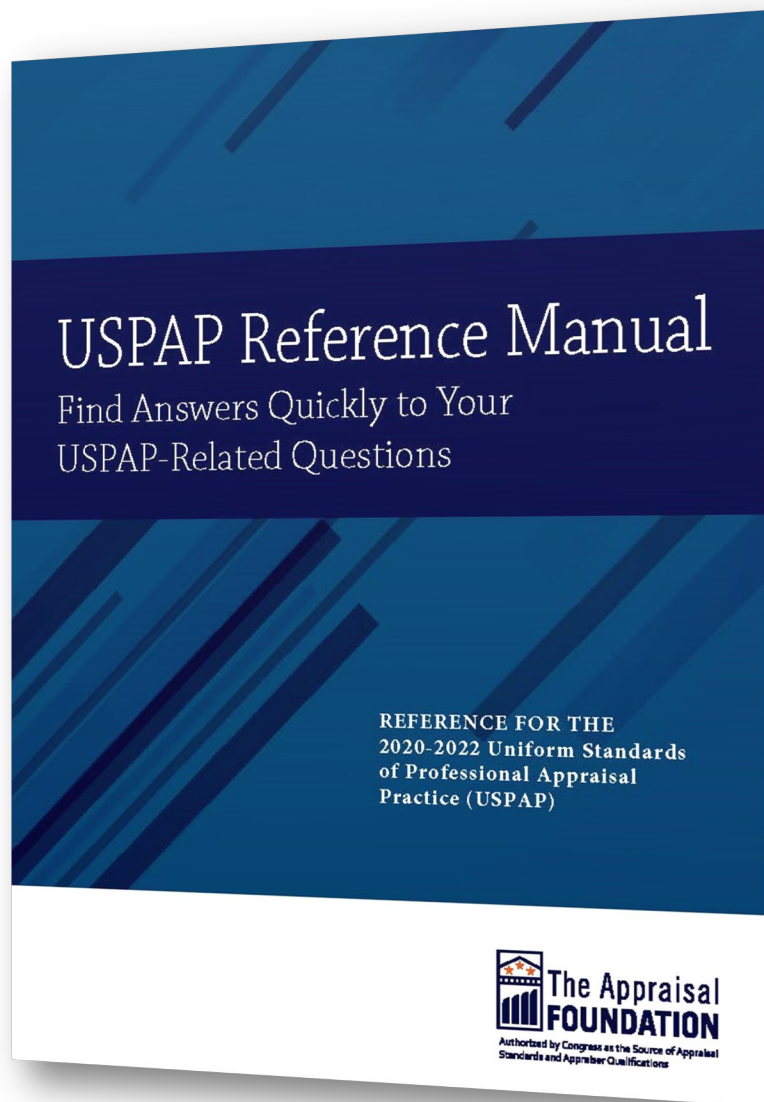
HUD Conciliation Agreement with JP Morgan Chase, available at [https://www.hud.gov/press/press\\_releases\\_media\\_advisories/hud\\_no\\_21\\_037](https://www.hud.gov/press/press_releases_media_advisories/hud_no_21_037) (This case resolved a complaint alleging that Chase had valued a home for less than its worth because of its reliance on a racially discriminatory appraisal.)

*Amy Hanson, et al., v the Veterans Administration* (United States Court of Appeals, Fifth Circuit) (September 29, 1986)

# Fair Housing Case Law Resources

- List of Case Law
  - <http://www.mapc.org/wp-content/uploads/2018/02/Fair-Housing-Case-Law.pdf>
  - This resource dates back to 1917.
- HUD
  - [https://www.hud.gov/program\\_offices/hearings\\_appeals/cases/fha](https://www.hud.gov/program_offices/hearings_appeals/cases/fha)
- DOJ
  - <https://www.justice.gov/crt/housing-cases-summary-page>
  - <https://www.justice.gov/crt/recent-accomplishments-housing-and-civil-enforcement-section>

# Answer Your USPAP Questions



**TOPICS RELATED TO AN ASSIGNMENT** .....

**ASSIGNMENT CONDITIONS** .....

    General Examples of Assignment Conditions .....

    What They Are .....

    What They Are Not .....

    Hypothetical Condition .....

    Extraordinary Assumption .....

    Unacceptable Assignment Conditions .....

    Recognize Applicable Assignment Conditions .....

**SCOPE OF WORK** .....

    Defined. ....

    Who Determines the Scope of Work? .....

    What Should the Scope of Work Include? .....

    Who Performs the Scope of Work? .....

    Who Can Specify the Scope of Work? .....

    Judging the Acceptability of the Scope of Work .....

    Same Scope of Work, Different Client .....

    Examples of Scope of Work .....

    Limiting the Scope of Work .....

    The SCOPE OF WORK RULE .....

# Additional Resources

- Email your general USPAP questions:

[LisaD@appraisalfoundation.org](mailto:LisaD@appraisalfoundation.org)

- Four-hour course: Intro to Terms and Concepts of USPAP

Standards-Related Education Courses				
Seminar Title	Hours	Delivery Mechanism	Audience	Count Toward Real Property QE/CE Requirements?
<a href="#"><i>Evaluating a Report for USPAP Compliance*</i></a>	4	Online	Real Property Appraisers, Lenders, Underwriters	State Non-credit
<a href="#"><i>Intro to Terms and Concepts of USPAP*</i></a>	>4	Online	State Regulators, Attorneys, Investigators	State Non-credit
<a href="#"><i>Residential Review and USPAP Compliance**</i></a>	7	Classroom and Online	Real Property Appraisers	7 hours of real property CE***

# THANK YOU

Communicating with the Foundation and its Boards is easy

[www.appraisalfoundation.org](http://www.appraisalfoundation.org)

1155 15<sup>th</sup> Street NW, Suite 1111 Washington, DC 20005  
202.347.7722

[info@appraisalfoundation.org](mailto:info@appraisalfoundation.org)

[AQB@appraisalfoundation.org](mailto:AQB@appraisalfoundation.org)

[ASB@appraisalfoundation.org](mailto:ASB@appraisalfoundation.org)



The Appraisal  
**FOUNDATION**

Authorized by Congress as the Source of Appraisal  
Standards and Appraiser Qualifications