

MORTGAGE UPDATE

By David Griffin, Past President of Mortgage Bankers Association of Middle Georgia

HVCC Problems

Well, we've lived with HVCC for two months now. So, how's that working out for us and you? Not too well, I'm afraid. Conventional appraisals now take longer to receive, lenders are being provided less information about the appraisal process than ever before, appraisals are being performed by less qualified appraisers willing to accept a smaller fee, but you, the consumer, are paying more than before for poorer quality work because a significant portion of your fee now goes to the AMC middlemen.

That's just what happens when government involves itself in a free market system. It's like the illustration used by Neal Boortz to highlight typical government "assistance". Neal suggests that you just imagine what it would be like if the government were in charge of grocery stores. It would be an unholy mess. I, for one on this July 4th holiday weekend, am just about tired of our federal government's tyranny against its own people. All hail the nanny state.

Okay, David, deep breaths, breathe, breathe. Your face is quite red. Want to lie down?

While I'm catching my breath, let me remind you about why I'm upset. The "Home Valuation Code Of Conduct" (HVCC) resulted from an agreement between The Office of Federal Housing Enterprise Oversight (OFHEO at ofheo.gov), the Government Sponsored Enterprises (GSE's) they regulate, the Federal National Mortgage Association - FNMA or Fannie Mae - and the Federal Home Loan Mortgage Corporation - FHLMC or Freddie Mac - and the Attorney General of the state of New York, Andrew Cuomo.

The agreement was the culmination of New York mortgage fraud investigated by AG Andrew Cuomo and particular aspects of the type of fraud found. Mr. Cuomo's assertion was that in a significant percentage of the cases of mortgage fraud reviewed, the lender (Washington Mutual) had placed undue pressure on their appraisal management company, eAppraisalIT, to come up to a certain value in order that the particular mortgage loan in question might be approved.

The bottom line appeared to be that beginning May 1, 2009, no mortgage lender could choose the appraiser to be employed to appraise a particular property where that loan is to be sold to FNMA or FHLMC, the primary purchasers of conventional loans. Appraisal Management Companies (AMC's) would be established as appraisal clearing houses, if you will, to assign appraisers to lenders based upon the location of the property and the name of the appraiser next up on its list to receive an assignment.

You read that correctly. The original fraud occurred between a lender and an "appraisal management company". Cuomo's solution to the problem? Require that all lenders nationwide use "appraisal management companies". Brilliant!

HVCC reads in part: "No employee, director, officer, or agent of the lender, independent contractor, appraisal Management Company, or partner on behalf of the lender, shall influence or attempt to influence the development of an appraisal report. Withholding payment is considered improper influence of an appraiser. Requesting a pre-determined value is considered improper influence of an appraiser. Providing to an appraiser a desired value for a subject property or a proposed or target amount to be loaned to the borrower is considered improper. The lender will not accept any appraisal report completed by an appraiser selected, retained, or compensated in any manner by any other third party (including mortgage brokers and real estate agents). A lender will not be permitted to request a second opinion of value from a different appraiser, unless there is documental reason to believe that the first appraisal is flawed or tainted. A commissioned loan officer will not be allowed to communicate with the selected appraiser about the assignment."

Now, two months into the actual implementation of HVCC, the chief economist for the National Association of Realtors®, Lawrence Yun, pointed to HVCC as a contributing factor to less than expected improvement in existing home sales. From the recent NAR press release, "Yun said the appraisal problem is serious. "Lenders are using appraisers who may not be familiar with a neighborhood, or who compare traditional homes with distressed and discounted sales," he said. "In the past month, stories of appraisal problems have been snowballing from across the country with many contracts falling through at the last moment. There is danger of a delayed housing market recovery and a further rise in foreclosures if the appraisal problems are not quickly corrected."

A new bill, H.R. 3044, proposing an 18-month moratorium on HVCC has been introduced in the House. I urge you to contact your congressional representatives and ask that they support this bill.

David Griffin has been financing homes in Macon, Warner Robins and all of Middle Georgia since 1983 and is a member of the Mortgage Bankers Association of Georgia, mbag.org. For an archive of past articles visit mbag.org/ML_Update.htm. (7/2/09)