

March 24, 2020

The Honorable Maxine Waters
2221 Rayburn House Office Building
United States House of Representatives
Washington, DC 20515

The Honorable Sherrod Brown
503 Hart Senate Office Building
United States Senate
Washington, DC 20515

RE: *Real estate appraisers are an essential business and here to protect the public trust*

Dear Congresswoman Waters and Senator Brown:

Housing is the largest asset class in the U.S., and we must enable consumers to safely borrow to keep credit conditions liquid and encourage consumer spending. Appraisers protect against predatory lending and mortgage fraud. Automated valuation models (AVMs) that remove the professional appraiser from valuation have proved to be unreliable. They would enable a repeat of the financial crisis in addition to complicating attempts to control the global pandemic.

The coronavirus pandemic is causing a significant and immediate disruption to the world's economy. State and Federal governments are tasked with establishing "essential services" and "essential employees" during the shutdown of certain businesses as well as "shelter in place" orders to contain the spread of the COVID-19. This pandemic has created a large-scale financial crisis providing steep challenges to our government leaders. They are challenged with balancing the health and safety of our citizens with an array of economic problems, including a surge in unemployment, the closing of many businesses, many permanently, and faltering credit liquidity.

The Gramm-Leach-Bliley Act was signed into law on November 12, 1999 and designated the appraisal industry as a "financial institution." Personal property or real estate appraiser is a financial institution because real and personal property appraisal is a financial activity listed in 12 CFR 225.28(b)(2)(i) and referenced in section 4(k)(4)(F) of the Bank Holding Company Act.

Through the Appraisal Foundation, the U.S. organization founded in 1987 responsible for setting standards for the real estate valuation profession, is here to protect the public trust.

As the global pandemic and financial crisis continue to unfold, individual states are considering lockdowns and determining which businesses are essential.

New York Governor Andrew Cuomo enacted New York State Executive Order 202.6 This order determined which businesses were considered essential. Since appraisers were defined by federal law via the Gramm-Leach-Bliley Act as a "financial institution" and since "financial institutions" are defined as an "essential business" by New York state we believe that appraisers are classified as an "essential business." Without the appraisal industry, real estate lending for purchases, refinances, and home equity loans will immediately cease, causing extreme hardship on the entire economy.

Variations of this order have been implemented in other states such as Illinois, California, Connecticut, Ohio, and Pennsylvania, all within the past several days.

In the U.S. Department of Homeland Security 2006 publication: Pandemic Influenza Preparedness, Response, and Recovery Guide for Critical Infrastructure and Key Resources defined essential businesses within the context of being part of critical infrastructure and essential functions.

Secretary Mnuchin, in his March 22, 2020 Memorandum: Financial Services Sector Essential Critical Workers, stated that the financial services sector is identified as Critical Infrastructure Sector by the Department of Homeland Security (DHS).

We cannot allow this pandemic to transform into a significant financial crisis. Therefore, we must ensure that access to capital and credit markets be readily available.

However, this must be done in a manner that protects the public interest and trust and minimizes risk. This will be accomplished by continuing to have appraisers provide appraisals that are compliant with the Uniform Standards of Professional Appraisal Practice (USPAP). We cannot risk falling into another mortgage crisis or allow predatory lending practices in this time of economic uncertainty. This environment is ripe for predatory lending and mortgage fraud when all the resources are currently focused on the health crisis.

The largest asset the majority of Americans possess is the equity in their home. During these difficult times, when so many Americans are being laid off or seeing their wages cut, they will be looking for ways to keep their head above water. In many cases, that means borrowing against the equity in their home. The availability of credit, through home equity loans or refinance programs, may be one of the only options available at scale.

It is imperative that these mortgage products and other loans be collateralized by the asset with a supported value by a professional appraiser. The appraiser is instrumental in the mortgage process to provide safety for the American people and our financial institutions. We must ensure that the values established for these assets are a true representation of the market based on the analysis by trained professional appraisers. It would be irresponsible to allow appraisal waivers, inadequate desktop products, evaluations, or bifurcated valuation products to take the place of a professional appraiser.

We must ensure that all Americans can trust our financial institutions from the mortgage loan application through to the valuation of their home.

The appraiser is the last chance in the mortgage lending pipeline to detect foul play. If appraisal waivers, the ability for banks to lend without the use of a professional appraiser, is introduced, then the system of checks and balances will be non-existent. Such a move will guarantee the almost immediate onslaught of predatory lending and mortgage fraud.

Appraisers are an essential business and are here to protect the public trust.

About the authors

The rural markets pose a significant challenge with a wide variety of property types and limited sales. As an active state-certified appraiser, a state regulator, and a member of the Appraisal Foundations Board of Trustees, **Peter J. Fontana** has sworn an oath to protect the public trust.

Urban and suburban markets also pose challenges with wide variations in data quality. **Jonathan J. Miller**, CRP, CRE is an active state-certified appraiser and member of the NYC Mayor's Economic Advisory Panel, the New York State Division of the Budget Economic Advisory Board as well as a member of Industry Advisory Council (IAC) of The Appraisal Foundation and a past president of the Relocation Appraisers and Consultants, Inc. (RAC).

Sincerely,



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