March 5, 2013

Senator Nia H. Gill, Esq.
Chairwoman, Senate Commerce Committee
425 Bloomfield Avenue, 2nd Fl., Montclair, NJ 07042

Assemblyman Thomas P. Giblin
Chairman, Assembly Regulated Professions Committee
1333 Broad Street, Clifton, NJ 07013

Chairpersons Gill and Giblin:

The American Society of Appraisers (ASA), the largest multidisciplinary professional appraisal organization in the United States, is writing to express strong opposition to identical bills S2551 and A3718, which would permit the broader use of broker price opinions (BPOs) and comparative market analyses (CMAs) prepared by non-appraiser real estate broker licensees, licensee-salespersons, and salespersons. These bills would not only undermine the existing regulatory system, under which individuals who are in the full time business of determining the fair market value of property are required to be licensed or certified as a real estate appraiser, but would expose New Jersey consumers to substandard valuation products in a range of transactions where the individual performing the BPO or CMA lacks the education, experience and very frequently the objectivity to provide a reliable opinion of value for the underlying transaction.

The Dodd-Frank law specifically prohibited the use of BPOs as the primary basis upon which mortgage originators could rely in determining whether or not the underlying collateral supported an extension of credit to the consumer. The reason behind the legislation was straightforward: BPOs, standing alone, are insufficient to provide lenders and consumers with the depth of analysis and independence necessary to make an informed lending or purchasing decision. This is not to say that BPO or CMA products are without merit entirely; they are a useful tool for determining the possible price that a piece of property may sell for in a certain area. They do not, however, reflect the actual fair market value of the property the way an appraisal does.

Our concern is that while the use of BPOs and CMAs will diminish under Dodd-Frank for mortgage lending, there are other significant transactions where an appraisal remains the only appropriate tool for determining the value of the underlying property. Two prime examples are tax assessment appeals and estate tax settlements with disposition of the property. In both of these examples, there are compelling public policy reasons for not encouraging or allowing the expanded use of BPOs and AVMs.

With respect to tax assessment appeals, it is crucial that the individual preparing the rebutting valuation understand the mass appraisal concepts by which the local assessing office reached their initial conclusion as it relates to property value. Indeed, the Uniform Standards of Professional Appraisal Practice dedicate an entire standard, Standard 6, to this concept, and have provided corresponding advisory opinions regarding the concept of mass appraisal. Without a
working knowledge of USPAP, an individual attempting to prepare an assessment appeal is less likely to reach a supportable conclusion regarding the value – thereby harming taxpayers who may in fact have a legitimate case for seeing their assessed value reduced.

In the case of estate settlements, the state of New Jersey has an interest in ensuring that property is accurately valued so that the correct amount of revenue is collected from the estate – whether the concern is under-reporting or over-reporting. In either instance, the harm to either the state or the estate’s beneficiaries can be significant. By relying on professional appraisers to determine the value in a neutral, objective manner, both parties are assured that the value reflected in the appraisal report is not only derived from tested approaches, but has been developed absent undue influence or pressure for any outside influence. (In fact, were there to be any outside influence on the appraiser, he/she could report said influence to the appropriate state agency.)

These are but two examples underpinning our concern with the potential expanded use of, and reliance upon, BPOs and CMAs in New Jersey. ASA urges the Senate Commerce Committee to reject S2551, and the Assembly Regulated Professions Committee to reject A3718. If you have any questions, or wish to discuss our concerns further, please contact either Peter Barash, ASA’s government relations consultant, at 301-651-1296 or peter@barashassociates.com, or John D. Russell, ASA’s director of government relations, at 703-733-2103 or jrussell@appraisers.org.

Regards,

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