

#### Appraisal ROVs and Racial Bias— Recent Developments in Federal Guidance and Oversight

January 11, 2023

Timothy Ofak Jason McElroy

Ofak@thewbkfirm.com McElroy@thewbkfirm.com

thewbkfirm.com



# **Appraisal ROVs – Change is Here**

- The PAVE Report came out in March 2022 and specifically addressed ROVs. For instance, consider the following action items:
  - "CFPB will encourage lenders to provide borrowers with information on the available means to reconsider valuations (e.g., appraisals, AVMs) that borrowers believe to be inaccurate."
  - "HUD will require FHA lenders to track usage and outcomes of ROVs and to report this data to FHA via FHA systems."
  - "HUD will update FHA policy to notify borrowers, before loan closing, of their ability to speak with their lender to request an ROV."



# October 6, 2022 CFPB Blog Post

- On October 6 of last year, the CFPB issued a blog post titled: Mortgage Borrowers Can Challenge Inaccurate Appraisals Through the Reconsideration of Value Process
- Here are a few highlights from the post:
  - "When lenders provide borrowers with clear, plain-language notice of reconsideration of value opportunities, lenders help ensure that their reconsideration of value process is nondiscriminatory."
  - "Lenders that fail to have a clear and consistent method to ensure that borrowers can seek a reconsideration of value risk violating federal law."



# FHA's Enhanced ROV Policy (Proposed)

- On January 3, 2023, FHA issued FHA Info 2023-1 titled: FHA Seeks Feedback on Draft of Enhanced Policy to Support Request for Reviews of Appraisal Results
- Issued in conjunction with a draft mortgagee letter to strengthen "safeguards against unlawful discrimination in residential property valuations."
- Purpose is to improve the process when borrowers "request an ROV on a property if the initial valuation is lower than expected, there is indication of illegal bias, Fair Housing regulations have been violated or unlawful discrimination has been identified."



# FHA's Enhanced ROV Policy (Proposed)

- Key highlights from the draft mortgagee letter background section:
  - "FHA is adding a disclosure to the Homebuyer's Copy of form HUD-92800.5B Conditional Commitment Direct Endorsement Statement of Appraised Value" concerning the option to request a review of the appraisal results.
  - "FHA is adding mandatory fields to the FHA Connection (FHAC) Insurance Application and HECM Insurance Application screens to collect information related to Borrower-initiated requests for review of appraisal results."



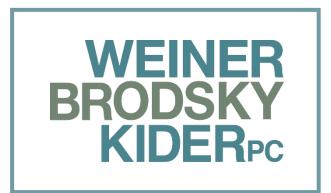
# FHA's Enhanced ROV Policy (Proposed)

- Key highlights from the draft mortgagee letter's Handbook revisions:
  - List of material deficiency examples expanded to explicitly include indications of unlawful bias.
  - Updates underwriter appraisal quality review requirements.
  - Updates Reconsideration of Value Handbook section.
  - Adds a new section titled Borrower Requests for Review of Appraisal Results.
  - Updates General Appraisal Requirements section regarding ROV requests



### **Concluding Thoughts**

- Here is the high-level takeaway from the HUD proposed mortgagee letter and CFPB blog post:
  - A well-designed ROV policy will help prevent discriminatory appraisals;
  - Disclosing ROV options to borrowers is preferable and becoming necessary; and
  - A robust ROV policy will help companies potentially avoid and help defend against government enforcement investigations and consumer appraisal discrimination complaints.



#### **CONTACT INFORMATION**

Timothy Ofak ofak@thewbkfirm.com 202-557-3517 Jason McElroy mcelroy@thewbkfirm.com 202-728-4463

thewbkfirm.com