

**WEINER
BRODSKY
KIDER_{PC}**

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

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.

**WEINER
BRODSKY
KIDER_{PC}**

CONTACT INFORMATION

Timothy Ofak
ofak@thewbkfirm.com
202-557-3517

Jason McElroy
mcelroy@thewbkfirm.com
202-728-4463