



5/2/2013

OPTIONS FOR APPRAISAL REFORM

THE QUESTION:

What options are available to C.A.R. to improve the quality of appraisals in members' transactions?

ACTION

Optional; if legislation is to be introduced in 2014, the decision should be made no later than the October Board of Directors meeting

POSITION

1. Survey C.A.R. membership to quantify the extent of problem appraisals and their causes.
2. Educate and encourage REALTORS(r) in how to make a complaint to OREA regarding substandard appraisals.
3. Support legislation of others that increases supervision of appraisers or AMCs (existing policy).
4. Prepare C.A.R.-sponsored legislation for consideration in October that would empower OREA to enforce additional regulations over AMCs.
5. Other

DISCUSSION

In the January 2013 the committee discussed the topic of appraisal reform (see also background paper [Appraisal Reform](#) in the archived January committee materials). The committee considered and defeated a motion calling for C.A.R. to sponsor legislation granting the Office of Real Estate Appraisers (OREA) additional authority to regulate Appraisal Management Companies in order to prevent so-called "geographic incompetence." Geographic incompetence is the violation of existing appraisal standards that occurs when an appraiser practices in an area where he or she is unfamiliar with values. The license regulation requiring an appraiser not to take an assignment where he or she is not competent parallels a similar requirement for REALTORS(r) found in NAR Professional Standards.

At the conclusion of the discussion in the January 2013, the committee directed staff to bring back options for appraisal reform for further consideration, including what areas or types of regulations the OREA might be empowered to impose.

What is the problem; and how serious is it?

The first option that C.A.R. might pursue is detailed research among the REALTOR(r) membership. While one can certainly hear "horror stories" of incompetent appraisers, it is difficult to quantify the problem(s). Indeed, one factor that led to the defeat of C.A.R.'s sponsored AB 1796 (Hall) on this topic in 2010 was the lack of real world examples of home owners injured or transactions derailed by bad practice or out of area appraisers.

While a former chair of the Judiciary Committee was fond of pointing out that "the plural of anecdote is not evidence," if any particular problem is pervasive it seems likely that C.A.R.'s membership will have encountered it.

Should C.A.R. Research and Economics be asked to include appraisal reform topics in a survey of the membership?

Encouraging reporting of appraisal misconduct.

OREA has a complaint procedure modeled after that of DRE, including the ability to download a complaint form from its website orea.ca.gov. OREA has a much smaller licensee base (less than 20,000) than DRE, even though their regulatees are involved in many more transactions per licensee. When earlier legislation was considered, the OREA was unable to substantiate a pattern of out of area appraisal complaints, primarily because they didn't get many complaints. It is possible that complaints are not being received because REALTORS(r) and consumers don't know how, or that they don't have sufficient confidence that the complaint will do any good.

Any future legislation seeking to reform or improve appraisal practice will undoubtedly be reviewed by OREA and its input will be sought by the legislature.

Should C.A.R. engage in an affirmative effort to educate its members on how to report appraisal misconduct and to encourage them to pursue a complaint with OREA?

Legislation

C.A.R. has existing policy to support legislation that would result in stricter regulation of geographic incompetence and improve appraisal practice. Based upon earlier legislation, C.A.R. will support increased access to appraisal data and improved ability for REALTORS(r) to have legitimate communication with appraisers to support their valuation decisions.

If OREA was to be empowered to make additional regulations over AMCs, the regulations could include, or be limited to:

- Requiring each appraisal to disclose the ownership interests of the employing AMC, or to require that disclosure whenever one of the owners has a connection to the transaction. Examples might include a bank or title company that owns an AMC that is supplying an appraisal; and the bank or title company is providing financing or escrow services for the same transaction.
- Regulations might require the AMC to demonstrate that it has policies in place to ensure that appraisers are not sent to assignments outside their area of expertise.
- Outright prohibition of a lender or title company using its own AMC to supply an appraiser on a transaction in which it is otherwise involved.

Note: Any additional regulation of AMCs will be opposed by their industry group and their bank and title insurer owners. Opposition is likely to include the proverbial "sauce for the goose is sauce for the gander" argument that any such restriction ought to be applied to REALTORS(r) too – any decision to sponsor a bill will need to include a strategy for a response.

C.A.R. staff has had contact with representatives of the Appraisal Institute who indicated that they are contemplating sponsored legislation, but staff has not yet seen it introduced.

2013 is the first year of a 2-year legislative session, and the deadline for introduction of legislation to be passed in 2013 has already passed; the very earliest that a sponsored bill could be introduced is January of 2014. C.A.R. has not yet identified any appraisal reform legislation introduced this year; and will typically make a decision on whether to sponsor legislation in October for introduction in the following year.

Should C.A.R. review the possibilities for legislation at its October meeting?

Should C.A.R. pursue non-legislative reform options before considering sponsored legislation?

