The Time Has Come (Today)

by
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The wheels of justice turn slowly, but grind exceedingly fine. After years of working with regulators and helping write several real estate laws and regulations, my experience tells me it can take years for laws to be adopted, the staff of regulatory agencies to be trained, and have that finally result in enforcement and lead to real changes. Appraisers are upset with how slowly enforcement actions have been brought against various AMCs. The "Time Has Come Today."

Contrary to what some appraisers might believe, the laws that we have in place today were developed to protect appraisers, lenders, and of course the public that relies on quality appraisals and an honest appraisal process. Better business practices, directed by laws, will allow appraisers, AMCs, and lenders to survive, profit, and provide something of value to the American public: a high quality appraisal provided by a competently trained appraiser, who is appropriately paid for his or her service.

To some, if there’s a regulation they don’t like, they ignore it. And if confronted with the regulation in black and white, they try to spin its meaning to their advantage. Why? Often it’s because new regulations can negatively impact their business practices and income. I see this in criminal and civil cases involving banks, AMCs, and appraisers. Often it’s people or companies with questionable ethics and bad business practices that are most likely to have this negative trait. This tendency is one reason why it takes years for laws to become regulations, which become common knowledge and finally result in action. I know appraisers are upset with government inaction against egregious acts by many lenders and AMCs. Well “Time Has Come Today,” which I’ll explain shortly.

Lenders, banks, credit unions, and AMCs must follow certain hiring practices or sanctions and fines from state and federal regulators. Many of these entities keep trying to ignore regulations or try to convince people that what the law states isn’t what it means. For instance, federal and state laws require lenders, and their AMC agents, to create and follow written policies explaining their methods for hiring and paying appraisers (that customary and reasonable fee thing).

As an example here’s text from federal regulations:

"An institution should not allow lower cost or the speed of delivery time to inappropriately influence its appraisal ordering procedures ..."

The regulation is simple, direct and easy to follow. However, it seems that a few major AMCs, just don’t like that pesky regulation. We have some AMCs blasting out massive emails to appraisers in a wide area. They hire appraisers based upon the lowest cost and high speed delivery. From where I stand, emails, hiring policies, and comments made during appraiser conferences, appear to indicate that lenders and AMCs are purposefully ignoring the regulations and not paying appraisers a customary and reasonable fee.

Here’s another example:

"An institution should not allow lower cost or the speed of delivery time to inappropriately influence [...] the appraiser's determination of the scope of work for an appraisal supporting a federally related transaction."

Clearly it is the appraiser’s responsibility to “determine the scope of work” in an appraisal assignment. Many of us have had AMCs tell us “We don’t need the cost approach.” or “Don’t use comparable X but use our comparable Y.” or “You can’t make a line adjustment greater than 10%.” All of these statements are inappropriate attempts at influencing an appraiser’s scope of work. However, regulations state that it is the appraiser that determines the scope of work. Again, simple, to the point, and often ignored by the AMC.

My final regulatory example:

These policies and procedures should address the process for selecting the appropriate valuation method for a transaction rather than using the method that renders the highest value, lowest cost, or fastest turnaround time.
Lenders and AMCs are required to hire the best, geographically competent appraiser, who is appropriately trained and capable of producing a high quality report that will protect the interests of the bank; fast and cheap are not part of the criteria. Once two equally competent appraisers are selected for possible hiring; now the fee can be part of the final decision. The problem is many clients use a cheap fee as the determiner of who will be considered for selection and hiring; they have the selection criteria reversed. (I wonder why that is?!)

Time has come today

Laws, knowledge by people working for a government agency, and the ability to act are now coming together to impact AMCs that fail to follow the law. While helping a government agency profile and understand the illegal actions of several AMCs and appraisers, I’ve discovered numerous state actions or agreements that involve AMCs and their failure to follow the law. It’s clear that states are implementing, long awaited, investigations and sanctions against AMCs. Here are a few examples:

State of Louisiana – Coester AMC  (Failure to pay C&R – Order; $5,000 fine)
State of Minnesota – Coester AMC  (Unlicensed activity, false advertising, failure to respond - Consent Order; $12,500 fine)
State of North Carolina – Coester AMC  (Failure to pay on time - Consent Order; $5,000 payment)
State of Tennessee – Coester AMC  (Failure to submit biannual certification)
State – PropertyRate Corp.  ( Attempted to influence appraiser – Consent Order; $5,000 fine)
State – Source Appraisal Management  (Unlicensed activity, false advertising – Consent Order; $1,000 fine)
State – Valuation Link/R. Stackhouse  (Unlicensed activity – Consent Order; $2,500 fine)
State - Appraisal Pro  (Unlicensed activity – Consent Order; $2,500 fine)
State - AppraisalVendor.com LLC  (Unlicensed activity – Consent Order; $2,500 fine)
State – Landmark Network, Inc  (Unlicensed activity – Penalty Agreement $2,500)
State – Mortgage Mgmt. Consulting  (Unlicensed activity – Consent Cease and Desist Order)
State - Best Assets, Inc  (Unlicensed activity - Statement of Charges subject to a $10,000 fine)
State - ERES  (Unlicensed activity - Consent $2,500 fine)
State - Interthinx  (Unlicensed activity - Consent Cease and Desist Order; $12,500 fine)
State – JVI  (Failure to pay appraisers)
State - JVI  (Failure to pay appraisers – Revocation and $15,000 fine)
State – Liberty One  (Unlicensed activity - Show Cause, Subject to $10,000 fine)
State – Liberty One  (Unlicensed activity - Consent Cease and Desist; $2,500 fine)
State – Liberty One  (Repeat Failures - Civil Order; $20,000 fine)
State – Nedlan Valuations, Inc  (Unlicensed activity, lied to investigators – Conclusions of Law; $30,000 fine)
State – Preferred Appraisals  (Unlicensed activity – Consent Order; $20,000 fine)
State – US Appraisal Group, Inc.  (Failure to pay appraisers customary & reasonable fees; Conclusions of Law $50,000 fine)
State – Vesta Valuation, LLC  (Failure to timely pay appraisers – Consent Order; Revocation of license, payment of investigation costs and $50,000 fine)
State – Appraisal Express Corp.  (Unlicensed activity, Failure to pay - $87,500 - fine)

After reading these state actions, you get the feeling that many AMCs believe themselves to be above the law or were trying to twist the meaning to suit their needs. These cases mark the beginning of government actions against AMCs. Minnesota, Louisiana, Arizona, North Carolina, Oregon and Tennessee are leading the way; other states are right behind them. There are numerous (let me repeat that) NUMEROUS investigations currently underway in many states. It will take years before many of these are made public. Several major AMCs have been sued out of existence due to their poor payment practices. There will be more investigations and increased enforcement actions and penalties. A $50,000 penalty is a blip compared to what is been contemplated by a government agency. Other AMCs will find it difficult to profit when they follow the law. Those companies will cease to exist or be forced sellout to larger corporations (Landsafe for example, with more to follow).

A word of warning

I’m trying to keep you safe out there by providing the following words of warning:
Lenders - Be careful of who you hire to manage appraisers. Government agencies are examining your hiring policies, procedures, and your required testing of third-party vendors (AMCs). If lenders fail to follow banking safety and soundness practices, testing, or institute proper procedures, they face millions in fines. (If you need help, I can assist with establishing proper policies and procedures)

AMCs – Get licensed. Stop trying to find fast and cheap. Pay appraisers their full fee and demand high quality appraisals. AMCs that fail are being examined, fined and prohibited from doing business in many states.

Appraisers - Provide high quality appraisals and support your adjustments. Provide appraisal services in a polite businesslike manner, and increase your fees. Become a Tier 1 appraiser.

“The Time Has Come Today” a song by the Chambers Brothers circa 1966. Give it a listen because this business will get better.

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