

There is NO prohibition against real estate brokers contacting and “talking” to the appraiser. However, there are clearly topics and facts that the appraiser CANNOT discuss or share with anyone other than the appraiser’s client. (Typically, the client is the LENDER.)

Appraisers are highly regulated both on the state and federal levels.

“Appraiser Independence” is the Law under Dodd-Frank (Wall Street Reform and Consumer Protection Act), and there are certainly circumstances where a broker can contact and “talk” to the appraiser.

The national housing market downturn brought numerous regulatory changes to the real estate industry, including the entire appraisal process. Dodd-Frank legally sunset the Home Value Code of Conduct and required the Federal Reserve to amend the appraisal independence rules of Regulation Z of the Truth in Lending Act. The interim final rule effective April 1, 2011, applies to all consumer credit transactions secured by a consumer’s principal dwelling. Fannie Mae and Freddie Mac servicing guidelines now reflect this rule. In addition, state laws and regulations require appraisers to comply with Uniform Standards of Professional Appraisal Practice (USPAP). Among many other things, this legislation and the accompanying rules include exactly what can be “asked” of an appraiser.

Recognize that the appraiser’s function is to develop an independent, impartial and objective opinion of the value of the property for the lender to determine what the underlying collateral value is to base their financial lending decision on.

First, the Ethics Rule of USPAP prohibits appraisers from “Disclosing” 1) confidential information or 2) assignment results to anyone other than the “Client” (ie; entities or persons authorized by the client).

Secondly, language in Dodd-Frank states: “The requirements shall not

be construed as prohibiting a real estate broker,or any other person with an interest in a real estate transaction from asking an appraiser to undertake one or more of the following: 1) Consider additional, appropriate property information, including the consideration of additional comps

Can I Talk to the Appraiser?

By Everett “Vic” Knight, Chairman, NC Real Estate Commission

to make or support an appraisal, 2) Provide further detail, substantiation, or explanation for the appraiser’s value conclusion, 3) Correct errors.”

This language does not allow a full blown “conversation” or “discussion” with the appraiser, but it does address the points that brokers can “ask” of an appraiser. However, this does imply that the flow of information is essentially one-way, from the broker to the appraiser. The broker CANNOT anticipate there will be any substantial “conversation” or “discussion” about the appraisal or conclusions.

It is unfortunate that some AMC’s have instructed appraisers to significantly limit their interaction with otherwise interested parties to the transaction, creating much of the confusion on what type of contact and talk can be held with appraisers.

The most favorable “window-of-opportunity” to “talk” to the appraiser is as soon as the “appraisal inspection” is scheduled. There are many things that brokers and sellers can do to put the property in the best position possible for the most favorable appraised value outcome. The most important is providing as much accurate, current and detailed information on the subject property as possible. Most of that information can easily be provided through the local MLS (including as many photos as the MLS will allow), which is not only beneficial to the appraiser of the subject property but equally beneficial when the appraiser uses that same information as a future comparable and especially to potential buyers during their search

process. This important information is the first opportunity for the listing broker to provide factual insight into the subject property and also disseminates the broker’s unique knowledge of the local real estate market through supporting information and often supporting documentation.

Brokers are allowed to contact appraisers and provide additional property

information, including a copy of the sales contract for purchase transactions. Brokers may not intimidate or bribe an appraiser and an appraiser may not disclose confidential information about the appraisal or the assignment at any time.

Therefore, the “new-normal” is the development of an “appraisal package” on every property which comes under contract and subject to a mortgage. Make the “appraisers package” available at the property for the appraisal inspection, or meet the appraiser at the property so you can answer any questions, and inform the appraiser of the unique factual features of the property or neighborhood, and make sure you allow the appraiser the space and time to complete their inspection. The appraisers package could include plats, surveys, deeds, covenants, HOA documents, floor plans, specifications, inspection reports, neighborhood details, recent similar quality comparables, detailed list and dates of upgrades, remodels or repairs, recent CMA’s, etc. Provide the seller/buyer a copy of the brochure developed by The Appraisal Foundation entitled “A Guide to Understanding a Residential Appraisal” available for download at <http://www.realtor.org/appraisal/a-guide-to-understanding-a-residential-appraisal>.

