

## Late Testimony

February 4, 2008

Testimony by Jose R. Diogo

Re: SB 2407

Good morning ladies and gentlemen, Thank you for this opportunity to allow my input on the upcoming Bill 2407. I also would like to thank Senator Hooser for his concern and compassion to the matter. I am a licensed real estate appraiser in the state of Hawaii since 1993. I entered the appraisal field in 1988 under the direct supervision of my mentor whom I have great respect for. From him, I have learned the values and principals of the appraisal field that have carried me to this point in life. I love my job - meeting people, seeing beautiful properties that some never knew existed, the challenge, and the opportunity to be in a field that provides a service to the public...and opportunity to assist in people purchasing their first homes, refinancing for college, whatever the need for appraisal service. I also have the opportunity to work with professional and ethical people in the lending/mortgage industry, the realtors and people from many other fields. It's a great cohesive system that depends on several industries to make it work and succeed in its mission to provide a service and help the public. However, this system has its flaws...somewhere...and like a machine...it may be one mechanical part or a combination of several. The current lending crisis is hurting people, many of them. In many parts of the mainland it seems to have impacted those that really cannot afford, in a literal term, the severity that this crisis has on them. Bill 2407 was brought to my attention and I thought great, there is some hope, at least here at home, in Hawaii. Although I don't completely agree with the verbiage in the bill, its intent is there...the intent to initiate some form of legislation to curtail and hopefully prevent the kind of problem the U.S. is faced with. Why should the public, some of those that are currently affected by the lending crisis be liable to save it? Especially at a time when our country is in trillions in debt. I became very discouraged and disappointed with Idaho Senator Dodd's introduction of his bill on the lending crisis and its intent to impose more regulations on appraisers. I feel it unfair that the appraisers seem to get the brunt end when they are not the only ones responsible for this crisis. Yes, there are the bad apples, but the majority are not, like other professions...we have the good and bad. The bad apples of the appraisal industry are a mechanical part of the machine that is not working properly right now...but not the only part that is "broken". The problem is greater than that in the sense that it encompasses more than just corrupt appraisers. I recommend that government at all levels seek to correct the problem by accurately identifying the cause or causes. I am glad that the appraisal industry has been exposed to increased educational, experience and testing requirements over time...it shows an initiative and drive to gain trust from the public and users of the appraisal service...a service that is continually striving to reach the pinnacle in ethics and integrity because so many people, important decisions and millions and millions of dollars depend on those very ideals. It saddens me that there are appraisers that will inflate values, purposely report incorrect or false statements basically break the code ethics that we as an industry continually strive for. We don't need and should not tolerate that type of behavior and thus we have USPAP or the Uniform Standards of Professional Appraisal Practice to follow. There is also pressure from the appraisers' clients that seems to have occurred too often. Pressure to hit a targeted value, pressure to not report or disclose characteristics or deficiencies that have an effect on value...pressures that should not be present at all. Our role in the lending process is to provide unbiased, professional service, be it opinion of value or consulting, many industries rely on our service to make sound decisions that affect many people and a lot of money. However, it happens and still happens. It can be as simple or innocent as "we need \$700,000 value to make the loan work"...THAT is a targeted value. I'm sure many that make that statement don't really mean to pressure the appraiser but might just be naive about the appraiser's role and responsibilities to follow USPAP, FANNIE MAE and lender guidelines. Or it may be "would you please leave out the picture of the termite damage because the lender won't accept the appraisal". Or, it could be one that occurred quite frequently "the sale price is \$400,000 but can you appraise it for \$410,000 so the buyer doesn't have to come up with any money and can finance the loan costs".

On the severity side are occasions where the appraiser actually gets threatened to be taken off a list or not used any more if value or request can't be realized.

These examples along with many other similar situations are ugly and should not be allowed...it defeats the appraiser's role of unbiased appraisal services. The few bad apples of the appraisal industry succumb to those pressures by the few bad apples of related fields. Loan officers and mortgage brokers have been given a bad rap because of their deceptive practices...but it's not all of them...again, it's the few bad apples. I have worked and still work with wonderful people, loan officers and mortgage brokers who enjoy helping people in an honest way. The same with realtors who've been known to apply pressure on the loan officer or broker to make this deal work or business is going down the street to a competitor. I know many realtors whom I've deal with on a periodic basis, they too are honest hardworking individuals. The pressure cycle continues with the loan officer or broker applying pressure on the appraiser. It's a vicious cycle of pressure, one of which the appraiser seems to be targeted more than other who are just as responsible if not more for the unethical business practices. The appraisers that do succumb to the pressures could be newly licensed appraisers, or that just moved or one that has children in college or one that is just plain greedy. No matter the reason to succumb, that is unethical. I wonder if the pressures on appraisers diminished so would the number of foreclosures and the lending crisis would have not occurred...highly unlikely, just as it is solely unlikely that the appraisers are not to be completely at fault for high foreclosure rates and current lending crisis. It's a combination, a combination of a few bad apples in the related industries that stall the cohesive lending system machine...right now we need mechanics to fix it...you, our legislative body of government that can work together with the public, the people in respective fields to identify the causes and take steps to prevent these causes to the current problem...a very costly one at that. My goal is to bring awareness to our state government, the public and the media...that there is something wrong with the system and we need to fix it otherwise, it will be a very costly problem for all of us. I think it would be a great idea to re-look at the current system...get input from all fields, work together, hand in hand to help alleviate and hopefully eliminate another lending crisis in the future.

Sincerely,

Jose R. Diogo  
State Certified Appraiser #886

SB2407

Aloha Senator Hooser,

I am forwarding to you a copy of an email I just sent to Mr. Diogo. From conversations I have had with other appraiser's, the unlawful influence of appraiser's does not primarily come from realtors, but from mortgage brokers and/or loan officers at mortgage lending institutions. If a "licensee" could be extended to include more than the realtor, the bill would be very helpful.

The bottom line is that an appraiser should be unbiased and not be swayed by unlawful demands. It is a shame though that many good appraiser's loose work if they hold to their ethics.

Mahalo for your time and consideration..  
Sara Thompson  
CRA

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Aloha Jose,

I read the S.B. No. 2407 and am happy to provide input based on my experience as an appraiser here in Hawaii. (Though, I would like to have further clarification regarding what type of "licensee" - i.e.: real estate agents, brokers, mortgage lenders?)

I came from California where we had the Office of Real Estate Appraisers (OREA). Here on Kauai I was shocked to find that there was really no oversight or enforcement agency. I initially worked for mortgage brokers at first as they appeared to be very eager to find a "new" appraiser. This was back in 2003. I quickly learned that the majority were very unethical and given to high pressure tactics. On one occasion I was told that I just don't know how things are done here in Hawaii and that I should remove my verbiage disclosing significant health and safety issues and/or physical depreciation items. On several other occasions mortgage brokers have told me that if I would not comply with their demands that they would just use another appraiser that will do it for them. These are just a few examples of the ongoing weekly pressures that I faced. I lost business because I did not succumb to any of these requests/demands.

I now work primarily for large banks that utilize appraisal management companies that encourage the reporting of anyone who puts undue pressure on the appraiser. I'm with you Jose...if I cannot appraise ethically, than I won't be an appraiser.

I hope this helps,

Sincerely,  
Sara Thompson  
CRA



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**PRESENTATION OF THE  
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON  
COMMERCE, CONSUMER PROTECTION, AND AFFORDABLE HOUSING

TWENTY-FOURTH LEGISLATURE  
Regular Session of 2008

Monday, February 4, 2008  
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2407, RELATING TO REAL ESTATE  
APPRAISALS.**

TO THE HONORABLE RUSSELL S. KOKUBUN, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Alan Taniguchi, Executive Officer for the Real Estate Appraiser Program, testifying on behalf of the Professional and Vocational Licensing Division ("PVLD") of the Department of Commerce and Consumer Affairs ("Department"). Thank you for the opportunity to present testimony on Senate Bill No. 2407, Relating to Real Estate Appraisals. The Department takes no position on the merits of this bill but we have concerns that we would like to bring to the Committee's attention.

This bill seeks to prohibit a licensee with an interest in a real property transaction involving an appraisal from improperly influencing the reporting, result, or review by a real estate appraiser in the rendering of the appraisal.

Based on telephone calls received by our office from time to time from licensed appraisers, they are frustrated with the mortgage lending sector because this sector is applying tremendous pressure on them to come up with an appraisal value to make a loan viable. These licensed appraisers fear they may be blacklisted and not receive further appraisal work by certain companies or financial institutions. It is perhaps for these reasons that this bill was introduced.

However, if unlawful influence on a real estate appraiser or appraisal is to be a prohibited conduct against only certain licensees (as the bill specifies by way of citing the Hawaii Revised Statutes pertaining to selected licensing areas), then perhaps it should only be those respective licensing laws that should be amended, i.e., Chapters 444 (Contractors), 454 (Mortgage Brokers and Solicitors), 464 (Professional Engineers, Architects, Surveyors and Landscape Architects), and 467 (Real Estate Brokers and Salespersons). Chapter 467A (Rental Agencies) was repealed in 1977.

To instead amend by adding a new section to Chapter 436B as the bill does, would result in all 45 professional and vocational licensing areas being affected by what may be totally inapplicable to them. Also adding a new section to the real estate appraisers licensing law Chapter 466K seems inappropriate since we understand it is the other licensees whose conduct is being questioned. The Committee may also want to look at the statutes regulating the banking industry to see if any amendments may be needed there.

Thank you for the opportunity to testify and we ask for your consideration of our concerns.