

Adverse conditions and liability

It is very evident that Fannie Mae is concerned with not only the condition of properties but the full gamut of adverse conditions that may negatively influence value.

Read Certification Number 14 on page 5:

"I have taken into consideration the factors that have an impact on value with respect to the subject neighborhood, subject property, and the proximity of the subject property to adverse influences in the development of my opinion of market value. I have noted in this appraisal report any adverse conditions (such as, but not limited to, needed repairs, deterioration, the presence of hazardous

wastes, toxic substances, adverse environmental conditions, etc.) observed during the inspection of the subject property or that I became aware of during the research involved in performing the appraisal. I have considered these adverse conditions in my analysis of the property value, and have reported on the effect of the conditions on the value and marketability of the subject property."

Read the foregoing as if you were a lawyer for a couple with two young children who discovered after they moved in that there is a registered sex offender living next door and that offender was listed on the public Internet site. There is research showing that the presence of a sex offender next door can negatively influence value 18%.

The presence of a sex offender or violent offender then is an "adverse condition."

Under the new strictures of the URAR 2005, appraisers cannot by some assumption exempt themselves from responsibility of discovering the location of sex offenders in a neighborhood. What you can do is indicate that your scope of work did not include the research necessary to uncover information about the location of adverse conditions such as sex offenders or violent offenders. Or you can go ahead and check the Internet for that information. You have a choice.

Homeowner lawsuits

In lawsuits by homeowners, the primary defense according to state law was privity, that is in defense of some wrong found in an appraisal report, it was asserted the appraisal report was prepared for the lender and not the homeowner. Lawyers have been using the privity defense as the primary weapon in lawsuits from homeowners who have maintained that they relied on the report.

Now consider this statement in 23 in the Appraiser's Certification: