

February 8, 2023

Secretary Denis McDonough
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Re: Incorporating Civil Rights and Consumer Perspectives in VA Appraisal Policies

Dear Secretary McDonough,

The National Fair Housing Alliance (“NFHA”) and the undersigned civil rights and consumer advocacy organizations urge the Department of Veterans Affairs (“VA”) to:

- **Incorporate civil rights and consumer perspectives in the upcoming revisions to appraisal regulations and policies; and**
- **Provide transparency regarding the VA’s standards for fair housing oversight and accountability mechanisms.**

The appraisal has the power to determine the value of a veteran’s most important financial asset, which can hold the key to determining whether the veteran can purchase a permanent home rather than rent, access credit on reasonable terms, and build wealth for generations to come. However, numerous news stories¹ as well as research by the Federal Housing Finance Agency, Fannie Mae, Freddie Mac, Drs. Junia Howell and Elizabeth Korver-Glenn, the Brookings Institution, and the National Fair Housing Alliance² have documented the serious and systemic problem of appraisal bias for consumers and communities of color.³ Our organizations believe

¹ See, e.g., Julian Glover and Mark Nichols, *Our America: Lowballed*, ABC (Dec. 2022), <https://abc7.com/feature/our-america-lowball-home-appraisal-racial-bias-discrimination/12325606/>.

² See FHFA, *Reducing Valuation Bias by Addressing Appraiser and Property Valuation Commentary*, FHFA Insights Blog (Dec. 14, 2021), <https://www.fhfa.gov/Media/Blog/Pages/Reducing-Valuation-Bias-by-Addressing-Appraiser-and-Property-Valuation-Commentary.aspx>; Jake Williamson and Mark Palim, *Appraising the Appraisal*, Fannie Mae (Feb. 2022), <https://www.fanniemae.com/media/42541/display>; Melissa Narragon, et al., *Racial and Ethnic Valuation Gaps in Home Purchase Appraisals*, Freddie Mac Economic and Housing Research Note (Sept. 2021), <http://www.freddiemac.com/fmac-resources/research/pdf/202109-Note-Appraisal-Gap.pdf>; Dr. Junia Howell and Dr. Elizabeth Korver-Glenn, *Appraised: The Persistent Evaluation of White Neighborhoods as More Valuable than Communities of Color*, Eruka (Nov. 2, 2022), <https://www.eruka.org/appraised>; Andre M. Perry, Jonathan Rothwell, and David Harshbarger, *The Devaluation of Assets in Black Neighborhoods*, The Brookings Institution Metropolitan Policy Program (Nov. 2018), https://www.brookings.edu/wp-content/uploads/2018/11/2018.11_Brookings-Metro_Devaluation-Assets-Black-Neighborhoods_final.pdf; National Fair Housing Alliance, Dane Law LLC, Christensen Law Firm, *Identifying Bias and Barriers, Promoting Equity: An Analysis of the USPAP Standards and Appraiser Qualifications Criteria*, (Jan. 2022), <https://nationalfairhousing.org/groundbreaking-report-identifies-bias-and-systemic-barriers-in-real-estate-appraisals/>.

³ The history of discrimination against veterans of color in housing policy, including through the GI Bill, is well-documented. See, e.g., Quil Lawrence, *Black Vets Were Excluded from GI Bill Benefits - A Bill in Congress Aims to Fix That*, NPR (Oct. 18, 2022), <https://www.npr.org/2022/10/18/1129735948/black-vets-were-excluded-from-gi-bill-benefits-a-bill-in-congress-aims-to-fix-th>.

that in the coming months the VA has a unique opportunity to promote fair and accurate appraisals, prevent appraisal discrimination, and protect our nation's veterans.

More specifically, the VA has an opportunity to shape appraisal policy through the implementation of H.R. 7735 and VA Circular 26-23-05. On December 27, 2022, President Biden signed H.R. 7735, the Improving Access to the VA Home Loan Benefit Act of 2022 (the "Act").⁴ The Act requires the VA to do the following:

- Within 180 days after enactment, update regulations or program requirements to clarify when an appraisal is required, how an appraisal is to be conducted, and who is eligible to conduct an appraisal for a VA loan.
 - The VA must consider making changes applicable to:
 - Certification requirements for appraisers;
 - Minimum property requirements;
 - The process for selecting and reviewing comparable sales;
 - Quality control processes;
 - The Assisted Appraisal Processing Program; and
 - The use of waivers or other alternatives to existing appraisal processes.
 - With respect to desktop appraisals, the VA must consider:
 - Situations in which the use of such authority would provide for cost savings for the borrower; and
 - Situations in which a traditional appraisal requirement could cause a delay substantial enough to jeopardize the ability of a borrower to complete a transaction.
- Within 90 days of enactment, submit to the Senate and House Committees on Veterans' Affairs recommendations for improving appraisal delivery times.

While we welcome a review of the valuation process that will result in reduced consumer costs and shorter turn-around times, we want to remind the VA of its obligations under the Fair Housing Act⁵ and the Equal Credit Opportunity Act⁶ to ensure that lenders and appraisers do not discriminate in any aspect of the mortgage transaction, including the appraisal or other valuation technique. The VA's rulemaking and policy making process should incorporate a review of the impact of any proposed action on veterans of color and communities of color to prevent harm and ensure equitable outcomes.

On January 18, 2023, the VA released Circular 26-23-05, entitled, "Oversight of Appraisal Reports to Promote Fair Housing for All Veterans Obtaining Loans Backed by the Department of Veterans Affairs." Among other things, the VA announced that:

- The VA will send for escalated review any appraisal report that "indicates to VA a potential discriminatory bias." If the bias is confirmed, the appraiser will be subject to removal and the VA will refer the case to the "proper enforcement agencies."
- The VA "highly recommends" that all VA Fee Panel appraisers and lender-approved staff appraisal reviewers take training on appraisal bias, fair housing, and fair lending.

⁴ *Improving Access to the VA Home Loan Benefit Act*, Pub.L. 117-308 (Dec. 27, 2022), <https://www.congress.gov/bill/117th-congress/house-bill/7735>.

⁵ Fair Housing Act, 42 U.S.C. § 3601 *et seq.*; HUD Regulation, 24 C.F.R. § 100.135.

⁶ Equal Credit Opportunity Act, 15 U.S.C. § 1619 *et seq.*; Regulation B, 12 C.F.R. Part 1002.

- If a lender-approved staff appraisal reviewer identifies potential discriminatory bias, they should contact the VA immediately.

While we commend the VA for recognizing the serious issue of appraisal bias, this circular appears to raise more questions than answers. As currently drafted, the policy does not provide any guidance on what the VA considers “potential discriminatory bias” and no specificity about the “proper enforcement agencies.” Similarly, the VA does not require fair housing training and, for those who in good faith do want to take training, the VA does not specify the appropriate content or hours of training. We urge the VA to carefully consider its fair housing oversight program and provide transparency regarding the standards that the VA will use to prevent and remedy harm to veterans and communities of color. Such transparency will enable lenders and appraisers to develop robust compliance management systems to avoid harm.

Finally, we urge the VA to coordinate with the Federal Housing Administration⁷ and other agencies in the PAVE Task Force to ensure a consistent whole-of-government approach to addressing appraisal bias. By working together on fair housing oversight, Reconsideration of Value policies, and other important actions to prevent appraisal bias, the PAVE Task Force agencies can send a strong message about the importance of promoting fair housing opportunities and building wealth for all consumers, including America’s veterans.

Thank you for considering our views. We look forward to continued dialogue on this important issue.

Sincerely,

Long Island Housing Services, Inc.
NAACP Legal Defense and Education Fund, Inc. (LDF)
National Action Network
National Consumer Law Center (on behalf of its low-income clients)
National Fair Housing Alliance

Cc: The Honorable Sherrod Brown
The Honorable Tim Scott
The Honorable Patrick McHenry
The Honorable Maxine Waters
Susan Rice, Assistant to the President for Domestic Policy; Co-Chair, PAVE Task Force
Marcia Fudge, Secretary of the U.S. Department of Housing and Urban Development;
Co-Chair, PAVE Task Force
Melody Taylor, Executive Director, PAVE Task Force
Mayor Keisha Lance Bottoms, Senior Advisor to the President for Public Engagement
James Park, Executive Director, Appraisal Subcommittee
James Heaslet, Chief of Construction and Valuation, Department of Veterans Affairs

⁷ See Federal Housing Administration Info, *FHA Seeks Feedback on Draft of Enhanced Policy to Support Requests for Reviews of Appraisal Results* (Jan. 3, 2023), https://www.hud.gov/sites/dfiles/SFH/documents/SFH_FHA_INFO_2023-01.pdf. While the FHA’s policy proposal recognizes the important role of the Reconsideration of Value, it lacks specificity regarding FHA’s view of “indications of unlawful bias.”