

Fair Housing for All: Academy Podcast Series

Episode 3: NFHTA Forum | Strategies for Investigating Discriminatory Residential Appraisals, September 15, 2021—Ways in Which Discrimination Occurs in Appraisals and Strategies to Address It

Speakers: Cashauna Hill, Executive Director, Louisiana Fair Housing Action Center; and Lisa Rice, President and CEO; National Fair Housing Alliance

CASHAUNA HILL [0:00:09]: Hello, welcome to the “Fair Housing for All: Academy Podcast Series”. My name is Cashauna Hill, and I am the Executive Director of the Louisiana Fair Housing Action Center. Since 2015 I have led a team working to fulfill the organization’s mission to end discriminatory housing policies and practices through litigation and policy advocacy, as well as to provide fair housing trainings and foreclosure prevention counseling.

This is episode 3 of the September 16, 2021, National Fair Housing Training Academy Forum, titled Strategies for Investigating Discriminatory Residential Appraisals.

In this episode, Lisa Rice, President and Chief Executive Officer at National Fair Housing Alliance, is talking through her presentation, “Designing the Investigation- Strategies for effectively addressing and investigating appraisal discrimination claims”. Lisa explores the value and intricacies of investigating appraisal bias, including testing approaches specific to this issue, and what proactive measures agencies and organizations should be taking now to be prepared for forthcoming reports as communities are becoming increasingly aware of appraisal bias.

I want to note that this episode features information and examples that represent the experiences of the speaker. Comments do not necessarily reflect the policies of HUD.

LISA RICE [00:02:01]: Thank you so much, Cashauna. And you can advance to the next slide. And I, too, want to echo my thanks and appreciation to HUD and NFHTA for inviting me to participate in this training with such an esteemed group of panelists. This is a really important issue and it's necessary that we're delving into these challenges so that we can stop discrimination in the appraisal sector.

You've heard Melody, Cashauna, and Steve already talk about really the millions of homeowners that have been impacted as a result of the long legacy of appraisal bias in the United States. [Brookings Institute and there have been other researchers as well, but I think many people have heard about and seen the research, the stellar research, that Andre Perry and other researchers at Brookings have done to point out the just the deleterious impact of appraisal bias.](#)

According to researchers at Brookings, when comparing predominantly White neighborhoods to majority-Black neighborhoods, where the neighborhood characteristics are met based on things like crime rate, quality of public education, walkability, access to retail, and many, many other amenities. So when you compare those amenities across neighborhoods, homes in majority-Black neighborhoods of similar quality are devalued on average \$48,000 or 23%. That amounts to a cumulative loss in the Black community, alone, of about \$156 billion. That's pretty steep. That's pretty substantial. And I think it speaks to the importance of why we have to address this issue.

You heard Steve talk about the fact that appraisal bias is not anything new. It has been with us for decades and decades. At one time, it was perpetuated by the Federal Government. So we really have to address these issues so that we can realize racial equity and fair housing in the United States.

Next slide, please. In order to effectively address appraisal bias, of course, we have to have effective enforcement. And, unfortunately, enforcement has been quite lax in this area. And the hope is that with the new actions that are being undertaken by the Biden/Harris Administration, we're going to see a change in this dynamic. But designing a high-quality investigation is really critical to effective enforcement. So what I'm going to do for the next about 20 minutes is talk about at a very high level because we don't have enough time to go into detail on a lot of these issues, but I'm going to talk at a very high level about some of the elements that are necessary to designing an effective investigation to ferret out appraisal bias and discrimination.

[One thing I do want to point out is NFHTA has sponsored previous trainings. Both NFHTA and NFHA have sponsored previous trainings on appraisal bias.](#) So I really encourage you if you have not attended any one of those previous webinars to go back, look at those webinars, because we review additional information in those webinars that I think would be really, really helpful to helping to lay a foundation for some of the things that Steve is already discussing, that we're going to discuss throughout the remainder of this particular training.

In terms of structuring a well put together investigation, the first thing that we would advocate is having folks on your investigative team who are really prepared - who are educated and thoroughly understand the appraisal process.

Whenever we're conducting investigations into any sector of the housing or lending or insurance markets, we always spend a lot of time preparing ourselves, learning about the industry, making sure that we have a good foundation and a good understanding about the

industry and about the best practices. Now, you heard Steve talk about that quite a bit. Right? One of the ways that you discern whether or not appraisal bias has occurred is knowing where the appraiser might have deviated from industry standards. Well, if you don't know what the industry standards are, there's no way you're going to be able to gauge whether or not the appraiser has deviated from best practices.

There are a number of resources to help you get prepared, to help you understand what are best practices in the appraisal industry. [A lot of those resources are made available by the Appraisal Foundation.](#) I have to say the Appraisal Foundation has stepped up and they are paying attention to appraisal bias issues. And they are making more materials and resources available to folks. So you can actually take the same course that appraisers take. So the same course that people have to take in order to get certified and to get their licenses, you can have somebody on your staff take those courses.

When I was at the Toledo Fair Housing Center, that's exactly what our investigators did. When we were conducting real estate sales cases, we had an investigator who actually went through the real estate sales course so that we knew, these are the practices that are standard in the real estate industry. When we were embarking on appraisal bias cases, we went through the Appraisal Training courses at the University of Toledo so we would know what are the best practices. So those courses are available online. I strongly encourage you to have somebody on your team take those courses.

[There's also the Uniform Standards of Professional Appraisal Practices, USPAP.](#) That handbook is available. You can purchase it offline. Online, excuse me. Not offline. Online. You can get those appraisal standards. [There is the Uniform Appraisal form that is generated by the GSEs.](#) The Government Sponsored Enterprises - Fannie Mae and Freddie Mac. They create the Uniform Appraisal Form. Make sure you have that and study that, so you know what is the standard form that appraisers have to use. Again, there are all kinds of resources if you just go to the Appraisal Foundation's website. You can find all kinds of resources.

As you begin to design the investigation, you first have to figure out what is the basis of the issue you're investigating. Is it a race case? Is it a sex case? Is it a disability case? Is it a complaint-based case? Are you doing a complaint-based investigation? In other words, when we say complaint-based, complainant based, is there a bona fide complainant that filed a complaint with your organization and the bona fide complainant allegedly experienced an incident of appraisal bias. Or is it more like an audit-based investigation that you're going to be conducting, where there is no bona fide complainant, but you're putting together an investigation to ferret out whether or not there is bias based on a particular protected class under the Fair Housing Act or the Equal Credit Opportunity Act.

If you're dealing with a complainant-based situation where you have a bona fide individual, okay, you want to be gathering information about the subject property either that the complainant owns or the complainant was trying to purchase. You also want to gather information about that complainant's situation and circumstance. Because if you're

designing a test, you have to know what that complainant's situation is so that you can match to the complainant.

If it is an audit-based situation, that's very different, right? Your property selection is going to be based on and your investigative design is going to be more tethered to the protected class status that you're trying to identify.

You also want to figure out what type of issue you're dealing with. So are you going to be conducting an investigation that deals with an applicant-based situation? And you heard Steve give an example of that with the...I'm sorry, no, Steve did not give an example of that. But you've seen examples of that in the media where you have an applicant, you have a bona fide person, who hires an appraiser to have the property evaluated. The husband is Black, the wife is White. When the Black husband shows up, the property is devalued. But when the second appraisal is ordered and the White wife shows up, the property value is elevated. Okay? That's an example of an applicant-based situation.

A neighborhood-based situation is examples of that are the two cases you heard Steve talk about - the *Stephoe v. Savings of America* situation and *Old West End v. Buckeye Federal*.

So in an applicant-based investigation, the investigation is going to be tailored to address the issues that are related to the protected class status of the applicant or tester. It could be based on the applicant's race. Could be based on gender. Could be based on disability. Any one of the protected classes under the law.

If you are looking at a neighborhood-based investigation, you're going to be figuring out if the racial composition of the neighborhood was a determining factor in the valuation of the appraisal process.

So in a neighborhood-based investigation, you want to be looking at and determining the characteristics of the neighborhood. You want to be using census data. You want to you can use other data in order to identify what is the neighborhood you're investigating and what are the characteristics of that neighborhood. If it is an applicant-based investigation, then, of course, you're going to be isolating for the protected class that you are that will be the basis of the investigation.

Okay. Let's talk about testing for a bit. There are a number of ways to conduct testing activities. And I'm going to give you examples of just a few. But I don't want you to get the idea that these are the only methodologies that you can use for testing an appraisal bias case. Please don't get that in your head at all. Because there are different ways to conduct testing and how you design the tests is going to be driven by the elements in the case.

Again, please don't think that these methodologies I'm going to share with you are the only methodologies that exist. And please also don't think that what I'm going to share with you is the only way that you can design this type of testing. Right? There are myriad ways that you can design appraisal tests. And that information that you glean from those tests can be very probative for ferreting out whether or not discrimination has occurred.

Okay. Let's talk about an example where you have a bona fide complainant who's filed a case, who's filed a complaint of appraisal bias. Let's say the complainant is trying to purchase a property and when the appraisal was conducted, the appraisal came back at a very, very low value.

So the follow-up test that you conduct there, you can use the complainant's subject property, that original property, for which the complainant ordered the original appraisal. You can use that same property to in your follow-up tests. So you don't need to necessarily go out and identify another property that is substantially similar to that original property. You can use that same property for follow-up tests. For different test parts.

The complainant's situation can serve adds one of your test parts. So your complainant presumably is going to serve as your protected class tester. And then your second test part you can utilize your control tester for that second test part. You've seen many examples of this in the media. So if you've been following this issue in the media here lately, you've seen many examples of this. [There was a case in San Francisco where an African American family, husband and wife, had purchased a property for about \\$900,000.](#) They had put substantial investments into the property. Almost \$400,000 of renovations into the property. And then they had the property appraised. I think they were going to get a home equity loan or do a refinance. They were going to do a refinance. And when they did the refinance, I think the property value came in at about \$1 million or somewhere around there. Then that African American couple asked a White friend of theirs to come in and to pretend that she was the wife. All right. So what the couple what the couple did is what we call, they shed their personal identifying information. So their personal pictures. Statues. Paintings. Works of art. Anything that might identify or might suggest that an African American couple or person owned that home, they shed the home of that cultural identification.

Sometimes you may have used you may have heard the term used - whitewash. They whitewashed their house. And their friend, their White friend came in and put up her personal pictures. They changed the paintings. They changed the art in the home. And then the second appraisal was ordered and performed, and that second appraisal came back at almost \$500,000 more. So that's an example of what I mean when I say complainant-based testing. It was the same subject property. They didn't change the subject property. They just changed out the folks who were in the property. And they used the complainants' original experience as one of the test parts. Hopefully that makes sense.

Now in this instance, the second follow up test part may need not be conducted by the original appraiser. It doesn't need to happen. And, in fact, if an appraisal management firm, an appraisal management company is used, it will be extremely difficult for you to get the exact same appraiser for every leg of your test. It's going to be extremely difficult to do that.

So just like in a real estate sales situation where you do not have to have the exact same real estate agent for every leg of the test, the same thing applies here, right? Just like in a lending situation where you do not necessarily have to have the exact same lender, the

exact same loan officer, for every leg of your test, same thing applies here. You don't need to have the exact same appraiser for every leg of your test.

And in this situation, of course, timing is going to be important. You want the two appraisals to be conducted relatively in close proximity to one another in terms of timing.

For your applicant-based testing, and this is a different situation. You're not using a bona fide complainant, but you are testing for the personal attributes or characteristics of the individuals. Right? Applicant-based testing involves ferreting out whether the applicants or the homeowners' race or national origin or some other protected class characteristic is informing or impacting the valuation of the property.

And, again, in this particular testing methodology, you do not have to have a bona fide. But you are ideally using the same subject property for both your protected class tester and your controlled tester.

If you are not using the same subject property, if for some reason you want to use two different properties, you must match your two properties so that they are substantially the same. So you're going to be using property records. You're going to be using tax records. The auditor records. You can use real estate sites. Any site that you can use to make sure that you're matching the property so they're basically identical. They don't have to be in different neighborhoods. They can be in the same neighborhood. Because, again, this is an applicant-based testing situation.

Again, the same appraiser may be requested to perform the appraisal. But it's going to be very difficult, if you're going through an appraisal management company, to get the same appraiser. And I want to emphasize that. It is not necessary in every case for you to have the same appraiser in both tests.

Now, in a neighborhood-based testing scenario, that's going to be somewhat different. You heard Steve give you an example of this when he cited the *Old West End* case in which all of the plaintiffs were white. Remember, he said everybody was white in the case. But the purchasers and the sellers were living in the Old West End, which was a racially very, very diverse neighborhood and at this particular time I think it was a predominantly African American neighborhood where the White seller was living and the White purchaser was trying to purchase a house in this African American neighborhood in Toledo, Ohio.

So in a neighborhood-based testing scenario, the testers are going to be matched based on protected class characteristics. So you're matching your testers. You may want to have both testers be White. You may want to have one tester be White. Another tester be Black. It depends on the situation. And you're matching your properties, but you're matching the properties, again, you want the properties to be identical. But one property is located in a predominantly Black neighborhood. Another property is located in a predominantly White neighborhood. I've given you an example there.

So, for example, neighborhood A is 80% non-Hispanic White. And neighborhood B is 80% African American. Or 80% Latino. Or 80% people of color. In this situation, a neighborhood-

based situation, you want to be very careful because the houses have to be identical. The thing that is different is the racial composition of the neighborhood.

Now, there are other investigative activities that you can undertake as well. And I'm going to just build up because Steve gave you some of these as well. But I'm just going to add on to some of the things that Steve said. You want to look at the...if you got an appraisal that you think foul or is suspect, you want to evaluate every single line of that appraisal form for any errors. Is the property address correct? Is the zip code correct? Is the square footage correct? Are the other features and amenities that are listed there on the appraisal form, are they correct? Is the information for the comparables that were used on the appraisal, is the information for the comparables correct?

You want to compare the information on the appraisal form with information that is contained in property records to identify errors. You also want to look at the comparables that were used or that appraisal report and compare them to the available comparables that could have been used at the time that the appraisal was conducted. And you can get comparables from a number of different sources. Online real estate sites. The Multiple Listing Service. You can actually order information from a site like RealQuest, which is powered by CoreLogic. You want to look at a number of different sources to help you determine whether or not that appraisal was conducted properly.

When Steve discussed the *Steptoe v. Savings of America* case, he mentioned the Toledo Fair Housing Center hired an appraisal expert to conduct an independent appraisal to determine what was the appropriate and true value of that property that Mr. And Mrs. Steptoe were trying to purchase. This is what we call an "As of Date" appraisal. This is a situation where you have trusted appraisers who are very good, high qualified, and they're providing an valuation of the property after the fact. It could be a year later, a year and a half later. Those appraisers are going to go back to an "As of Date" and say as of this date, I would have assessed the property value at X. Okay? And so then once you get those "As of Date" appraisals, you can compare them to the original appraisal that you think may have some errors in it.

These can be very useful, and I can tell you that we have used these "As of Date" appraisals in many, many different appraisal cases and we used them in almost every single predatory lending case, investigation, we ever conducted. Those performing the "As of Date" appraisal can also serve as your expert witnesses, if necessary.

So a couple final comments I'll make and turn it back over to Cashaura. A couple things I strongly encourage you to do. These investigations can be really costly. You want to make sure you're building into your budget adequate funds so that you can hire the appraisers and you can hire the experts. Because these can be costly. You want to right now establish working relationships with real estate professionals. [So you want to reach out to your friends in the National Association of Realtors.](#) [National Association of Real Estate Brokers.](#) [National Association of Hispanic Real Estate Professionals.](#) [Asian American Real Estate](#)

[Association of America](#). You want to establish those relationships right now. Before you have to undertake any investigation.

You also want to establish and develop relationships with folks who could be appraisal experts. So reach out to your local university for a professor who's teaching real estate valuation, for example. Then you want to build a network of other fair housing groups who are working on these kinds of cases both FHAP organizations and private fair housing organizations so you can share learnings and best practices. I'll stop there and turn it over to Cashauna.

MS. HILL [00:30:13]: Thank you for listening to this episode of the “Fair Housing for All: Academy Podcast Series”, Strategies for Investigating Discriminatory Residential Appraisals. Episode 4 features Lon Meltesen from HUD, discussing the recent J.P.Morgan conciliation agreement and the major takeaways that can be applied to other discriminatory appraisal cases.