

TESTIMONY OF ALBERT W. FRANKE III, SRA, MRICS
REGARDING H.B. 5417
AN ACT CONCERNING BROKER PRICE OPINIONS
COMMITTEE ON BANKS
THURSDAY, MARCH 15, 2012

Co-Chairman Duff, Co-Chairman Tong and Members of the Committee,

My name is Al Franke and I come before you today as a certified general real estate appraiser, a licensed real estate broker and a taxpayer to speak against House Bill 5417, "*An Act Concerning Broker Price Opinions*". I am the Connecticut Managing Director for Grubb & Ellis Landauer, a national real estate appraisal and consulting firm and President of Advisra, LLC, a real estate brokerage firm in New Haven. I am past president of the Connecticut Chapter of the Appraisal Institute and a former member of the Appraisal Institute's national Board of Directors. I am also a member of the Connecticut Association of Realtors and National Association of Realtors. My opposition to the bill is three-fold:

I. Consumer Protection

Lenders relying upon a market analysis prepared by a real estate broker or salesperson does nothing to safeguard the interest of the borrower in a real estate purchase transaction, refinance transaction, a loan modification, or in establishing a deficiency amount in a foreclosure. Further, it does nothing to promote the soundness and integrity of our financial system, once again leaving the taxpayer exposed to potential losses. We have witnessed the near collapse of our mortgage and finance industries over the last four years and are still climbing out of the rubble. To allow salespeople, with minimal education, training and experience requirements, to estimate the value of a property for a lender in this post-Lehman Brothers climate is unfathomable. Passage of the proposed bill would place real estate salespeople and brokers on par with real estate appraisers. Professional appraisers are required to have more formal education, experience, and specialized training to value property, and are subject to more rigorous standards and licensing requirements than real estate brokers and agents. Salespeople may have a bias or inherent conflict such as the prospect of obtaining a future

listing from the lender or attorney client, or the desire to make a quicker sale so that they do not have to expend time, effort and advertising dollars. Appraisal and brokerage are two distinct disciplines. The State has recognized this through different licensure categories, requirements and regulatory bodies. That line will be blurred as a consequence of this bill.

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The argument will be put forth that this will benefit the consumer with lower fees and faster loan modifications and closings, which will ultimately clear the system of defaults and foreclosures leading to a housing recovery. If that is the case, why stop with market analyses by real estate agents? Why not let the lenders and attorneys use a free service like Zillow for an estimate of value? I would certainly have more confidence in the ability of a complex algorithm crunching data on 80 million properties to estimate a property’s value than the ability of a newly licensed salesperson. Why would we need rigorous federal and state standards and licensing requirements for appraisers when the State would condone exceptions? What will happen in the Connecticut courts when appraisers and real estate salespeople are testifying on opposite sides of an issue and each has an opinion of market value developed under different standards or no defined standards at all?

“This is about money, plain and simple”...“The lenders want flight attendants to fly the plane because they don’t want to pay the pilots. Sure, flight attendants have quite a bit of knowledge when it comes to the plane, but there is a public safety issue here and there is no shortage of pilots”.

The argument that passage of this bill will benefit consumers is a red herring. The argument that there is a shortage of appraisers to keep up with the demand is patently false. This is about money, plain and simple. It will create a loophole through which profit-driven lenders can satisfy a regulatory requirement faster and less expensively, with an

inferior, riskier product. The lenders want flight attendants to fly the plane because they don't want to pay the pilots. Sure, flight attendants have quite a bit of knowledge when it comes to the plane, but there is a public safety issue here and there is no shortage of pilots.

This was the same argument presented nine years ago, when the Insurance and Real Estate Committee saw through it and had the foresight to promulgate mandatory appraisal licensing. It was also the same argument made a year ago when Insurance and Real Estate had the wisdom to kill it. Now, we are witnessing an attempt to circumvent that committee with the present bill before Banks. Why?

II. Confusion in the Marketplace

Appraisal? Evaluation? Market Analysis? BPO? CMA? Assessment? How many times are these terms used interchangeably by the public? This bill as written would permit someone other than a certified appraiser to opine as to what a property is worth in a business transaction where the taxpayers may have a stake, directly or indirectly. Like it or not, "appraisal" is the default term that most people would use. "The bank had my house appraised" would be the typical consumer's response. Not "the bank had a real estate salesperson come over to perform a market analysis, which is not really an appraisal, so they sort of know what my house is worth, but I saved money and got my loan faster". How will judges handle conflicting testimony and evidence involving a property's value when faced with a market analysis and an appraisal? With all due respect, this committee should be clearing up this confusion, not adding to it.

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III. Competency

My appraisal practice involves valuation in connection with some form of litigation. There was the property in Greenwich where the real estate agents, bank appraiser and closing attorneys all missed a floating easement recorded on the land records. The result? Years of expensive litigation. Then there was the assessment appeal where the property owner's estimate of value presented at the Board of Assessment Appeals was prepared by the owner's real estate agent brother. Really? No conflict there. There was the title claim in Clinton where the buyer's real estate agent didn't realize five other neighbors had a right to use his driveway and the seller's agent did not disclose this. This would have been clearly apparent with a thorough reading of the deed. I could go on and on with examples. My point is, passage of this bill will likely lead to more errors and omissions being made by unqualified people, with third party reliance, eventually resulting increased litigation in the best case scenario. Sure, I will remain busy as the court dockets become more clogged. But as a taxpayer, this bill is bad policy and is rife with potential problems.

I ask the Committee to leave mandatory licensing in place as it is today and to reject House Bill 5417. Thank you for the opportunity to be heard.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Albert W. Franke III SRA", with a horizontal line underneath.

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