

TESTIMONY OF ALBERT W. FRANKE III, SRA, MRICS
REGARDING H.B. 6677
AN ACT CONCERNING BROKER PRICE OPINIONS
INSURANCE AND REAL ESTATE COMMITTEE
THURSDAY, FEBRUARY 19, 2015

Co-Chairman Crisco, Co-Chairman Megna 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 6677, "*An Act Concerning Broker Price Opinions*". I am the President of Advisra Consulting, LLC, a Connecticut real estate valuation, brokerage and consulting firm. I am past president and board member 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

Parties relying upon a broker's price opinion (BPO) or competitive market analysis (CMA) prepared by a real estate broker or salesperson does nothing to safeguard the interest of the consumer in a divorce proceeding, assessment appeal, estate tax filing, 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 several 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 anything other than obtaining a listing is illogical. 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 a lender or attorney client, or the desire to make

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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, if not eliminated, as a consequence of passage of this bill.

One argument will be put forth that this will benefit the consumer with lower fees and faster service, with appraisal being a slow, expensive process that delays loan modifications and closings. The argument will continue that a BPO is equivalent to an appraisal, for all intents and purposes, benefitting the consumer and assisting the housing recovery. It isn't and it won't. Realtors will argue that lenders, attorneys and the public are clamoring for this. Nonsense. If that were the case, why stop with market analyses by real estate agents? Why not let the lenders 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 100 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, as in the case of BPOs and CMAs? There are no defined standards for BPOs or CMAs contemplated in this bill. If there were standards, how would they be enforced and who would enforce them?

The argument that passage of this bill will benefit consumers is a red herring. This is about money, plain and simple. It will effectively gut state appraiser licensing requirements, allowing brokers and salespeople to provide an inferior, riskier product for

"This is about money, plain and simple. It will effectively gut appraiser licensing requirements, allowing brokers and salespeople to provide an inferior, riskier product for any purpose whatsoever".

any purpose whatsoever. This was the same argument presented twelve years ago, when the *Insurance and Real Estate Committee* saw through it and had the foresight to promulgate mandatory appraiser licensing. It

was also the same argument made a four years ago when *Insurance and Real Estate* had the wisdom to kill it. It was the same argument three years ago when *Insurance and Real Estate*, recognizing it was a bad bill, killed it yet again. What has changed in the marketplace that would compel this committee to now permit a bill like this to go forward?

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

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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.

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. Then 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 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. As presented, it effectively guts Connecticut's appraiser licensing requirements.

I ask the Committee to leave mandatory licensing in place as it is today and to reject House Bill 6677. 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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