

STATE OF TEXAS
HOUSE OF REPRESENTATIVES

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Yvonne Davis
DISTRICT 111

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RECEIVED

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Opinion Committee

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FILE # ~~Mk-41002-99~~
I.D. # ~~41002~~ 41311

September 15, 1999

The Honorable John Cornyn
State of Texas Attorney General
P. O. Box 12548
Austin, Texas 78711

Dear Mr. Cornyn:

Enclosed you will find a copy of correspondence which I have received from Ms. Dotti Pennebaker, a constituent of District 111, regarding a request of an opinion from your office on the soon to be implemented: HUD-93564-VC (6/99), required of all Texas Certified Appraisers in order to complete FHA Appraisals.

You will find the letter self-explanatory. I would appreciate your checking into this matter for me and providing any information which will help me to assist my constituent. I am grateful for your help and look forward to your earliest possible response.

Sincerely,

A handwritten signature in cursive script that reads "Yvonne Davis".

Yvonne Davis
State Representative
District 111

Enclosure

cc: Ms. Dotti Pennebaker

DOTTI J PENNEBAKER, IFA

✧ Texas Certified Real Estate Appraiser



National Association of
Independent Fee Appraisers

✧ Texas and New Mexico Regional Governor

✧ National Admissions Committee Member

✧ 1998 Texas Appraiser of the Year

✧ Member Greater Dallas Association of Realtors

✧ Member/Sponsor Women's Council of Realtors

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PAM A. LANEY

Texas Authorized
Appraiser Trainee

JOHN E PENNEBAKER

Texas Authorized
Appraiser Trainee

August 31, 1999

The Honorable Yvonne Davis

House of Representatives

400 S. Zang Blvd., #801

Dallas, Texas 75208

Re: Request for Opinion Letter by the Texas Office of Attorney General, on the soon to be implemented:
HUD-93564-VC (6/99), required of all Texas Certified Appraisers in order to complete FHA Appraisals

Dear Ms. Davis,

I am a State of Texas Certified Real Estate Appraiser, and authorized to perform real estate property valuation appraisals as per the Texas Appraiser Licensing and Certification Board (TALCB). Part of my duties is the observation of property condition. It is my opinion that the HUD-93564-VC form to be implemented on FHA appraisals after 9/10/1999 requires me to perform, report and be legally responsible for a Real Estate Property Inspection. Real Estate Property Inspectors are Licensed/Certified under the Texas Real Estate Commission. I am not a Texas Licensed/Certified Real Estate Property Inspector.

HUD has issued a new Manual 4150.2 that includes the new HUD-93564-VC Form. Implementation is currently scheduled for September 10, 1999. This form requires Texas Certified Appraisers to perform and be legally responsible for an "inspection" that exceeds the training that we must have as a valuation appraiser.

Attached is a State of Nevada Letter to all licensed appraisers in that state. It advises that under Nevada Law, a licensed Nevada appraiser using the new HUD VC Sheet will be acting outside the scope of his/her appraisal license. Nevada appraisers are warned that if they complete this form they will be in violation and subject to disciplinary action.

I sent an e-mail to the Texas Office of Attorney General asking for an opinion, a copy attached. I was promptly contacted by the OAG and advised that they must receive an official request from a State of Texas Agency or Representative, thus the purpose of my letter to you.

Renil Liner, Commissioner of the TALCB obtained a copy of my OAG letter. Mr. Liner sent me an e-mail, copy attached, advising that Wayne Thorburn of TREC has issued a statement that Appraisers are exempt from being Licensed Real Estate Inspectors when performing an appraisal, thus may complete the HUD VC Sheet.

This appears to mean that appraisers can also perform an official inspection when doing any appraisal, FHA or not. I don't want to do property inspections. I object to the State of Texas, through TALCB's inaction and TREC's improper action, allowing the HUD/FHA requirement(s) to be placed on Texas Certified/Licensed Real Estate Appraisers. Appraisers are not trained, nor certified/licensed to perform the required VC Sheet Inspection.

The HUD-93564-VC Form requires appraisers to perform a mechanical, electrical, structural, environmental and pest inspection, using questionable criteria, and then certify and be legally responsible for the inspection.

The current position of the State of Texas, as stated by the Administrator of TREC and confirmed by the Commissioner of TALCB, is that appraisers can do property inspections. This is going to open a can of worms and in itself deserves an Opinion Letter from the Office of Attorney General.

Re: Request for Opinion Letter by the Texas Office of Attorney General, on the soon to be implemented:
HUD-93564-VC (6/99), required of all Texas Certified Appraisers in order to complete FHA Appraisals
August 31, 1999
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I am requesting that you look at the attached information and that you ask for an Opinion Letter from the Office of Attorney General considering at least the following:

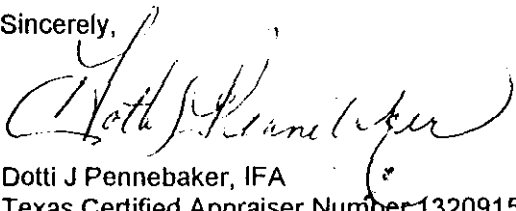
- Is a Texas Certified Real Estate Appraiser trained, qualified and licensed to perform, report and attest that the HUD VC Sheet "inspection" they are required to submit as part of a HUD/FHA Real Estate Appraisal legal and valid when performed by a State of Texas Real Estate Appraiser?
- Can a Texas Certified Real Estate Appraiser, as required by the HUD/FHA manual, legally complete the HUD VC Sheet in a real estate property valuation appraisal?
- Is the State of Texas validating Texas Appraisers as Property Inspectors when they perform an appraisal?

There are other problems with the VC Sheet. They include inadequate appraisal review procedures and the lack of a requirement that the appraiser completing the VC Sheet be the one reviewing the completed "repairs".

I feel that the HUD VC Sheet conflicts with Texas State Law, as does Wayne Thorburn's statement.

I appreciate your indulgence and attention to this request. Please scan the reference attachments. The importance of this matter, and the future consequences to the Real Estate Industry are too important to ignore. I hope to hear from you soon.

Sincerely,



Dotti J Pennebaker, IFA
Texas Certified Appraiser Number 1320915

Attachments:

1. HUD Valuation Condition Form HUD-92564-VC
2. Instructions for completing Form HUD-92564-VC copied from HUD Manual 4150.2
3. Homebuyer Summary Form HUD-92564-HS
4. For Your Protection: Get a Home Inspection Form HUD-92564-CN
5. Original Request for Opinion sent to Texas Office of Attorney General
6. Response form Renil Liner, Commissioner of TALCB
7. Dotti J Pennebaker e-mail to appraiser peers regarding Renil Liner response
8. Five typical Comments from other Real Estate Appraisers regarding new HUD/FHA requirements
9. Copy of State of Nevada Letter to Appraisers, provided by the Appraisal Institute to a Nevada appraiser
10. Dotti J Pennebaker resume

All Recipients:

The Honorable George W. Bush	Texas Governor
The Honorable Jane Nelson	Texas Senate District 9
The Honorable Yvonne Davis	Texas House District 111
The Honorable Ron Wilson	Chair, Texas House Committee on Licensing & Administrative Procedures
The Honorable Ken Yarbrough	Vice-Chair, Texas House Committee on Licensing & Administrative Procedures