



May 20, 2020

Dear Appraisal Institute Colleagues:

Good news! Yesterday, Governor Wolf released “*Guidance for Businesses in the Real Estate Industry Permitted to Operate During the Covid-19 Disaster Emergency to Ensure the Safety and Health of Employees and the Public*”. Pursuant to this guidance all residential and commercial real estate appraisal activities, including interior inspections, can resume throughout the Commonwealth, for all intended uses (financing and non-financing), so long as certain health-related protocols are followed.

As leaders of the Coalition of Pennsylvania Real Estate Appraisers (CPREA) – the legislative arm of the Appraisal Institute Chapters in Pennsylvania, we wanted to share with you how we got to this too long delayed, but favorable, outcome. While the CPREA did not have a public-facing role, there was much work that was done “behind the curtain” on behalf of all real estate appraisers in the Commonwealth.

As you well know, all “in-person” real estate related activities, including residential and commercial interior inspections, were halted under Governor Wolf’s Orders (March 19<sup>th</sup> and 23<sup>rd</sup>) closing all non-life sustaining businesses and requiring Pennsylvanians to “stay-at-home”.

Immediately upon the issuance of those Orders, the CPREA initiated contact with the Board of Certified Real Estate Appraisers (BCREA) and the Department of State (DOS) to try to obtain clarity as to what services state-certified appraisers were permitted to perform and those that were restricted. In addition, the CPREA and staff from the Appraisal Institute’s Washington, D.C. office, were in regular contact with the Pennsylvania Association of Realtors (PAR) and the Pennsylvania Bankers’ Association. To say that, for a time, guidance for appraisers was “clear as mud” is an understatement.

Around this same time, a lawsuit was filed by a group of disaffected small business owners against the Governor challenging his authority to force businesses to close. The Realtors filed an *amicus* brief in support of this lawsuit and were asking the Governor to designate real estate services as a life sustaining business, as most other states had already done. The CPREA considered intervening in that lawsuit on behalf of real estate appraisers.

After careful consideration, leadership of the CPREA decided that, based upon the low likelihood of success of the lawsuit, it would be counterproductive to become adversarial with the Governor. We did not want to become adversarial with the Governor as the CPREA is working on several legislative and regulatory projects that will ultimately require the consent of the Governor.

Instead of pursuing a lawsuit to suspend the Governor’s order, the CPREA decided at the time it would be better to work with DOS to try to get some further guidance on real estate appraisal-related activities. On April 10<sup>th</sup>, DOS released new guidance that made it clear that residential, exterior-only appraisals were permitted and allowing some limited residential interior inspections. At that time, commercial appraisers were only permitted to perform exterior inspections.

On April 16, Representative Todd Polinchock introduced House Bill 2412 on behalf of the Pennsylvania Realtors. As introduced, HB 2412 would have required the Department of Community and Economic Development (DECD) to issue a waiver to the Governor's Orders allowing some activities of real estate brokers, salespersons, and home inspectors to resume. HB 2412 was amended in the House to include real estate related legal activities and to require any real estate related businesses operating under a DECD waiver to adhere to certain mitigation measures. Appraisers were not mentioned in HB 2412. During consideration of HB 2412 in the House, the CPREA was in frequent contact with Rep. Greg Rothman, MAI and other members of the House on both sides of the aisle. Rep. Rothman's insight and political knowledge were invaluable in our efforts. The CPREA carefully considered whether to expend financial resources and valuable political capital on an amendment to require DECD to issue waivers to include real estate appraisal companies.

The CPREA also weighed the likelihood that HB 2412 would become law vs. the need to maintain a positive relationship with the Governor moving forward. CPREA was extremely careful to make sure that appraisers were not implicated in the on-going legal activities or any public criticism of the Governor. Due to the high probability of a veto by the Governor, and what the chances of a veto override looked like at that time, the CPREA decided against attempting an amendment to HB 2412 in the House.

HB 2412 passed the House on April 28 by a vote of 125-77, several votes shy of a veto-proof majority.

On April 28<sup>th</sup> new guidance was issued by DOS allowing residential interior inspections to be performed for financing related purposes in counties that were moving into the "Yellow Phase" of reopening. Interior inspections were still not permitted for any commercial appraisal and for non-financing related residential appraisals. While this was incremental progress in the right direction, we still had a way to go to get back to business as usual.

As HB 2412 was being considered by the Senate, the CPREA had several conversations with key Senators regarding the need to address the residential and commercial interior inspections that were still not permitted under the Governor's Orders and DOS guidance. When HB 2412 was considered in the Senate Community, Economic and Recreational Development (CERD) Committee an amendment was offered by Senator Thomas Killion, a Republican, in collaboration with Senator Lisa Boscola, a Democrat to clarify that the "providers of residential and commercial real estate services" that would be permitted to resume operations included real estate appraisers. This amendment passed the Senate CERD Committee with very strong bi-partisan support, a signal to Democrats in both the Senate and the House that it was "OK" for them to vote in favor of HB 2412. HB 2412 was passed by a bi-partisan, veto-proof majority in the Senate and was returned to the House for concurrence on the Senate amendments.

The House concurred in the favorable Senate amendments one vote shy of a veto-proof majority.

When the bill was presented to the Governor, the CPREA very carefully contemplated initiating a strong grassroots effort to try to convince the Governor to sign HB 2412 into law. However, realizing that the chances of convincing the Governor to sign HB 2412 into law were slim, the CPREA decided against this strategy. Instead, the CPREA put together a short list of House Democrats that had initially voted against HB 2412, including a few in "purple" districts that CPREA – along with other stakeholders – would extensively lobby to override the Governor's expected veto in order to enhance the ability to override the expected veto.

On Sunday May 17<sup>th</sup> Senator Jay Costa and Rep. Frank Dermody the Democratic leaders of the Senate and the House wrote to the Governor and encouraged the Governor to meet the real estate industry somewhere in the middle between the April 28<sup>th</sup> guidance and HB 2412 thus negating the necessity for a veto override vote.

The Governor vetoed HB 2412 on May 19. However, contemporaneous with his veto, the Governor released the attached "Guidance for Business in the Real Estate Industry" which allows all real estate appraisers to get back to business as usual – as normal as it can be during these uncertain times. Based on the May 19 guidance document, the provisions contained in HB 2412 were no longer necessary.

Had the CPREA not worked behind the scenes during the consideration of HB 2412 to highlight the need for appraisers (particularly commercial property appraisers) to be included as part of any permitted real estate activities, it is possible that we would not have been written into the Governor's latest guidance. Thanks to the Governor, Senators Killion and Boscola, Representative Rothman, and many others, real estate appraisers in the Commonwealth are now able to provide services that will be a crucial part of the economic recovery that is so desperately needed. Also, particular thanks are needed to the four AI Chapter Presidents, David Crouse, MAI, SRA, AI-RRS of Northwest Chapter, Bob Owen, SRA of the Pittsburgh Metro Chapter, Bill Stoerrle, SRA, AI-RRS of the Keystone Chapter, and John Crognale, MAI of the Philadelphia Metro Chapter. Specifically, their leadership throughout this situation was greatly appreciated.

Please feel free to contact either of us for additional information.

Regards,

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