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Appraisal Subcommittee

Federal Financial Institutions Examination Council

BY FAX

March 25, 1998

The Appraisal Standards Board
The Appraisal Foundation
1029 Vermont Avenue, NW
Suite 900
Washington, D.C. 20005-3517

Subject: December 22, 1997 Exposure Draft on Revisions of the Uniform Standards of Professional Appraisal Practice

Dear Sir or Madam:

Thank you for the opportunity to comment on your December 22, 1997 Exposure Draft on Revisions of the Uniform Standards of Professional Appraisal Practice ("Exposure Draft"). We congratulate the Appraisal Standards Board ("ASB") for its efforts to improve the enforceability and understandability of the Uniform Standards of Professional Appraisal Practice ("USPAP"). We recognize the difficulty of this task in terms of the differing interests and constituencies that require consideration, *e.g.*, individual appraisers, appraiser professional associations, Federal regulators, and State appraiser regulatory agencies.

The Exposure Draft contains many improvements. The format of the draft lends itself to easier comprehension and effective enforcement. Precatory words, such as "should," have been replaced with definitive action words, such as "must" or "shall." In addition, the reorganization of USPAP into specific Standards and Statements clarifies what appraisers need to do and what duties are enforceable. We recommend ASB adoption of these changes.

On the other hand, we have serious conceptual difficulties with the Exposure Draft. The requirements for a specific appraisal assignment appear to be determined between the appraiser and the appraiser's client. In other words, what needs to be done has become a function of contract and the discretion of the appraiser and the client. The current USPAP provides much more structure to the appraisal process. In general, it requires several elements and requires detailed disclosures when departure is invoked.

The Exposure Draft's approach, if adopted, would have negative consequences. First, enforcement on the Federal and State levels would suffer. USPAP's requirements would be determined by the intentions of the appraiser and client, with no objective general performance standards applying to the appraisal. This would force regulators into the position of trying to determine "intent" and would lead to considerable enforcement difficulties. Second, to avoid such difficulties, Federal agencies and States likely would need to adopt supplemental standards to inject objectivity and accountability back into the process. A patchwork quilt of regulations and requirements would result, exposing appraisers and users of appraisal services to confusing, and perhaps contradictory, requirements. This would be inconsistent with Title XI of the Financial Institution Reform, Recovery, and Enforcement Act of 1989's ("Title XI") goal to establish nationwide, uniform, standards for performing real estate appraisals in connection with federally related transactions.

We believe that these aspects of the Exposure Draft reflect an inadvisable ASB focus on the appraiser-client relationship, to the detriment of enforcement considerations. In our view, any effort to enhance the enforceability of USPAP should focus primarily on addressing the needs of State appraiser regulatory agencies and the Federal financial institutions regulatory agencies. Those agencies, under Title XI, are required to determine whether State licensed or certified appraisers and regulated financial institutions, respectively, are conforming to USPAP. Consequences of noncompliance may be extremely serious, *i.e.*, a certified or licensed appraiser may lose his or her license if a State determines that the appraiser has violated the more serious USPAP provisions. This consequence alone requires the ASB, which effectively is creating law, to focus on establishing clear, concise, and objective standards of appraisal practice that are enforceable with a minimum of ambiguity.

Finally, we strongly urge the ASB to include in its next draft a comprehensive rationale describing why changes are being proposed. The Exposure Draft simply set out the proposed language and did explain the proposed changes. The failure to provide such explanations hampers the public comment process, resulting in the receipt of unfocused or off-the-mark suggestions or recommendations.

Again, we thank you for this opportunity to comment. If you have any further questions regarding our comments, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Herbert S. Yolles', written in a cursive style.

Herbert S. Yolles
Chairman