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Appraisal Subcommittee

Federal Financial Institutions Examination Council

March 14, 2009

Mr. Jim Amarin, President
Appraisal Institute
122 C Street NW
Suite 360
Washington, DC 20001

Dear Mr. Amarin:

This is in response to your letter dated February 2, 2009, and received by the Appraisal Subcommittee (ASC) on February 13, 2009, in which you requested, pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, "access to and copies of all public and non public sanctions found in the Appraisal Subcommittee National Registry reported by State Appraiser Regulatory Agencies between 1998-2008." You requested a compilation of the requested information in specified format. The ASC does not maintain such a record.

As you are aware, the ASC is required by § 1103(a)(3) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, to "maintain a [N]ational [R]egistry of [s]tate certified and licensed appraisers who are eligible to perform appraisals in federally related transactions." In 1997, the ASC embarked on making National Registry data freely available via the ASC's Internet Web site (www.asc.gov) to financial institutions and to the public, in general. The "National Registry Redesign Project" successfully reached this goal in early 1998 when the National Registry was incorporated into the ASC's Web site. By querying the National Registry database, anyone can determine whether an appraiser is listed on the National Registry and the appraiser's status (Active or Inactive) and, therefore, whether the appraiser is eligible to perform appraisals in connection with federally related financial transactions. The user also can determine, among other things, in which states(s) an appraiser is certified or licensed, types of credentials held, certification/license issuance and expiration dates, business address and telephone information, and whether the appraiser's certificate or license has been revoked, surrendered in lieu of disciplinary action, or is currently suspended.

Two National Registry data elements are protected by the Privacy Act of 1974 and are not generally releasable, through the Internet or otherwise. These elements are: (1) the National Registry Number (which is the appraiser's Social Security Number, where available, or an ASC randomly generated number, where it is not available); and (2) a symbol indicating that a state agency has ordered a final disciplinary action against an appraiser resulting in something other than a suspension, revocation or voluntary surrender in lieu of further state action, *e.g.*, additional education or a monetary fine.


The ASC has taken steps to ensure that the public posting of Registry information on the Internet will not violate state information protection laws. During the planning and implementation stages of the redesign project, the ASC worked with the states to ensure that any Privacy Act issues were discussed and resolved. The policy the ASC adopted honors the state personal information protection laws without disparately reflecting actions taken in one state

when a similar action is not publicly available in another. Stated another way, some states deem all action public, and therefore report entries for the Registry liberally. This creates the appearance that sanctioning of appraisers is more frequent in that jurisdiction as compared to states that report very little due to more restrictive state laws.

The redesign project not only significantly enhanced the usefulness of the National Registry consistent with the purposes of Title XI; it also greatly facilitated the ability of persons whose Privacy Act interests are affected by this system of records, *i.e.*, state certified or licensed real estate appraisers, to exercise their rights under the Privacy Act. They can check immediately whether information pertaining to them exists in the system of records, can determine whether that information is accurate, and can request a correction of that information, if necessary. The ASC Web site cautions that while information is generally reliable, it has not independently verified each item's accuracy. We encourage that in the event of a question, contact be made with the relevant state agency. One can select links on the Web site to go to state agency Web sites for verification purposes.

If we can be of assistance to you in navigating the ASC Web site to obtain information available to you, please do not hesitate to contact us. Furthermore, if you consider any of the above to be an improper denial of your request, you may, under 5 U.S.C. 552(a)(6) and 12 CFR part 1102, subpart D (which incorporates 12 CFR § 1101.4(b)(3)(iii)), appeal to the ASC's Chairman, c/o Vicki Ledbetter, Acting Executive Director, at the address on this letterhead. The appeal must be made within 30 days of the date of this letter, and be marked "Freedom of Information Appeal," "FOIA Appeal," or the like on the envelope. Any appeal should be filed with us in writing and should state the circumstances and reasons or arguments in support of the appeal, and the date of the original request and the date of this initial ruling.

Sincerely,



Vicki Ledbetter
Acting Executive Director