

□ □ □ □ □ □

Appraisal Subcommittee

Federal Financial Institutions Examination Council

August 13, 2001

Kurt West, Regulations Specialist
Division of Occupational Licensing
Alaska Department of Community and Economic Development
P.O. Box 110806
Juneau, AK 99811-0806

Dear Mr. West:

Thank you for providing us the proposed changes to Title 12 § 70.108(c) and § 70.920 of the Alaska Administrative Code. We reviewed the changes and have comments regarding 12 AAC § 70.920(g). That paragraph states that “[a]n application for a courtesy license that indicates disciplinary action or a pending investigation in another state will be forwarded to the board for further consideration.” For the following reasons, we strongly urge you not to adopt the portion of the proposed paragraph that addresses “a pending investigation.”

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”), requires States to provide temporary practice, *i.e.*, “courtesy licensing” in Alaska, to State licensed or certified appraisers when performing appraisals in connection with federally related transactions. The State must not impose excessive temporary practice fees or burdensome requirements, as defined by the Appraisal Subcommittee (“ASC”). The ASC has defined such fees and practices in ASC Policy Statement 5. One such practice that we have determined is burdensome, and therefore prohibited, is taking more than five business days after receipt of a complete temporary practice application to approve or reject the application.

We believe that Alaska should not adopt the language regarding pending investigations for two reasons. First, the existence of a pending investigation does not indicate necessarily that an appraiser has committed a violation of law or regulation. Our experience in reviewing State appraiser regulatory programs is that a large percentage of complaints are dismissed, after investigation, because no violations were found. To delay consideration of an appraiser’s courtesy license application on the basis of a pending investigation would be inappropriate and unnecessary. Additionally, many complaint cases take months or years to investigate and resolve. Given the Alaska appraiser board’s relatively infrequent meeting schedule, such delays likely would cause appraisers to lose the opportunity to perform the appraisal assignment that generated the application. In staff’s view, such delays very likely would fail to comply with the five-business day processing requirement discussed above.

Our second reason relates to the presumption of innocence accorded persons under our system of government. In general, the existence of a pending investigation does not prove culpable conduct, nor even indicate the probability of such conduct. To delay or deny a Federal right, such as temporary practice, on this basis raises legal questions. Should you wish to pursue this approach, we urge you to seek legal counsel regarding this issue.

We appreciate the opportunity to review the proposal. Please contact us if you have any

questions.

Sincerely,

Ben Henson
Executive Director

cc: Carol Whelan, Licensing Supervisor
Wanda Fleming, Licensing Examiner
Vince C. Coan, Chair, Alaska Board of
Certified Real Estate Appraisers