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Appraisal Subcommittee

Federal Financial Institutions Examination Council

May 15, 2006

[DELETION]

Dear [DELETION]:

This letter responds to your most recent letter to us, which we received on April 24, 2006. Your letter responds to our April 12, 2006 letter regarding your situation.

In your current letter, you stated that we “fail[ed] to take any position on whether it is appropriate to use work samples submitted in support of an upgrade of an appraisal license to start disciplinary proceedings, in the absence of any public complaints, against the appraiser.” We believe that such State action is appropriate. It is common for State appraiser regulatory agencies (“State agencies”) to have the authority to initiate disciplinary actions against appraisers in those circumstances.

You also state that we “did not address the issue of a [sic] whether the standard for imposing a public reproof against an appraiser with over 30 years of experience and no complaints from the general public should be higher than that for an appraiser with significantly less experience and with significant complaints from the general public.” From our perspective, the number of years of appraisal experience and a previous history of wrongdoing is largely irrelevant to whether a State agency should take action against an appraiser. We expect a State agency to initiate disciplinary actions and levy disciplinary sanctions on any appraiser that the State believes has committed wrongdoing or who has violated the Uniform Standards of Professional Appraisal Practice. States usually consider factors, such as the appraiser’s experience and disciplinary history, when determining the appropriate sanctions in a particular case.

Finally, you imply that the Appraisal Subcommittee (“ASC”) should initiate a non-recognition proceeding under § 1118 of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, (“Title XI”) because the Office of Real Estate Appraisers (“OREA”) has failed to comply with civil rights laws. To further support your contention, you noted that § 1122(d) of Title XI prohibits financial institutions from excluding appraisers from consideration of an assignment solely by virtue of their membership, or lack of membership, in any appraisal organization. You note that you are the [DELETION], which is primarily a black organization.

Again, the ASC is not authorized to investigate civil rights types of concerns. Section 1118 of Title XI authorized the ASC to take action against State agencies for violations of Title XI only. The ASC cannot expand its jurisdiction beyond its statutory scope. As noted in our previous letter, we have not seen any indication that OREA selects applicants for review based on improper or illegal bases. If we had discovered a documented pattern or practice of such improper or illegal review practices, rest assured that we would have referred the matter to appropriate State and Federal authorities, as the case may be, for their consideration.

Finally, the probation against discrimination in § 1122(d) of Title XI technically applies when an appraiser is not hired by a financial institution to perform an appraisal solely because the appraiser is or is not a member of a particular appraisal organization. You have not alleged that any financial institution has failed to hire you for an appraisal assignment based solely on the fact that you are a member of [DELETION] or are or are not a member of any other particular appraisal organization. OREA is a State agency.

Notwithstanding the narrow applicability of this section, the ASC, in ASC Policy Statement 7, determined that such discrimination is inappropriate in the establishment and administration of a State's certification and licensing program. In addition, the Policy Statement urged State agencies, such as OREA, to adopt legislation, regulations or other procedures that prohibit such discriminatory practices. Towards that end, we would be pleased to review any specific documentation that you may have showing that OREA's actions in your case were taken solely because you are a member of [DELETION] or not a member of another appraisal organization.

Sincerely,

Ben Henson
Executive Director