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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

December 9, 2004

Mr. Charles S. Wood  
Atlantic Appraisal Services, Inc.  
1331 Ocean Blvd.  
Suite 102  
St. Simons Island, GA 31522

Dear Mr. Wood:

I am responding to your August 11, 2004 letter in which you questioned the Appraisal Foundation's authority under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, (Title XI). In particular, you questioned the authority of the Foundation to approve courses, instructors, and tests that the States have provided with success.

I understand that you have raised these concerns with the Subcommittee in the past and that you have read the legal opinion by the Legal Advisory Group (LAG) of the Federal Financial Institutions Examination Council on the authority of the Foundation. As we have previously explained to you, the provisions of Title XI directed the Foundation, through the Appraiser Qualifications Board (AQB), to establish minimum education and continuing education requirements for certified appraisers. It is the Subcommittee's position that Congress intended to foster a national, uniform criteria for appraiser certification and relied on the AQB to accomplish this goal. While the minimum criteria requirements for certification rest with the AQB, Congress did provide the States with the authority to establish the licensing requirements for appraisers.

In your letter, you also questioned the ability of the AQB to amend the certification criteria and expressed your views regarding the use of "currently" in § 1116(a) of Title XI as it relates to the certification requirements set by the AQB. You contend that AQB does not have the authority to revise the certification criteria after the date of enactment of Title XI (1989). It is the Subcommittee's position that Congress anticipated that the AQB's minimum certification criteria would be refined over time to reflect changes in the appraisal profession and that an individual who wanted to become a certified appraiser would have to meet the criteria in place at the time of application. This position follows the legal guidance that the Subcommittee received from the LAG.

Moreover, given that the Subcommittee is required by Title XI to use its funds to make grants to the Appraisal Foundation to help defray the costs of its activities and of its boards, Congress did anticipate that the work of the Foundation and its boards did not end with the enactment of Title XI but would continue into the future. In the May 2003 GAO report to Congress on *Regulatory Programs: Opportunities to Enhance Oversight of the Real Estate Industry*, the GAO also supports this position. The GAO stated that achieving the purpose of Title XI depends in part on the ability of the AQB and Appraisal Standards Board to ensure that appraisal standards and qualification criteria are reflective of changes in the real estate mortgage industry and the market place. If you have not seen this report, it is available on the GAO website at [www.gao.gov](http://www.gao.gov) and the reference number for the report is GAO-03-404. I bring this

report to your attention as the GAO, at the request of Congress, did undertake this study to assess the effectiveness of the Title XI regulatory structure for appraisers. The views expressed by the GAO do support the Subcommittee's position that Congress expected that the AQB would revise appraiser certification criteria over time.

I do hope that you find this letter responds to your questions. Please accept my apology for the delay in replying to your letter. If you have any further questions on Subcommittee's activities, please contact me through the Subcommittee's offices or Ben Henson, the Subcommittee's executive director.

Sincerely,

Virginia M. Gibbs  
Chairman

cc: Appraisal Subcommittee members