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Appraisal Subcommittee

Federal Financial Institutions Examination Council

April 17, 1998

Dave Kalemba
California State Government Relations Subcommittee
Appraisal Institute
9028 Mojave Dr.
Sacramento, CA 95826

Dear Dave:

We are responding to your email questions regarding potential legislation that would affect California's Office of Real Estate Appraisers ("OREA"). You asked for our comments regarding potential conflicts with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act ("Title XI").

You indicate that OREA, by regulation, requires California appraisers to apply for renewal at least 90 days prior to their license expiration date. You further stated that your primary concern revolves around whether an appraiser can obtain credit for continuing education courses taken during the last 90 days of licensure. We have talked with Bob West, OREA's Director, to ensure that we have a complete understanding of this issue.

According to Bob, OREA does not have a regulation requiring renewal application 90 days prior to license expiration. Bob says that OREA strongly recommends that appraisers submit their renewal application 90 days in advance. Bob contends, and we agree based on our review of State appraisal programs, that many appraisers fail to submit all required information and/or documentation with their renewal application. This requires the State to contact the appraiser to request the missing information. Often appraisers are difficult to contact or slow in furnishing the necessary information. OREA's recommendation that appraisers submit renewal applications 90 days in advance is an attempt to allow enough time to go through potential follow-up contacts and still have the renewal approved before expiration of the current license. In our opinion, this is a prudent practice.

In your April 15th and 16th emails to us, you asked several specific questions. We'll address each of those questions.

- *"Would the proposed legislation create inconsistencies with the ASC's statutes, rules, and policies?"* Because we have not seen the proposed legislation, we cannot specifically answer this question. We can, however, explain pertinent portions of Title XI and our Policy Statements.

Title XI requires that we maintain a Registry of appraisers certified or licensed to perform appraisals in connection with federally related transactions. ASC Policy Statement 8 sets forth our interpretations and implementation procedures for this National Registry. As specified in Policy Statement 8, an appraiser is not legally eligible to perform appraisals in connection with federally related transactions unless that appraiser is listed on the National Registry. Any State law, regulation, policy, or practice that creates circumstances whereby an appraiser would not be

listed on the National Registry in a timely manner would cause that appraiser to not be eligible to perform appraisals in connection with federally related transactions.

- *“How literal is the noted statement from ASC Policy Statement 8?”* Policy Statement 8 is specific and literal. Unless an appraiser is listed on the National Registry, that appraiser is not legally eligible to perform appraisals in connection with federally related transactions.
- *“Can an appraiser still perform appraisals in connection with FRTs if they are licensed in the appropriate state, but have not yet been placed on the ASC’s National Registry?”* The short answer to this question is “No.” Certification or licensure by a State does not automatically grant an appraiser the legal right to perform appraisals in connection with federally related transactions. In addition to State certification or licensure, several additional prerequisites must be satisfied before the appraiser can legally perform appraisals in connection with federally related transactions. These include:
 - Payment to the State by the appraiser of the appropriate National Registry fee;
 - Remittal of that Registry fee by the State to the ASC in a timely manner; and
 - Inclusion by the ASC of the appraiser on the National Registry.

In an effort to ensure that appraisers are not unduly impacted by administrative processing activities, we have used our interpretive and administrative authorities to provide certain “grace periods.” States are required to submit Registry data to us on at least a monthly basis. Based on the State’s data submission, we immediately place the State’s appraisers on the National Registry and we generate an invoice documenting Registry fees due for appraisers contained in the data file. The State has 45 days to remit the appropriate Registry fees to us. If we do not receive the requisite Registry fees within the 45-day period, we remove the associated appraisers from the National Registry. In this instance, we grant a 45-day grace period from the time that we place an appraiser on the Registry until we receive the Registry fee from the State. Many States, California included, remit their Registry fees with their data submission to avoid potential delays in generating payment after receiving the invoice.

Any appraiser whose license expiration date occurs without our having received renewal data from the State is removed from the Registry. Once again, to allow for administrative processing by the State and by us, we grant a 30-day grace period before removing an appraiser from the Registry. Thus, if an appraiser’s license expiration date is May 31, 1998, that appraiser will not be removed from the Registry until June 30, 1998. As we understand the proposed legislation that you are contemplating, it would create the potential for numerous circumstances where an appraiser’s 30-day grace period would be exceeded before we received the renewal data from OREA. In such cases, the appraiser would be removed from the National Registry.

It is critical for users of appraiser services, particularly financial institutions, to be able to determine whether an appraiser is eligible to legally perform appraisals in connection with federally related transactions. This reason, among others, led us to create the ASC Web site on the Internet. Our Web site contains pertinent National Registry data regarding appraisers legally eligible to perform appraisals in connection with federally related transactions. Visitors to our Web site are able to use a series of standard and custom queries to search for appraisers on the National Registry.

As a further service to financial institutions and other users of appraiser services, beginning this month, we will provide a free, automated, nightly email notification service that notifies

recipients of any appraiser whose credentials have been revoked, suspended, or voluntarily surrendered in lieu of disciplinary action and of those appraisers whose credentials have not been renewed. The notice regarding failure to renew takes place after the 30-day grace period discussed above.

- *“Our major concern surrounds the application of continuing education (CE) courses taken during the 90-day submission period requirement.”* It is possible that this is the issue you might want to address, rather than the renewal application period.

Historically, the Appraiser Qualification Board’s (“AQB”) continuing education criteria specified that continuing education (“CE”) had to have been obtained during the licensing period immediately preceding renewal of the appraiser’s credentials. The AQB also stated that all CE hours could be earned during a single year. Therefore, California appraisers could earn the requisite CE hours at any time during their four-year licensing period. There is no need for them to wait until the last three months of a 48-month period. California’s four-year period seems to be a very generous time frame for obtaining continuing education.

In late 1997, the AQB issued an interpretation that provided that a State may determine its own continuing education cycle, and that that cycle did not need necessarily to coincide with its licensing cycle. Therefore, it would be legally possible for a State to define the continuing education cycle to begin and end at times different from its licensing cycle. For example, California could define the CE cycle as running from 90 days prior to the beginning of an appraiser’s licensing cycle to 90 days prior to the expiration of the appraiser’s licensing cycle. This approach would provide the appraisers with a four-year CE cycle as they currently have, but would avoid the “90-day submission period” issue that concerns you. This approach also would avoid creating circumstances that would virtually ensure that some California appraisers would be dropped from the National Registry. The administrative impact of setting up differing cycles would have to be addressed by OREA. We are not, necessarily, suggesting or supporting this approach. We simply wish to point out that, if continuing education is the primary concern, there are alternate approaches to resolving the concern.

Dave, in further exploring the continuing education issue, it appears to us that a major contributor to your concern is the fact that some appraisers wait until the “11th hour” to obtain the necessary CE for renewal. Appraisers who obtain their CE earlier in the four-year licensing cycle are not concerned with CE obtained during the last 90 days. It is important to consider that extending a deadline generally has little long-term benefit in a situation where an individual postpones something to the 11th hour. It simply creates a new 11th hour. Given the wealth of CE opportunities in California, it might be better to expend efforts on impressing on appraisers the need to obtain CE in a timely manner so as not to hamper their credential renewal.

If you have any questions, please let us know.

Sincerely,

Ben Henson
Executive Director

cc: Bob West, Director, OREA