

Appraisal Subcommittee

Federal Financial Institutions Examination Council

February 27, 1997

Edwin W. Baker, Executive Director
American Society of Appraisers
P.O. Box 17265
Washington, D.C. 20041

Dear Mr. Baker:

This letter responds to your February 13, 1997 request under the Freedom of Information Act ("FOIA") and the Appraisal Subcommittee's ("ASC") rules thereunder for "a copy of any listing of appraisers whose licenses or certifications have been revoked or suspended." We received your request on February 18, 1997.

We cannot grant your request. This information is exempt from disclosure under Exemptions 6 (5 U.S.C. 552(b)(6)) and 7(C) (5 U.S.C. 552(b)(7)(C)) of FOIA and the ASC's rules and regulations implementing FOIA (12 CFR part 1102, subpart D). Exemption 6 protects from disclosure "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy," and Exemption 7(C) protects from disclosure "records or information compiled for law enforcement purposes, but only to the extent that the production of such... records or information ...(C) could reasonably be expected to constitute an unwarranted invasion of personal property"

We also are prohibited from releasing this information under the Privacy Act of 1974 (5 U.S.C. 552a) and 12 CFR part 1102, subpart C, thereunder. The records that you request are contained in our National Registry of State Certified and Licensed Real Estate Appraisers ("National Registry"), which is a "system of records" covered by the Privacy Act. Their disclosure to third parties is generally prohibited. Moreover, your use of these records is not authorized under the ASC's "routine uses" of records in the National Registry system of records. These "routine uses" were published at 57 FR 11085 (April 1, 1992), as required by the Privacy Act. We note that we are authorized under the "routine uses" to provide these records directly to "a duly authorized officer or employee of a financial institution" and to a federal, State or local government agency," which would include a State appraiser regulatory agency.

These denial actions under FOIA and the Privacy Act are based on the United States Supreme Court case of *United States Department of Justice V. Reporters Committee for Freedom of the Press*, 489 U.S. 749 (1989), and subsequent court decisions.

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 at the address on this letterhead. 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. The appeal must be made within 35 days of the date of this letter and should be marked "Freedom of Information Appeal," "FOIA Appeal," or the like on the envelope.

If you have any questions, please do not hesitate to contact Marc Weinberg, the ASC' s General Counsel.

Sincerely,

Ben Henson
Executive Director