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Appraisal Subcommittee

Federal Financial Institutions Examination Council

June 25, 2004

Mr. Robert T. Mize
Robert Mize & Associates
7952 Sartan Way NE
Albuquerque, NM 87109-3128

Dear Mr. Mize:

Senator Pete Domenici referred your April 16, 2004 letter to us for response. He asked that we respond to your concerns about the Appraisal Standards Board (“ASB”) and the Uniform Standards of Professional Appraisal Practice (“USPAP”). The Appraisal Subcommittee (“ASC”) is the Federal agency charged, among other things, with overseeing the activities of the Appraisal Foundation and its two independent boards, the ASB and the Appraiser Qualifications Board. While we cannot address some of your specific comments regarding USPAP, we have tried to respond to the general issues raised in your letter. We suggest that you direct your questions and concerns regarding specific USPAP compliance issues to the ASB.

As noted in your letter, Congress passed the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (“FIRREA”) to address the appraisal abuses arising at failed thrifts and banks in the 1980’s. Title XI of FIRREA (“Title XI”) established the requirement that only State certified or licensed appraisers may appraise properties involved in “federally related transactions.” FIRREA further provided that appraisals supporting these transactions must comply with the uniform standards established by the ASB. In doing so, Congress recognized the ASB as the standard-setting body for the appraisal industry.

While the ASB is not a government agency, it voluntarily follows the rulemaking procedures established in both Federal and State administrative procedures laws in promulgating USPAP. The ASB issues proposed changes to USPAP as “exposure drafts” and encourages public comment. After reviewing public comments, the ASB will, if necessary, issue a revised exposure draft for additional public comment. Only after going through this public comment process does the ASB adopt final changes to USPAP. If you have not provided comments to the ASB regarding proposed USPAP changes, we encourage you to do so in the future.

The ASC does not have the authority to substitute our judgment for that of the ASB regarding uniform standards. In our oversight role, our authority is to ensure that the ASB acts in a reasonable manner and is not arbitrary or capricious. We have found that the ASB gives due consideration to all comments and makes its decisions in a reasonable manner that is not arbitrary or capricious.

You stated that USPAP has been “an abysmal failure at solving the problem of ‘crooked’ appraisers.” USPAP is not intended to be the sole solution to incompetent and/or unethical activities by appraisers. It is one part of a complex appraiser regulatory structure created by Title XI. In our oversight of State appraiser regulatory agencies, we have observed that most appraisers subject to State disciplinary actions have failed to meet the ethics requirements in USPAP. State appraiser regulatory agencies have revoked or suspended the appraiser credentials of almost 2,000 appraisers, primarily for ethical and other significant violations of USPAP.

These are appraisers who, without USPAP and the appraiser regulatory structure created by Title XI, would still be appraising.

Again, we encourage you to submit comments to ASB when it issues USPAP exposure drafts. Also, you should contact the ASB regarding the specific USPAP-related issues that you discussed in your letter. The ASB can provide guidance on how to comply with USPAP in various appraisal assignments, including those that you discussed. We have forwarded a copy of your letter and our response to the ASB for its information.

Sincerely,

Ben Henson
Executive Director

cc: Honorable Pete V. Domenici
Appraisal Standards Board