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Appraisal Subcommittee

Federal Financial Institutions Examination Council

VIA FAX

April 6, 2001

Derek McCammon, Vice-Chairman
Oklahoma Real Estate Appraisal Board
P.O. Box 53408
Oklahoma City, OK 73152-3408

Dear Mr. McCammon:

This letter responds to your March 28, 2001 letter in which you requested the Appraisal Subcommittee's ("ASC") opinion regarding certain provisions of Oklahoma House Bill 1258 ("HB 1258"). Specifically, you asked whether the ASC would "look favorably upon the grandfathering issue, and/or whether or not any punitive action would be taken if it is enacted."

Oklahoma's Licensed real property appraiser classification currently does not conform to the Appraiser Qualifications Board's ("AQB") recommended minimum criteria. Specifically, Oklahoma Licensed appraisers are not required to meet the AQB's minimum experience criterion for Licensed real estate appraisers. HB 1258, in part, was proposed to address this situation by requiring Licensed appraisers to meet the AQB criteria, including experience. We understand that HB 1258 passed the House and was sent to the Senate for action. We further understand that a Senate committee amended HB 1258 to "grandfather" approximately 700 Oklahoma appraisers currently holding the Licensed credential. In other words, these appraisers would not be required to document compliance with the AQB's minimum criteria to become Licensed appraisers under Oklahoma's revised definition.

We have not seen the revision proposed by the Senate committee, so we are unable to address its specific wording. We can, however, provide our position regarding grandfathering in general. In short, the ASC does not believe that grandfathering non-complying individuals into any Title XI-related real property appraiser classification complies with the intent of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"). For clarification, we offer the following information:

- On May 17, 1990, then ASC Chairman Kevin Blakely testified before the United States Congress regarding the ASC's proposed Guidelines to implement Title XI. Chairman Blakely stated:

Another area of considerable comment concerned exemptions for, or the grandfathering of, existing appraisers. We feel strongly that, consistent with the purpose of Title XI, no individuals or groups should be exempted from meeting the criteria otherwise established by the states for the licensing and certification of the appraisers, and that individuals or groups should not be grandfathered into the state regulatory scheme. Accordingly, such actions are proscribed by the Subcommittee's Guidelines.

- The ASC's Guidelines, containing the prohibition against grandfathering, were issued in 1990.

- In response to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Federal financial institutions regulatory agencies (the Federal Deposit Insurance Corporation, Federal Reserve Board, National Credit Union Administration, Office of the Comptroller of the Currency, and Office of Thrift Supervision) issued appraisal regulations for federally insured financial institutions. In the preambles to these 1990 regulations, several of the agencies addressed grandfathering. Following is the language from the Federal Deposit Insurance Corporation preamble, which is similar to that of the other agencies:

Each state may elect to adopt licensing criteria that are less rigorous than certification criteria. However, licensing criteria must be adequate to protect federal financial and public policy interests. For example, simply “grandfathering” all existing appraisers generally would not be acceptable.

As you can see from these excerpts, both the ASC and its member agencies have long held the position that grandfathering individuals into any appraiser classification is not acceptable.

You asked whether the ASC would take any action if Oklahoma enacts legislation authorizing the grandfathering existing appraisers into the new Licensed classification. Such an action likely would trigger several actions:

- The ASC could determine that the action warrants investigation to determine whether Oklahoma’s Licensed classification is “meaningful” as provided in Title XI. A determination that the classification is not meaningful would cause appraisers in the Licensed classification not to be eligible to perform appraisals in connection with federally related transactions and Fannie Mae and Freddie Mac transactions;
- The ASC’s member agencies could determine that they need to evaluate whether federally insured financial institutions could use Oklahoma Licensed appraisers; and
- The Department of Housing and Urban Development (“HUD”) (also an ASC member agency) almost certainly would determine that Oklahoma Licensed appraisers could not perform appraisals in connection with its FHA program.

Given these considerations, we strongly urge Oklahoma not to adopt legislation permitting grandfathering individuals into any real property appraiser classification.

Finally, we understand that HB 1258 would allow Oklahoma up to one year to verify the experience of affected Licensed appraisers. States historically have taken up to one year to complete the verification of appraisers’ education and/or experience. Most of those States, however, completed a majority of the verification process within the first six months of the verification year. This minimized the potential for confusion on the part of users of Licensed

appraiser services, such as regulated financial institutions and HUD. We hope that Oklahoma also will complete this process within the first six months of the verification period, if possible.

Please let us know if you have any questions.

Sincerely,

Thomas E. Watson, Jr.
Chairman

cc: Rep. Larry E. Adair, Speaker, Oklahoma State House of Representatives
Senator Stratton Taylor President Pro Tempore, Oklahoma State Senate
Carroll Fisher, Chairman, Oklahoma Real Estate Appraisal Board