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Appraisal Subcommittee

Federal Financial Institutions Examination Council

March 31, 2004

VIA FAX

Travis Parsons, Member
Oklahoma Real Estate Appraiser Board
P.O. Box 488
Edmond, OK 73083

Dear Mr. Parsons:

This letter confirms our recent email communications regarding the definition of federally related transaction (“FRT”). You asked whether an appraisal assignment relating to the condemnation in a taking by right of eminent domain by the Oklahoma Department of Transportation or the Oklahoma Turnpike Authority would constitute an FRT, as defined in Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”).

Section 1121 of Title XI defines an FRT as, “any real estate-related financial transaction which: (A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and (B) requires the services of an appraiser.” There are several key elements in the definition.

First, the transaction must be a “real estate-related financial transaction” before it can become an FRT. “Real estate-related financial transaction” is defined in Section 1121 as “any transaction involving - (A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; (B) the refinancing of real property or interests in real property; and (C) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.”

Second, the transaction must be one which “a federal financial institutions regulatory agency” engages in, contracts for, or regulates. (The RTC no longer exists.) “Federal financial institutions regulatory agency” is defined in Section 1121 as the Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Office of Thrift Supervision, Federal Deposit Insurance Corporation, and the National Credit Union Administration. Unless the transaction is engaged in, contracted for, or regulated by one of the five identified Federal agencies, it is not an FRT.

Third, the transaction must be one in which the services of an appraiser are required. This is where the federal financial institutions regulatory agencies’ \$250,000 threshold applies. At transactions amounts below the threshold, an appraiser is not “required.” Therefore, those transactions would not be FRT’s.

While many real estate transactions involve Federal funds, they do not become FRT’s based solely on the fact that Federal funds are involved. The transaction must meet Title XI’s FRT definition, as discussed above. Directives from the Office of Management and Budget (“OMB”)

and various Federal agency statutes and/or regulations require the use of State certified or licensed appraisers and/or require that appraisals comply with USPAP. Those requirements, however, do not make the subject transactions FRT's.

Please contact us if you have further questions.

Sincerely,

Ben Henson
Executive Director