

■ ■ ■ ■ ■ ■

Appraisal Subcommittee

Federal Financial Institutions Examination Council

November 28, 2000

Anne Pope, Commissioner
Department of Commerce and Insurance
Administration Office
500 James Robertson Pkwy., Suite 620
Nashville, Tennessee 37243-2188

Dear Ms. Pope:

The purpose of this letter is to advise you of a serious concern we have regarding Tennessee's real estate appraiser regulatory program ("Program"). The Appraisal Subcommittee ("ASC") is a Federal agency charged with overseeing implementation of, and compliance with, Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"). Title XI, among other things, establishes the framework under which real property appraisers may be certified to appraise real property in connection with Federally related transactions. As part of our oversight activities, the ASC reviews State statutes, regulations, and programs associated with real property appraiser certification and licensing.

During our August 1997 field review of Tennessee's Program, we determined that Tennessee's statutory and regulatory provisions governing the temporary practice of non-resident appraisers did not comply with Title XI and our implementing Policy Statement 5, *Temporary Practice*. In our December 5, 1997 letter, we notified Mr. J. Donald Turner, Chairman of the Tennessee Real Estate Appraiser Commission ("Commission"), of this shortcoming and stated that the Commission needed to initiate the necessary actions to amend Section 62-39-338(b) of Tennessee's State Licensing and Certified Real Estate Appraisers Law to comply with Title XI. Chairman Turner responded in a January 8, 1998 letter outlining the changes that the Commission had made, stating that the changes would become effective near the end of February 1998. Based on the language of Chairman Turner's letter, we believed that our concern had been resolved.

In June 1998, it was brought to our attention that Tennessee might be continuing to charge temporary practice fees that do not conform to Title XI and ASC Policy Statement 5. On June 29, 1998, we wrote Administrative Director Sandy Moore and asked for a written explanation of Tennessee's temporary practice provisions. We received a response from Staff Attorney Christy Allen explaining the statutory and regulatory provisions governing temporary practice. We responded with a September 8, 1998 letter that addressed this issue and re-emphasized Tennessee's need to correct this violation of Federal law. (We have enclosed a copy of that letter and ASC Policy Statement 5, for your convenience.) At that time, we were informed that Tennessee's statute would have to be amended and were assured that the necessary language would be submitted during Tennessee's 1999 legislative session. When we contacted Administrative Director Moore in early 2000, we were informed that the necessary statutory amendment language had been drafted, but either was not submitted to the legislature for consideration in 1999 or was not adopted.

Tennessee's failure to cure its statutory and regulatory conflict with Federal law during the 1999 legislative session was very troubling to us. After a series of telephone conversations with the Commission Chairperson, Administrative Director Moore, and Staff Attorney Allen, the Commission drafted amendments to its regulations on March 20, 2000, and submitted them to the Attorney General on June 7th for legal review. We are told that the Attorney General's office has verbally notified the Commission that it cannot "approve" the draft revisions to the regulations because the amendments would conflict with Tennessee's statute. If this decision stands, it appears that Tennessee must take legislative action to resolve this issue. We understand that your involvement and support is critical to this effort. Therefore, we would appreciate your cooperation and assistance in facilitating all necessary actions to resolve this concern on a timely basis.

ASC staff will be performing an on-site field review of Tennessee's Program on December 11-12, 2000. We will be attending a Commission meeting during our review. Additionally, we would like to meet with you, or your representative, to discuss this issue. Please be prepared to provide us with a comprehensive plan to cure this situation.

Sincerely,

Ben Henson
Executive Director

Enclosures

cc: Scott White, Acting Assistant Commissioner
Office of Regulatory Boards

Sandra S. Moore, Administrative Director
Tennessee Real Estate Appraiser Commission

Christy A. Allen, Staff Attorney
Department of Commerce and Insurance

Wyla Posey, Assistant Attorney General
Office of the Attorney General