

# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

August 20, 1997

Michael Pearce, Chairman  
Arkansas State Appraisal Board  
2725 Cantrell Road, Suite 202  
Little Rock, Arkansas 72202

Dear Mr. Pearce:

Thank you for your cooperation and your staff's assistance in the June 25-26, 1997 Appraisal Subcommittee ("ASC") review of the Arkansas State Appraisal Board ("Board") and appraiser regulatory program ("program"). Based on our review, we consider your program generally to be consistent with Title XI. Several specific areas, however, need improvement to enhance your program's compliance with Title XI.

- **Section 17.14.104 of the Arkansas Appraiser Licensing & Certification Act permits licensed and certified appraisers to perform appraisals that do not conform to the Uniform Standards of Professional Appraisal Practice ("USPAP"), if the transaction is for nonpublic or non-federally related purposes.**

Section 17.14.104 of the Arkansas Appraiser Licensing & Certification Act ("Act") states that the Act does "not apply to persons performing appraisals for nonpublic, non-federally related purposes ...." It subsequently provides that, in the event a licensed or certified appraiser performs services in the exempted activities, the appraiser shall "acknowledge within the body of his or-her certification that the appraisal report does or does not meet the uniform standards."

Federal laws and regulations require the use of certified or licensed appraisers and compliance with USPAP in several areas in addition to Federally related transactions. For example, Title XI requires the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to use State certified and licensed appraisers and their policies require USPAP compliance. The Department of Housing and Urban Development Reform Act of 1989 requires the Federal Housing Administration to obtain appraisals prepared by certified and licensed appraisers in accordance with USPAP. The Office of Management and Budget has a similar regulation for Federal agencies with credit granting or condemnation authority.

A literal reading and interpretation of your Act indicates that the Act permits certified and licensed appraisers to deviate from USPAP when Federal laws and regulations require conformance with USPAP. If this is an accurate reading of your Act, you must initiate the actions necessary to amend the Act to ensure that licensed and certified appraisers must conform to USPAP in all applicable appraisals. Alternatively, you may choose to interpret the terms "federally related transaction," "non-public," and "non-federally related purposes" in your Act to accomplish the desired result. Such an interpretation could take the form of a written policy or a regulation.

- **Board regulations require appraisers wishing to extend their temporary practice permits beyond the initial six-month period to pay \$50 for each additional month.**

Section X of the Appraiser Licensing and Certification Board Rules and Regulations establishes an extension fee of \$50 for each month a temporary practice permit is extended. Your staff has informed us that this fee has never been imposed. Nonetheless, imposition of the fee would require an appraiser to pay \$200 or more, depending on the number of additional months, for a single temporary practice permit. We have determined, as set forth in ASC Policy Statement 5, that fees exceeding \$150 are burdensome under Title XI. Your Board regulations must be amended to ensure that the fees associated with a single temporary practice permit, including extensions, do not exceed \$150.

- **Board regulations and practices differ.**

Board regulations specify that a \$25 complaint-filing fee will be charged to anyone filing a complaint with the Board. Your staff informed us that this fee was charged once several years ago and, as a matter of practice, has not been imposed since that time. Because a complaint filing fee could be a barrier to effective enforcement, we strongly recommend that the regulations be amended to eliminate the complaint filing fee.

We also noted that, according to Board regulations, a temporary practice permit will not be granted to an appraiser who has a complaint pending against him or her in the appraiser's home State. Your staff informed us that only final disciplinary actions are considered in evaluating a temporary practice application. Given the number of complaints that are dismissed due to no violation of law, regulation, or USPAP, and the general concept of "innocent until proven guilty," we agree with this practice. We suggest your Board regulations or office practices be amended so that they are consistent with one another.

- **The Board identifies some disciplinary actions as "non-published reprimands," yet currently does not publish any reprimands using appraiser names. This potentially is misleading to the appraiser.**

Many disciplinary action consent agreements identify the sanction imposed as a "non-published reprimand." This implies that published reprimands exist. You do not publish any disciplinary actions naming the specific appraisers. In fact, based on our review, there does not seem to be a distinction between consent agreements that are "non-published" versus consent agreements that do not use this term. We also understand that identifying information is available under the State's Freedom of Information laws, even when the action is termed "non-published."

We have two concerns regarding this issue. First, identifying an action as a "non-published reprimand" implies a distinction that does not exist and could mislead an appraiser considering whether to agree to a consent agreement. Second, by not publishing reprimands with appraiser names, especially in cases of suspensions and revocations, the Board eliminates a potentially effective method of deterring similar actions by other appraisers.

We encourage you to clarify with your Attorney General's office which actions you must publish, which actions you must make available to the public, and which actions are exempt from public disclosure under State law. Further, we suggest that you define the actions that the Board will publish and specify under what circumstances those actions may be considered a "non-published reprimand" and withheld as a condition of a consent agreement.

- **Continuing education requirements are inconsistent with the Appraiser Qualifications Board ("AQB") criteria.**

We understand that continuing education obtained by in-State licensed and certified appraisers is submitted to the State biannually, although the license or certificate held by the appraiser is renewed annually. AQB continuing education criteria require the equivalent of ten classroom hours of instruction in courses or seminars for each year during the period *preceding* renewal. Your practice of extending the continuing education cycle beyond the credential renewal cycle is inconsistent with AQB criteria and Title XI. You must modify your continuing education requirements for certified appraisers to meet the AQB criteria. You can accomplish this by reducing your continuing education cycle to one year, to match your credential renewal cycle, or by increasing your credential renewal cycle to two years to match your continuing education cycle. To reduce potential confusion, we recommend that you adopt similar procedures for licensed appraisers.

In closing, we note that the Board has not yet amended its regulations to reflect the AQB's increased education, experience and continuing education hours for certified and licensed appraisers which become effective on January 1, 1998. We understand that you are aware of this requirement and that you anticipate final adoption by November 1997. It is critical that these new requirements are effective on January 1, 1998. Please notify us immediately if this deadline cannot be met.

Please respond to our findings and recommendations within the next 60 days. If you have any questions regarding this matter please do not hesitate to contact us.

Sincerely,

Herbert S. Yolles  
Chairman

cc: Jim Martin, Executive Director