

■ ■ ■ ■ ■ ■

Appraisal Subcommittee

Federal Financial Institutions Examination Council

January 5, 2000

VIA OVERNIGHT MAIL

Donato D. Maisano, Chair
Connecticut State Real Estate Appraisers Commission
165 Capitol Avenue, Room 110
Hartford, Connecticut 06106

Dear Mr. Maisano:

Thank you for your cooperation and your staff's and the Department of Consumer Protection ("Department") staff's assistance in the November 3-4, 1999 Appraisal Subcommittee ("ASC") review of the Connecticut Real Estate Appraisers Commission ("Commission") and appraiser regulatory program ("Program").

Our review revealed serious weaknesses in Connecticut's real estate appraiser regulatory program. Most of these weaknesses were noted in our April 10, 1996 letter to Connecticut following our March 1996 on-site review. Since our 1996 review, we have remained in contact with the Commission and the Department by correspondence, telephone calls, and email. We have been reassured repeatedly that Connecticut was correcting the concerns outlined in our April 1996 letter. We are very disappointed and concerned that Connecticut has made virtually no improvement in its Program nor corrected the problem areas noted in that letter. Because of these serious weaknesses, we are forwarding a copy of this letter, under separate cover, to Governor Rowland.

If the weaknesses identified below are not corrected promptly, it will be necessary for the ASC to initiate a proceeding under § 1118 of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("Title XI"), 12 U.S.C. 3347. At a minimum, this action would result in federally regulated financial institutions not recognizing Connecticut's real estate appraiser licenses and certifications.

- **Program Statute (Connecticut Real Estate Licensing Law and Regulations Concerning the Conduct of Real Estate Brokers, Salesmen and Appraisers)**

While the Commission informally applied the January 1, 1998 Appraiser Qualifications Board ("AQB") revised qualification criteria to applications received after that date, Connecticut failed to conform its Statute to the revised criteria until October 15, 1999, almost two years later. The State also failed to take that opportunity to amend its Statute to address a number of our longstanding recommendations. Specifically, Connecticut failed to remove or clarify the categories of "tenured appraiser" and "State licensed general appraiser." In February 1992, we advised you to remove these categories. These appraisers are not qualified to perform appraisals in connection with federally related transactions. ASC Policy Statement 2, Appraiser Classifications, states that "[t]he use of . . . designations [other than the Federally recognized designations] or titles increases the likelihood of confusion among users and could result in the employment of appraisers who do not have the required designation to perform the appraisal for which they are engaged. Use of other designations may complicate and confuse State temporary practice and reciprocity arrangements. States that choose to use other designations or titles

should ensure that they can be easily distinguished from the Federal designations.” These State designations cannot be easily distinguished as to their federal equivalent designations.

At a minimum, Connecticut needs to modify the paper license or certificate evidencing these categories to contain language clearly stating that persons in these categories cannot perform appraisals in connection with federally related transactions. Such a clear and conspicuous notice would decrease the likelihood that users may mistakenly contract with these appraisers for federally related transaction appraisals.

The State also failed to change the Statute concerning the certification of partnerships or corporations. Connecticut continues to certify partnerships or corporations to perform real estate appraisals under the Statute. While § 1122(e) of Title XI recognizes that partnerships, corporations, and other business entities may provide appraisal services in connection with federally related transactions, it only authorizes a State to license or certify individuals, not entities. It appears that Connecticut ceased collecting National Registry fees from these entities, as we suggested.

In summary, Connecticut must:

1. Either eliminate the tenured appraiser and State licensed general appraiser categories or reissue, as soon as possible, modified credentials to appraisers in these categories, stating clearly that these appraisers are ineligible to perform appraisals in connection with federally related transactions; and
2. Eliminate the certification of partnerships or corporations.

- **Complaint Investigation and Resolution**

The Commission does not have an effective system for tracking complaints and does not appear to have an effective enforcement program. While we were provided a complete copy of the Enforcer tracking system report, the list included all real estate related, not just appraisal related, complaints by date filed and case name only. Additionally, this list included cases only from 1997 and 1998. Further, Department staff indicated that the information on the list was unreliable because it may not include all complaints for that time period. We understand that the Enforcer system was removed from Department computers when a new work-tracking system for the Department was installed on November 1, 1999. We also understand that no backup of the Enforcer system and its data files was made. The Department plans to use the new work tracking system to track complaints, but we were informed that that capability has yet to be programmed and implemented. As a result, the Department could not provide reliable information regarding the Commission’s enforcement program. The number of complaints currently active or originated since March 1996 could not be determined.

During our review, Department staff selected the complaint files for ASC staff to review. We were not permitted access to the files. Department staff told us that the files were in the basement of the building and, because there has been some flooding, safety concerns existed. Therefore, our review was not based on a statistically valid sample of complaint files.

The files that we reviewed, however, were incomplete and poorly documented. Correspondence was haphazard. No formal complaint forms were included, and it was impossible to determine the source of most complaints. While we found some verbatim

transcripts of hearings and other documents indicating final dispositions, we could not determine how the matters were processed or whether they were processed in a timely manner. Some of the files, however, indicated processing delays of two years. With this limited review of the Commission's enforcement process, we were able to draw only limited conclusions regarding the Commission's investigation and enforcement actions. Until a complete list of complaints, documented with pertinent dates and case status, can be reviewed, we cannot properly analyze whether the Commission/Department's enforcement program is performing its substantive duties.

The Commission, therefore, within 90 days must:

1. Develop and implement a formal, detailed, and documented complaint investigation, resolution, and tracking system;
2. Update its complaint files and tracking system to be comprehensive and accurate; and
3. Make all complaint files available for review during our return visit to your State.

- **Education**

Files on educational course approval included little or no documentation to demonstrate an appropriate approval process. Education files only included the syllabus for the course and the provider's application. There was no documentation or notation indicating that the course was reviewed or that the hours requested by the provider were appropriate. During the Commission meeting that we observed, the Commission's review and approval of education courses appeared haphazard and informal. There also were indications that the education approval process was not timely. From a review of our in-house files, we are aware of three written complaints received by the Commission about extended delays in acting on requests for course approval. Nothing concerning these complaints could be found in the Commission office's files during our field review. Although the Commission has received several complaints about instructors and course offerings, the Commission does not approve instructors or have a method for monitoring instructor performance.

The ASC staff found problems in the approval of continuing education. The Commission has approved a significant number of continuing education classes that appear to contain no appraisal content. Moreover, a Commission regulation allows the Commission to extend, in hardship cases, the time period for an appraiser to obtain continuing education credit without restricting the appraiser's scope of practice. Similarly, the regulation regarding expired licenses or certificates seems to allow reinstatement after two years without the appraiser meeting the continuing education requirements.

The Commission must:

1. Review all currently approved education courses to determine whether each offering meets the AQB's minimum educational criteria;
2. Initiate regulatory changes to ensure that all practicing State certified appraisers comply with the AQB's continuing education requirements;
3. Revise its course approval process to ensure that files are fully documented and that the process is performed in a timely manner; and

4. Consider instituting a system for processing complaints against instructors and for monitoring their performance.

- **Temporary Practice**

Connecticut restricts temporary practice permits to a period of 90 days. Temporary practice permits are not issued within five days. ASC Policy Statement 5 requires States to issue permits for at least six months, with one “easy” extension, and to act on applications within five business days. The Commission must provide temporary practice consistent with Policy Statement 5.

- **National Registry Data**

Connecticut historically has failed to submit National Registry data and fees on a regular basis. The Commission provided Registry data and fees after our August 1998 letter warning that Connecticut certified or licensed appraisers would be removed from the Registry and be ineligible to perform appraisals in connection with federally related transactions because of nonpayment. Connecticut, however, continues to be less than timely with data submissions and fee payments. In April 1999, we sent another letter demanding timely submissions. Subsequently, we received data files in July and August 1999, but we have not received data or fees since August. The State must submit Registry data and fees on a monthly basis.

Due to the serious nature and the extent of our concerns over Connecticut’s ability to carry out its Title XI responsibilities, we will return to your State for a follow-up review within the next six months. At that time, we plan to review the enforcement files discussed above and to measure the State’s progress in resolving each of the items noted above.

Please respond to our findings and recommendations within 60 days from the date of this letter. Until the expiration of that time period or the receipt of your response, we consider this field review to be an open matter. After receiving your response or the expiration of the 60-day response period, whichever is earlier, this letter, your response and any other correspondence between you and the ASC regarding this field review become releasable to the public under the Freedom of Information Act and will be made available on our Web site.

If you have any questions, please contact us.

Sincerely,

Herbert S. Yolles
Chairman