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Appraisal Subcommittee

Federal Financial Institutions Examination Council

May 1, 2003

Gregory Syphax, Chair
District of Columbia Board of Appraisers
941 North Capitol Street, NE Suite 7W50
Washington, DC 20002

Dear Mr. Syphax:

Thank you for your cooperation and the Department of Consumer and Regulatory Affairs (“Department”) staff’s assistance in the December 17-20, 2002 Appraisal Subcommittee (“ASC”) review of the District of Columbia’s (“District”) appraiser regulatory program (“Program”).

Our review revealed serious weaknesses in the District’s Program. The Program’s effectiveness has deteriorated significantly since our previous review in 1999. Our 1999 field review letter noted improvements in the Program since 1996, and that corrective actions had been taken to address serious deficiencies identified in our 1996 field review. During our current review, we found that most, if not all, previously identified serious Program inadequacies had returned. As discussed in more detail below, the Program’s deterioration, in general, is the result of a lack of leadership over the Program.

The District needs to remedy these deficiencies expeditiously, within the time frames stated in this letter. Failure to remedy the identified deficiencies could result in an ASC “non-recognition” finding under § 1118 of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”), 12 U.S.C. 3347, and 5 CFR part 1102, subpart B, thereunder. We will return for a follow-up review within approximately 120 days from the date of this letter to monitor your efforts to remedy the deficiencies. Also, we plan to schedule a full review of your Program in approximately 18 months.

- **The Program has been seriously hindered by the failure of the Board to meet (*i.e.*, achieve a quorum).**

The District’s statute concerning the Program requires that the Board make all decisions regarding Program activities, yet, at the time of the review, the Board had not met since July 2001. While most day-to-day administrative functions are performed by a private company, Promissor, the Board failed to provide Promissor with the necessary policy direction and guidance, such as revising regulations, determining the appropriate course of action for complaints, and approving education providers and courses.

The Board's failure to meet is the basis for most of the Program's deficiencies. While we acknowledge that there have been a number of factors adversely affecting the Board's ability to meet and achieve a quorum, ultimately it is the District's responsibility under both Federal and District law to operate an effective appraiser regulatory program. All appropriate levels of District government need to take action to ensure that eligible individuals are appointed to the Board in a timely manner, and that Board members meet and carry out their responsibilities.

To address this problem, the Board and the Department of Consumer and Regulatory Affairs, Occupational and Professional Licensing Administration need to:

1. Make every effort to ensure attendance at Board meetings. Towards that end, the District needs to take steps to ensure that meeting dates are acceptable to all members, that meeting rooms are equipped with teleconferencing capabilities, and that meetings that fail for lack of a quorum are rescheduled promptly;
 2. Contact the Director of the Office of Boards and Commissions and, if necessary, the Mayor to begin the process of filling the two Board vacancies; and
 3. Inform all eligible licensed and certified appraisers residing in the District about the Board vacancies and request interested appraisers to submit their resumes and/or other documentation to the Director of the Office of Boards and Commissions.
- **Because the Board has not met, the District has not adopted the Appraiser Qualifications Criteria ("Criteria") changes that became effective January 1, 2003.**

The Appraiser Qualifications Board ("AQB") adopted revisions to its Criteria that became effective January 1, 2003. To conform to these changes, the Board needs to meet and amend its regulations concerning certified appraisers as soon as possible. Although your staff prepared draft regulations to address these changes, the draft did not reflect accurately the necessary Criteria changes. For example, the draft did not specifically require that appraisers take the National Uniform Standards of Professional Appraisal Practice ("USPAP") course or its equivalent, or that an AQB Certified Instructor teach that course.

The Board and Department need to revise the draft regulations as soon as possible to conform fully to the recent AQB Criteria changes, and the Board then needs to begin the rule amendment process immediately thereafter. Failure to adopt and implement the necessary regulatory changes will adversely affect the District's ability to renew existing appraiser credentials in coming years. While on-site, our staff provided you with a copy of the AQB Criteria and implementation memoranda. Please keep us informed about your progress in adopting these changes and notify us in writing when the process is complete.

- **The Board has not fully investigated and resolved complaints filed within the last three years.**

We reviewed all 34 complaints received between November 1999, and December 2002. Most complaints were well documented and were filed by lending institutions or Fannie Mae. Most complaints alleged serious violations of USPAP, with several cases indicating fraudulent activities. None of these cases has been resolved.

- *More than half of the cases being held within the Department were awaiting direction from the Board.*

Historically, the Board screened incoming complaints and determined appropriate further processing, *i.e.*, closing cases or referring them to the Office of Compliance and Investigations (“Office”) for investigation. After the Board’s extended failure to meet, we understand that the Chairman of the Board took it upon himself to process several of these cases, resulting in the referral of those cases to the Office. Because screening cases is a Board function, the Board needs either to begin meeting to perform this duty or find another effective method of performing this function.

- *Complaints submitted to the Office are not being investigated.*

Even though cases were referred to the Office, the Office failed to investigate them. We met with the Chief Investigator and one of the two staff investigators assigned to appraisers. The investigators believe that the investigative staff does not have the necessary appraisal-related expertise to scrutinize the complaints.

The District needs to ensure that the Program incorporates the services of certified appraisers or individuals with comparable expertise to perform technical appraisal reviews. Possible options include training existing investigators, contracting with appraisers in a third-party capacity, or using Board member expertise. However, in the near term, the Board needs to consider hiring as soon as possible one or more contract investigators to address outstanding complaints. While we encourage the investigators to obtain appraisal education, it could take several years before they become appraisal “experts.” Immediate remedial action is necessary because of the very serious nature of your outstanding complaints.

- *The Department does not have a method to track filed complaints.*

The Department could not provide us with a comprehensive accounting of filed complaints. The Department needs to create a computerized system to log and track the status of all filed complaints. The tracking system must begin with the receipt of each complaint and follow it through each step in the disciplinary process, ending in its final disposition. At each Board meeting, Board members should receive a status report regarding outstanding complaints. The

District also must ensure that all final disciplinary actions against District licensed or certified appraisers are reported to the ASC, as described in ASC Policy Statement 9.A.

- **The Board's failure to meet and take action has permitted at least one appraiser convicted of fraud to remain an active licensed appraiser in the District.**

In December 2001, a Federal grand jury indicted [DELETION], a real estate appraiser licensed in Maryland and the District, on one count of conspiracy and seven counts of accepting a bribe. On October 16, 2002, he was found guilty, sentenced to 88 months in jail for conspiring to defraud the U.S. Government and accepting bribes, and fined \$1,563,268. Based on his work, lenders had to foreclose on 21 FHA-insured mortgage loans. As a result, the Department of Housing and Urban Development had to reimburse the lenders, took back the properties, and incurred a net loss of over \$1.5 million. The State of Maryland inactivated his appraiser credential on October 21, 2002, and is in the process of revoking his License. [DELETION] continues to be a District licensed appraiser in good standing. While the Department staff knew of his indictment and conviction, the District has not initiated any disciplinary action.

District law appears to require that the Mayor immediately suspend [DELETION] license. Section 21 of the Statute states:

The Mayor shall immediately suspend the license or certificate of any person who is convicted in a court of competent jurisdiction in the District or any state or territory of the United States, or federal court of . . . bribery, larceny, extortion, criminal conspiracy to defraud, or similar offense or offenses

The section further requires the Mayor to convene a revocation hearing within 30 days of the suspension. The Board needs inform the Mayor of this situation immediately so that the Mayor can take appropriate action regarding [DELETION] license.

- **Some reciprocal applicants were incorrectly granted Certified General credentials.**

Ten appraisers were erroneously awarded reciprocal Certified General credentials, even though their applications for reciprocity showed that they held only State Licensed or State Certified Residential credentials in their home States. Promissor representatives were not instructed to check the credential type held in the appraiser's home State to ensure the issuance of a comparable designation. This was complicated by the fact that the District does not have the Certified Residential classification.

Within 90 days, the District needs to revoke the erroneously awarded General Certifications; review the files of all reciprocal Certified General appraisers since Promissor began issuing the credentials to ensure all are appropriately credentialed; and submit a report to the ASC regarding its findings and actions. The District also needs to instruct Promissor to ensure that reciprocal applicants are credentialed at appropriate levels. These steps are particularly important because a

majority of the District's appraisers are credentialed through reciprocity. Please inform us when you have completed these steps.

- **The Statute and regulations inappropriately provide for automatic approval of courses from Appraisal Foundation sponsors, and Promissor lacks adequate direction regarding the review of educational courses.**

The District's statute and regulations provide for automatic approval of courses offered by sponsors of the Appraisal Foundation. The ASC believes that automatic approval is inappropriate because being a sponsor of the Appraisal Foundation does not, in and of itself, ensure that all educational offerings of that sponsor meet AQB educational requirements. Based on our review of your files, however, we found that these statutory and regulatory provisions were not followed. In fact, all potential education providers were required to pay a fee and submit information for consideration by the Board, without regard to Foundation sponsorship. The Department and the Board need to take appropriate steps to remove these statutory and regulatory provisions. And, the Board needs to meet and take action regarding the outstanding course approval applications.

In addition, we found that the Board and staff failed to provide sufficient direction and information to Promissor enabling it to perform effectively its course review and approval functions. For example, the Board/staff should maintain a listing of currently-approved courses and provide that listing to Promissor. Promissor also should be kept informed about courses that have been approved by other States, such as Maryland and Virginia, to streamline the approval process.

- **Temporary practice permits are not valid for six months, and no "easy" extension is provided by statute or regulation.**

Promissor processes temporary practice applications in a manner generally consistent with ASC Policy Statement 5 in all but one area. Under that Policy, permits need to be valid for at least six months, and permit holders have to be able to obtain an extension of that period easily. In the District, temporary permits are granted for the period of time that the appraiser indicates is necessary to complete the assignment. This may be two weeks or up to two years. The Board needs to ensure that all temporary permits, particularly those with terms of less than six months, can be extended easily.

- **The District does not permit the use of the ASC Web site's license history report feature.**

We encourage the Board to amend its regulations to permit the use of the ASC Web site's license history report feature. Many States now are using this feature to expedite processing of reciprocal and temporary practice applications, and no longer rely on letters of good standing. License history reports provide a complete record of an appraiser's standing in all States, and

they can be obtained almost instantaneously. While visiting Promissor, ASC staff demonstrated this feature to the Department's Program Manager and Promissor staff.

Unless otherwise 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.

Please contact us if you have any questions.

Sincerely,

Steven D. Fritts
Chairman

cc: Honorable Anthony Williams
Mayor, District of Columbia

Ronald Collins, Director
Office of Boards and Commissions

Sharon Ambrose, Chairperson
Committee on Consumer and Regulatory Affairs

Elizabeth Kim, Administrator
Division of Business and Professional Licensing

Clifford Cooks, Program Manager
Division of Business and Professional Licensing