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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

**Via Certified Mail – Return Receipt Requested**

October 18, 2004

Honorable Anthony A. Williams, Mayor  
Government of the District of Columbia  
John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

Dear Mayor Williams:

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (“ASC”) is a Federal government agency responsible, among other things, for overseeing State real estate appraiser regulatory programs under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”), 12 U.S.C. 3310 and 12 U.S.C. 3331, *et seq.* In exercising our oversight, we must ensure that each State and territory maintains an appraiser regulatory program that, consistent with Title XI, licenses and certifies real estate appraisers who can perform appraisals in connection with federally related transactions. A critical component of the State’s responsibilities is the effective supervision of the activities of those appraisers. To measure compliance, we, among other things, perform periodic on-site reviews of each State’s program to monitor compliance with Title XI.

The ASC performed its most recent field review of the District of Columbia’s (“District”) appraiser regulatory program (“Program”) on June 28-30, 2004. At its September 29, 2004 meeting, the ASC discussed the staff’s findings and recommendations regarding this field review. The Program has serious deficiencies. These deficiencies, in large part, appear to have been caused and/or exacerbated by the longstanding, chronic failure of the Board of Real Estate Appraisers (“Board”) to meet and achieve a quorum. Please refer to the Attachment for a summary of this situation over the past eight years.

The District’s statute clearly requires that the Board make all decisions regarding the Program. While responsibility for day-to-day functions is largely delegated to Promissor, a third party processor, the Board must provide direction and guidance, including: adopting and revising regulations; determining the appropriate course of action for complaints; taking appropriate disciplinary actions against appraisers; and approving education providers and courses.

If these deficiencies are not corrected promptly, it may be necessary for the ASC to initiate a “non-recognition” proceeding under 12 U.S.C. 3347. If the ASC were to order the “non-recognition” of the District’s appraiser certificates and licenses, no District appraiser legally would be able to perform appraisals in connection with federally related transactions. Such an order would result in federally regulated financial institutions not recognizing the District’s real estate appraiser licenses and certifications. The order not only would seriously affect the livelihood of each District appraiser, it would significantly impact the efficient functioning of the

District's commercial and residential lending and related industries. We are sure you share our desire to avoid such consequences.

Because of the gravity of this situation, prior to presenting our staff recommendations to the ASC, we would like to meet with appropriate District representatives to discuss the status of the District's Program, our concerns, and possible corrective action. We would like to meet with you or your representative, the Board chair, representatives of the Department of Consumer and Regulatory Affairs, representatives of the Department of Insurance, Securities and Banking, and other persons as you deem appropriate. We would like to schedule that meeting as soon as possible, preferably in late October or early November. I will be representing the ASC, together with Marc L. Weinberg, ASC General Counsel, and Vicki Ledbetter, ASC Appraisal Policy Manager. We look forward to your prompt response to our request.

If you have any questions, please contact myself or Mr. Weinberg.

Sincerely,

Ben Henson  
Executive Director

cc: Chair, Board of Real Estate Appraisers  
Ronald R. Collins, Director, Office of Boards  
and Commissions  
Cheryl Randall Thomas, Department of  
Consumer and Regulatory Affairs

## Attachment

At our April 1996 field review, we found that the terms of four Board members had expired in October 1995, and that the Mayor had not appointed replacements. As a result, the Board had not met for six months. Subsequent to our field review, four appraisers were nominated to serve on the Board. Board meetings resumed in August 1996, after a nine-month lapse. During that lapse, appraiser applications were not acted on and disciplinary actions resulting from complaint investigations were not pursued.

At our November 1999 field review, we found that the Board had met more or less monthly from July/August 1996 until February 1999. Subsequently, the terms of two Board members expired, and a third member resigned. At the time of our 1999 review, the Board had not met for eight months. We were informed during the review that you had nominated three appointments in October. Following an eight-month lapse, the Board resumed meeting in November/December 1999. Based on representations made to ASC staff during the field review, we chose not to address this issue in our December 20, 1999 field review letter. Once again, appraiser applications were not acted on, and disciplinary actions resulting from complaint investigations were not pursued.

In December 2001, through our normal contacts with the District, we became aware that the Board had not met since July 2001. Initially, this was caused by several Board members failing to attend meetings. Then, the term appointments of three members expired and replacements were not appointed. In January 2002, we wrote you and expressed our concerns. We were referred to Ronald Collins, Director of the Office of Boards and Commissions, as the person responsible for coordinating nominations and/or appointments to District boards. Subsequently, a fourth member's term expired, leaving only one sitting Board member. In July 2002, four new Board members were appointed. We were assured that Board meetings would resume in September 2002. During follow-up communications, we learned that two of the four new appointees did not reside in the District and, according to District law, could not serve. While the three remaining members could have constituted a quorum, they failed to meet.

At the time of our December 2002 field review, the Board had failed to meet for 17 months. In our May 1, 2003 field review letter, we notified the Board that the Program had been seriously hindered by the failure of the Board to meet (*i.e.*, achieve a quorum). We further stated that the Board's failure to meet appeared to be the basis for most of the Program's deficiencies.

At our June 2004 field review, we found that the Board achieved a quorum for six of nine scheduled meetings in 2003. The Board did not meet in April 2003, and did not meet in July and August, the regularly scheduled "summer recess". The Board met January through April 2004. However, the Board did not meet in May or June 2004, because Board membership once again has become a problem.

The District effectively has lost the services of three of its five members. One member's term expired. Although he was reappointed, he had not yet been sworn in and, therefore, could not participate in meetings. Another member resigned in June. And, the consumer member only attended two meetings between January 2003, and April 2004. As a result, at our June 2004 field review, the Board was composed of three members, one of whom had only attended two

meetings in the last 18 months. Confirmation of the reappointment of one member would provide only three members who attend meetings, leading to a high risk of continued failure to achieve a quorum.