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Appraisal Subcommittee

Federal Financial Institutions Examination Council

September 14, 1999

VIA CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Kathryn S. Matayoshi, Director
Department of Commerce and Consumer Affairs
Professional and Vocational Licensing Division
Hawaii Real Estate Appraiser Program
PO Box 3469
Honolulu, HI 96801

Dear Ms. Matayoshi:

Thank you for the Department of Commerce and Consumer Affairs ("Department"), Professional and Vocational Licensing Division's ("Division") cooperation in the August 3-4, 1999 Appraisal Subcommittee ("ASC") review of the Hawaii real estate appraiser regulatory program ("Program"). We also appreciate the assistance of Noe Noe Tom, Licensing Administrator; Candace Ito, Executive Officer; and Cynthia Nakamura, Supervising Attorney for the Regulated Industries Complaint Office ("RICO").

Our review revealed that, in most respects, the Hawaii Program is efficient and well operated. In particular, we commend RICO for its effective enforcement program. Our review revealed a complaint investigation and resolution process that was applied in an equitable manner and involved one of the most well documented enforcement programs we have reviewed.

Following are the areas of your Program that need attention.

- **Hawaii's Administrative Rules regarding licensed appraisers upgrading to certified residential do not meet the requirements of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("Title XI").**

Hawaii's Administrative Rules state that an appraiser who is upgrading from the licensed classification to the certified residential classification, and who passed an examination prior to January 1, 1995, does not need to take another examination. This policy is inconsistent with Title XI. We understand that the rationale behind Hawaii's rule is that, prior to January 1995, the same examination was given to applicants for both the licensed and certified residential classifications. In January 1995, the Appraiser Qualifications Board ("AQB") endorsed a separate examination for certified residential qualification. Appraisers must meet the requirements that are in effect at the time they apply for an appraiser classification. Therefore, appraisers applying for the certified residential classification beginning January 1995, whether initially or by upgrade, must pass the certified residential examination. ASC staff Ben Henson and Dennis Greene discussed this issue with Noe Noe Tom and Candace Ito on August 3rd and with the Real Estate Appraiser Advisory Committee on August 4th.

To meet Title XI requirements, the Department must:

1. Identify all appraisers who have upgraded to certified status since January 1, 1995;

2. Review the applicants' files to determine whether each appraiser took the correct examination;
3. Within 60 days of receipt of our letter, provide us a listing of upgraded appraisers, with notations regarding which examination was taken;
4. Require appraisers who have not passed the correct examination to take the correct examination within 90 days after receipt of this letter;
5. Downgrade appraisers who failed the certification examination to the level for which they qualify;
6. Provide written progress reports to us periodically until the above actions have been completed; and
7. Amend the Administrative Rules to remove the conflicting wording.

- **Hawaii statute and Department regulations are inconsistent.**

Chapter 466K of the Hawaii Revised Statutes was amended in 1998, effectively changing the Program from "mandatory for federally related transactions" to "mandatory." The Administrative Rules have not been revised to conform to this amendment. The Department needs to take the necessary actions to revise the Administrative Rules promptly. Please provide us a quarterly report regarding your progress in rectifying this situation.

Please respond to our findings and recommendations within 60 days from the date of this letter. Until the expiration of that 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