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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

December 17, 2001

Patrick Brady, Deputy Commissioner  
Office of Banks and Real Estate  
310 South Michigan Avenue  
Suite 2130  
Chicago, IL 60604-4278

Dear Mr. Brady:

As you know, our staff recently visited your offices to perform its oversight functions under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"). Because of time and other constraints, staff was unable to complete the review. To finish the review, we plan to return to Illinois during the first quarter of 2002. We will be contacting you soon to discuss the actual visit dates.

Prior to our return, we would like to resolve the exit conference issue that was subject of our recent written and telephone communications. Marc Weinberg, the ASC General Counsel, has reviewed Illinois' Real Estate Appraiser Licensing Act ("Act"). While we concur that the Real Estate Appraisal Board ("Board") generally acts as an advisory body to the Office of Banks and Real Estate ("OBRE"), the Board also appears to have authority beyond its advisory role.

Section 35 of the Act states, "None of the functions, powers, or duties enumerated in Section 70, 90, 95, 105, or 110 shall be exercised by [OBRE] *except upon the action and report in writing by the Board.*" (Emphasis added.) The cited sections respectively relate to: nonresident licensure and reciprocity; disciplinary actions; unlicensed practice; hearings; and standards of practice. Section 95(d) of the Act then requires OBRE's Commissioner to "give due consideration to all recommendations of the Board on questions involving the administration of this Act, standards of professional conduct, and the discipline and examination of candidates . . ." Paragraph (d) also states, "If the Commissioner disagrees with or takes action contrary to a recommendation of the Board, the Commissioner shall provide the Board with a written and specific explanation . . . within 30 days of the date the written recommendation is delivered to the Commissioner." OBRE, therefore, does not appear to have sole statutory authority in Illinois' appraiser regulatory program. The Board, in our view, appears to play a substantive statutory role in the program. As a result, it is important that the Board be represented at our exit conference. Please inform us if you disagree with our analysis. If so, please have your legal counsel contact Marc Weinberg, the ASC's General Counsel, who will request a written legal opinion supporting your position.

Please contact us if you have further questions.

Sincerely,

Ben Henson  
Executive Director