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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

July 18, 2005

Mr. Brian F. Conley, Chairperson  
Indiana Real Estate Appraiser Licensure  
and Certification Board  
Indiana Professional Licensing Agency (IPLA)  
402 W. Washington, Room W072  
Indianapolis, IN 46204

Dear Mr. Conley:

Thank you for your cooperation and your staff's assistance in the May 11-12, 2005 Appraisal Subcommittee ("ASC") review of Indiana's appraiser regulatory program ("Program").

Our review revealed serious weaknesses in Indiana's Program. Deficiencies were found regarding the State's complaint investigation and resolution process, temporary practice program, continuing education crediting process, and system for forwarding disciplinary actions to the ASC. We identified several of these concerns in previous field reviews and Indiana failed to correct the deficiencies. Therefore, at this time, Indiana cannot be considered in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"). This letter sets forth the ASC's findings and requirements for the Real Estate Appraiser Licensure and Certification Board ("Board") and the Attorney General's office, within the Consumer Protection Division ("AG"), to bring the Program into compliance with Title XI.

Indiana needs to remedy the identified deficiencies promptly. To monitor Indiana's progress toward resolving these concerns, ASC staff will return for a follow-up review in approximately six to nine months to assess the State's efforts. Also, we plan to schedule a full review of the Program within approximately 18 months of our May 2005 review.

- **Indiana's complaint investigation and resolution process does not comply with ASC Policy Statement 10.**

Indiana's complaint investigation and resolution process does not comply with Title XI and ASC Policy Statement 10 because many complaints are not investigated and resolved in a timely manner. ASC Policy Statement 10 provides that State appraiser regulatory agencies need to process complaints on a timely basis and that, absent special circumstances, final State administrative decisions regarding complaints should occur within one year of the complaint filing date.

We identified this deficiency during our 2002 field review and notified the Board of our concerns in our June 2002 field review letter. At that time, more than 100 complaints were open at the AG, with 26 complaints being more than one year old. In our June 2002 field review letter, we directed Indiana to investigate and resolve complaints in accordance with Policy Statement

10 and recommended that the AG provide monthly reports to the Board regarding the status of all complaints. The Board, in its December 12, 2002 field review response letter, stated that the AG could not provide those reports because of due process concerns and the fact that the AG was “backlogged and has not had the staff to prepare this report.” Finally, the Board stated that “the complaint investigation portion of our work is beyond our control and without a change in staffing at the [AG] or a change in [S]tate law, this situation will not improve.”

We disagreed with the Board’s assessment and, in our January 22, 2003 response letter, pointed to Indiana Code § 25-1-13, which required the AG to provide such reports to the Board, and IC § 25-2-7-7, which specifically authorized the Board to direct the AG to prosecute complaints. As a result, we believed that these provisions gave the Board the necessary tools to address the situation.

On February 18, 2003, the Board responded, advising us that the AG, in fact, would report monthly to the Board the number of complaints filed, cases currently under investigation, cases closed, cases resolved, and the age of complaints. During the current field review, we learned that monthly reporting never was implemented and that this situation has worsened substantially. Board staff and the AG provided complaint logs indicating 241 open complaints, with 163 complaints being in process for more than one year (about 68%). Three of those cases dated back to 2000. Our analysis revealed that Indiana, in particular, the AG, has taken little or no action on most open complaints.

While on-site, we also learned about legislation that became law in 2003 establishing an Investigative Fund (“Fund”) administered by the AG and Board. We are glad to see that the Board and the AG cooperated successfully in this legislative effort. The Fund was established to support real estate fraud investigations. The legislation resulted from the Board and AG’s recognition that the timeliness of complaint processing had become problematical. The Fund is sustained by the State collecting \$10 from each real estate broker or salesperson and appraiser. We understand that the Fund monies available for the regulation and supervision of all real estate professionals should be \$400,000, with fees to be collected in connection with your biennial credential renewal period. We further understand that the Board and AG received the first \$65,000 Fund check on January 7, 2005.

The Board and AG need to develop and implement specific plans to reduce the backlog of outstanding complaints and to process all complaints on a timely basis. Given the financial resources from the Fund, the Board and AG should be able to address the backlogged and newer appraiser-related complaints in an expeditious manner. Please provide us with a copy of those plans within 60 days from the date of this letter. In addition, to ensure that we can track your progress, please provide us with a copy of your complaint log quarterly.

- **The Board does not process temporary practice permits in accordance with Title XI and ASC Policy Statement 5.**

Indiana fails to comply with the temporary practice provisions of Title XI and ASC Policy Statement 5 in several ways. First, the State does not process completed temporary practice applications within five business days. We previously cited Indiana for this deficiency in our June 2002 field review letter. In the Board’s December 2002 response letter, the Board stated that it was assured by its staff that all temporary practice applications would be issued

within five business days, with Board ratification occurring at the next Board meeting. This has not occurred. During the current review, we examined 16 temporary practice applications, and found that ten were not processed within five business days. We also reviewed the log of temporary practice permits issued during the review period and found that a substantial number of applications were not processed timely.

Second, the Board's implementation of its temporary practice rules failed to comply with Policy Statement 5's requirement to provide temporary practitioners with an easy extension method. Indiana's temporary practice permits are valid until completion of the assignment or six months, whichever is earlier. If an assignment takes longer than six months, Indiana does not provide the appraiser with an easy extension and requires an appraiser to reapply for a new temporary practice permit. This is a "burdensome practice" as defined in Policy Statement 5 and prohibited by Title XI.

Last, by requiring a temporary practitioner to apply for a second temporary practice permit to complete an assignment that takes longer than six months, the State effectively is charging the practitioner \$300 to complete a single assignment. This is an "excessive fee" as defined in Policy Statement 5 and prohibited by Title XI.

The Board must establish procedures that enable processing of complete temporary practice applications within five business days of their receipt. The Board must cease immediately its practice of requiring temporary practitioners whose assignments take longer than six months to obtain and pay for a new temporary practice permit covering the same assignment. Finally, the Board must establish an easy method for temporary practitioners to obtain an extension of their temporary practice permits beyond the initial six-month period.

- **Indiana accepts affidavits to support continuing education without a reliable means of validation, inconsistent with ASC Policy Statement 10 F.**

Indiana renews appraiser credentials based on appraisers' sworn affirmations that they have met the State's continuing education requirements. Indiana's appraisers renew in even numbered years on January 1<sup>st</sup>. During the field review, we discovered that the Board failed to conduct any continuing education audits following the January 1, 2004 renewal. Prior to our recent amendment to ASC Policy Statement 10, which was effective on January 1, 2005, ASC Policy Statement 10 provided that States, at a minimum, should have a reliable means of validating both the education and experience credit claimed for certification or licensing. Indiana failed to have such a validation.

To address this deficiency, the Board needs to:

1. Prepare a listing of all certified appraisers whose credentials were renewed on or after January 1, 2004;
2. Audit the continuing education claims of at least ten percent of the identified appraisers by September 30, 2005;
3. Identify appraisers who failed to conform to AQB criteria and take appropriate disciplinary actions against those appraisers. For certified appraisers who do not currently meet AQB criteria, immediately place those appraisers in Inactive status on

the National Registry and begin the necessary steps to downgrade the appraisers to non-certified classifications; and

4. Conform its certified credential renewal practices to ASC Policy Statement 10 F.4, which became effective January 1, 2005.

- **Indiana does not submit disciplinary action data to the ASC for inclusion in the National Registry.**

ASC Policy Statement 9 requires States to report disciplinary actions to the ASC at least monthly. Indiana does not report disciplinary actions to the ASC. At the time of our 2002 field review, we found that the State cured this identical problem, which was cited in our 1998 field review letter. Since that time, however, the State's procedures have lapsed again.

To address this deficiency, the Board needs to:

1. Provide us a listing of every disciplinary action taken since our May 8-9, 2002 field review; and
2. Establish and implement the necessary procedures to ensure that future disciplinary actions are reported to the ASC on a timely basis.

Please respond to our findings and recommendations in 60 days. 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 available on our Web site.

Please contact us if you have further questions.

Sincerely,

Virginia M. Gibbs  
Chairman

cc: Nicholas Rhoad, Board Director  
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