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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

January 15, 1999

Barbara Wolff, Chairperson  
Indiana Real Estate Appraiser  
Licensure and Certification Board  
302 West Washington Street, Room E034  
Indianapolis, IN 46204-2700

Dear Ms. Wolff:

Thank you for your October 9, 1998 letter responding to the findings from our July 1998 field review of Indiana's appraiser regulatory program ("Program"). We are pleased that the Board will begin notifying us regularly of disciplinary actions. We also are glad to know that the Real Estate Commission and the Board maintain an independent and respectful relationship that does not hinder the Board's mission and that temporary practice applications will be revised to better identify the property being appraised. Additionally, we acknowledge the Board's willingness to consider establishing written reciprocal agreements with other States and incorporating Standards 6-10 with its adoption of the 1999 Uniform Standards of Professional Appraisal Practice ("USPAP").

We remain concerned, however, about the issue raised in our August 14, 1998 field review letter regarding complaint case number [DELETION], which involved a Board member. During our review, we found that complaints with similar violations resulted in disciplinary actions against appraisers, but this case against a Board member was dismissed. We believed the Board liaison may have not treated this complaint in a manner similar to other cases reviewed by our staff. We recommended that the complaint handling process be revised for complaints involving Board members, as discussed in our August 14, 1998 letter. In addition, we requested that you reopen case number [DELETION] and review it under the new procedures.

In your October 9<sup>th</sup> response letter, you stated that:

- "It is apparent that the ASC is either questioning the integrity of both the Board and the Attorney General's office or that you misunderstand our state's process for investigating a complaint;"
- "The Board wants to go on record to the Subcommittee that this case ([DELETION]) was treated exactly and completely as it should have been under Indiana law;"
- "Furthermore, when this question came up by a member of the ASC review team, they told the investigating liaison member that they would contact him in regard to this concern. No contact was ever made in an attempt to clarify this issue;" and
- "The Attorney General's office stands completely and without reservation behind the previous decision and has no intention of reopening this case."

**Integrity:** We are not questioning the Board's integrity. As we understand it, the Board never reviewed nor acted on this complaint because it was dismissed by the Attorney General's office. We also are not questioning the integrity of the Attorney General's office. The action taken by that office was based on the expertise and recommendation of the Board liaison.

**Investigation process:** While your investigation process appears to address adequately most complaints of appraiser misconduct, we do not believe the process is effective for complaints involving Board members. As we understand the process, complaints are received by the Attorney General's office, then the Attorney General representative discusses the complaint with the Board liaison. After this review and discussion, the Board liaison recommends to the Attorney General representative whether the complaint should be dismissed or investigated further. The Attorney General's office relies heavily on the appraisal expertise of the Board liaison in determining whether to proceed with an investigation. We do not believe that any individual Board member should be expected to function as an impartial party with respect to complaints involving other Board members.

Regarding case number [DELETION], the Board liaison reviewed the complaint and recommended dismissal. The Attorney General's office, based on this recommendation and relying on the Board liaison's appraisal expertise, dismissed the case. Three certified general appraisers on our staff have reviewed case number [DELETION] and all three found apparent USPAP violations. Similar violations in other complaint cases resulted in disciplinary actions against appraisers. This could give the appearance that a Board member received preferential treatment because the recommendation to dismiss was made by a single Board member, without input from the entire Board. Given the positions of public trust held by Board members, it is important to the Indiana appraiser regulatory program that the Board avoids any appearance of preferential treatment.

**Discussion with Board liaison:** Our staff made several efforts to discuss case number [DELETION] with the Board liaison. Vicki Ledbetter and Dennis Greene met with the Board liaison on July 10<sup>th</sup>, to discuss all field review findings. Although this complaint case was on the discussion agenda, the Board liaison did not stay to discuss our concerns because of a deadline for an appraisal report he was preparing. The liaison, however, agreed to call Ms. Ledbetter on July 15, 1998, before serving as an administrative law judge in another disciplinary matter. When no call was received by noon that day, Ms. Ledbetter repeatedly called, leaving four voice messages with the Board Secretary, Julie Wiesinger, and one message at the Board liaison's business office. Our calls were not returned.

While on-site, we spoke with Greg Thomas, Section Chief, Office of the Attorney General; Ms. Wiesinger; Charles Hear, Legislative Analyst; and two former Board members. In accordance with Indiana law, only Mr. Thomas was familiar with case number [DELETION] and provided insight into the investigation. Mr. Thomas noted that, due to a lack of appraisal expertise, the Attorney General's decision to prosecute or dismiss a case is based largely on the Board liaison's report.

**Attorney General's office:** After we received your October 9<sup>th</sup> letter, ASC General Counsel Marc Weinberg contacted Mr. Thomas to discuss your response. Messrs. Weinberg and Thomas spoke at length about the ASC's concerns regarding this case. After this discussion, Mr. Thomas understood our concerns and agreed that Indiana's process for reviewing complaints against Board members needs to be revised.

At a minimum, complaints involving Board members should be reviewed by the entire Board to reduce the potential appearance of bias. Please confirm that you will revise your complaint investigation process for complaints involving Board members as discussed in our August 14, 1998 letter. Provide us with a timetable for its revision and implementation. Also, once the

complaint process is revised, you need to reopen case number [DELETION] and review the complaint under the revised process.

Please contact Executive Director Ben Henson if you have any questions.

Sincerely,

Herbert S. Yolles  
Chairman