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Appraisal Subcommittee

Federal Financial Institutions Examination Council

January 22, 2003

William Bartlett, II, Chairperson
Indiana Real Estate Appraiser Licensure
and Certification Board
302 W. Washington, Room E034
Indianapolis, IN 46204

Dear Mr. Bartlett:

Thank you for your December 12, 2002 response to our June 20th field review letter. While we are pleased that you are resolving our concerns regarding temporary practice permits and continuing education credit, two items still require your attention before we can consider your appraiser regulatory program ("Program") to be in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI").

- **Complaint Investigation and Resolution**

In our field review letter, we recommended that the Attorney General's office provide monthly reports to the Board regarding the status of all complaints so that the Board can address the excessive backlog of aged cases to attain conformance with ASC Policy Statement 10. You stated that your Board's attorney cannot provide you with monthly reports because of due process concerns and a shortage of staff resources. As a result, you believe that the Board has no control over the prompt resolution of complaints.

We believe that the Attorney General's office is obligated to provide such reports to the Board. Indiana Code § 25-1-7-13 specifically states that:

The office of the attorney general shall provide to each board, at the request of the board, a report that includes the following information concerning the regulated occupation:

- (1) The number of complaints filed.
- (2) The number of cases currently under investigation.
- (3) The number of cases closed.
- (4) The number of cases resolved.
- (5) The age of complaints.

Moreover, while complaints and information pertaining to the complaints generally are confidential under IC § 2-1-7-10, we believe that the Board is authorized by IC § 25-1-7-7 to receive details regarding each complaint, perhaps with appropriate redactions to account for due process concerns. Section 25-2-7-7 specifically authorizes the Board to direct the Attorney General's office to prosecute a complaint. Without receiving information pertaining to each complaint, the Board would be unable to exercise this statutory authority.

In sum, it appears that Indiana's statute contains the necessary tools for the Board to address the case backlog. Those tools need to be implemented. Timely investigation and resolution of complaints is critical to an effective appraiser regulatory program. If you or your attorney has further questions regarding this specific issue, please feel free to contact Marc Weinberg, our General Counsel.

- **Educational course approvals**

As discussed in our previous correspondence, the Board approves educational providers, but does not review providers' individual courses. While this practice might be consistent with your State's statute, it is not consistent with Federal statute. Title XI requires certified real estate appraisers to meet, among other criteria, the minimum education course requirements of the Appraiser Qualifications Board ("AQB") of the Appraisal Foundation. Under Title XI, it is incumbent upon the State issuing the appraiser credential to ensure that the appraiser meets the necessary AQB Criteria, including education criteria. Title XI places this responsibility on the State, not on the education provider. Therefore, it is necessary for Indiana to review, and approve or deny, each course accepted for either qualifying or continuing education credit for certified appraisers. Once again, if you or your attorney has questions regarding Title XI's provisions or the impact of those provisions on State law, please feel free to contact Marc Weinberg, our General Counsel.

No later than 60 days from the date of this letter, please provide us with your plan to address these two issues. We continue to 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.

If you have any questions, please contact us.

Sincerely,

Steven D. Fritts
Chairman