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Appraisal Subcommittee

Federal Financial Institutions Examination Council

February 29, 2000

Logan H. Babin, Chairperson
Louisiana Real Estate Appraisers
State Board of Certification
P.O. Box 14785
Baton Rouge, LA 70898

Dear Mr. Babin:

Thank you for your cooperation and your staff's assistance in the January 19-20, 2000 Appraisal Subcommittee ("ASC") review of the Louisiana Real Estate Appraisers State Board of Certification ("Board") and appraiser regulatory program ("Program").

While you have improved your Program since our last field review, further improvements are needed in the following areas:

- **Enforcement program deficiencies.**

We are pleased that Louisiana now is using a Board member to provide technical review assistance on complaint investigations. We are concerned, however, that apparent violations of the Uniform Standards of Professional Appraisal Practice ("USPAP") documented by the technical reviewer are not being pursued. We understand that these complaints are dismissed because Commission examiners believe that there is "no harm to the public" or that USPAP is "vague and unenforceable." Such an enforcement approach is unacceptable. Under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, Louisiana has a statutory responsibility to enforce USPAP. This responsibility requires that the State pursue complaints with documented USPAP violations and take appropriate disciplinary action when those charges are proven.

In our review, we noted that the technical reviewer signs a statement indicating that he or she agrees or disagrees with the Commission examiner's findings and recommendations. In many cases, we did not find an audit trail to relate the signed statements to specific complaint cases. For example, the statements do not always reference the case numbers, appraiser names, or other identifying information.

Our review of completed cases indicated that not all disciplinary actions were resolved in an equitable manner. We found cases with similar USPAP violations, but with differing disciplinary actions, without any documentation to substantiate the differing results. For example, case number 99APP-05-B(3) was brought against a Board member. The Board found USPAP violations and issued a "warning letter." Other appraisers cited for similar violations were given more stringent penalties. It is essential that the Board and Commission perform their enforcement-related duties in an unbiased, equitable manner.

To address these concerns, the Board and Commission must:

1. Ensure that, if the findings and conclusions of the technical reviewer indicate that USPAP violations have occurred, the complaint will be pursued and appropriate disciplinary action taken;
2. Ensure that statements agreeing or disagreeing with the examiner's findings signed by the technical reviewer reference the specific complaint case, such as case number and appraiser name; and
3. Ensure that complaint investigation decisions and disciplinary actions are unbiased and equitable, especially when Board members are involved.

- **Application process.**

Louisiana's appraiser statute allows an appraiser up to five years from the date the appraiser passes a license or certification examination to document that he or she has the necessary experience to qualify for the requested credential. We understand that, during this interim period, applicants are not necessarily required to take continuing education or USPAP update courses.

We reviewed one case where the applicant passed the certified general examination on April 20, 1995, but did not document the required experience hours until September 1, 1999, at which time he was awarded a certified general credential. This situation raises concerns because:

- The applicant was not licensed or certified during the interim 52-month period, and we found no evidence that he took continuing education or USPAP update courses during that time; and
- The applicant submitted 165 hours of education to qualify to take the examination in 1995, but the Appraiser Qualifications Board ("AQB") increased the education requirement to 180 effective January 1, 1998, 20 months before the Board issued the certified general credential.

While this statutory provision does not conflict with the AQB's qualification criteria, we do not believe that the AQB intended to permit such "warehousing" of examination results. We will request an opinion on this issue from the AQB and will notify you of the results.

At the October 18, 1998 Board meeting, the Applications Committee recommended rejecting an application for certified general status because of the quality of the applicant's experience was unsatisfactory. One Board member stated that he knew the applicant and recommended approval of the application. The Board then approved the application. The recommending Board member was the appraiser who co-signed some of the appraisal reports the applicant submitted for experience credit. This situation is troublesome for two reasons:

- This Board member should have recused himself from this matter based on the apparent professional relationship between the member and the applicant and potential conflict of interest arising from this relationship; and
- If the applicant, in fact, did not meet the AQB's experience criteria, the Board violated Title XI by approving the application.

To address this situation, the Board must:

1. Review the appraiser's application to determine if the appraiser's general certification is supported by sufficient qualifying experience. If the appraiser does not have the necessary experience, then the Board must recall the certificate and issue a credential appropriate to the experience level earned. The Board must ensure that applicants for certifications meet all AQB criteria before approval; and
2. The Board must ensure that its actions are impartial and unbiased. Board members must recuse themselves from actions in which they have apparent professional relationships or potential conflicts of interest. It is critical that Board members adhere to the highest ethical and fiduciary standards demanded by public service, as implemented by Louisiana's statutes and regulations.

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

cc: Julius C. Willie, Executive Director