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Appraisal Subcommittee

Federal Financial Institutions Examination Council

November 2, 1998

Logan Babin, Jr.
Chairman
Louisiana Real Estate Appraisers
Board of Certification
P.O. Box 269
Houma, LA 70361

Dear Mr. Babin:

The Appraisal Subcommittee ("ASC") conducted a review of your real estate appraiser regulatory program's enforcement procedures on September 29-30, 1998, following up our March 1997 field review ("1997 Review"). The staff of the Louisiana Real Estate Commission ("Commission") was very helpful in this follow-up review. Also, thank you for the time you spent on the telephone with us discussing the issues noted in this letter.

During the 1997 Review, we found that the Louisiana Real Estate Appraisers Board of Certification's ("Board") enforcement penalties did not reflect the seriousness of violations, and that the Board failed to pursue obvious serious violations of law. We also found that Commission staff did not report serious violations to us and failed to create and maintain accurate and complete enforcement records. Finally, Commission examiners were not trained in the Uniform Standards of Professional Appraisal Practice ("USPAP") or appraisal methodology.

Since our 1997 Review, Commission investigators and staff have responded satisfactorily to our concerns. All disciplinary actions now are reported to us; staff has developed a complete and accurate system for filing and documenting enforcement cases; and the Commission is installing a new computer system with Internet access that will allow staff to study appraisal methodology on-line and through other computer-assisted means. In addition, the Chief Investigator, Real Estate Commissioner, and the Board Administrator recently attended the Association of Appraiser Regulatory Officials' annual conference in St. Louis, with the intention of becoming active participants.

In contrast, the Board has not been responsive to our concerns. The Board continues its pattern of inconsistent treatment of appraisers, particularly in enforcement actions. The hearing officer, who is not an attorney but reports to the Commission's legal staff, often discontinues pursuit of obvious violations, frequently after a thorough investigation of a case by staff. The hearing officer takes this action because he believes that the Board has not acted properly to avoid bias and to protect the rights of appraisers under scrutiny. According to the investigator and the hearing officer, the entire Board openly reviews and discusses cases, and no separation of the investigatory/judicial functions is maintained. Not infrequently, the Board files complaints through its review of applications for certification and licenses. When an apprentice appraiser presents work that is unacceptable to Board members, they request more reports to review. These reports are discussed and analyzed by the full Board and ultimately are used to prosecute the supervising appraiser.

Recent Board actions indicate that the Board has continued to handle major violations inappropriately. During our follow-up review, we found that major accusations are left unattended while minor infractions get unnecessary attention. For example, a complaint alleging fraudulent signatures on an appraisal was prematurely closed because the Board did not act properly. We specifically noted in our June 24, 1997 field review letter two similar instances of serious allegations that were not pursued. On the other hand, a case involving a value dispute was examined extensively by a Board-directed investigator. The consumer offered no additional comparable sales or other evidence in the complaint or upon request. The Board nevertheless instructed the investigator to search the market thoroughly to determine if such sales existed. No new evidence was uncovered to support the complaint. As a result, scarce staff resources that could have been used in following up serious allegations were wasted. We also found that no written policies and procedures exist to guide the enforcement-related work of Board and its staff.

To minimize misunderstandings during the development and processing of application and enforcement cases and ensure appropriate handling of those cases, the Board, with the aid of staff legal counsel, must establish written enforcement policies and procedures. The Board also may wish to consider:

- Delegating the application processing to the Board Administrator, who must develop procedures acceptable to the Board;
- Assigning one Board member, who may later recuse him or herself from the hearing process, for each case that requires technical assistance to the investigation staff; and
- Ceasing the wholesale review of enforcement and application files during Board meetings. Rather, staff or one or more Board members should be appointed to examine files prior to the meeting and then present summaries to the Board.

Please respond to our findings and recommendations within 60 days from the date of this letter. 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 made available on our Web site.

If you have any questions, please contact us.

Sincerely,

Herbert S. Yolles
Chairman