

Appraisal Subcommittee

Federal Financial Institutions Examination Council

June 24, 1997

Mr. Logan H. Babin, Chairman
Louisiana Real Estate Appraisers
State Board of Certification
P. O. Box 14785
9071 Interline Avenue
Baton Rouge, LA 70898

Dear Mr. Babin:

Thank you for your cooperation and your staff's assistance in the March 17-18, 1997 Appraisal Subcommittee ("ASC") review of Louisiana's appraiser regulatory program ("Program"), which is administered by the Louisiana Real Estate Appraisers State Board of Certification ("Board") and the Louisiana Real Estate Commission ("Commission"). Following is a report of our findings and recommendations regarding our field review of your Program. Before we can determine that the Program is substantially in compliance with Title XI, your response to this letter and our agreement with your proposed resolution of the following issues are necessary.

- **Previous On-site Review**

After our January 1994 on-site review of your Program, we sent you a letter, dated February 11, 1994, noting that the State: (1) must ensure that all certified appraisers document their hours of required appraisal education; (2) should consider providing for a license credential; and (3) should defer to Federal financial institutions regulatory agencies' regulations regarding the scope of practice for State certified residential appraisers. During the 1997 review, we found that the State has taken positive actions to improve its Program. Education requirements for certified appraisers were increased to meet Appraiser Qualifications Board ("AQB") requirements; legislation was proposed in 1994, and again in 1997, to create a license credential; a five-year limitation on acceptable appraisal experience was eliminated; and, in late 1996, all certified appraisers were required to pay the National Registry fee, raising the number of Louisiana's appraisers on the National Registry from 132 to over 700.

- **Enforcement program deficiencies**

Enforcement penalties do not reflect the seriousness of violations

We are troubled about the Board's apparent leniency in cases where State certified appraisers have appeared to commit fraud by fabricating data. Following are two of the more serious examples we noted. In one case, an appraiser admitted to the Board that he totally fabricated

three sales comparables used in a residential appraisal. The appraiser was given a one-year suspension and was required to obtain 25 hours of Uniform Standards of Professional Appraisal Practice ("USPAP") education. The record shows that one financial institution stated that it will continue to use this appraiser during the suspension period. In another case, the Board only issued a letter of censure to an appraiser who issued a backdated second appraisal in which he changed the property description and manipulated data on two comparables to support the description change from the original appraisal.

The Board failed to appropriately consider the extreme seriousness of these violations. The falsification or manipulation of data strikes at the very integrity and reliability of the appraisal process and profession. Actions like these led Congress to adopt Title XI in 1989 to protect Federal financial and public policy interests in real estate related transactions. In our view, the Board should have revoked the appraisers' credentials and levied monetary penalties to address this violation and to deter other appraisers from acting in a similar manner. We strongly urge the Board, in the future, to revoke appraiser credentials and to levy appropriate monetary fines in cases involving the deliberate falsification of data upon which an appraisal valuation estimate was premised.

Serious disciplinary actions are not reported to the ASC

The one-year suspension discussed above was not reported to us. In accordance with ASC Policy Statement 9 - Information Sharing, all suspensions, revocations and credential surrenders in lieu of enforcement action must be reported to us for inclusion on the National Registry of State Certified and Licensed Appraisers ("Registry"). Expedient reporting of this information will help to ensure the accuracy of the Registry.

The Board failed to pursue an obvious violation of State law

Respecting the Federal enforcement referral discussed in the next section, an appraiser falsely represented to at least one financial institution that he was a State certified appraiser, in violation of Louisiana State law. The Board did not refer the matter to the State attorney general's office, and no action was recommended or taken. The Board needs to ensure that chargeable offenses of this type are pursued.

Enforcement records are incomplete and inaccurate

The Board must ensure that Commission examiners create and maintain appropriate logs in chronological order reflecting all pertinent facts regarding complaints received, their identification and their status. Logs pertaining to open and closed enforcement cases from June 1991 to January 1997 were inaccurate. For example, the March 17, 1997 log entitled, *Louisiana Real Estate Commission Appraiser Cases-Closed (All Reasons)*, failed to list several cases which we located in another report, entitled *Louisiana Real Estate Commission - Open Cases Listing* (which contained both opened and closed cases).

Correspondence relating to enforcement matters should be maintained in an organized manner. We found it very difficult to obtain information about particular cases because related correspondence files were disorganized. For example, we brought to Louisiana a copy of a Federal enforcement referral. We could not locate the referral in your records. Commission staff also could not find any record. They, however, recalled the matter and indicated that a case was not opened because the appraiser was not State certified when the questioned appraisals were performed, and the Board, therefore, lacked jurisdiction. After our staff's return to Washington, you found the Federal referral in your files and forwarded copies to us. As a follow-up to our review, your Chief Examiner, in a March 21, 1997 letter to us, indicated that all correspondence now will be maintained in an orderly manner.

Commission examiners are not trained in USPAP or appraisal methodology

Commission examiners overlooked apparent violations of USPAP, which would have been obvious to an examiner sufficiently trained in USPAP. While the examiners appear to be competently trained in real estate investigations, they lack appraisal education. We understand that they have repeatedly requested additional appraisal training from the Commission, with no success. Each examiner must be trained sufficiently to understand and analyze the level of appraisal work assigned for his or her review.

• **Data and fee submissions to the National Registry of State Certified and Licensed Appraisers ("Registry") have been inconsistent**

In 1996, Louisiana submitted data and fees for 132 appraisers; in 1994, the number was 720. Following discussions between Commission administrative personnel and ASC staff, we determined that Louisiana, while engaged in a two-year licensing cycle, only collected the Registry fee on a one-year basis, with a request that appraisers submit the "second" \$25 to the Board in the second year of the cycle. Very few appraisers submitted the second year Registry fees. The Board then submitted to us for inclusion on the Registry the names and fees of the few appraisers who did comply. Following discussions, the Board notified all State certified appraisers that the "second year" \$25 fee was due by December 31, 1996. You collected these fees from most appraisers and forwarded \$18,000 and data regarding 720 appraisers in February 1997. State records now indicate that 43 appraisers have not remitted the \$25 Registry fee for 1997, as requested. Some of these appraisers hold expired certificates, but others have active certifications.

To eliminate this type of problem in the future, the Board must collect a Registry fee of \$25 for each year of the licensing cycle and submit the data and fees promptly following your scheduled year-end renewal. Late renewals and new certificate issuances need to be submitted promptly - no less than quarterly and preferably monthly. Louisiana certified appraisers who do not elect to pay the required Registry fee need to have their certificates boldly over stamped: "Not authorized to perform appraisals in connection with federally related transactions."

- **Board educational course content approvals are inconsistent with AQB education requirements**

Under AQB education requirements, as adopted under Title XI, pre-certification course offerings must not be duplicative and must satisfy the course content of advanced appraisal education. In February 1997, the Board approved a significant portion of the Louisiana Real Estate Commission's Model Sales and Brokerage Curriculum (Real Estate 101, 201, 202 and 203) for pre-certification education credit. The course content of this program is specifically sales and brokerage oriented. Moreover, the portions of the Curriculum relevant to an appraiser's work are typically contained in the first 15 hours of most basic appraisal courses. The Board must retroactively revoke its approval of this course series as meeting the appraiser qualification or continuing education requirements.

- **Reciprocity**

Louisiana has formal reciprocity agreements with five States: Alabama; Missouri, New Hampshire, Oregon and Texas. Consistent with Title XI and ASC Policy Statement 6, we encourage Louisiana to actively pursue establishing reciprocal agreements with all States, particularly adjacent States, such as Arkansas and Mississippi.

Please respond to these issues within the next 60 days. As noted earlier, before we can determine that your Program is substantially in compliance with Title XI, your response to this letter and our agreement with your proposed resolutions are necessary. Please do not hesitate to contact us if you have any questions.

Sincerely,

Herbert S. Yolles
Chairman

cc: Anne Brassett, Administrative Assistant
Louisiana Real Estate Commission