



## MINNESOTA DEPARTMENT OF COMMERCE

May 31, 2000

Herbert S. Yolles  
Appraisal Subcommittee  
2000 K Street, NW Suite 310  
Washington, DC 20006

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Appraisal Subcommittee

Dear Mr. Yolles:

Thank you for your letter of March 27, 2000, notifying the Minnesota Department of Commerce (Department) of the results of the field review by the Appraisal Subcommittee (ASC) of the Minnesota appraiser regulatory program on February 17-18, 2000. As you requested, we are providing you with a status report on the Department's progress toward correcting the issues raised in your report.

### Temporary Practice Permits/Reciprocity

The Department has revised its temporary practice application and instructions to remove the statement that one appraisal may be performed per application and fee. The Department will comply with the position of the ASC that Policy Statement 5 specifies that permits should be awarded on an assignment basis where 'assignment' is defined as one or more appraisals prepared under one contract, regardless of the number of properties appraised under the assignment. We also will comply with the prohibition against charging more than \$150 per assignment. At present, we are issuing temporary practice permits within 5 business days of receipt.

### Registered Real Estate Appraisers/Trainee Licenses

The Department has revised its instruction documents for Registered Real Property Appraisers to state unequivocally that "A person licensed in this category cannot perform appraisals for federally related transactions." Further, by June 30, 2000, the Department will inform all Registered Real Property Appraisers in writing that they are not qualified to independently perform appraisals in connection with federally related transactions. We will also notify all lending institutions and other users of appraisal services of the scope of practice for Registered Real Property Appraisers, with a list of all individuals currently holding the designation.

### Education/Course Approvals

The Department is currently reviewing all 1,600 currently approved appraiser continuing education courses to document whether each offering meets the Appraiser Qualification Board's ("AQB") minimum education criteria for continuing education. By June 30, 2000, we will rescind approval for all courses not meeting AQB requirements.

Further, because there is no provision in Minnesota Statutes or Rules for a lapse date for approved course offerings, many courses remain on the "approved" course list which no longer have any current application and are not intended by the course provider to be offered again (i.e.: "1996 Appraiser Update"). Therefore, the Department will initiate amendments to Minnesota Statutes, chapter 82B, to provide for a lapse date for continuing education course approval.

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### **Complaint Investigation and Resolution**

Your findings concerning the Enforcement Division complaint investigation and resolution seem to be based on several misunderstandings. Because the examiners only looked at closed files, they may not have fully appreciated the changes we have made to the appraiser enforcement program.

One example is the following:

"Appraiser cases are not given priority because the case volume is not as great as that for other professions cost, thus not warranting the immediate commitment of resources."

During our interview with the examiners, we stated that the number of investigations handled in the appraisal area (approximately 20 annually) is significantly less than the cases concerning the regulation of real estate brokers and salespeople (approximately 650 per year). These statistics were cited to describe the impact of both of these professions upon enforcement resources. We did not intend to imply that lesser resources are dedicated to appraisers. In fact the opposite is true. Files are pursued in a timely manner, and we have spent a great deal of time and effort in reviewing appraiser activity, in great part due to the large number of FLIP cases.

Also, your examiners stated the following:

"File documentation revealed that complaints referred for investigation usually took more than a year to resolve, and several took 2-3 years to complete. "

Due to a misunderstanding by the examiners about the process our investigations follow, the examiners presumed that the activities of the Attorney General's Office are separate and distinct from those of our office. The Attorney General's Office acts as our attorney when we bring cases to a contested case procedure. Therefore, any final orders issued in conjunction with the Attorney General's Office reflect the resolution of cases investigated and pursued by this office. Several FLIP cases took a great deal of time for two reasons. One, they were a part of a larger investigation involving review of the conduct of real estate brokers, mortgage brokers, appraisers, mortgage lenders, and closers. Two, a number of these cases involve protracted settlement negotiations, discovery and the hearing process, which took much more time than the initial investigation. We want to make it clear that there are no policies in the Enforcement and Compliance Division to dedicate fewer resources or less time commitments to appraiser cases than to any other cases which we investigate. It is also important to stress that the Department of Commerce is responsible for the oversight of 15 different categories of occupational licenses, primarily in the financial services industry. Principal among those responsibilities is the oversight and responsibility of enforcing the law as it relates to all service providers involved in real estate transactions including **abstractors**, appraisers, closers, real estate brokers, mortgage brokers and lenders and notaries. We take these responsibilities seriously and apply the same serious effort to all industries we regulate.

Your letter goes on to state the following:

We continued to document instances in which violations of the uniform standards of professional appraisal practice ("USPAP") were not pursued. Especially because of numerous staffing changes, investigators still do not have adequate expertise and education in USPAP and other appraisal techniques to review and make enforcement decisions about appraiser misconduct. Yet, they continue to have the autonomy to open and close complaint cases without further peer review, professional appraisal review, or supervisory review.

In certain instances we may not cite USPAP violations if it would be deemed to be piling on in addition to other charges of incompetence or deceptive practices. However, we have made an additional commitment to cite USPAP violations wherever applicable, and appreciate your examiner's recommendation. It is true that we have had a large turnover in staff and are in the process of training new investigators. An important part of that training is to ensure that they understand basic concepts and principles dealing with appraisal

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activity. However, we do object to one of the findings in the examiner's report. The supervisor in this area does review many closed files to ensure that all issues have been addressed. Further, contrary to another comment made by the examiners, we do use review appraisers in all appraisal cases where it is warranted, not just FLIP cases. The examiners may have overlooked this, because the files which they reviewed may have been closed before we started this program. In any case, the Enforcement Division has already been committed to ensure that investigators are trained in basic appraisal principles including USPAP, and we have expanded our use of appraisal reviewers anytime it is warranted.

**National Registry of Real Estate Appraisers/Report of Disciplinary Actions/Fee Submissions**

While we assumed we had provided a comprehensive report of all prior disciplinary and warning actions taken by the Department to the examiners during their review, we will follow up with an additional report of our actions for the last three years. In addition we will make sure that all future actions are entered in the Registry. This will occur as soon as the ASC provides us with an updated list of passwords as requested in our earlier conversation with Ms. Victoria Ledbetter.

Regarding Registry fees, the Department intends to comply with ASC Policy Statement 8 to review Registry invoices for accuracy upon receipt and pay all fees owed, or the undisputed portion, within 45 days.

Please contact us for any additional information you may need.

Very truly yours,



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cc: Jim Alan, Manager  
Mim Stohl, Finance Director