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Appraisal Subcommittee

Federal Financial Institutions Examination Council

July 22, 1999

Farrell Rose, Chairperson
Montana Board of Real Estate Appraisers
111 N. Jackson Street
Helena, MT 59620

Dear Mr. Rose:

Thank you for your cooperation and your staff's assistance in the June 7-8, 1999 Appraisal Subcommittee ("ASC") review of the Montana Board Real Estate Appraisers ("Board") and appraiser regulatory program ("Program").

Our review revealed serious weaknesses in your Program. Improvements are needed in the following areas:

- **Complaints are not resolved.**

The Board has received 155 complaints since 1994; 134 remained open as of the date of this review, some for as long as five years. No educational or advisory actions have been taken regarding USPAP violations. No formal hearings have been held.

The Department of Commerce, Professional, and Occupational Licensing Bureau ("Bureau") has not provided effective legal assistance to the Board to enable the Board to perform its duties to enforce Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"). This failure to provide adequate support appears to be caused by several factors. We understand that the Bureau's legal department has experienced a high turnover rate, as much as 200% in the last two years. Most of the legal staff has between two to nine months' experience with the Bureau. None of the attorneys assigned to work with the Board has adequate knowledge of Title XI or the Uniform Standards of Professional Appraisal Practice ("USPAP").

This high attorney turnover rate exacerbates an apparent lack of effective cooperation between the Board and the Bureau's legal staff. While the Board appears interested in effectively enforcing Title XI and USPAP, the Board and the Bureau legal staff seemingly cannot agree on proper enforcement and disciplinary actions. As a result, the Board rejects stipulations because they do not contain adequate disciplinary actions, cases do not go to hearing because the legal staff will not prosecute, and the entire process stops.

We understand that the Board has been very frustrated by its inability to carry out enforcement activities. The Board chair has investigated with the Governor's office the possibility of requesting legal assistance directly from the Attorney General's office. We understand that this may be a viable option.

The Board must investigate and resolve complaints in a timely and effective manner, as required by Title XI. Montana must provide adequate legal assistance to the Board to facilitate

the complaint investigation and resolution process. To assist us in monitoring your progress in this area, the Board needs to report to us each quarter, in writing, information regarding the status of each open complaint. Our staff will be contacting you shortly to discuss the format of this report and reporting dates.

- **Board policy regarding temporary practice does not conform to Title XI and ASC Policy Statement 5.**

The Board's application for temporary practice provides for the permit to be issued for six months or the length of the contract, whichever comes first. Permits cannot be renewed. Under Title XI and ASC Policy Statement 5, temporary practice permits must last at least six months, with one easy extension. Your procedures and application must be changed to conform to these requirements.

- **The Board's file documentation needs to be improved.**

Application, temporary practice, educational, and enforcement files are not maintained in chronological or any other progressive order. Documents appear in files without regard for sequence or pattern. Some documents were duplicated up to five times, while other documents were missing. Most information can be found in notebooks or computer files, rather than in the appropriate "master" file. Nothing in the "master" files indicates that additional information is available in other locations. This, in all likelihood, will create a problem for future administrators. Documentation improvement is an immediate concern because the Administrator resigned effective July 2, 1999.

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. As you requested, we are sending a copy of this letter to Governor Racicot.

If you have any questions, please contact us.

Sincerely,

Herbert S. Yolles
Chairman

cc: Honorable Governor Racicot
Steve Meloy, Bureau Director