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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

December 19, 2001

Lynne C. Hengle, Superintendent  
Ohio Division of Real Estate and  
Professional Licensing  
77 South High Street, 20<sup>th</sup> floor  
Columbus, Ohio 43266-0547

Dear Ms. Hengle:

Thank you for your cooperation and your staff's assistance in the October 17-19, 2001, Appraisal Subcommittee ("ASC") review of the Ohio real estate appraiser regulatory program ("Program").

We found that Ohio has a Program that, in many respects, complies with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"). However, several areas need your attention.

- **The complaint investigation and resolution program needs improvement in three areas.**
  1. Investigators do not always independently verify information provided by complainants and respondents to support or refute possible violations. In several of the cases that we reviewed, investigators failed to gather information independently to assess the validity of assertions made by complainants or respondents. For example, in one appraisal report, the sales prices for all five comparables differed by millions of dollars from sales data from a widely used, highly reliable computer data source. The Division did not request assessment records or other official sales information to support or refute the information that served as the basis of the complaint. We understand that investigators recently gained access to computer-based tools to assist in the investigative process. Use of these references to State data sources enhanced the quality of the most recent complaint investigations that we reviewed. Whether using these or other tools and techniques, investigators must perform thorough investigations that include, when needed, independently verifying information on which investigation decisions and recommendation are made.
  2. Notices of Hearing do not always cite apparent violations of the Uniform Standards of Professional Appraisal Practice ("USPAP"). As provided in ASC Policy Statement 10, States are responsible for investigating allegations of USPAP violations, and, if allegations are proven, taking appropriate action. Investigative reports often identified apparent violations of USPAP. However, the Division did not cite many of the potential violations in the Notices of Hearing. The Division must ensure that its investigators investigate and fully document all USPAP violations. And, the Division must include in its hearing notices all verified USPAP violations identified and supported in investigation reports.

3. The Division does not have established procedures for notifying the Board of past disciplinary actions against appraisers currently being disciplined. It appears that there was a misunderstanding on the part of some Division staff regarding the appropriate use of such information. We understand that this misunderstanding has been eliminated and that the Division is establishing procedures to ensure that the Board is informed of previous violations and sanctions for consideration in its decision-making process for current cases. Such information is necessary for the Board to make informed decisions.

- **Ohio’s temporary practice provisions do not conform to ASC Policy Statement 5.**

ASC Policy Statement 5 provides that temporary practice permits must be issued on an assignment basis, where “assignment” is defined as one or more written real estate appraisal reports prepared under a single contract. We identified at least ten appraisers who, within the last year, were charged temporary practice fees based on a per property basis, rather than a per assignment basis. This burdensome practice caused those appraisers to pay more for their temporary practice rights than is permitted by Policy Statement 5. The Division must initiate the necessary actions to amend State statutes and/or regulations to permit issuing temporary practice permits on an assignment basis, and in conformance with Policy Statement 5.

- **The Division does not maintain documentation to support its decisions regarding appraiser education provider and course approval. Some approved appraisal education courses do not appear to be consistent with Appraiser Qualifications Board (“AQB”) Criteria.**

We were unable to review files supporting the approval or rejection of education providers or courses because the files are destroyed 30 days after action is taken. We understand that the Education Supervisor initiated this records destruction program to save file space. This program is not based on any records retention/destruction statute or regulation.

Destruction of these records creates several problems. First, the records are destroyed without our having an opportunity to review them. This frustrates the intent of Title XI by preventing the ASC from being able to monitor the State’s actions in this area. Second, the Division does not maintain sufficient documentation to defend against potential unlawful discrimination, preferential treatment, or other accusations involving education providers or courses.

The Division needs to create a records retention program that complies with applicable State law. At a minimum, the Division needs to maintain education provider applications, course outlines, and other correspondence relating to both approved and disapproved courses until the ASC has conducted an on-site field review that includes a review of education issues. Generally, we conduct on-site field reviews on a three-year cycle.

According to the AQB Criteria, “the purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his/her skill, knowledge, and competency in real estate appraising.” Because the Division’s files did not retain documentation regarding educational offerings, we identified the following questionable courses based on course titles:

Bargaining negotiations;  
 Communications in Real Estate Acquisition;  
 Utility deregulation and environmental concerns;  
 State Transportation Day;  
 Negotiate effectively with diverse clientele;  
 Railroad day;  
 CMA Presentations and CMA for investments; and  
 Rental maintenance.

The Division must review the courses identified above, and similar courses, for conformance with AQB Criteria. The Division must rescind approval of all courses that do not conform to AQB Criteria and refrain from approving such courses in the future.

- **The Division has not yet begun to address the 2003 AQB Changes.**

The AQB has adopted a series of revisions to its Criteria. These revisions become effective January 1, 2003. Many of the revisions will require State statutory and/or regulatory amendments. The Division has not begun initiating the necessary changes to ensure that these revisions can be implemented on January 1, 2003. We understand that your staff believed that the Criteria revisions still were in a state of flux and not yet adopted. The AQB adopted the revisions on October 27, 2000, with a January 1, 2003 effective date. During the field review, ASC staff provided you and Administrative Assistant Sylvia Keberle copies of the revised Criteria and related implementation guidance. We understand that you have agreed to take the appropriate steps to initiate the necessary changes to conform to the revised Criteria by the effective date. Please keep us informed of your progress to adopt and implement the revised Criteria.

- **Ohio does not use the ASC Web site to assist in processing temporary practice and reciprocal applications.**

Approval of many temporary practice and reciprocal applications are delayed awaiting receipt of a Letter of Certification (*i.e.*, Letter of Good Standing) from appraisers' home States. While on site, ASC staff demonstrated the License History Report feature of our Web site, particularly noting how it provided more comprehensive and up-to-date information regarding all licenses or certificates an appraiser holds or has held. We encouraged your staff to use this feature when processing reciprocal and temporary practice applications.

Considering our concerns regarding Ohio's complaint investigation and resolution program, and the other issues addressed in this letter, we plan to return to Ohio for another field review in approximately 18 months.

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,

Thomas E. Watson, Jr.  
Chairman

cc: Robert J. Weiler, Chairman  
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