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Appraisal Subcommittee

Federal Financial Institutions Examination Council

August 15, 2000

David J. King, Chair
Pennsylvania State Board of Real Estate Appraisers
P.O. Box 2649
Harrisburg, Pennsylvania 17105-2649

Dear Mr. King:

Thank you for your cooperation and the Bureau of Professional and Occupational Licensing staff's ("Bureau") assistance in the June 7-8, 2000 Appraisal Subcommittee ("ASC") review of the Pennsylvania State Board of Real Estate Appraisers ("Board") and appraiser regulatory program ("Program").

Although much of your Program is acceptable and effective, our review revealed two areas of concern. One concern involved Pennsylvania's complaint investigation and resolution program, and the other involved statutory and regulatory inconsistencies with Federal guidance.

- **Complaint Investigation and Resolution**

Pennsylvania's complaint investigation and resolution process takes too much time. Between 1992 and 1997, over 40% of the 291 resolved cases took more than one year to resolve, while at least 20% of the cases took more than two years. Twenty-four cases took three and a half to six years to resolve.

Such extended time periods significantly diminish the effectiveness of your enforcement program. Appraisers needing additional education to perform quality appraisals may not be required to take that education for years, and appraisers committing serious violations can continue performing appraisals for years after their credentials should have been suspended or revoked.

Section 1117 of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"), provides that State appraiser certifying and licensing agencies are to assure effective supervision of the activities of certified and licensed appraisers. As discussed in our *Policy Statement 10 – Enforcement*, users of appraisal services must rely on the States to effectively regulate, supervise, and discipline their certified and licensed appraisers – in other words, to assure their professional competence. An enforcement program that does not resolve cases in a timely manner does not constitute effective supervision.

It appears that the complaint investigation and resolution process itself is the source of most of these delays. Complaints are investigated, reviewed, and processed through a number of decision points in different offices, with each step increasing the processing time. During our review, Board members and Bureau staff indicated that these processing delays were a necessary byproduct of meeting State due process hearing requirements. We noted, however, that, of the 24 cases taking more than three years, only six were resolved through formal hearings. The remainder, either were dismissed or resolved with a warning letter or a consent order.

Pennsylvania's process is the most complex and involved system that we have observed in any State. ASC staff, at your June 8th Board meeting, discussed a number of approaches other States use to reduce case resolution times. Some of these may prove beneficial to Pennsylvania.

Pennsylvania must take the necessary actions to maintain an effective appraiser supervision program. To address our concerns, Pennsylvania must:

1. Shorten the time taken to investigate and resolve complaints;
2. Within 90 days of receiving this letter, report to us its plan for remedying this situation; and
3. Send to us monthly complaint case logs that include the dates cases were opened, the dates actions were taken, action codes, and the dates cases were closed.

- **Inconsistent Statutory and Regulatory Provision** s

Board rules would permit the Board to accept distance education that would not be consistent with Title XI, as implemented by the Appraiser Qualifications Board ("AQB") criteria. AQB criteria require distance education to be conducted by an accredited college or university; approved by ACE/CREDIT; or accepted through the AQB Course Approval Program. While the Board has not approved any distance education courses, you need to amend your Rules to reflect the AQB criteria.

The Board's Rules also would allow appraiser experience credit to be granted for up to 300 hours of teaching experience. This is inconsistent with Title XI as implemented by the AQB criteria. Again, while the Board has not accepted any experience of this nature, you need to amend your Rules to conform to AQB criteria.

We understand that currently you are drafting revised Rules to resolve the inconsistencies with AQB criteria. We would be happy to review the proposed rules for compliance with Title XI and conformance to AQB criteria prior to their adoption by the Board.

In previous field reviews, the ASC expressed concerns about the Certified Appraiser/Broker classification. That classification now is under the Board's authority, and new applications are not being accepted. This certification category has no examination or continuing education requirements, and is restricted to appraising properties in non-federally related transactions. The document evidencing the Broker/Appraiser certification has typed across the face, "FIRREA APPRAISALS NOT AUTHORIZED." Based on ASC staff discussions during our review, some Board members and Bureau staff may not realize that Title XI covers not only "federally related transactions" but also certain "real-estate related financial transactions" (*i.e.*, Fannie Mae and Freddie Mac transactions) that require the use of State certified or licensed appraisers, and that another Federal statute requires the use of these appraisers when appraising FHA-insured properties. To avoid confusion by appraisers and the users of appraisal services, the Board should clearly define, by rule, consistent with Title XI and other Federal statutes and regulations, the very limited scope of practice for the Certified Appraiser/Broker classification.

Pennsylvania does not have a "licensed" appraiser category. This makes it impossible for a Licensed appraiser from another State to obtain temporary practice or reciprocity within Pennsylvania. We encourage you to reconsider your position regarding establishing the Licensed appraiser classification.

- **National Registry Data**

Pennsylvania regularly submits accurate data for the National Registry and is current on Registry fee payments. Our comparison of the State's list of disciplinary actions with those listed on the National Registry, however, indicated that Pennsylvania has failed to submit several disciplinary actions to us as required by *ASC Policy Statement 9 – Information Sharing*.

To address this concern, the Board needs to:

1. Provide a complete, up-to-date listing of all disciplinary actions taken since the beginning of the Program to the ASC; and
2. Report all future disciplinary actions to the ASC in a timely manner.

Please respond to our findings and recommendations within 90 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 90-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