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Appraisal Subcommittee

Federal Financial Institutions Examination Council

February 9, 1998

Garry Reilly, Chairman
Rhode Island Real Estate Appraisal Board
Department of Business Regulation
233 Richmond Street, Suite 230
Providence, Rhode Island 02903-4230

Dear Mr. Reilly:

Thank you for your cooperation and your staff's assistance in the November 19-20, 1997 Appraisal Subcommittee ("ASC") review of the Rhode Island Real Estate Appraisal Board ("Board") and appraiser regulatory program ("Program").

Based on our review, you appear to have an effective education provider review and acceptance process. Additionally, temporary practice requests are handled expeditiously. We found, however, a number of deficiencies that must be addressed before your Program is in full compliance with Title XI. Four deficiencies were noted previously in our March 14, 1994 letter concerning our first field review of your program. These deficiencies concerned: meeting Federal minimum appraiser qualifications standards, providing short temporary practice permit periods, accepting a person's appraisal experience performed only during five years immediately before the person's application date, and limiting the scope of practice for certain appraiser classifications.

- **The Board's enabling act and regulations do not reflect the increased hours of experience required for certification as of January 1, 1998, under Federal law.**

Section 1116(a) of Title XI, 12 U.S.C. 3345(a), requires certified appraisers to meet the minimum criteria for certification as issued by the Appraiser Qualifications Board ("AQB"). Higher education and experience criteria for certified appraisers became effective on January 1, 1998.

Rhode Island has begun to conform to these changes. A recent statutory amendment replaced specific hourly education requirements with a general reference to "the required classroom hours of courses promulgated by the appraiser qualifications board" While this amendment brought the State's education requirements into compliance, the higher experience requirement remain unaddressed. The Board understands its need to make this change, and we learned, in a February 5, 1998 telephone conversation with the Administrator, that the Board discussed this subject at its January 24, 1998 meeting. There, the Board adopted an information sheet incorporating all of the AQB's changes and authorized the distribution of that sheet to your appraisers. Yet, no formal regulations were adopted and a necessary change to your enabling statute regarding experience was not finalized. On the basis of our conversation, we anticipate that a draft statutory amendment soon will be forwarded to, and quickly passed by, your legislature, and that regulation changes will be forthcoming to implement the new and upcoming

amendments.

Until the necessary changes are implemented, the State cannot legally certify new appraisers unless the applicants meet the AQB's revised criteria. From January 1, 1998, until the time conforming changes are implemented, the Board must ensure that each applicant for certification meets the AQB's revised Appraiser Qualifications Criteria for Certified Residential or Certified General Appraiser Classification, as appropriate. In addition, if Rhode Island continues to fail to conform to these AQB criteria for a significant time, renewals of existing certifications could be similarly affected because of the increase in continuing education requirements.

- **Rhode Island provides the ASC with National Registry fees for individuals holding temporary real estate appraiser licenses.**

Appraisers holding a "temporary real estate appraiser license" have completed 75 classroom hours of appraisal-related courses, including USPAP, and have passed your licensing examination. These appraisers have not met your licensing experience requirements and must work under the direct supervision of a certified appraiser. They are prohibited from practicing independently, and they have not met **all** of the eligibility requirements to perform appraisals in connection with federally related transactions under Title XI. For these reasons, these licensees essentially are "trainees." Trainees are not listed on the Registry and do not pay Registry fees. You must cease collecting and remitting to us the Registry fees and data for persons holding "temporary real estate licenses." We will work with you to ensure that affected individuals are appropriately credited or reimbursed.

- **Files often lack formal documentation or notations regarding the reasoning behind enforcement recommendations and decisions.**

Files often lack formal documentation or notations regarding the reasoning behind investigation and enforcement-related decisions. The main enforcement log shows only consumer complaints. Other complaints, such as those initiated by the Board for continuing education violations, are not logged. While most complaints were dismissed, the reasons for dismissal were not always documented and the complainant was not always notified of the dismissal.

The Board needs to ensure that all enforcement activities are adequately documented. This includes: (a) ensuring that all enforcement recommendations or dispositions contain their underlying reasons; and (b) revising the enforcement log to include all complaints received and a brief description of the nature of each case. Board staff and Board members processing complaints should refer to the log, note actions taken under similar circumstances, and ensure that the case file contains a written record documenting the case's passage through the investigatory and decision-making process.

- **Temporary practice requirements are not consistent with ASC Policy Statement 5.**

The Board needs to amend its temporary practice regulations to conform with ASC Policy Statement 5. Currently, Board rules specify that temporary practice privileges expire within 90 days of receipt and that two 30-day extensions may be obtained. As set forth in ASC Policy Statement 5, we consider burdensome any temporary practice permit that is valid for less than six

months and fails to provide for at least one, easy-to-obtain, extension.

- **The State’s scope-of-practice for appraisers is stricter than those allowed by Federal regulations.**

Rhode Island’s scope-of-practice limitations are stricter than those allowed by the Federal financial institutions regulatory agencies’ (“Agencies”) appraisal regulations. The Rhode Island Real Estate Appraiser Certification Act limits licensed and certified residential appraisers solely to the appraisal of residential property. This limitation differs from the Agencies’ regulations that permit licensed and certified residential appraisers to appraise non-residential property for transactions below certain threshold amounts. This restriction may affect not only the appraisers in Rhode Island, but also appraisers from other States seeking temporary practice. The Board should amend its scope of practice requirements to conform with the agencies’ regulations to avoid potential confusion among appraisers and users of appraisal services.

- **The State’s scope of practice for certified residential appraisers is stricter than that established by AQB Criteria.**

Your scope of practice for certified residential appraisers is stricter than that established by AQB Criteria. Chapter 13 of Rhode Island’s regulations states that certified residential appraisers may appraise **non-complex**, one-to-four residential units having **no minimum transaction value** and **complex**, one-to-four residential units having **transaction values of less than \$250,000**. The AQB’s certified residential criteria allow certified residential appraisers to appraise one-to-four residential units **without regard to transaction value or the complexity of the assignment**. While a State may establish a scope of practice that is more stringent than that set forth by the AQB criteria, the stricter standard could confuse appraisers from other States appraising in Rhode Island and users of appraisal services. This confusion places out-of-State appraisers at an increased risk of inadvertently violating Rhode Island’s different scope-of-practice regulations. We recommend that certified residential appraisers be allowed to appraise all transactions involving residential properties without regard to transaction value or the complexity of the assignment.

- **Rhode Island law specifies that experience required of applicants must be gained within two of the five years immediately preceding the date of application.**

The Board’s enabling act and implementing regulations require applicants to obtain their experience within two of the five years immediately preceding their application date. This restriction may discriminate against older appraisers, in particular those who may be working in a supervisory capacity. These individuals would be disqualified from appraising in Rhode Island because they did not have recent appraisal experience. The AQB has specifically considered adopting this limitation, but has rejected it. These provisions should be modified to allow appraisers who obtained experience at an earlier time to demonstrate that they are capable of performing acceptable appraisals under current regulatory and USPAP requirements.

- **Rhode Island does not have reciprocity agreements with any State.**

Rhode Island does not have reciprocity agreements with any State. This is not due to statutory or regulatory restrictions. In fact, the Board failed to respond to formal reciprocity

agreement offers from Missouri and Arizona. As required by Title XI and ASC Policy Statement 6 thereunder, we encourage that the Board initiate reciprocity agreements with, at least, adjacent States.

- **Funding for training and educational purposes is inadequate.**

Due to budgetary constraints and Division policy, the Board and its staff do not receive adequate funding for training and educational purposes. They are unable to attend national and regional appraiser-related conferences. The Board should seek to obtain adequate budgetary funding to attend national and regional appraiser-related conferences (particularly those conducted by us and by other State appraiser regulatory organizations). The education, training, and the exchange of ideas and solutions that occur at these meetings are very beneficial to State appraiser regulatory officials.

Please respond to our findings and recommendations within 60 days from the date of this letter. Until the expiration of that 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 do not hesitate to contact us.

Sincerely,

Herbert S. Yolles
Chairman

cc: Valerie Voccio, Real Estate Administrator