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Appraisal Subcommittee

Federal Financial Institutions Examination Council

January 29, 2004

Mr. Sam Pipkin, Chairman
Tennessee Real Estate Appraiser Commission
Department of Commerce and Insurance
500 James Robertson Parkway, Suite 620
Nashville, Tennessee 37243

Dear Mr. Pipkin:

Thank you for your cooperation and your staff's assistance in the December 5 and 8, 2003 Appraisal Subcommittee ("ASC") review of Tennessee's real estate appraiser regulatory program ("Program"). We also appreciate the assistance of Staff Attorney Alison Zane.

Many aspects of the Program function well. In particular, we were pleased to see the successful resolution of longstanding discrepancies between Tennessee's temporary practice provisions and Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI").

Based on our current review, however, we noted deficiencies in the State's examination acceptance procedures, regulations, and enforcement processes. Tennessee needs to address and resolve these issues to bring your Program into substantial compliance with Title XI.

- **Tennessee does not always conform to Appraiser Qualifications Board ("AQB") criteria when upgrading appraiser trainees to State certified or State licensed credentials.**

We reviewed file and computer records regarding 45 trainees who recently upgraded their credentials to certified residential or licensed status. Of these 45 trainees, six were upgraded to certified residential appraisers and four to licensed appraisers by relying on appraiser examinations passed more than 24 months before the effective date of their certification or licensure. AQB criteria provide that "Successful completion of the examination is valid for a period of 24 months."

In Tennessee, trainees who acquire the required hours of education for a level of licensure or certification may sit for the appropriate exam. Trainees who pass the examinations are advised in writing that their exam results will remain valid as long as they maintain their trainee designation. When trainees obtain the necessary experience, they are permitted to upgrade their credentials to State licensed or State certified without retaking the examination.

On April 26, 2000, the AQB adopted a Criteria interpretation that a successfully completed State licensed or certified examination is valid for 24 months. The AQB notified States of this interpretation in an April 28, 2000 letter to all States. Based on the AQB's *Real Property Appraiser Qualification Criteria and Interpretations of the Criteria*, this criterion became effective July 1, 2000. If an applicant who has passed an examination does not his or her appraiser credential within the 24 month time frame, the applicant must "re-take" the examination before obtaining an appraiser credential or upgrading to a higher level credential. We note that this applies only to original applicants, not those seeking temporary or reciprocal

recognition. The purpose of this criterion is to ensure that an appraiser has passed an examination that incorporates recent USPAP and other appraisal related issues.

To resolve this concern, the Commission needs to:

1. Review the records of all appraisers certified after July 1, 2000, to ensure that the examinations were passed within the appropriate timeframe;
2. Immediately require any certified appraisers who do not meet this AQB criterion to take the appropriate exam;
3. Downgrade those certified appraisers who fail to successfully complete the appropriate examination within 60 days from the date of this letter to either the trainee or licensed level (as determined by the State);
4. Implement procedures to ensure that the Commission conforms to this criterion in the future; and
5. Keep the ASC informed of its progress in addressing this concern.

In addition, we encourage the Commission to ensure that its regulations for the licensed appraiser classification conform to this AQB criterion.

- **Tennessee regulations are not consistent with current AQB criteria.**

Tennessee's regulations are not consistent with AQB criteria changes that became effective January 1, 2003. The regulations do not specify that applicants must take the 15-hour National USPAP Course, or its equivalent, as conducted by an AQB certified USPAP instructor. The regulations also permit applicants to receive appraisal experience credit for textbook authorship, or publishing nonresidential appraisal journal articles, contrary to AQB criteria.

While our staff was on-site, the Commission and Administrative Director agreed to begin immediately the process of amending their regulations to cure these defects. Final adoption is expected on or before August 2004. We recommend that you provide copies of draft regulations to us for review and comment to help ensure that the regulations completely conform to Title XI. Please notify us in writing when the amendments are adopted.

- **Some complaints were not resolved in a timely fashion.**

Most complaints received between January 2001, and December 2003, have been resolved in a timely manner. However, 25 cases received prior to 2001, and dating back to 1996, remain open. Users of appraisal services rely on the States to effectively regulate, supervise, and discipline their certified and licensed appraisers. Prompt investigation and resolution of alleged appraiser wrongdoing is critical to the effective supervision of appraisers and to ensure that public interest is protected. ASC Policy Statement 10 specifies that, absent special documented circumstances, States should investigate and resolve complaints within one year of receipt.

Tennessee needs to take the necessary actions to investigate and resolve this backlog of complaints in a timely manner. Within 60 days from the date of this letter, please provide us with your plan to address this backlog. Also, beginning with the end of the first quarter of 2004, please begin submitting quarterly complaint case logs to us, including the status of each case.

- **Some complaint files lacked adequate documentation regarding the Commission's reasons underlying its final decisions.**

While enforcement actions by the Commission appeared fair and equitable, some enforcement files did not reflect the reasoning behind the Commission's determinations. These actions frequently were taken after the Commission conducted informal conferences with appraisers and/or after the Commission engaged in extensive deliberations. Often, the file documentation did not identify the persons involved in reviewing case materials. As a result, final actions did not always appear consistent with other evidentiary information in the file or Commission discussions.

The Commission should add to each enforcement file documentation supporting the reasons disciplinary actions were taken, and identify the staff, Commission members, and/or contract reviewers involved in the review and/or decision making process.

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,

Steven D. Fritts
Chairman

cc: Sandy Moore, Administrative Director