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Appraisal Subcommittee

Federal Financial Institutions Examination Council

December 22, 2003

L. W. (Wayne) Mayo, Chair
Texas Appraiser Licensing and Certification Board
P.O. Box 12188
Austin, TX 78711-2188

Dear Mr. Mayo:

Thank you for your November 21st letter responding to our June 20th letter. We reviewed your response and have additional comments.

First, we are pleased that you might have found a way to address our mutual concerns about the adverse effects that reduced resources may have on the timeliness of your complaint investigation and resolution process. You stated that the Texas Appraiser Licensing and Certification Board (“TALCB”) and the Texas Real Estate Commission (“TREC”) are entering into a revised Memorandum of Understanding under which the TREC commissioner would take on the responsibilities of serving also as TALCB commissioner.* You state that this organizational change should enable TALCB to hire an enforcement investigator who will manage the enforcement administrative responsibilities and expedite complaint resolution times. We hope you will be successful in this endeavor. As noted in our previous letters, we will continue to monitor your complaint resolution process closely. In that regard, please continue to submit to us quarterly complaint logs.

Second, you state in your letter that TALCB, “by rule or procedure, may not change the provision in [its] Act . . . regarding temporary practice and the specific time-frame.” You then promise that you will bring that issue before the next session of your legislature in January 2005, and that you will work to “make the extension process as smooth as possible.” We do not condone this longstanding *per se* violation of Title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, and ASC Policy Statement 5. The ASC staff, however, will not recommend that the ASC take enforcement action respecting this violation as long as: (1) Texas makes every effort to ensure that temporary practice permit extensions will be granted without delay and at no cost; (2) TREC and TALCB in fact bring appropriate amendments to the Texas legislature at the beginning of the next legislative session; (3) drafts of those amendments are provided to ASC staff for comment to assure that Title XI’s requirements are satisfied; (4) while we recognize that legislative adoption of those amendments

* *ASC Policy Statement 1: State Regulatory Structure and Independence of Functions* does not require State appraiser regulatory agencies to have any particular organizational structure and recognizes that the State appraiser regulatory function may be placed within a State agency such as TREC as long as the integrity of the appraiser regulatory function is preserved. In particular, Statement 1 notes that “States should adopt and maintain an organizational structure for appraiser certification, licensing and supervision that avoids conflicts of interest or the appearance of such conflicts A State . . . may choose to locate its State agency within an existing regulatory body. Any State with its appraiser regulatory function in a department that regulates [real estate licensing/certification, promotion, development or financing functions] must ensure that adequate safeguards exist to protect the independence of the appraiser regulatory function.”

are not within TREC's or TALCB's control, those amendments need to be become State law; and (5) no complaints are received from appraisers seeking a temporary practice permit extension alleging unreasonable delays in obtaining an extension. Of course, when you introduce your legislation, we would be glad to assist in your efforts to obtain approval of that legislation by answering questions of the legislature or providing written documentation and/or support.

Please contact us if you have further questions.

Sincerely,

Ben Henson
Executive Director