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Appraisal Subcommittee

Federal Financial Institutions Examination Council

November 12, 2004

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

Dear Mr. Mayo:

Thank you for your cooperation and your staff's assistance during the follow-up review of the Texas real estate appraiser regulatory program ("Program") in Austin, Texas, on August 31, 2004.

Our follow up review focused on two concerns identified during our November 2002 field review. Our concern regarding temporary practice remains unresolved, and the condition of the complaint investigation and resolution process has worsened. This letter sets forth the Appraisal Subcommittee's ("ASC") findings and recommendations.

- **Complaint investigation and resolution**

Since our November 2002 field review, the status of the complaint investigation and resolution process has significantly worsened. During the current follow-up review, we found that unresolved complaints had increased from 89 to 118 and cases unresolved for more than one year had increased from 15 to 40. Of the 40 cases unresolved for more than one year, one is outstanding from 1999, two from 2000, and one from 2001.

During our follow up review, you and Commissioner Thorburn presented ASC staff with proposed solutions. These solutions were included in the Board's strategic plan, which had been submitted to the governor in July 2004. While additional resources appear to be needed, you and the Commissioner believe that adoption of a plan to extensively reorganize the investigative process is necessary to streamline the process.

The Board proposes to streamline the process in three ways. First, staff would be authorized to make decisions on the investigation and disposition of certain complaints. Second, hearing authority would be transferred from the State Office of Administrative Hearings to an in-house administrative law judge, who also is responsible for hearing Real Estate Commission cases. Third, appeals would be heard by the entire Board. While we believe these proposed changes would improve the current investigation and resolution process, we are concerned that the changes alone will not be sufficient to resolve the overall Program weaknesses. Nonetheless, we are willing to give the Board an opportunity to implement its plan, if approved by the governor.

To assist our efforts to monitor this situation, please keep us informed of your efforts to obtain approval and funding for the strategic plan and continue providing quarterly complaint logs to the ASC. We plan to conduct a full field review in Fall 2005. At that time, we hope to see a substantial improvement in the Board's unresolved complaint case load.

- **Temporary practice restrictions**

Texas statute and regulations limit temporary practice permits to sixty days. ASC Policy Statement 5 provides that limiting the validity of a temporary practice permit to less than six months from its issuance date is burdensome. Burdensome temporary practice provisions, as defined by the ASC, are prohibited by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”).

While the Board has, in practice, structured its temporary practice operation to minimize adverse effects on appraisers, the State’s statute fails to comply with Title XI. Therefore, it is important that the Board support introduction of corrective legislation in the State’s 2005 legislative session so that State law complies with Title XI. Please keep us informed of your efforts in this area.

Also, we noted that the Board’s strategic plan recommends an increase in temporary practice fees as a future action. Under this recommendation, it appears that temporary practice fees could increase to \$200. The ASC has determined in ASC Policy Statement 5 that fees exceeding \$150 are defined as excessive. Title XI prohibits excessive temporary practice fees. If temporary practice fees are revised, please ensure that they comply with ASC Policy Statement 5 and Title XI.

Please respond to our findings and recommendations within 60 days from the date of this letter. Until the expiration of that time 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 follow up 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,

Ben Henson
Executive Director