

# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

May 23, 1997

Benjamin E. Barnett, Chairman  
Texas Appraiser Licensing and  
Certification Board  
1101 Camino La Costa  
Austin, Texas 78752

Dear Mr. Barnett:

Thank you for your cooperation and your staff's assistance in the April 16-18, 1997 Appraisal Subcommittee ("ASC") review of the Texas Appraiser Licensing and Certification Board ("Board") and appraiser regulatory program. The Board and staff were most helpful during the course of our review and we appreciate their assistance. We also commend the Board and its staff for their diligence in correcting deficiencies found during the course of our 1993 review. As a result of these efforts, the Texas Appraiser Licensing and Certification Act and Rules were amended in 1995 and now are generally consistent with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("Title XI").

The following are our findings and recommendations.

- **Several deficiencies threaten the integrity of the Board's enforcement program.**

From reviewing Board minutes and files from 1992 to the present and observing informal hearings conducted by the Enforcement Committee ("Committee"), we found the State to have an active enforcement program. While the Board's complaint resolution process appears appropriately structured, we believe for the following reasons that Committee and Board actions, in all likelihood, could not withstand legal challenge. Moreover, these deficiencies make it difficult for Texas and the ASC to meet their respective supervisory responsibilities.

First, complaint files lack formal documentation of the reasons for Committee recommendations and Board decisions. No investigation report is generated, and even detailed complaints are dismissed without any record of the reasons for dismissal.

Second, enforcement sanctions do not appear to be applied consistently. We noted several instances where apparently similar allegations were resolved very differently. We believe that these inconsistencies were due to the case-by-case rotation of Board members on the Committee. We found that the Board representative on the Committee exerted undue influence on Committee deliberations, and that each Board member seemed to have differing views on the seriousness of Violations and the discipline warranted.

Third, there is an apparent lack of professional training and experience in the enforcement and investigatory resources of the Board. We recognize that you acknowledge your need for a professional investigator. We also note that you have consistently requested funding for a staff or contract investigator, but funding has been rejected by the Texas legislature.

Fourth, the Board's practice of using two volunteer appraisers to separately review appraisals in more complicated cases is ineffective. This contrasts with a number of States that use the peer review process successfully. We found your "peer review panel" procedures to be lacking in two ways. First, peer reviewers have not performed their duties on a timely basis. Cases have remained open for months and even years waiting for peer reviewer reports. Second, the two peer reviews rarely, if ever, agree, and violations cited in one review often are not cited in the other. These discrepancies could seriously hamper Board actions. In fact, we observed an informal hearing where these differences were used by a respondent to dispute the equity of the Board's attempted enforcement action.

For these reasons, the Board should:

1. Ensure that all enforcement meetings by the Board and Committee are documented, at a minimum, by meeting minutes. Additionally, all enforcement recommendations, decisions and other activities should be clearly documented. Committee reports should provide an explanation of why the action to dismiss or sanction an appraiser was taken, and the enforcement log should include a brief description of the nature of the case. The Committee should be instructed to refer to the log, note actions taken under similar circumstances and ensure that each case file contains a written record documenting the case's passage through the investigatory and decisionmaking process;
  2. Ensure that all complaint cases are reviewed, investigated and resolved in a consistent manner. The level of disciplinary action should relate to the severity of the violation;
  3. Obtain necessary resources to ensure that professional investigatory and enforcement resources are available to the Board. The Board should make another specific request of the Texas Legislature's Appropriations Committee to amend the Board's budget to obtain the services of a professional investigator. Sufficient resources in this area should help to ensure that complaints are investigated in a timely manner; investigations are conducted professionally; disciplinary actions are appropriate to the violations; and any resulting penalties are imposed uniformly. Additional resources also should help to ensure that the enforcement process, as a whole, follows appropriate documentation standards and is consistent with both State and Federal Law; and
  4. Review the current "peer review" process and initiate changes to improve the timeliness, consistency and effectiveness of the process. The Board should establish firm due dates for peer review reports. The Board also might consider using a single peer reviewer or creating a way to reconcile differences between peer reviewers before reports are finalized.
- **Unreconciled differences exist between The National Registry of State Certified or Licensed Real Estate Appraisers ("Registry") and the State's appraiser roster.**

Because your Registry submissions are provided quarterly (most recently in March 1997), Texas Registry information is current. At the time of review, a comparison of Registry information to State maintained rosters revealed a difference of 206 appraisers. Seventy-four of these appraisers clearly were licensed or certified after December 31, 1996, the effective date of your last data submission, and would not be included in the Registry. The remaining 132 appraisers were not on the Registry. Attached is a listing of these 132 appraisers. Please verify

their status and submit to us by July 31, 1997, the Registry information and fee for each appraiser who should be on the Registry.

- **Temporary practice permits expire 60 days after issuance, contrary to the ASC Policy Statement 5.**

The ASC recently amended ASC Policy Statement 5 regarding temporary practice to state, among other things, that limiting the valid time period of a temporary practice permit to less than six months after its issuance date is a burdensome requirement under Title XI. You, therefore, need to seek legislation to amend section 15(c)(2) of the Texas Appraiser Licensing and Certification Act to correct this inconsistency.

Please respond to our findings and recommendations within the next 60 days. If you have any questions regarding this matter, please do not hesitate to contact us.

Sincerely,

Herbert S. Yolles  
Chairman

cc: Renil C. Liner, Commissioner

Enclosure