

□ □ □ □ □ □

Appraisal Subcommittee

Federal Financial Institutions Examination Council

January 7, 2004

Ms. Donsia Strong Hill, Secretary
Wisconsin Department of Regulation and Licensing
1400 E. Washington Ave.
P.O. Box 8935
Madison, Wisconsin 53708-8935

Dear Ms. Hill:

Thank you for your cooperation and your staff's assistance in the October 14-15, 2003 Appraisal Subcommittee ("ASC") review of Wisconsin's real estate appraiser regulatory program ("Program"). We also appreciate the assistance of Legal Counsel Ruby Jefferson-Moore and Division Administrator Patty Hoeft. Based on our review, Wisconsin needs to address issues concerning temporary practice, continuing education, and enforcement to bring your Program into substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI").

- **Wisconsin's temporary practice fees are inconsistent with Title XI and ASC Policy Statement 5.**

In late 2001, the Department of Regulation and Licensing ("Department") adopted a fee structure that increased temporary practice fees to \$162, \$167, and \$185 for permits at the licensed, certified residential, and certified general levels, respectively. All fees exceed the \$150 maximum established by ASC Policy Statement 5 under Title XI. The Department must promptly reduce the fees to not more than \$150 per assignment. Please keep us informed of the regulatory process to reduce the fees.

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

ASC Policy Statement 10 specifies that States should investigate and resolve complaints within one year of their receipt. We acknowledge Wisconsin's efforts to improve the efficiency of its complaint investigation and resolution process. Changes made during the last three years apparently have facilitated the effective resolution of most complaints. At the time of the ASC review, however, 16 complaints received between August 1995, and November 2000, remained unresolved. The Board closed six of these cases (including the 1995 case) during its October 2003 meeting, which our staff attended. The Board and Department need to continue these efforts to address this backlog and to ensure that current and new complaints are resolved within one year.

- **Wisconsin's process for enforcing compliance with Appraiser Qualifications Board ("AQB") continuing education criteria is not acceptable.**

With the 2001 credential renewal cycle, Wisconsin began allowing appraisers applying for renewal to submit signed affidavits certifying that they met the AQB's continuing education criteria. In its "affidavit program," Department staff randomly select and audit 10% of renewing appraisers. In accordance with the Department's audit procedures, appraisers who are unable to provide evidence of having obtained 28 hours of continuing education during the preceding biennium must make up the deficiency and pay a fine within 60 days. Appraisers not meeting this obligation are referred to the Division of Enforcement for disciplinary action.

Based on our review, we have serious concerns regarding the Department's affidavit program. For the two-year renewal cycle that ended in 2001, the Department audited 190 appraisers during the early months of 2002. Of these 190 appraisers, 24 (almost 13%) were unable to support their affidavits. These 24 appraisers continued to perform appraisals for as many as 6-12 months without having the required continuing education credits. Furthermore, they apparently filed false affidavits asserting that they met existing State and federal law requirements. Nineteen of these 24 appraisers obtained the necessary continuing education and paid monetary penalties within the 60-day period following notification. The Department referred the remaining five appraisers to the Division of Enforcement for disciplinary proceedings.

It is unacceptable for the Department to allow appraisers who do not comply with Title XI requirements to continue to appraise for federally related transactions during the 60-day "post audit" period, as well as the time periods associated with any resulting disciplinary proceedings. Pursuant to Title XI, AQB Criteria require certified appraisers to obtain the required hours of continuing education for the period preceding credential renewal. Wisconsin law requires licensed appraisers to do the same. States using the affidavit approach for continuing education, like Wisconsin, must suspend a certified appraiser's authority to appraise for federally related transactions immediately, if the audit determines that the appraiser did not have the necessary continuing education and, possibly, falsified his/her application. Additionally, the State also should suspend a licensed appraiser's authority to appraise for federally related transactions immediately for failure to comply with State law and, possibly, falsifying his/her application. The Department needs to establish and implement procedures under which appraisers failing continuing education affidavit audits are removed immediately from federally related transaction eligibility (*i.e.*, the National Registry) until the necessary education is obtained. Wisconsin's inability to suspend a licensed appraiser's credentials also places Fannie Mae, Freddie Mac, HUD, Veteran's Administration, and financial institutions in an untenable position of using appraisers who do not comply with State and federal law.

For the affidavit approach to be effective, the audit process must be timely and it needs to be coupled with a very strong enforcement and suspension program. Based on the information obtained during our review, almost 13% of the audited appraisers failed to support their affidavits. Considering Wisconsin has more than 1,500 certified appraisers, as many as 150-200

could be practicing without meeting Title XI requirements. Additionally, as many as 75-100 licensed appraisers could be practicing without meeting State law requirements. The potential that 200-300 appraisers might not comply with Federal and State law raises serious concerns regarding the State's affidavit program.

Please provide us with the specific steps you plan to take to remedy this deficiency.

- **The Department does not use the ASC Web site's License History Report feature to expedite processing temporary practice and reciprocal applications.**

Wisconsin requires temporary practice and reciprocal applicants to submit an official letter of good standing from their home States. This occasionally creates delays in processing otherwise complete applications. We encourage the Department to rely on the License History Report feature on the ASC Web site to expedite the application 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: Ruby Jefferson-Moore, Legal Counsel