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Appraisal Subcommittee

Federal Financial Institutions Examination Council

January 31, 2011

Via E-Mail

Ms. Mary Howells
Chairperson, Washington Real Estate Appraiser Commission
Real Estate Appraiser Section, Business and Professions Division, Department of Licensing
[REDACTED]

Dear Ms. Howells:

The Washington Department of Licensing (Department) is one of many important State agencies. The Washington Real Estate Appraiser Program (Program) housed within the Department, however, is unique in that the Federal government has oversight and enforcement authority over the Program's federally-related functions and operations pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI). (See Title XI as amended by the Dodd-Frank Reform Act, unofficial red-lined version, on our website at www.asc.gov.)

It has come to our attention that an elimination of the Commission is under consideration. In carrying out Title XI-related duties, State appraiser regulatory programs are advised to adopt an organizational structure for appraiser certification, licensing and supervision that avoids conflicts of interest or the appearance of such conflicts.

Regarding the Commission's possible elimination, ASC Policy Statement 1 sets out the ASC's standards regarding the structure and independence of State Agencies. ASC Policy Statements interpret Title XI. Policy Statement 1, in pertinent part, states:

The ASC does not impose any particular organizational structure upon the States. It is recognized that each State may have legal, fiscal, regulatory or other valid constraints that determine the structure and organization of its [State agency]. States, however, should adopt and maintain an organizational structure for appraiser certification, licensing and supervision that avoids conflicts of interest or the appearance of such conflicts. Ideally, States should maintain totally independent State agencies answerable only to the governor or a cabinet level official who has no regulatory responsibility for real estate licensing/certification, promotion, development or financing functions ("realty related activities"). A State, however, may choose to locate its State agency within an existing regulatory body. Any State with its appraiser regulatory function in a department that regulates realty related activities must ensure that adequate safeguards exist to protect the independence of the appraiser regulatory function.

A State agency may be headed by a board, commission or individual. The organizational structure should provide maximum insulation for the State agency from the influence of any industry or organization whose members have a direct or indirect financial interest in the outcome of the agency's decisions.

Persons appointing officials to a State agency should not be associated or affiliated with an affected industry, i.e., they should not have a direct or indirect financial interest in realty related activities. A State agency head, appointed by the governor and confirmed by the State legislature, would generally be considered independent.

To help you become acquainted with the unique partnership and regulatory structure created by Title XI between the Federal and State governments and the private sector, please refer to our most recent Annual Report and ASC Policy Statements located on our website at www.asc.gov.)

Please contact us if you have any questions.

Sincerely,

[REDACTED]

James R. Park
Executive Director

cc: Mr. Justin Slack, [REDACTED]
Mr. Ralph Birkedahl, Program Manager [REDACTED]