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Appraisal Subcommittee

Federal Financial Institutions Examination Council

September 14, 1998

Catherine A. Reardon, Director
Division of Occupational Licensing
9th Floor State Office Building
P.O. Box 110806
Juneau, AK 99811-0806

Dear Ms. Reardon:

Thank you for your cooperation and your staff's assistance in the August 19-21, 1998 Appraisal Subcommittee ("ASC") review of the Alaska Board of Certified Real Estate Appraisers ("Board") and appraiser regulatory program ("Program").

We congratulate the Board for its efforts in revising Alaska's statute, regulations and procedures to address concerns identified during our July 1993 review. These changes bring Alaska closer to compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("Title XI"). We recognize the significant effort the Board and the Department of Commerce and Economic Development ("Department") made to achieve this goal. We present the following findings resulting from our most recent field review for your consideration and action.

- **For courtesy licenses, Alaska's 90-day effective period, inability to offer a time extension, and limit of one courtesy license per individual per calendar year are burdensome under ASC Policy Statement 5 and Title XI.**

Alaska regulations limit the length of time for which a courtesy (temporary practice) license is valid to 90 days. There is no provision for an extension, and appraisers are limited to a single courtesy license per calendar year. As discussed in ASC Policy Statement 5, we consider these requirements burdensome and contrary to Title XI. Temporary practice permits must be valid for no less than six months and must be easily extended at the request of the appraiser. The appraiser also must be able to obtain at least two such courtesy licenses in a calendar year. Alaska must amend its regulations to conform to Policy Statement 5's requirements.

In a few cases, we noted that the Board took more than five days to issue a courtesy license. This delay resulted from waiting for letters of good standing from other States in which the applicant was certified. Our Internet Web site (www.asc.gov) contains up-to-date information, including disciplinary actions and "good standing" status, on all State certified and licensed appraisers. We encourage the Board to use our Web site to determine an appraiser's "standing" and, thereby, reduce possible delays in issuing courtesy licenses.

- **The Board believes only one appraisal report may be prepared under a courtesy (temporary practice) license.**

The Board's regulations specify that courtesy licenses are issued on an assignment basis and are assessed a \$50 fee. The regulations identify an assignment as the appraisal of identified real estate. The Board, in its February 1997 meeting, stated that the intent was to permit only one legal piece of property to be appraised per courtesy license. We noted that, in 1997, the Board sent a courtesy license holder a warning letter for "violating Alaska regulations" by performing an assignment that resulted in four different appraisal reports. ASC Policy Statement 5 states that temporary practice permits must be awarded on an assignment basis where "assignment" is defined as one or more appraisals prepared under one contract.

The Board must take the necessary action to base courtesy licenses, and associated fees, on an assignment basis, without regard to the number of properties appraised under the assignment, as provided in ASC Policy Statement 5.

- **The Board has not met during 1998 due to the lack of a quorum. As a result, some Board responsibilities have not been fulfilled.**

As of June 30, 1998, three of the five Board positions were vacant due to term expirations and a voluntary resignation. Prior to that time, the inability to achieve a quorum resulted in the cancellation of the winter, spring and summer 1998 meetings. During this time, applications for continuing education and pre-certification course approval and other Board functions could not be processed.

It is critical that a functioning Board exists at all times. If the Board cannot convene due to lack of a quorum or other reasons, staff should be delegated the necessary authority to ensure that Title XI's purposes are not adversely affected by the lack of a functioning Board. We encourage the Board to continue to pursue having appointments made to the vacant positions. In the future, the Board and staff should remain abreast of term expirations, voluntary resignations and other departures to ensure an active quorum of members remain.

- **At the time of the review, Alaska had not submitted information to the ASC regarding disciplinary actions taken by the Board.**

ASC Policy Statement 9, *Information Sharing*, provides guidance for States to submit disciplinary action information to the ASC. These provisions were discussed in our July 31, September 26, and September 30, 1997 letters to all States. At the time of the review, we had not received any disciplinary action information from Alaska. In fact, on September 15, 1997, we received a letter from Alaska stating: "The Board has not taken disciplinary action against any licensee since the inception of the licensing of appraisers in Alaska."

As a result of the review, we now know that 26 complaints alleging misconduct have been filed against Alaska appraisers. Disciplinary actions, including warning letters and at least one suspension, were taken against some of the appraisers. We understand that the Board staff's report to us that the Board had not taken any disciplinary actions may have resulted from Alaska having its enforcement staff in a different department and location from its appraisal board.

administrative staff. Communication between these two groups needs to be improved. It is very important for Alaska to report expeditiously to the ASC any disciplinary action taken against a certified appraiser, in accordance with Policy Statement 9. The Board must submit a report regarding prior disciplinary and warning actions taken by the Department or Board. The Board also must ensure that disciplinary actions are reported to us on at least a monthly basis. The National Registry's value and usefulness are largely dependent on the quality and timeliness of State-collected data. Accurate and frequent data submissions from all States are necessary to maintain an up-to-date Registry.

- **Board regulations do not reference the most current version of USPAP.**

Article 4 of the Alaska Professional Regulations refers to the 1996 edition of USPAP. The 1997 and 1998 versions were not adopted because the Board failed to initiate the actions to do so. We understand that the Board did not finalize its proposed amendment to incorporate the 1997 edition and the lack of a quorum has prevented the Board from meeting to propose amending the reference to the 1998 version.

USPAP frequently changes and affects the manner in which appraisers are required to practice. Failure to incorporate or reference the most recent version of USPAP could adversely affect the Board's ability to pursue disciplinary actions to their desired ends. The Board must take the necessary action to update its regulations in a timely manner each year to avoid referencing an outdated USPAP version.

- **Alaska does not maintain reciprocal agreements with other States.**

Alaska offers reciprocity by endorsement, which essentially waives the examination requirement for individuals certified in good standing in another State. Alaska requires that the home State of the out-of-State appraiser must recognize Alaska appraisers should one apply for reciprocity. Some States, however, are prohibited from providing reciprocity unless they have written agreements with the reciprocal States. In accordance with ASC Policy Statement 6 and Title XI, we encourage you to establish written agreements with those States requiring such agreements.

- **The Board approves continuing education courses only if the courses are at least seven hours in length.**

According to Alaska Statute 08.87.020(3), the Board may not adopt regulations pertaining to real estate certification, continuing education requirements for license renewal, or registered trainees that are more stringent than corresponding minimum Federal requirements. Based on Board policy, continuing education courses of less than seven hours have not been approved. AQB criteria specify a 2-hour minimum course length for a continuing education course. The Board's policy does not appear to be consistent with Alaska's statute. The Board should amend its policy to be consistent with the State's statute.

- **Institutional Appraisers may mistakenly be considered eligible to perform appraisals for transactions requiring a certified appraiser.**

While we understand that no one has received the Institutional Appraiser designation, we support the Board's efforts to eliminate this classification. As expressed in our September 1993 letter regarding the first Alaska field review, we have concerns about the Institutional Appraiser classification, that was established for individuals working for lending institutions and performing in-house appraisal activities. While the regulations seem to consider the product produced by Institutional Appraisers to be "certified" appraisals, such work is not "certified" for Title XI purposes due to the lower education requirement and the lack of an experience requirement. We are concerned that should an appraiser be qualified under the Institutional Appraiser designation, the appraiser could pose a risk to lenders who may wrongly use an Institutional Appraiser's report in a transaction requiring a certified appraiser.

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

Herbert S. Yolles
Chairperson