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Appraisal Subcommittee

Federal Financial Institutions Examination Council

April 18, 2006

Mr. Gregory Syphax, Chairperson
District of Columbia Board of Appraisers
Department of Consumer and Regulatory Affairs
941 North Capitol Street, N.E., Suite 7W50
Washington, DC 20002

Dear Mr. Syphax:

Thank you for your cooperation and that of the staffs of the Department of Consumer and Regulatory Affairs (“Department”) and your contractor, Promissor, during the Appraisal Subcommittee (“ASC”) March 21-23 & 27, 2006 field review of the District of Columbia’s (“District”) real estate appraiser regulatory program (“Program”).

During our previous field reviews, the ASC found serious deficiencies in the District’s Program. In our January 5, 2005 field review letter, the ASC discussed the numerous deficiencies and stated that the ASC would initiate a non-recognition proceeding against the District unless adequate progress toward resolving our concerns was made. In May 2005, the ASC conducted a follow-up field review of the Program. In our August 18, 2005 follow-up review letter, the ASC detailed the limited progress made by the District in its efforts to resolve our outstanding concerns. That letter again placed the District on notice that, should significant improvement not be realized by early 2006, a non-recognition proceeding would be initiated.

We are pleased to report that, based on our March 2006 field review, the District has made sufficient progress to avoid our initiating a non-recognition proceeding at this time. We recognize the efforts by the Board and the Department to address the District’s longstanding Program weaknesses. The District, however, needs to address the concerns identified in this letter, particularly the concern regarding complaint investigation and resolution, to bring the Program into substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”).

We will continue to closely monitor the Program to ensure that the District continues to provide the necessary financial, personnel, and other resources to provide for an effective Program. Therefore, this letter directs the District to provide ASC staff the minutes of each Board meeting and monthly complaint logs showing the current status of all outstanding complaints. Finally, as discussed in more detail below, the District needs to provide us copies of the final statutory and regulatory amendments that have been in process for some time.

The ASC is committed to helping prevent recurrence of the District’s longstanding and recurring problems. We plan to conduct full field reviews of the Program annually. Also, an ASC staff person will attend two Board meetings each year, one in connection with the field

review and another to be scheduled in consultation with the Board. These efforts will allow ASC staff to closely monitor the District's Program until such time as we are convinced that the need for such supervision is no longer necessary.

The remainder of this letter provides a detailed discussion of our previous and current findings within each topic heading.

- **The Complaint Investigation and Resolution Process**

As in most of our previous field reviews of the District, we again found that complaints were not investigated and resolved in a timely manner. Almost all complaints cases had been outstanding for more than one year, thus failing to comply with ASC Policy Statement 10 regarding prompt, effective complaint investigation and resolution.

The District's complaint investigation and resolution program over the years has experienced many problems. These included, for example: files lacked adequate documentation; the Office of the Attorney General rejected Board requests for hearings because case files lacked the necessary support for prosecution; and Department staff investigators claimed that they did not have the expertise to investigate appraiser complaints. In an effort to resolve these issues, the ASC, in its August 18, 2005 follow-up review letter, directed the District to: (1) develop and implement formal procedures for complaint investigation and resolution; (2) devote the necessary resources to eliminate the backlog of cases; and (3) work closely with the Office of the Attorney General and contract investigators to ensure that adequate documentation and support is provided to the Attorney General to facilitate the necessary actions.

The following table summarizes complaint information from our two most recent field reviews and the follow-up review. In summary, the Board had closed only four cases in the past few years.

Field Review Cycle	Complaints received	Complaints outstanding	Complaints at Admin. Law Judge	Complaints outstanding more than 1 year
June 2004	39	32 (83%)	n/a	30 (94%)
May 2005	2	34 (83%)	n/a	32 (94%)
March 2006	2	34 (83%)	11 (32%)	32 (94%)

Although this summary indicates virtually no progress, it appears that the new complaint handling procedures are beginning to have a beneficial impact on the District's case backlog. In June 2005, the Board secured the financial resources to hire contract review appraisers. It sent solicitations to all District certified general appraisers and ultimately selected three appraisers to conduct appraisal reviews. The Board and staff began assigning cases to these contract review appraisers in August 2005. Based on their investigations, the Board closed two cases in February 2006, with settlement agreements calling for 90-day suspensions and payment of substantial monetary penalties.

The Board and staff improved their working relationship with the Office of the Attorney General, and, together, they worked to get 11 cases to hearing based on investigations and the services of the contract review appraisers as expert witnesses. The staff and prosecuting attorney conducted hearings on the cases in January and February 2006, and sought the revocation of the

credentials of the two appraisers involved in these 11 cases. At the time of our field review, the Administrative Law Judge's opinion was forthcoming. The remaining cases were being actively pursued and were in various stages in the investigation/adjudicatory process. We understand that the Board expects to resolve these cases by the end of this year.

The District needs to continue to focus the necessary attention and resources on investigating and resolving complaints in a timely manner and in reducing the current backlog of outstanding cases. To ensure that the ASC stays abreast of your progress in this area, please submit monthly complaint logs to ASC staff reflecting the current status of all outstanding complaints.

- **Board Membership and Participation**

The Board achieved its three-person quorum in November 2004, and met regularly thereafter in an effort to fulfill its responsibilities under Title XI. More recently, the Board met and achieved a quorum in 11 of the past 16 months. A recent vacancy on the Board, however, appears to have contributed to its inability to achieve a quorum in January and February 2006.

As stated in our previous field reviews, for various reasons, the Board failed to meet and attain a quorum for several extended periods. Historically, the Board's inability to meet regularly and achieve a quorum has seriously undermined substantive portions of the District's Program. On November 19, 2004, ASC staff met with District officials to discuss this matter, among other concerns. At that time, District representatives proposed a three-step process to establish a long-term solution. One of the key components to this plan was a planned statutory amendment to replace one appraiser position on the Board with that of a licensed realtor or broker.

During our May 2005 follow-up review and the current field review, ASC staff confirmed that the District met the established goals, although not within specified time frames. The DC Council passed temporary and emergency legislation ("legislative package") on January 4, 2006, to authorize, among other things, the restructured Board composition. The legislative package was effective immediately and will remain so through the end of the 2006, by which time permanent legislation should be in effect. The DC Council held hearings on the permanent legislation on January 24, 2006. ASC staff testified at that hearing, as did District staff and the Board Chair. During the hearing, the bill's sponsor, Councilmember Jim Graham, indicated that he did not foresee any problems getting the permanent legislation passed.

During the current field review, the Board and District staff committed to several additional actions to promote the long-term resolution of this concern. Board members agreed to meet on the third Wednesday of each month and to incorporate those meetings into their personal schedules. Staff will continue to notify members of upcoming meeting dates and reschedule meetings when necessary. Business and Professional Licensing Administration Branch Chief Cheryl Randall-Thomas will notify Office of Boards and Commissions Director Ronald Collins when a Board member has two unexcused absences. Mr. Collins agreed to contact those Board members to encourage their participation on the Board and to assess their continuing willingness to serve on the Board.

To allow the ASC to monitor the Board's meeting activities, the Board needs to:

1. Provide Policy Manager Vicki Ledbetter a copy of its meeting minutes monthly; and
2. Work with ASC staff to facilitate an ASC staff member's attendance at District Board meetings twice yearly for the foreseeable future.

- **Temporary Practice**

During the June 2004 field review, we found that the District increased its temporary practice fee from \$150 to \$165 and, subsequently, to \$215 in late 2004. In ensuing correspondence, the ASC advised the Board that the \$215 fee was excessive and in violation of both Title XI and ASC Policy Statement 5. In a December 27, 2005 letter, the Board stated that, effective January 1, 2006; it would waive the \$65 application fee (which was part of the \$215 fee), thereby reducing the temporary practice fee to \$150, the maximum allowable amount under Title XI and ASC Policy Statement 5.

During the March 2006 field review, ASC staff confirmed the District's implementation of the fee change. The District revised its temporary practice application to reflect the \$150 fee and made that new application available on its Web site. In addition, one of the proposed regulations discussed earlier is being amended to clarify that the District will offer temporary practice permit extensions upon request for no additional fee.

Please keep ASC staff advised of the status of the new amendment authorizing the District to grant temporary practice permit extensions.

Please respond to our findings and recommendations within 60 days following the receipt 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.

Please contact us if you have further questions.

Sincerely,

Virginia M. Gibbs
Acting Chairman

cc: Honorable Anthony A. Williams, Mayor
Ronald Collins, Director, Office of Boards and Commissions
Cheryl Randall-Thomas, Branch Chief
Clifford Cooks, Applications Officer