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August 29, 2002

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Mr. Jesse G. Synder, Chairman
Appraisal Subcommittee
2000 K Street NW, Suite 310
Washington, DC 20006

Dear Mr. Synder:

This letter is in response to your findings and recommendations following the field review of the Hawaii Real Estate Appraiser Program, as set forth in your letter dated July 10, 2002.

- **Temporary Practice permits are not processed in accordance with Title XI and ASC Policy Statement 5.**

With regard to your comment that several applications for temporary practice permits required thirty days or more to process, a review of applications for temporary practice showed that a majority of **complete** applications were processed within five business days. Further, a majority of applicants with **incomplete** applications were notified of any deficiencies needed to complete the application process. Whether an applicant cures the deficiency within five business days of the notice is beyond the Department's control.

A review of permit files revealed that several delays were indeed caused by the applicant's failure to provide a copy of the contract for appraisal services. Accordingly, the Real Estate Appraiser Advisory Committee ("Committee") reconsidered the purpose and benefit of this requirement at their August 7, 2002 meeting. As a matter of explanation, the requirement to submit a copy of the appraisal contract was enacted to comply with the definition of "assignment" as stated in Policy Statement 5 as follows:

"For temporary practice purposes, the ASC regards the term "assignment" as meaning one or more real estate appraisals and written reports which are covered by a contract to provide an appraisal'.

However, based on your statement that Hawaii is the only State that requires a copy of the contract/assignment, the Committee decided to delete the requirement from the Hawaii Administrative Rules. The Department will commence the rulemaking process to make the amendments.

- **The Department's complaint investigation and resolution process does not conform to ASC Policy Statement 10.**

We were recently made aware of the revision to ASC Policy Statement 10, effective January 1, 2001, that provides "absent special documented circumstances, final State agency administrative decisions regarding complaints should occur within one year of the complaint filing date." As was noted in our discussions with ASC reviewers, an arbitrary one-year time frame from complaint receipt to final order may not be realistic because (1) the pace of the administrative hearings process rests with the administrative hearings officer and not with the enforcement agency, (2) our investigative staff relies on the use of volunteer advisory committee members (ACMs) to provide an independent review of the evidence and issue an opinion as to whether a licensing violation occurred, and has had some difficulty locating suitable volunteers. Because our state is composed of a number of islands, and because each island has unique real property issues that may affect valuation, we attempt where possible to obtain ACMs from the island in which the appraised property is located. This means that the challenges in obtaining a volunteer ACM willing to testify are particularly acute on the neighbor islands, where the pool of licensees is significantly smaller than on Oahu. We have sought suggestions from your staff regarding a suitable solution to the ACM problem and look forward to further dialogue on this issue.

In addition, we re-examined each of the cases that were reviewed and concur that in some cases, the investigative or legal review was complete except for the issuance of the warning letter. Staff has been fully apprised of the requirements of ASC Policy Statement 10 and of the need to document factors that would cause the disposition of a case to take longer than one year.

With regard to your comment that "...where violations were documented, the disciplinary actions taken did not appear to correspond with the severity of the violations", we have had an opportunity to review these case files as well and it appears that reasonable minds may differ on the appropriate sanction to be imposed under particular circumstances. To the extent a larger national perspective may be helpful in the case evaluation process, your staff has been generous in providing follow up commentary and feedback and in suggesting contacts that we may wish to access in other states.

Regarding the three cases that were pending at the time of your review, a warning letter dated June 14, 2002 was issued in REA99 2L & 3L (the two complaints involved the same transaction and the same respondent). The remaining pending matter remains set for hearing in late August.

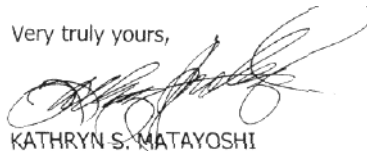
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- **Hawaii needs to adopt recent amendments to the Appraiser Qualifications Board ("AQB") Criteria that become effective January 1, 2003.**

In **response** to your finding that "Hawaii needs to adopt recent amendments to the AQB Criteria that will become effective January 1, 2003", we are currently working on amendments to the Hawaii Administrative Rules and will implement the necessary **changes**. We will keep your Committee informed of our progress. To ensure that we have the most current information, we request a complete copy of the AQB's criteria.

Thank you for your attention to this matter. Should you have any questions, please contact Candace Ito at (808) 586-2704.

Very truly yours,



KATHRYN S. MATAYOSHI
Director

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