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Appraisal Subcommittee

Federal Financial Institutions Examination Council

November 23, 2005

Ms. Pamela D. Griebel
Assistant Attorney General
Department of Justice
Hoover Building
Des Moines, IA 50319

Dear Ms. Griebel:

Thank you for your November 15, 2005 letter responding generally to the Appraisal Subcommittee's ("ASC") November 3, 2005 field review letter. You requested an extension of time to the end of January 2006, for the Iowa Real Estate Appraiser Examining Board ("Board") to respond more fully to our November 3rd letter. We are granting the Board's extension request and would appreciate receiving the Board's response by close of business, Friday, January 27, 2006.

In your letter, you noted that the course approval issue discussed in our November 3rd letter is likely moot because the course "sponsors are expected to withdraw the courses." You also stated that you "were surprised that the Subcommittee will not approve courses targeting ethical issues arising in real estate transactions from the perspectives of both the appraiser and the parties."

The ASC does not approve courses. It is Iowa's responsibility under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, ("Title XI") to determine whether educational courses for qualifying and continuing education meet the Appraiser Qualifications Board's ("AQB") certification criteria. Indeed, the ASC, in its November 3rd letter, identified six continuing education courses (including the ethics related courses) "that *appeared* inconsistent with the AQB criteria's provision that, 'the purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his/her skill, knowledge and competency in real estate appraising.'" We did not determine that these courses, in fact, were inconsistent with that provision. Indeed, that determination was impossible because of the lack of course documentation. If the Board, upon reviewing the particulars of these courses, determines that they will maintain and increase an appraiser's skill, knowledge, and competency in real estate appraising, then the Board may appropriately approve those courses as acceptable sources of continuing education.

You also preliminarily responded to the issue regarding Iowa issuing certified appraiser credentials supported by examination results that were more than two years old, which is inconsistent with AQB criteria. In your letter, you stated that "a number of states apparently did not construe the [ASC's] communications as mandating changes in state law. Susan has no record, in fact, that the ASC's 2002 auditors raised Iowa's examination rules as a deficiency."

Later in your letter, you noted that that this deficiency was one “prior [ASC] auditors didn’t even deem important enough to mention in an audit report.”

Iowa was notified about this Interpretation before its effective date. The Interpretation became effective on July 1, 2000, and the AQB notified Iowa, and all the other States, about this requirement in an April 28, 2000 letter. In addition, the ASC notified Iowa, and all other States, in a May 22, 2000 letter about the AQB’s adoption of the Interpretation and its impending effective date. In addition, the Interpretation was included in each issue of the AQB Real Property Appraiser Qualifications Criteria and Interpretations of the Criteria since July 2000. And, finally, the Interpretation was discussed at length at every Association of Appraisal Regulatory Officials meeting since the fall 2000 meeting. We understand that Iowa officials attended most, if not all, of those meetings.

We agree that we did not note this deficiency during our September 2002 field review. That failure, however, was not because the issue was not “important enough to mention.” Either ASC staff did not review any appraiser certification files that revealed the Board’s failure to conform to the AQB Interpretation, or we failed to identify the deficiency when we reviewed the file. In any event, the fact that we did not identify the deficiency during our 2002 field review is irrelevant. Iowa had been notified about the Interpretation and was responsible under Title XI to conform to the Interpretation.

The balance of your letter discusses how the AQB Interpretation deleteriously affects associates wishing to qualify for certification using the Board’s preferred method. While we appreciate your concerns, we must again note that this is not an ASC requirement. If you wish to have this requirement changed, we suggest that you contact the AQB directly regarding your concerns.

Finally, you state that “there is no lawful basis for ‘decertification’ under Iowa law. The Board lacks a lawful basis to mandate retesting.” And, noting that the Board has changed its rules, among other things, to ensure conformance with the AQB Interpretation, you ask that the ASC “[amend its] suggested remedy, accepting instead the Board’s future compliance.”

The ASC cannot allow Iowa or any other State to issue certified credentials that, on their face, authorize appraisers holding those credentials to perform appraisals in federally related transactions when those appraisers have not conformed to AQB criteria. To allow them to continue performing appraisals in federally related transactions would misrepresent their authority to federally insured financial institutions and other users of appraisal services.

The affected appraisers have a choice. They may wish to retake the appropriate certification examination and, in all likelihood, pass it. Or, they may choose not to retest. If they choose not to retest, then those appraisers would fail to meet one of basic requirements for certification.

We understand that the affected appraisers’ certifications were issued in compliance with State law. This fact creates a possible option for appraisers who choose not to retake the appropriate certification examination. It is permissible under Title XI for a State to issue appraiser credentials other than federally-recognized “certified” credentials. A few States issue such credentials. These appraiser credentials are valid for State purposes, but not Federal purposes. Therefore, holders of these credentials are authorized to perform appraisals only in

non-federally related transactions. Iowa could choose to issue such credentials to the appraisers who choose not to retake the appropriate certification examination. Because Iowa does not have a licensed classification, the option of downgrading appraisers to that level is not available.

If you choose to take this route, please consider that ASC Policy Statement 8 requires that any State agency issuing these kinds of credentials “must ensure that any potential user of that appraiser’s services is aware that the appraiser’s certificate or license is limited to performing appraisals in connection with non-federally related transactions. The State agency must place a conspicuous notice directly on the face of any evidence of the appraiser’s authority to appraise stating, ‘Not Eligible To Appraise Federally Related Transactions.’” Appraisers holding these credentials cannot be included in the National Registry.

We look forward to the Board’s response in January.

Sincerely,

Ben Henson
Executive Director