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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

November 3, 2005

Ms. Kelly Davids, Superintendent  
Ohio Division of Real Estate and Professional Licensing  
77 South High Street, 20<sup>th</sup> floor  
Columbus, Ohio 43215-6133

Dear Ms. Davids:

Thank you for your and your staff's assistance in the August 17-19, 2005 Appraisal Subcommittee ("ASC") review of Ohio's real estate appraiser regulatory program ("Program"). We also appreciate the cooperation of the Ohio Real Estate Appraisers Board ("Board").

We are pleased to see some progress towards resolving two longstanding concerns, temporary practice policies and the complaint investigation and resolution process, which have been cited in our three previous field review letters and our 2004 follow-up review letter. While Ohio has made progress towards resolving these concerns, we encourage the Ohio Department of Commerce, Division of Real Estate and Professional Licensing ("Division") and Board to continue to devote the time and resources needed to bring the Program into full compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"). Should the current proposed legislation regarding temporary practice not become law, or should the Division fail to substantially improve its complaint investigation and resolution program by the time of our 2006 field review, the ASC will consider initiating a non-recognition proceeding for Ohio's longstanding failure to comply with Title XI under § 1118(b) of that Title, 12 U.S.C. 3347(b).

To monitor Ohio's progress toward resolving these concerns, ASC staff will return for a full review of the Program within approximately 12 months from our August 2005 review.

The remainder of this letter details our findings and necessary corrective actions.

- **Ohio's temporary practice provisions do not comply with Title XI and ASC Policy Statement 5.**

ASC Policy Statement 5, among other things, requires States to issue temporary practice permits on an assignment basis, where assignment is defined as one or more written real estate appraisal reports prepared under a single contract. That Policy Statement also prohibits temporary practice fees in excess of \$150. Ohio fails to comply with both of these requirements.

Ohio's temporary practice provisions have not complied with Policy Statement 5 since its adoption in April 1997. We previously cited this deficiency in our 1998, 2001, and 2004 field review letters and 2004 follow-up review letter. Despite these letters and other communications notifying the State that it must change those provisions, Ohio has continued to limit each temporary practice permit to only one appraisal. Moreover, appraisers still were being charged \$100 per appraisal to complete work performed under a multi-property contract. Therefore, if an

assignment were to involve two appraisals, the temporary practitioner would have to pay \$200, thereby exceeding the \$150 per assignment maximum fee allowed under ASC Policy Statement 5. Over the years, Ohio has stated that forthcoming curative statutory amendments would be introduced in the State legislature. Although some amendments were introduced, the changes were not adopted.

Recently, Ohio has taken additional action to attempt to cure this longstanding deficiency. Senate Bill 144 has been introduced in, and passed by, the Ohio Senate. This bill includes changes that, if adopted, would bring Ohio's temporary practice provisions into compliance with Title XI and ASC Policy Statement 5. SB 144 passed the full Senate 33 – 0 during its last session. We understand that the bill now is scheduled for consideration in the House of Representatives after this summer's recess.

Until that bill becomes law, Ohio's temporary practice provisions remain in conflict with Title XI and ASC Policy Statement 5 and must be changed as soon as possible. The Division must take all necessary steps to ensure the expeditious adoption of SB 144 and must keep us informed of the status of its efforts.

- **Ohio's complaint investigation and resolution program does not comply with Title XI and ASC Policy Statement 10.**

Ohio's complaint investigation and resolution program does not comply with Title XI and ASC Policy Statement 10 because Ohio does not investigate and resolve most complaints in a timely manner. ASC Policy Statement 10 provides that State appraiser regulatory agencies need to process complaints on a timely basis and that, absent special circumstances, final State administrative decisions regarding complaints should occur within one year of the complaint filing date.

We previously cited the State for this deficiency in our 1998, 2001, and 2004 field review letters and 2004 follow-up review letter. During previous field reviews, we found that the Division's policy of using formal hearings to resolve most complaints was costly and time-consuming. Staff turnover and increases in the number of complaints also contributed to delays in resolution. With each of the previous field reviews, this problem worsened.

During this field review, we found that 199 cases were outstanding, with 83 outstanding for more than one year. Of those 83 cases, 69 were over one year old, nine were more than two years old, four were over three years old, and one was more than four years old.

During our field review, ASC staff found that Ohio has undertaken steps to improve its complaint investigation and resolution program. In March 2005, Ohio adopted rules allowing the Division to informally settle disciplinary cases. The new rules move Ohio away from having to use the full hearing process as the primary method of case resolution. Also, Ohio hired an additional investigator since our February 2004 field review, bringing the total number of investigators to four.

The Division and Board need to continue to devote the time and resources needed to bring Ohio's complaint investigation and resolution program into full compliance with ASC

Policy Statement 10. We will continue to closely monitor the status of this program. In that regard, please provide us complaint logs on a quarterly basis.

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

Sincerely,

Virginia M. Gibbs  
Chairman

cc: Lawrence A. Kell, Chairman  
Ohio Real Estate Appraisers Board

Sylvia Keberle, Administrative Assistant  
Ohio Division of Real Estate and Professional Licensing