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Appraisal Subcommittee

Federal Financial Institutions Examination Council

November 13, 2006

Kelly Davids, Superintendent
Ohio Department of Commerce
Division of Real Estate and Professional Licensing
77 South High Street, 20th floor
Columbus, Ohio 43215-6133

Dear Ms. Davids:

Thank you for your cooperation and your staff's assistance in the September 28-29, 2006 Appraisal Subcommittee ("ASC") follow-up review of Ohio's appraiser regulatory program ("Program"). In our November 3, 2005 field review letter, we notified the Ohio Real Estate Appraisers Board ("Board") and the Division of Real Estate and Professional Licensing ("Division") that Ohio's Program was not in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"). We identified two areas of concern that needed prompt corrective action. During our follow-up review, we focused on these two concerns.

As discussed in more detail below, Ohio has resolved one of our concerns and has made some progress towards addressing the other concern. This letter sets forth the ASC's findings and the actions that the Board needs to take to bring the Program into substantial compliance with Title XI.

Previous Findings, Current Status, and Recommended Action

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

Previous Finding: The ASC found that Ohio's complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10 because many complaints were not investigated and resolved in a timely manner. Title XI requires State appraiser regulatory agencies to adequately supervise their appraisers. Investigation and resolution of complaints in a timely manner is a key element to effective supervision. ASC Policy Statement 10 provides that States need to process complaints on a timely basis and that, absent special documented circumstances, final State administrative decisions regarding complaints should occur within one year of the complaint filing date.

We had previously cited the State for this deficiency in our 1998, 2001, and 2004 field review letters. During our 2005 field review, we found that 199 cases were outstanding, with 83 (42%) outstanding for more than one year. Many of those 83 cases had been outstanding for two or more years.

To address this concern, we directed the Board and Division to devote the time and resources needed to bring Ohio's complaint investigation and resolution program into full compliance with ASC Policy Statement 10.

Current Status: Since our August 2005 field review, the average number of complaints received per year doubled, from 139 to 291; the number of outstanding complaints increased 98% from 199 to 394; and the number of complaints outstanding for more than one year increased 54% from 83 to 128. Of the 128 cases outstanding more than one year, many had been outstanding for two or more years. Of the 128 aged cases, 48 (including all of the cases more than two years old) were pending settlement or hearing, 46 were pending the filing of charges, and 34 were in advanced stages of investigation.

The following chart summarizes Ohio's complaint statistics.

Field Review Date	Complaints received	Average # of complaints received per year	Complaints outstanding	Complaints outstanding more than 1 year
Oct. 2001	132 (3 yrs.)	44	48	14 (29%)
Feb. 2004	185 (3 yrs.)	62	168	100 (60%)
Aug. 2005	209 (18 mos.)	139	199	83 (42%)
Sep. 2006	291 (1 yr.)	291	394	128 (32%)

Ohio has taken steps to improve its complaint investigation and resolution program. The Division used its new regulatory authority to informally settle 28 cases. Also, Ohio hired an additional investigator since our August 2005 field review, bringing the total number of investigators to five. In March 2006, Ohio hired an attorney who is also a certified residential appraiser. The attorney performs legal reviews of complaint investigator reports and makes recommendations regarding how each charge can be proven, as well as proposed settlement terms. These recommendations have proven helpful to the Division superintendent and to the assistant attorneys general during the settlement and hearing process.

Overall, it appears that Ohio made an effort to improve the timeliness of its complaint investigation and resolution process. While the number and percentage of complaints outstanding for more than one year remains unacceptably high, the percentage has decreased significantly since February 2004.

Necessary Action: While we appreciate Ohio's efforts to improve the timeliness of its complaints investigation and resolution program, much work remains. The Board and Division need to continue to focus the necessary resources in this area to bring the Program into substantial compliance with Title XI. When we return for our next field review in 2007, we expect to find a substantial reduction in the number of aged complaint cases and a complaint investigation and resolution program in which complaints are processed in a timely manner as required by ASC Policy Statement 10. Please continue providing to Jenny Tidwell at jenny@asc.gov electronic copies of complaint logs on a quarterly basis.

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

Previous Finding: During our August 2005 field review, the ASC found that Ohio's temporary practice provisions did not comply with the temporary practice requirements of Title XI and ASC Policy Statement 5. Statement 5 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. Statement 5 also prohibits temporary practice fees in excess of \$150. Ohio failed to comply with both of these requirements.

Ohio's temporary practice provisions had 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 continued to limit each temporary practice permit to one appraisal. Additionally, appraisers were 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 Policy Statement 5. Over the years, the Board's and Division's efforts to obtain a statutory amendment to correct these weaknesses were unsuccessful.

Current Status: On December 23, 2005, Ohio Senate Bill 144 was signed into law with a March 23, 2006 effective date. This statutory amendment brought Ohio's temporary practice provisions into compliance with Title XI and ASC Policy Statement 5.

Necessary Action: None. We appreciate the Board's and Division's efforts to introduce, garner support for, and achieve passage of this curative legislation.

If you wish to respond to our comments, please do so within 60 days from the date of this letter. 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 follow-up 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,

Ben Henson
Executive Director

cc: Margaret Hambleton, Chairman
Ohio Real Estate Appraisers Board

Doug White, Director
Ohio Department of Commerce