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Appraisal Subcommittee

Federal Financial Institutions Examination Council

September 17, 2007

Ms. Kim Holland, Chair
Oklahoma Department of Insurance
Real Estate Appraiser Board
P.O. Box 53408
2401 N.W. 23rd Street, Suite 28
Oklahoma City, OK 73152-3408

Dear Ms. Holland:

Thank you for the cooperation and assistance of the Oklahoma Department of Insurance (“Department”) and the Real Estate Appraiser Board (“Board”) in the August 1-3, 2007 Appraisal Subcommittee (“ASC”) review of Oklahoma’s real estate appraiser regulatory program (“Program”). Based on our review, Oklahoma needs to address the following two concerns to bring its Program into substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”).

- **Oklahoma’s complaint investigation and resolution process failed to comply with Title XI and ASC Policy Statement 10 E.**

Under Title XI and ASC Policy Statement 10 E, State agencies need to process complaints of appraiser misconduct or wrongdoing on a timely basis. Absent special documented circumstances, final State agency administrative decisions regarding complaints should occur within one year of the complaint filing date. For many complaints, Oklahoma failed to meet these requirements. The chart below provides summary statistics:

| Field Review Cycle | Complaints received | Complaints outstanding | Complaints outstanding more than 1 year |
|---------------------------|----------------------------|-------------------------------|--|
| February 2005 | 111 (37/year) | 26 | 10 (38%) |
| August 2007 | 165 (66/year) | 52 | 33 (63%) |

Since our 2005 field review, Oklahoma improved many aspects of its complaint investigation and resolution process and successfully obtained additional resources to carry out those responsibilities. Additionally, complaint files were well-documented and disciplinary actions appeared consistent and equitable. A high percentage of outstanding cases, however, had been outstanding for more than one year. Title XI requires a State to adequately supervise its certified and licensed appraisers. A timely, effective complaint investigation and resolution program is critical to effective supervision.

Of the 33 complaints outstanding for more than one year, three were received in 2001, two in 2002, two in 2004, eight in 2005, and 18 in 2006. Four of these cases were on appeal to

the District Court. Investigations regarding 14 of the complaints were completed and the cases were being actively prosecuted.

We understand that a District Court recently reversed a Board decision based on a 1996 State Supreme Court case. Since that District Court order, the Governor regularly has had to appoint temporary Board members to ensure that the Board could meet its supervisory requirements. At its August 3, 2007 meeting, the Board approved emergency rules regarding “geographic areas” represented by Board members and took certain other actions to ameliorate the impact of the District Court decision. We trust that these actions will prove effective.

To address this concern, the Department and Board need to:

1. Continue their efforts to ensure that all complaints are investigated and resolved on a timely basis, as required by Title XI and ASC Policy Statement 10 E; and
 2. Provide ASC Policy Manager Kristi Klamet (Kristi@asc.gov), via email, with monthly complaint logs.
- **Oklahoma’s regulations regarding reinstating an appraiser from Inactive to Active status failed to conform to AQB criteria.**

Since September 2005, an AQB criteria Interpretation requires that, prior to reactivation, credential holders in Inactive status must complete all required continuing education hours that would have been required if the credential holder had been in Active status. The Board’s regulation regarding reinstatement of credentials lapsed for 91 days to 24 months only requires reinstating appraisers to file an application for reinstatement and pay appropriate fees. After 24 months, the appraiser must re-apply by completing all of the State’s education, experience, and testing requirements, in addition to paying applicable fees. Nothing in the regulation requires reinstating appraisers to complete continuing education. The Board, however, stated that in practice it requires reinstating appraisers to conform to AQB criteria.

Notwithstanding Board practice, ASC staff found one instance where a certified appraiser’s credential was reinstated without having the necessary continuing education. The appraiser’s credential expired in October 2004. At that time, the credential holder needed 42 hours of continuing education to renew his credential (based on a three year renewal cycle). The credential holder had 31 hours of acceptable continuing education and allowed his credential to lapse. In September 2006, the credential holder submitted an application for renewal/reinstatement with documentation for the “remaining” 11 hours of required continuing education. Program staff reinstated the credential with a new effective date (October 2006) and an expiration date of October 2009. Under AQB criteria, the State should have required 70 hours of continuing education (14 hour per year for 2002-2006).

To address this concern, the Board needs to:

1. Cease allowing appraisers with lapsed certifications to reinstate their certifications unless they conform to AQB continuing education criteria;

2. Revise its regulation to require that reinstating credential holders complete all required continuing education hours that would have been required if the credential holder was in an Active status;
3. Provide the ASC with a copy of the draft regulation for our review and comment and forward a copy of the adopted regulation to the ASC;
4. Within 30 days from the date of this letter, identify each appraiser whose certified credential was reinstated from September 2005, to present, to determine if the credential holder had the necessary amount of continuing education as required by the AQB Interpretation;
5. Within 45 days from the date of this letter, for each appraiser who did not have sufficient continuing education to support reinstatement of his/her credential, advise the appraiser in writing of the number of hours of additional continuing education required that he/she must take, within 60 days, to maintain his/her certified appraiser credential. NOTE: This “make up” education cannot be used to meet the requirements for another continuing education cycle;
6. Within ten days after the close of the 60-day period for appraisers to obtain the necessary education, determine which certified appraisers have not earned the necessary hours of education and either promptly downgrade the appraisers to a non-certified classification or recall their certifications and reissue them over stamped with the phrase, “Not Eligible to Appraise Federally Related Transactions.” Appraisers choosing over stamped credentials will be changed to Inactive status on the National Registry; and
7. Within 20 days after the close of the 60-day period for appraisers to obtain the necessary education, provide the ASC a spreadsheet identifying:
 - a) Each appraiser who reinstated a credential during the target time period;
 - b) The results of each appraiser’s continuing education audit, including the number of additional continuing education hours needed, if any;
 - c) Whether the appraiser has taken the necessary “make up” education; and
 - d) The disciplinary action, if any, being taken for each non-compliant appraiser.

Please respond within 60 days from the date of this letter. Until the expiration of that time 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 any questions.

Sincerely,

Virginia M. Gibbs
Chairman

cc: Rod Stirman, Director, Real Estate Appraiser Board