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Appraisal Subcommittee

Federal Financial Institutions Examination Council

November 13, 2007

Mr. Lowell K. Griffin, Chairperson
Indiana Real Estate Appraiser Licensure
and Certification Board
Indiana Professional Licensing Agency
402 W. Washington, Room W072
Indianapolis, IN 46204

Dear Mr. Griffin:

Thank you for the cooperation and assistance of the Indiana Real Estate Appraiser Licensure and Certification Board ("Board") and the Indiana Professional Licensing Agency ("IPLA") in the October 9-11, 2007 Appraisal Subcommittee ("ASC") review of Indiana's real estate appraiser regulatory program ("Program"). Based on our review, Indiana needs to address the following concerns to bring the Program into substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, ("Title XI").

ASC staff will return within six months to review the corrective actions taken by the Board and IPLA. Should ASC staff find during this follow-up field review that the State failed to make sufficient progress towards remedying the first deficiency discussed below, the ASC will consider whether to initiate a non-recognition proceeding against the State under § 1118 of Title XI.

- **Indiana approved continuing education courses that appeared inconsistent with Appraiser Qualifications Board ("AQB") criteria and failed to document the continuing education course approval process.**

During our December 2006 field review, ASC staff reviewed continuing education audit files for certified appraisers from the two year renewal cycle that ended December 31, 2005. Twelve of those files contained continuing education course certificates that appeared inconsistent with AQB criteria. Those courses apparently were used by some appraisers to meet the continuing education requirements for credential renewal. These 12 courses were:

1. National Association of REALTORS® Code of Ethics;
2. Premier School of Real Estate Code of Ethics and Professional Standards;
3. Metropolitan Indianapolis Board of REALTORS® Code of Ethics;
4. Fort Wayne Area Association of REALTORS® Code of Ethics;
5. License and Escrow Law;
6. Agency Law;
7. Multi-Generational Marketing;
8. Innovative Marketing;
9. Click & Close: Working with the e-buyer;
10. Listing Contract & Related Documents;

11. Settlement Procedures; and
12. Effective Negotiations

During the December 2006 review, IPLA staff was unable to locate and/or provide any documentation for these 12 courses or the decision-making process supporting approval of the courses. The ASC's March 14, 2007 field review letter directed the Board and/or IPLA to:

1. Obtain appropriate documentation for each of the 12 courses identified above;
2. Review the documentation to determine whether each course, or portion of a course, conformed to AQB continuing education criteria;
3. By April 30, 2007, submit to ASC staff a listing of the 12 courses and the State's determination regarding AQB conformance;
4. Rescind approval for any course that failed to conform to AQB criteria;
5. Refrain from approving such courses in the future; and
6. Maintain copies of all documents supporting Board decisions to approve or disapprove educational courses.

If the Board rescinded approval of any of the courses due to a determination that the course failed to meet AQB criteria, the Board and/or IPLA were to:

7. By May 31, 2007, identify all persons issued renewed credentials on or after January 1, 2006, who were given credit for a disallowed course;
8. By June 15, 2007, review the file for each appraiser identified in step seven and determine whether the appraiser had sufficient continuing education, other than the disallowed courses, to support renewal of his or her credential;
9. By June 30, 2007, advise in writing each appraiser who did not have sufficient continuing education on file to provide documentation of acceptable continuing education or obtain the necessary continuing education within 30 days. (Note that continuing education obtained for this purpose cannot be used to support renewal in 2008;) and
10. By July 31, 2007, take appropriate disciplinary actions against any appraiser who failed to document conformance to AQB criteria:
 - a. For a certified appraiser, promptly downgrade the appraiser to a non-certified credential and report the credential as non-AQB compliant in National Registry data submissions; or
 - b. Recall the certified appraiser credential and reissue it over stamped with the phrase, "Not Eligible to Appraise Federally Related Transactions." Appraisers

choosing overstamped credentials would be removed from the National Registry;
and

- c. For a licensed appraiser, report the credential as non-AQB compliant in National Registry data submissions.

In a May 15, 2007 response letter, the IPLA and the Board stated that their acceptance of these continuing education courses was consistent with State law and therefore appropriate. In our June 25th letter responding to the State's May 15th letter, we again instructed the Board and IPLA to comply with Title XI and AQB continuing education certification requirements by taking the corrective steps set forth in our March 14th field review letter and listed as steps 1-10 above. We informed the State that, while the certified appraiser credentials renewed on the basis unacceptable education might be compliant with State law, appraisers holding those credentials could not legally perform appraisals in connection with federally related transactions and certain real estate related financial transactions under Federal law. We also advised IPLA and the Board that their continued approval of such courses would put Indiana's entire appraiser regulatory program in jeopardy under Title XI.

During our current field review, we found that Indiana had complied only with the first of the ten required curative steps. IPLA staff obtained documentation for each of the 12 identified courses. However, neither IPLA staff nor the Board reviewed the documentation to determine whether each course, or portion of each course, conformed to AQB continuing education criteria or took any further steps towards remedying this situation.

The Board and IPLA must comply with Title XI and AQB continuing education certification requirements by taking the corrective steps set forth in our March 14, 2007 field review letter within the following time frames. The Board and IPLA must:

1. Complete steps two through six above within 15 days of receipt of this letter;
2. Complete step seven within 60 days of receipt of this letter;
3. Complete step eight within 75 days of receipt of this letter;
4. Complete step nine within 90 days of receipt of this letter; and
5. Complete step ten within 120 days of receipt of this letter.

As noted above, ASC staff will return within six months to review the corrective actions taken by the Board and IPLA. Should ASC staff find during this follow-up field review that the State failed to make sufficient progress towards remedying this situation, the ASC will consider whether to initiate a non-recognition proceeding against the State under § 1118 of Title XI.

- **Board regulations did not conform to the AQB's continuing education criteria.**

The Board's regulations currently allow an appraiser to place his or her credential into Inactive status for an unlimited time period. The regulations require that, to reactivate a license or certification from Inactive to Active status, the appraiser must take 28 hours of continuing education, including the most recent edition of the 7-hour National USPAP Update Course.

In September 2005, the AQB adopted an Interpretation regarding waivers and deferrals of continuing education. That Interpretation provides that, prior to reactivating an Inactive

credential, the credential holder must complete *all* continuing education that would have been required had he or she not been Inactive, including the most recent edition of the 7-hour National USPAP Update Course.

We notified Indiana about this inconsistency with AQB criteria in our March 14, 2007 field review letter. In IPLA's May 21st response letter, IPLA stated that the rule promulgation process had been initiated to correct this inconsistency. During our October 2007 field review, however, ASC staff learned that the Board never began the rulemaking process and was only now currently reviewing a draft rule change. IPLA expected that a hearing on the proposed rule change would occur in January 2008.

The Board's regulations also failed to comply with another AQB Interpretation. The regulations currently state that a certified appraiser initially certified in the first year of a two year renewal cycle shall be required to complete 14 hours of continuing education and a certified appraiser initially certified in the second year of a two year renewal cycle shall not be required to obtain continuing education. Effective January 1, 2007, the AQB adopted an Interpretation regarding partial year continuing education cycles. That Interpretation provides that, for continuing education cycle periods of 185 days or more, 14 hours of continuing education is required and for continuing education cycles of less than 185 days, continuing education is not required.

Because Indiana's current renewal cycle is January 1, 2006, through June 30, 2008, no certified appraisers have had the opportunity to renew their credentials under the problematic regulation. Nevertheless, the Board and IPLA need to amend the regulations as soon as possible to conform to the AQB Interpretations. Please keep ASC staff informed about the status of your rulemaking proceedings.

Unless otherwise noted above, please respond to our findings and recommendations within 60 days following the receipt of this letter. Until the expiration of that 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 further questions.

Sincerely,

Virginia M. Gibbs
Chairman

cc: Nicholas Rhoad, Board Director, Indiana Real Estate Appraiser Licensure and Certification Board (same address as above);
Wade Lowhorn, Deputy Director, Indiana Professional Licensing Agency (same address as above);

Gabrielle Owens, Section Chief, Attorney General's Office, Consumer Protection
Division, 302 West Washington Street, 5th floor, Indianapolis, IN 46204