

August 13, 2018

Mr. Arthur Lindo
Chairman
Appraisal Subcommittee
1401 H Street, N.W., Suite 760
Washington, D.C. 20005

Via Electronic Mail to arthur.lindo@frb.gov

Re: Temporary Waiver Request from North Dakota

Dear Mr. Lindo:

The undersigned professional appraiser organizations are aware that the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) received a request on August 1, 2018 from the State of North Dakota, the North Dakota Department of Financial Institutions and the North Dakota Bankers Association for a temporary waiver proceeding under 12 CFR 1102.

We urge the ASC to reject the request for having failed to fully and accurately adhere to the ASC requirement for temporary waiver requests, specifically, the requirement from state law from which relief is being sought¹. The relief sought by the petitioners appears to be a waiver of *appraisal* requirements, which is not relief that can be granted by the ASC. While the ASC does have the authority to grant temporary waivers of *appraiser* licensing and certification requirements, that does not appear to be the relief sought by petitioners. Indeed, the petitioners' letter refers to allowing lenders in North Dakota to perform "internal evaluations" in connection with federally related transactions below \$500,000 (for residential loans)². This relief is not available to petitioners under 12 CFR 1102.

Given the nature of the letter, it is possible that the petitioners are indeed asking the ASC to raise the existing *de minimus* threshold for residential loans to \$500,000. The Subcommittee does not have this authority (like the lack of authority to grant appraisal waivers); the threshold levels are not a matter for the ASC, but for the federal financial institutions regulatory agencies. Those agencies just completed a lengthy and exhaustive review of the appraisal threshold levels and released a final rule to increase the threshold level for commercial real estate loans. However, those agencies also chose to maintain the threshold levels for residential and business loans. As submitted, the North Dakota request shows a misunderstanding of the ASC's temporary waiver request authority and should be rejected outright for failing to adhere to the ASC's regulatory requirements.

We are also concerned the North Dakota request published on the ASC website includes personally identifiable information such as names, email addresses, fees, and turnaround times. Such information was deemed to be privileged by the ASC during the consideration of the TriStar Bank temporary waiver request earlier this year. In fact, full and complete information on the TriStar Bank temporary waiver request was only obtained through a Freedom of Information Act request at the state level, as a copy of the request letter received by the ASC was sent to the state appraiser regulatory agency, per ASC regulations. This inconsistent and disparate treatment of appraiser personal information is alarming and should be immediately addressed in a consistent manner by the ASC and within the ASC regulations.

¹ Section 1102.2, "Requirements for Requests" states that, "A request will not be deemed received by the ASC unless it ***fully and accurately***[emphasis added] sets out:

- (b) **The requirement or requirements of State law from which relief is being sought;**
- (c) A description of all significant problems currently being encountered in efforts to comply with title XI;
- (d) The nature of the scarcity of certified or licensed appraisers (including supporting documentation);
- (e) The extent of the delays anticipated or experienced in obtaining the services of certified or licensed appraisers (including supporting documentation);
- (f) The reasons why the requester believes that the requirement or requirements are causing the scarcity of certified or licensed appraisers and the service delays;"

² See Letter from Petitioners, page 7.

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We anticipate that the ASC will attempt to clarify the North Dakota request in the coming weeks. We reserve the right to comment on and provide additional information to any revised request by the State. Until such time, we strongly urge the ASC to reject the North Dakota request as submitted.

If you should have any questions or if you need further information, please do not hesitate to contact Bill Garber, Appraisal Institute Director of Government and External Relations, at (202) 298-5593 or bgarber@appraisalinstitute.org or John Russell, Senior Director of Government Relations, American Society of Appraisers, at 703-733-2103 or jrussell@appraisers.org.

Thank you for your consideration.

Regards,

Appraisal Institute
American Society of Appraisers
American Society of Farm Managers and Rural Appraisers
Appraisers Coalition of Washington
California Coalition of Appraiser Professionals
Coalition of Pennsylvania Real Estate Appraisers
Collateral Risk Network
Columbia Society of Real Estate Appraisers
Foundation Appraisers Coalition of Texas
Maryland Association of Appraisers
Massachusetts Board of Real Estate Appraisers
Michigan Coalition of Appraisal Professionals
Mississippi Coalition of Appraisers

National Association of Appraisers
New York Coalition of Appraiser Professionals
North Carolina Real Estate Appraiser Association
North Dakota Appraisers Association
North Star Chapter of the Appraisal Institute
Ohio Coalition of Appraiser Professionals
Oklahoma Professional Appraisers Coalition
Professional Appraisers Association of South Dakota
Real Estate Appraisers of Southern Arizona
Rhode Island Coalition of Appraiser Professionals
Tennessee Appraiser Coalition
Virginia Coalition of Appraiser Professionals
West Virginia Council of Appraisers

Cc: Members of the Appraisal Subcommittee
Jim Park, Executive Director, Appraisal Subcommittee