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February 25, 2010

To: Chair Coggs and Members of the Senate Committee on Labor, Elections and Urban Affairs; Co-Authors Senator Plale and Representative Zepnick

From: Marla L. Britton, Chair of the Wisconsin Real Estate Appraiser's Board on behalf of the members of the Board

Re: AB 472/SB 339, relating to certification and licensure of real estate appraisers

I am writing to you today as the Chair of the Real Estate Appraiser's Board on behalf of the Board. The mission of our Board is to protect the citizens of the state of Wisconsin by ensuring safe and competent practice of licensed professionals.

The Board has gone on record at its November 11, 2009 meeting and again at its meeting yesterday, February 24, opposing all amendments to AB 472. In order for us to accomplish our mission, we are requesting that AB 472 in its original writing be approved and that Amendment 2 be removed from the language.

As a Board, we are limited to disciplining individuals who are licensed through the Department of Regulation and Licensing as a Licensed Real Estate Appraiser, a Certified Residential Real Estate Appraiser, or a Certified General Real Estate Appraiser. Individuals practicing as an appraiser without one of the above licenses are currently outside of our Board ability to discipline; thus hindering our ability to protect the citizens of the State.

AB 472 as originally written provides our Board with the ability to protect the citizens of the State by requiring individuals completing appraisals to be licensees in the State. This mandatory licensing is quite similar to the existing licensing requirements of real estate sales persons and brokers in the practice of selling or buying real estate. The original Bill provided for very limited practice outside of the profession by non-licensees.

Approving Amendment 2 to AB 472 is not in the interest of the public. Amendment 2 allows for continued appraisal by non-licensees making the mission of the Board difficult to fulfill. Additionally, there is no specific language in the rules or statutes for discipline of real estate agents acting in the capacity of a real estate appraiser under the Real Estate Board to ensure safe and competent practice of licensed professionals to protect the citizens of the State.

The purpose of AB 472 is to provide the public confidence in the appraisal process by requiring that appraisers be licensed or certified by the state. Allowing real estate

agents and brokers to provide opinions of value is akin to allowing real estate brokers to practice law without a license.

Obtaining an independent and objective opinion of value is necessary for many purposes other than a real estate transaction or a mortgage, including divorce & estate settlements, tax appeals, eminent domain proceedings, conservation easements, etc.

AB 472 already includes a significant exemption from appraiser licensing/certification requirements that will permit a real estate agent or broker to perform a Broker Market Analysis to "establish a listing price or to set a purchase price for a property".

We support this limited exemption that is already included in AB 472. This exemption is similar to the laws regarding the use of broker market analyses in 23 other states.

If a real estate broker wishes to provide opinions of value for purposes other than real estate transactions, then they should obtain the education and training that is necessary for licensing by the language proposed in AB 472. This is the same for a real estate appraiser wanting to act as a real estate salesperson or broker; they are required currently to obtain the necessary education and licensing to engage in the practice of real estate.

I strongly urge you to oppose Amendment 2 to AB 472. Assembly Bill 472 should be approved by the Senate Committee on Labor, Elections and Urban Affairs in its original form without amendment.

The real estate appraiser profession in Wisconsin needs strong implementation to protect more than just the buying public. Our Board's duties are protection of all of the citizens of the State.

The most distinguishing difference between real estate agents and real estate appraisers is bias. Real Estate agents are to be advocates and may have an undisclosed bias when completing valuations as they are positioning themselves for future listings or client referrals. As licensed appraisers, the Standards require the appraiser to certify that they are unbiased and have no present or future interest in the real estate.

Mandatory licensing provides the Real Estate Appraisers Board with the necessary tools to protect the citizens and to ensure safe and competent practice of licensed professionals. No one will be allowed to fall through the cracks. Real Estate, whether by sale, purchase, gift, exchange, partition, receipt by heirs, or by will is typically the most expensive asset of any individual. All citizens deserve the same level of protection and assurance of safe and competent practice to the same extent as purchasers and sellers of real estate.

PLEASE VOTE FOR AB 472 IN ITS ORIGINAL WRITING.

Marla L. Britton, Chair
Wisconsin Real Estate Appraisers Board

USPAP Comments from Real Estate Appraiser Application Advisory Committee

The Real Estate Appraiser Application Advisory Committee is comprised of appraiser practitioners who serve on a volunteer basis to review appraisals submitted to DRL by those seeking appraisal credentials. The review is to determine if the submitted reports comply with USPAP. Meetings are held approximately every six weeks; the schedule is posted on DRL's web site.

The following summary groups the USPAP Standards Rules into three categories based on our experience to date. The standards rules are grouped according to the 2006 version of USPAP and address exclusively the "introductory" rules and Standards Rules 1 and 2 since the majority of applicants fall under these rules. Interested parties are urged to refer to the actual USPAP document which can be accessed at <http://commerce.appraisalfoundation.org/html/2006%20USPAP/toc.htm>.

Standards Rules for which violation will likely result in the applicant being asked to provide new reports which fully comply with USPAP:

S.R. 1-2a Identify the client and other intended users.

S.R. 1-2b Identify the intended use of the appraiser's opinions and conclusions.

S.R. 1-2c Identify the type and definition of value.

S.R. 1-2d Identify the effective date of the appraiser's opinions and conclusions.

S.R. 2-2 Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.

Standards Rules for which violation will likely result in denial of an appraisal credential, and which may result in referring the applicant and/or any supervisory appraiser to Enforcement:

Ethics Rule

Competency Rule

Scope of Work Rule (formerly S.R. 1-2f)

Jurisdictional Exception Rule

Supplemental Standards Rule

S.R. 1-1 In developing a real property appraisal, an appraiser must be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal; not commit a substantial error of omission or commission that significantly affects and appraisal; and not render appraisal services in a careless or negligent manner, such as making a series of errors, that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results.

S.R. 1-4 In developing a real property appraisal, an appraiser must collect, verify, and analyze information necessary for credible assignment results.

S.R. 2-1 Each written or oral real property appraisal report must clearly and accurately set forth the appraisal in a manner that will not be misleading; contain sufficient information to enable the intended users of the appraisal to understand the report properly; and clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical condition, and limiting conditions used in the assignment.

S.R. 2-3 Each written real property appraisal report must contain a signed certification that is similar in content to that contained in the USPAP document.

S.R. 2-4 To the extent that it is both possible and appropriate, an oral real property appraisal report must address the substantive matters set forth in Standards Rule 2-2(b).

Standards Rules for which violation may result in either of the above actions:

S.R. 1-2e Identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal.

S.R. 1-2f Identify any extraordinary assumptions in the assignment. (Formerly S.R. 1-2g)

S.R. 1-2g Identify any hypothetical conditions necessary in the assignment. (Formerly S.R. 1-2h)

S.R. 1-3 When necessary for credible assignment results in developing a market value opinion, an appraiser must identify and analyze the effect on use and value of existing land use regulations.....; and develop an opinion of the highest and best use of the real estate.

S.R. 1-5 When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal; and analyze all sales of the subject property that occurred within the three years prior to the effective date of the appraisal.

S.R. 1-6 In developing a real property appraisal, an appraiser must reconcile the quality and quantity of data available and analyzed within the approaches used; and reconcile the applicability or suitability of the approaches used to arrive at the value conclusion(s).

April 26, 2006