

■   ■   ■   ■   ■   ■

# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

November 1, 2004

Ms. Nitza Màrquez  
Avalúos  
790 Fairway Courts  
150 Candalero Drive  
Humacao, PR 00791

Dear Ms. Màrquez:

This letter responds to your October 11, 2004 letter regarding the Appraiser Qualifications Board's ("AQB") 24-month examination validity interpretation in its certification criteria. This interpretation specifies that the passing score on a State credentialing examination is valid for no more than 24 months after the date the examination was successfully completed. This requirement applies both to persons applying to become certified appraisers for the first time and to appraisers seeking to upgrade from a non-certified classification to certified residential or certified general status. As you know, in our June 7, 2004 field review letter to Puerto Rico's Board of Examiners of Professional Real Estate Appraisers ("Board"), the ASC cited Puerto Rico for not conforming to this interpretation. It is important to note that the AQB notified Puerto Rico, and all the other Title XI jurisdictions, about this requirement in an April 28, 2000 letter, prior to the interpretation's July 1, 2000 effective date. Additionally, the interpretation has been included in each issue of the AQB's *Real Property Appraiser Qualifications Criteria and Interpretations of the Criteria* since that date.

In our June 7<sup>th</sup> letter to the Board, we stated that the Board, among other things, had to:

- Review its records regarding all individuals issued certified credentials since July 1, 2000 (the effective date of the interpretation);
- Determine whether the examination used to support the certified credential was passed more than 24 months prior to issuance of the upgraded credential;
- Require all certified appraisers whose examinations failed to meet AQB criteria to successfully complete the appropriate examination within 60 days from the Board's receipt of the June 7<sup>th</sup> letter. (The 60-day period was extended to January 31, 2005.);
- Take the necessary steps to downgrade to licensed level any certified appraiser who fails to successfully complete the appropriate examination within the 60-day period; and
- Initiate necessary amendments to statutes, regulations, and/or Board policies or procedures to ensure that the Board conforms to the AQB criterion on the examination timeframe.

In an August 10<sup>th</sup> letter, Board President Carlos Velez asked that the ASC reconsider its position regarding this issue. President Velez brought into question agreements reached between the Board and the ASC in 1997 regarding Puerto Rico examinations. In our August 30<sup>th</sup> response, we explained that our guidance at that time and the subsequent agreement did not extend beyond that issue. As a result, that 1997 agreement does not obviate the Board's need to conform to the AQB criterion specifying that examination results are valid for no more than 24

months. Subsequently, the Board performed its review of appraiser records and identified several certified appraisers who were granted their credentials based on examination results that were more than 24 months old.

You contend that the AQB's purpose in adopting the interpretation was to prevent examination "warehousing" during which time individuals would not take continuing education courses. You further contend that Puerto Rico has met the intent of the AQB criteria interpretation because Puerto Rican appraisers complied with the AQB continuing education criteria during the period between passing the examination and actually receiving the certified appraiser credential.

While continuing education concerns were part of the AQB's concerns when considering the examination "warehousing" issue, continuing education was not the only concern. Of equal or greater importance was the fact that State certification examinations change periodically. Examination changes are made for various reasons, but the primary purpose is to keep the examination current and to ensure that what is being examined is not outdated. Part of the AQB's concern was the possibility of appraiser credentials being issued based on "warehoused" examinations that were not as applicable as more recent examinations. After considerable analysis, the AQB determined that 24 months was the most appropriate period.

In your letter, you ask the ASC not to apply this requirement to the affected Puerto Rican appraisers. You ask that, in lieu of re-examination, each appraiser be allowed to present evidence of his or her continuing education compliance. For the following reasons, we cannot accept your solution. First, under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"), State certified appraisers must conform to AQB criteria to be eligible to perform appraisals in connection with federally related transactions. The interpretation is part of the AQB certification criteria. Failure to conform to this criterion means that the appraiser failed to meet one of the basic Federal requirements to perform appraisals in connection with federally related transactions.

Second, the ASC, under Title XI, is required to ensure that Puerto Rico and the other State and Territories conform to the AQB's minimum qualifications criteria for certified appraisers. The ASC, however, does not have the legal authority to exempt or otherwise provide relief from of those requirements.

Please contact us if you have further questions.

Sincerely,

Ben Henson  
Executive Director

cc: Mr. David S. Bunton, Executive Vice President, The Appraisal Foundation  
Mr. Jose M. Izquierdo Encarnación, Hon. Secretary of State  
Ms. Leyda Batiz Ruiz, Esq., Auxiliary Secretary for Examining Boards

Ms. Carmen A. Carreras, Esq., Assistant Secretary for Examining Boards  
Mr. Carlos Vèlez Reyes, Puerto Rico Examining Board President