



445 East Capitol Avenue
Pierre, South Dakota 57501-3185
Phone: 605-773-4608
Fax: 605-773-5369

March 9, 2005

MAR 10 2005

Ben Henson, Executive Director
Appraisal Subcommittee
2000 K Street NW #310
Washington, D.C. 20006

RE: South Dakota Proposed Rule Changes (2005)

Dear Ben:

The Department of Revenue and Regulation, Appraiser Certification Program is in receipt of the review comments regarding our proposed changes to the administrative rules governing appraisers. The comments are very much appreciated and helpful. Below are our questions or comments and noted actions to be taken as a result of the ASC's review and comments:

ARSD 20:14:04:12 Assistance by state-registered appraiser in preparation of appraisal reports.

ASC Comment: The 2008 Criteria limit supervisory duties to only certified appraisers.

Department Comment: Title XI and the ASC Policy Statement 10 allows supervision by the licensed appraiser.

Title XI, Section 1122. Miscellaneous provisions -
(e) Other requirements. A corporation, partnership, or other business entity may provide appraisal services in connection with federally related transactions if such appraisal is prepared by individuals certified or licensed in accordance with the requirements of this title. An individual who is not a State certified or licensed appraiser may assist in the preparation of an appraisal if-
(1) the assistant is under the direct supervision of a licensed or certified individual. . . .

Policy Statement 10: Enforcement

D. Supervising Uncertified and Unlicensed Appraiser Assistants

Title XI provides that an individual who is not a State certified or licensed appraiser may assist in the preparation of an appraisal if the assistant is under the direct supervision of a licensed or certified appraiser and the final appraisal is approved and signed by that appraiser.

Limiting supervision to only certified appraisers is, therefore, not authorized nor does it meet the spirit of Title XI and has the potential for serious consequences by creating an extreme shortage of eligible supervisors in South Dakota. The Department has established meaningful qualifications criteria for state-licensed appraisers, including education, testing, experience, and continuing education requirements that demonstrate knowledge and competency. The Department appreciates the ASC's recommendation, however, the state is obligated to ensure that there are no unfair barriers for entry into the profession which could lead to a shortage of appraisers causing inordinate delays in performance of appraisals.

ARSD 20:14:05:02 Examination

ASC Comment: The AQB Interpretation re certified appraisers limits the valid period for examination results to two years.

Department Comment: The rule will be changed to limit the valid period for the examination for 24 months for certified appraisers as well as licensed appraisers. With the adoption of the new rules the state registered appraiser will not be required to successfully complete the licensed examination. Applicants may not sit for the examination until they have met the education and experience requirements for each certified classification and the licensed classification.

ARSD 20:14:05:05 . Acceptable experience.

ASC Comment: Why change (I)-(9)? They track the current criteria and are terms of art understood within the profession.

Department Comment: According to the New AQB Criteria Section V. Generic Experience Criteria, Paragraph E., "Acceptable real property appraisal practice for experience credit includes appraisal, appraisal review, appraisal consulting, and mass appraisal."

Question Is the current AQB Criteria the acceptable experience that should be retained in rule rather than adopting the New AQB Criteria?

ASC Comment Renumbered (5) should condition "Actual performance of a real estate appraisal" as an appraisal that conforms to USPAP.

Department Comment Number (5) will be revised to include the condition that actual performance of a real estate appraisal by the named individuals shall conform to USPAP.

ASC Comment (6) is good if it is effective on January 1, 2008. Otherwise it is not consistent with the AQB's Supplement No. 1. - Experience. For example, the Supplement limits the use of non-client experience to 1/3 and requires the State to audit a significant portion of that experience.

Department Comment Number (6) will be revised to have an effective date of January 1, 2008.

ARSD 20:14:06:01 Conformance with uniform standards

ASC Comment: Incorporate the 2005 USPAP.

Department Comment: The Department is currently in the rule promulgation process to adopt the 2005 Edition of USPAP.

ARSD 20:14:13:02 Acceptable continuing education course topics

ASC Comment: The new changes reflect the 2008 criteria. They should be made effective on 1/1/08, with the current criteria being in effect until then.

Department Comment: The rule will be revised to have an effective date of January 1, 2008.

ARSD 20:14:13:05 Sources of qualifying education and continuing education credit

ASC Comment: The new changes reflect the 2008 criteria. They should be made effective on 1/1/08, with the current criteria being in effect until then.

Department Comment The rule will be revised to have an effective date of January 1, 2008.

Ben Henson
March 9, 2005
Page 4

ARSD 20:14:13:05.03 Acceptable distance continuing education courses

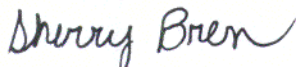
ASC Comment: The new changes reflect the 2008 criteria. They should be made effective on 1/1/08, with the current criteria being in effect until then.

Department Comment: The rule will be revised to have an effective date of January 1, 2008.

The rule changes that we have proposed and you have reviewed were based on the assumption that the Appendix - Real Property Appraiser Qualification Criteria Effective January 1 2008 was inclusive, therefore the interpretations that are in the current AQB Criteria were not considered in this rule review and change process. The Department has been advised, however, that once an interpretation is issued it stays unless a new interpretation is issued'. The Department feels that certain interpretations issued by the AQB should be adopted into rule to ensure the Department's enforcement power for governing appraisers. The interpretations currently in effect must at least be reviewed and, if appropriate, incorporated into the rule change process that we are currently undergoing. Are all of the interpretations printed in the recent Appraisal Foundation, Appraiser Qualifications Board Real Property Appraiser Qualification Criteria and Interpretations of the Criteria applicable to the New AQB Criteria?

If you have any questions, please feel free to contact me. I look forward to your written response and further guidance. Due to the significant changes to our rules the Department wishes to give a special "thank you" to Denise Graves and Marc Weinberg for taking the time to review our proposed rules and submit their findings.

Sincerely,



Sherry Bren, Executive Director
Appraiser Certification Program

CC: Gary R. Viken, Department Secretary
Grant Gormley, Legal Counsel
Advisory Council