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Appraisal Subcommittee

Federal Financial Institutions Examination Council

June 12, 2013

Via Email

Ms. Elissa Runyon, Chair
V.I. Board of Real Estate Appraisers
Department of Licensing & Consumer Affairs
Golden Rock Shopping Center
3000 Estate Golden Rock, Suite 9
St. Croix, VI 00820

██████████@██████████

RE: ASC Compliance Review of the Virgin Island's appraiser regulatory program

Dear Ms. Runyon:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of the Virgin Island's appraiser regulatory program (Program) on December 5-7, 2012. This is the final ASC Compliance Review Report (Report) on that Review.

The ASC has considered the preliminary findings regarding the Review and the State's response. The ASC has determined the Program is not in substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended. The ASC identified the following areas of non-compliance:

- States must have sufficient funding and staffing consistent with the purpose of Title XI;¹
- States must issue temporary practice permits within five business days of receipt of a completed application;²
- States need to maintain adequate documentation to support validation method(s);³
- States must ensure that the system for processing and investigating complaints and disciplining appraisers is administered in an effective, consistent, equitable, and well-documented manner;⁴
- States must maintain sufficient documentation;⁵ and
- Enforcement dispositions must be consistent, appropriate and equitable.⁶

ASC staff will confirm corrective actions have taken place and are appropriate through off-site monitoring and during the next Review. The Virgin Islands will remain on a two-year Review Cycle with a Follow-up Review in one year.

This letter and the attached Report are public record and available on the ASC website in accordance with the Freedom of Information Act.

Please contact us if you have any questions.

Sincerely,



Darrin Benhart
Acting Chairman

Attachment

cc: Mr. Wayne Biggs, Jr., Commissioner, [REDACTED]
Ms. Nathalie Hodge, Administrator, [REDACTED]

¹ Title XI § 1118 (a), 12 U.S.C 3347.

² Title XI § 1118 (a), 12 U.S.C. 3347; Title XI § 1122 (a), 12 U.S.C. 3351; ASC Policy Statement 5.

³ Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10G.

⁴ Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E

⁵ Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.

⁶ Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.

“ASC Finding” Defined for ASC Compliance Review Report

1. IN SUBSTANTIAL COMPLIANCE

Applies when no issues of non-compliance or violations of Title XI, ASC Policy Statements or AQB Criteria are identified.

2. NOT IN SUBSTANTIAL COMPLIANCE

Applies when there are one or more issues of non-compliance or violations of Title XI, ASC Policy Statements and/or AQB Criteria but the concerns do not rise to the level of “not in compliance.”

3. NOT IN COMPLIANCE

Applies when the number, seriousness, and/or repetitiveness of the Title XI, ASC Policy Statements and/or AQB Criteria violations warrant this finding.

ASC Compliance Review Report

ASC Finding: Not In Substantial Compliance
Final Report Issue Date: June 12, 2013

The Virgin Islands Appraiser Regulatory Program (Program)

Board of Real Estate Appraisers (Board) / Decision Making	PM: J. Tidwell	ASC Compliance Review Date: December 5-7, 2012	Review Period: December 2010 to December 2012
Umbrella Agency: Department of Licensing and Consumer Affairs (Department)		Number of State Credentialed Appraisers on National Registry: 28	Review Cycle: Two year with Follow-up

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
The Virgin Islands (VI) Statutes, Regulations, Policies and Procedures:			X					
States must adopt and/or implement all relevant AQB Real Property Appraiser Qualification Criteria. (Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria.)				<p>A review of the Program's Statutes and Regulations revealed the following inconsistency with the Appraiser Qualifications Board's (AQB) Real Property Appraiser Qualification Criteria (AQB Criteria) regarding Continuing education (CE).</p> <p>Up to 50% of an appraiser's CE credit may be granted for participation, other than as a student, in such activities as teaching or authoring a textbook. The Program's Regulation 440-1.(e) allows CE credit for this type of participation but fails to limit it to 50%. Despite the conflicting provision in the regulation, ASC staff found no incidents where the regulation was applied to any aspect of the Program.</p>	The Board's response did not address this area of concern.	None	To strengthen the Program, the Board should continue the process of amending its regulations to reflect what is required in practice and in AQB Criteria.	ASC Staff will continue to monitor during the next Compliance Review.
VI Statutes, Regulations, Policies and Procedures continued:		X						
States must have sufficient funding and staffing consistent with the purpose of Title XI. (Title XI § 1118 (a), 12 U.S.C 3347.)				<p>The Virgin Islands Program does not have sufficient staffing. The Board has had 2 member vacancies for several years. Virgin Islands' statutes require 4 of 7 Board members attendance at meetings to constitute a quorum.</p> <p>ASC staff found that as a result of insufficient staffing temporary practice applications were not processed within five business days of receipt.</p> <p>The Board's Legal Counsel is assigned to multiple Boards, therefore not able to attend all Appraisal Board meetings to advise and assist in the processing of complaints, or draft needed legislation or regulatory changes in a timely manner.</p>	<p>On March 5, 2013, the Board informed ASC staff that it is unlikely that the VI Government will increase funding for the Board. The Board is actively seeking an attorney to fill the vacant position on the Board to assist in alleviating some of the shared Department's Legal Counsel's responsibilities to the Board. The Governor has approved an additional Licensing Officer who will be assigned to updating the Department's database, issuing renewals and preparing applications for Board review in the absence of the current Licensing Officer.</p>	<p>The Department and Board must achieve and maintain the necessary legal resources to comply with Title XI.</p> <p>The Department and Board must monitor its staffing resources with the additional Licensing Officer to ensure it is meeting its Title XI-related responsibilities.</p>	To strengthen the Program, the Board should monitor the appointment process and encourage the appointment of members to the 2 vacant positions.	<p>During the next Review, ASC staff will pay particular attention to this area for compliance with its Title XI- related duties. (Title XI § 1118 (b), 12 U.S.C 3347.)</p> <p>A Board member acting as legal counsel for the Board, should be cognizant of ethical issues raised by such representation.</p>

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Board of Real Estate Appraisers (Board) / Decision Making

PM: J. Tidwell

ASC Compliance Review Date: December 5-7, 2012

Review Period: December 2010 to December 2012

Umbrella Agency: Department of Licensing and Consumer Affairs (Department)

Number of State Credentialed Appraisers on National Registry: 28

Review Cycle: Two year with Follow-up

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
Temporary Practice:		X						
States must issue temporary practice permits within five business days of receipt of a completed application. (Title XI § 1118 (a), 12 U.S.C. 3347; Title XI § 1122 (a), 12 U.S.C. 3351; ASC Policy Statement 5.)				Virgin Islands failed to process requests for temporary practice permits within 5 business days of receipt of a completed application. ASC staff reviewed 32 temporary practice permit application files and found 17 (53%) were not processed within 5 business days of receipt of a complete application. Virgin Islands' staff attributed delays to being short staffed and staff being focused on other areas or other Boards they manage. Delays were also attributed to Board member inaccessibility.	On March 5, 2013, the Board informed ASC staff that temporary practice requests are currently being handled as time sensitive by Department staff and Board members. Temporary practice applications no longer need a favorable tax clearance letter. This was the same response that the Board gave following the December 2010 Review. That system was found to be insufficient to address the issue.	The Board must provide, within 60 days of issuance of this Report: (1) a plan for how the Board will process requests for temporary practice permits within 5 business days of receipt of a completed application; and (2) a sortable list of temporary practice permit applications received since December 7, 2012 identifying the applicant, date application was received, date of issuance, and date of expiration, if any.	None	Through off-site monitoring as well as during a Follow-up Review and the next Compliance Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 5.
National Registry:	X			No compliance issues noted.	N/A	None	None	None
Application Process:		X						
States need to maintain adequate documentation to support validation method(s). (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10G.)				ASC staff identified an application file for a certified residential credential that failed to contain: proof of qualifying education; proof of college education; and information identifying appraisal reports reviewed for Uniform Standards of Professional Appraisal Practice compliance and the results of that review.	The Board's response did not address this issue.	Within 60 days of issuance of this Report, the Board must submit to ASC staff a copy of a complete application file for the applicant identified during the review as deficient. In the alternative, the Board may submit evidence of action taken to revoke the credential.	None	Through off-site monitoring as well as during a Follow-up Review and the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 10G.
Reciprocity:	X			No compliance issues noted.	N/A	None	None	None

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Review Cycle: Two year with Follow-up

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
Education:			X					
States must maintain sufficient documentation to support that approved appraiser courses conform to AQB Real Property Appraiser Qualification Criteria. (Title XI § 1116, 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria; ASC Policy Statement 10F.)				ASC staff identified 3 approved appraiser courses that did not contain the documentation to support that the courses conformed to AQB Criteria. During the on-site Review, Program staff obtained the needed information from the instructors/providers.	The Board's response did not address this area of concern.	None	To strengthen the Program, the Board should continue to maintain sufficient documentation to support that approved appraiser courses conform to AQB Criteria.	During the next Review, ASC staff will pay particular attention to this area for compliance with Title XI and AQB Criteria.
Enforcement:		X						
States must ensure that the system for processing and investigating complaints and disciplining appraisers is administered in an effective, consistent, equitable, and well-documented manner. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				ASC staff found the Program does not have a system for processing and investigating complaints and disciplining appraisers in an effective and well documented manner. Department staff maintained a complaint log, but it was not complete. The log listed only 5 of the 8 complaints that the Board had initiated, investigated or disposed of during the Review Period. Files that were maintained did not contain sufficient documentation. In addition, the Board did not have sufficient Legal Counsel to assist with the processing and disposition of complaints. Legal Counsel was not always available for Board meetings and for advising or assisting with the processing of complaints.	The Board's March 5, 2013 letter reported that the Board is actively seeking an attorney to fill a vacancy position on the Board, so that as a Board member, that position can assist in alleviating some of the Department's legal counsel responsibilities with the Program.	The Board must provide, within 60 days of issuance of this Report: (1) A complaint log (in a sortable format) identifying the case number, respondent, complainant, opening and closing date, status, and method of disposition which includes the following: all open complaints regardless of the date filed; and all complaints that have been closed since December 2010; (2) A detailed written plan for how the Board will ensure that the complaint process is well documented and available to ASC staff during the on-site portion of the Review.	None	Through off-site monitoring as well as during a Follow-up Review and the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 10E.

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	YES	NO	AC					
Enforcement continued:		X						
States must maintain sufficient documentation. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				<p>The Program does not maintain sufficient documentation. ASC staff requested 8 complaint files to review. Only 4 of the 8 requested files were provided. The 4 files provided lacked the documentation needed to understand the facts and considerations in disciplinary cases and the reasons for determinations.</p> <p>Department staff maintained a complaint log, but it was not complete; it listed only 5 of the 8 complaints that the Board had investigated during the Review Period.</p>	<p>The Board's March 5, 2013 letter referred to a complaint management system put in place, separate and apart of the licensee's file, to document and track the progress of complaints. This was the same response that the Board gave following the December 2010 Review. That system was found to be insufficient to address the issue. In addition the letter erroneously stated that the Board had no cases outstanding over 1 year.</p>	<p>The Board must provide to ASC staff, within 60 days of issuance of this Report, a copy of the complete complaint file for each of the 8 complaints processed during the Review Period. The documentation must be sufficient to understand the facts and considerations and the reasons for determinations.</p>	None	<p>Through off-site monitoring as well as during a Follow-up Review and the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 10E.</p>

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	YES	NO	AC					
Enforcement continued:		X						
Enforcement dispositions must be consistent, appropriate and equitable. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				As discussed, there were either no enforcement files or the enforcement files lacked the documentation needed to understand the facts and considerations and the reasons for determinations. ASC staff was unable to determine if the resolutions were consistent, appropriate, fair and equitable.	The Board's March 5, 2013 letter erroneously stated that the Board had no enforcement cases.	As discussed, the Board must provide to ASC staff, within 60 days of issuance of this Report, a copy of the complete complaint file for each of the 8 complaints processed during the Review Period. The documentation must be sufficient to understand the facts and considerations and the reasons for determinations.	None	Through off-site monitoring as well as during a Follow-up Review and the next Compliance Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 10E.