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Appraisal Subcommittee

Federal Financial Institutions Examination Council

December 22, 2008

Mr. Charles Bramlett, Chair
Georgia Real Estate Appraisers Board
International Tower, Suite 1000
229 Peachtree Street NE
Atlanta, GA 30303-1605

Dear Mr. Bramlett:

Thank you for the Georgia Real Estate Appraisers Board's ("Board") and staff's cooperation and assistance in the May 20-21, 2008 Appraisal Subcommittee ("ASC") review of the Georgia real estate appraiser regulatory program ("Program"). We also appreciated the cooperation and assistance of Applied Measurement Professionals, Inc. ("AMP"), which on the Board's behalf, reviews applications for licensure and certification, administers appraiser credentialing examinations, and issues appraiser credentials. Based on our review, Georgia needs to address three concerns to bring the Program into substantial compliance with Title XI of the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989, as amended, ("Title XI").

- **Georgia did not have a reliable means of validating experience credit claimed for certification and did not comply with ASC Policy Statement 10G.**

Georgia did not have a reliable means of validating experience credit claimed for certification because the Board or their designee, AMP did not review work product to validate that the experience exists or for USPAP compliance.

States must ensure that applicants for certified appraiser credentials meet the AQB's certification criteria, including the experience requirement. Recognizing the importance of the AQB experience requirement for initial certification, the ASC adopted an amendment to ASC Policy Statement 10, effective August 9, 2007, that added Paragraph G which addresses several of the ASC concerns about methods used by states to validate an applicant's appraisal experience. Policy Statement 10G provides guidance regarding how state agencies can ensure that applicants for certification and licensure have the necessary experience to perform appraisals in connection with federally related transactions and real estate related financial transactions that require the services of state licensed or certified real estate appraisers under Federal law.

While Policy Statement 10G provides guidance for states in determining that the applicants appraisal experience is USPAP compliant, it further states that "the only acceptable method of making this determination is by reviewing appraisal work product for each applicant." However, Policy Statement 10G allows some flexibility for states to tailor their methods of determining that an applicant's experience meets USPAP and states that the ASC will review each state's method on a case-by-case basis and determine whether that method is acceptable for Title XI compliance.

During this field review, we found that Georgia did not request or review work product from applicants applying for appraiser certification. The Board and staff expressed their concerns about performing reviews of an applicant's work product for USPAP compliance. Those concerns, as best we understand are:

1. Subsequent to the review, the Board would be required to deem the work compliant, or not. Thus, the Board would place a ruling or finding of fact that the appraisal work selected was compliant with USPAP;
2. The Board would deem the work cited in the log, based on a sampling reviewed, as compliant with USPAP;
3. Having made a final ruling as to the standards being met, if the Board were to later receive a complaint involving the reviewed report, the Board could not revisit that report without being met with a *res judicata* defense preventing enforcement action; and
4. If the Board were to receive a complaint pertaining to another report listed on the log, but not specifically reviewed, the Board could encounter a collateral estoppels defense preventing enforcement action.

Because of the concerns stated above, Georgia amended its regulations, effective August 1, 2006, placing responsibility on the supervising appraiser to review the work product of the applicant to both verify the work performed and certify that it is USPAP compliant. This verification and certification is documented in a required written agreement for each assignment; the original agreement must be retained in the work file and a copy provided to the State. Furthermore, should any of the appraisal experience in the log become subject to an enforcement action, both the applicant and the supervising appraiser would be held accountable for both the work performed and the log submitted.

Georgia requires each applicant for certification and licensure to submit an experience log that lists, in detail, each of the appraisals claimed for experience credit. Each experience log is reviewed to determine that the applicant meets the number of experience hours and time period for the type of credential being sought. Georgia further reviews the log for appropriateness of hours and types of experience claimed. Any experience log that does not meet the requirements or has other information that is questionable is sent to the investigation unit to investigate.

Relying solely upon the supervising appraiser to verify and certify that the applicant's experience exists and is USPAP compliant, without a reliable means of validation significantly reduces the reliability of the validation approach. The lack of an audit of an appraiser's work product and basing the determination on the supervisor's validation of compliance with Federal and State law is unacceptable because the supervisor has a vested interest in the declaration that the work performed is USPAP compliant.

To remedy this concern, the Board needs to:

1. Take steps to ensure full compliance with ASC Policy Statement 10G as amended and effective October 1, 2008, regarding any applications for certification received on or after that date; and

2. Within 60 days from the date of this letter, provide the ASC with a written plan regarding how the State will comply with step one above.

- **Georgia's complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10.**

Georgia's complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10E because complaints were not investigated and resolved in a timely manner. ASC Policy Statement 10E provides that state appraiser regulatory agencies need to process complaints on a timely basis and that, absent special circumstances, final state administrative decisions regarding complaints should occur within one year of the complaint filing date.

We cited the state for this deficiency in our 2006 field review and our 2007 follow-up review letters. While the number of complaints outstanding slightly decreased, the number and percentage of complaints outstanding for more than one year increased since our previous field review. Seven of the 86 aged cases were scheduled for ALJ hearings by the end of July 2008. The Board anticipates receiving hearing dates soon for an additional 16 of the 86 aged cases.

Since our last field review, the Board has taken steps to remedy the weaknesses in the complaint investigation and resolution process. The Board in 2007 hired two additional investigators to work exclusively on appraiser-related cases. The state's Attorney General's Office hired two additional attorneys to represent the Appraiser Board and the Real Estate Commission. Board members and staff believe that more time is needed for the new staff to be fully effective.

We are encouraged by the state's actions to remedy these weaknesses and by the cooperative and constructive attitudes of Program staff to address our concerns. We agree with the Board that more time is needed to see whether the additional resources will fully address our concerns.

To remedy this concern, the Board needs to continue to:

1. Reduce the backlog of aged complaints to attain acceptable levels, as required by ASC Policy Statement 10E; and
2. Forward quarterly complaint logs to ASC staff to allow us to monitor the Board's progress towards addressing this situation.

- **The fee charged non-resident appraisers does not comply with ASC Policy Statement 5.**

Georgia processes requests for reciprocal recognition and temporary practice as non-resident applications, which, upon approval, result in the issuance of a comparable level credential valid for one year. The State processes complete non-resident applications within the five business days as allowed for temporary practice permits in Policy Statement 5.

Historically, we believed Georgia's temporary practice/reciprocal rules and procedures were consistent with the spirit of ASC Policy Statement 5, even though, temporary practice, in a technical sense, is not offered. We found that, although permanent licenses and certifications were required, the process was not lengthy or otherwise unduly burdensome, and the fee charged is within the acceptable limit.

We now realize, however, that it is possible for a non-resident application to be issued a credential for less than six months and in such cases, there is no provision for an easy extension if the credential is issued for less than one year. This was because the credential's expiration date is based on the last day of the month of the individual's birth month. While the non-resident may renew their credential by showing they had renewed in their home State, there is a \$100 fee associated with that renewal. As a result, the total of the initial credential fee and renewal fee exceed the \$150 specified in ASC Policy Statement 5.

While on site, ASC staff discussed this concern with the Board and staff. The Board and staff agreed to explore ways to ensure that a non-resident applicant applying for temporary practice purposes is issued a credential for at least six months with an easy extension. Please provide the ASC with a plan to ensure that a non-resident applicant applying for temporary practice purposes is issued a credential for at least six months with an easy extension.

Unless otherwise noted above, please respond to our findings and recommendations within 60 days following the receipt of this letter. Until the expiration of that period or the receipt of your response, we consider this field review to be an open matter. After receiving your response or the expiration of the 60-day response period, whichever is earlier, this letter, your response and any other correspondence between you and the ASC regarding this field review become releasable to the public under the Freedom of Information Act and will be made available on our Web site.

Please contact us if you have further questions.

Sincerely,

Virginia M. Gibbs
Chairman

cc: Jeffrey Ledford, Commissioner