

APPRAISER LICENSING & CERTIFICATION
BOARD
2725 Cantrell Rd. Suite 202
Little Rock, Arkansas 72202

September 30, 1997

Mr. Herbert S. Yolles, Chairman
Appraisal Subcommittee
2100 Pennsylvania Ave., NW, Ste. 900
Washington, D.C. 20037

Dear Mr. Yolles,

On behalf of the Arkansas Appraiser Licensing and Certification Board, this is to acknowledge receipt of your August 20, 1997 letter confirming the Appraisal Subcommittee's findings subsequent to a field review of this Agency's regulatory program. We are pleased to learn that your staff's review found this state's program generally consistent with Title XI and we shall accept that as our authority to continue credentialing and regulating the practice of real estate appraisers in Arkansas.

Your correspondence also addressed in considerable detail several areas in which you infer that improvement is required if this Agency is to maintain compliance with Title XI. The following is an attempt to explain our current position regarding some of your concerns and to, hopefully, enlighten or refute your assessment regarding others. We shall endeavor to address these issues in the same order *as* set out in your communiqué.

Item 1: As per your challenge of Arkansas Law, Section 17-14-104, it does provide that a licensed appraiser may, under certain circumstances, perform appraisals that do not conform with the Uniform Standards, if the transaction is nonfederal. Your literal interpretation of the Act is, in our opinion, flawed because it is not the intent to permit a licensee to deviate from USPAP when federal laws require compliance. It was, and is, intended to provide the appraiser a means to respond to his client on all valuation issues.

This legislation was enacted prior to the ASB's development of reporting options that were intended to allow licensed appraisers a degree of flexibility in responding to the client's demand. Included in the legislation permitting licensed appraisers an option of taking his/hers professional hat off, is the definition of federally related transactions which was amended to include the phrase

“in accordance with any federal law, rule, or regulation as the same may be amended requires the services of an appraiser”. This, we believe, addresses your concern. We know for a fact it was the Board's intent, when drafting the legislation, that inclusion of this clause would cover a licensed appraiser who was performing appraisals under "federal laws and regulations that requires conformance with USPAP". As a matter of practice, we would submit that very few appraisers are known to have used this provision subsequent to a better understanding of a "limited appraisal" and the availability of a "restricted" reporting option.

As a matter of background, we are submitting an enclosed copy of Act 1270 in which you will note that Section 2 applies to "absence of liability" on the part of financial institutions where appraisers perform on non-federally related transactions. This section of the Act was a by-product of a legislative struggle with the financial institutions who sought to tack this "hold harmless" clause on to the Board's cleanup legislation. This language was adopted subsequent to a muchly debated lobbying effort. In the final analysis, it was concluded that should the banking community be "held harmless" for actions of an appraiser below the federal related transaction threshold, then the bankers should not enjoy the benefits of having a state licensed or certified appraiser perform USPAP appraisals below the threshold. In this regard, we would submit that there is a lot of truth in the old adage which states "there are two things you never want to see being made, sausage and laws".

As to your literal interpretation of Arkansas law, we do not believe your concern is well founded and would trust that the above explanation is sufficient to alleviate your concerns or maybe your staff would take a second look at the statute (enclosed)..

Item 2: You expressed concern as to the extension of temporary practice permits by payment of a \$50 fee for each additional month. As reported at the time of the review, we have yet to charge an additional \$50 for a temporary practice permit extension and are currently revising the current Rules and Regulations fee schedule and language to delete any reference thereto.

Item 3: Board regulations and practice's differ: In this regards, you note that the fee schedule provides for a \$25 complaint filing fee chargeable to anyone filing a complaint with the Board. As previously explained, the Board has not invoked these fees and its original intent was for complainants to appeal a preliminary decision by the staff or board. In the current proposed Rules and Regulations, this filing fee of \$25 by complainants is deleted. Also you noted that temporary practice permits can be denied an out of state appraiser should a complaint against him be pending. As a matter of fact, this has never been a problem, however, we are endeavoring in our revised Rules and Regulations to correct this discrepancy.

Item 4: Identity of disciplinary actions as non-published: Your concerns regarding the non-published reprimands and the lack of clear interpretation of those teens is well founded. This Board has discussed the issue many times. One must recognize that this is an evolving process and we have floundered in seeking to find an appropriate disciplinary action to meet particular violations and, at the same time, endeavoring to minimize the adverse impact that such sanctions might have on the appraiser. Suffice it to say, our Board is cognizant of the issues you have

raised in this item and are endeavoring to address it in the most appropriate way. Probably will cease to use the term.

Item 5: Continuing Education is inconsistent with AQB criteria: As discussed with the ASC staff at the closing conference and in subsequent communications, we have been made fully aware that the application of continuing education requirements in Arkansas fails to conform with the AQB interpretation. The Arkansas Appraiser Licensing Board has, in its current proposed revision to the Rules and Regulations, addressed this issue and if adopted will result in our compliance with AQB's interpretation. We continue, however, to be concerned about CE carryover due to the limited amount of quality education that is being made available for enrichment of the appraiser's skills and expertise. As to your comment regarding the implementation of AQB's increased education, experience, and continuing education hours, we can only respond that these are being incorporated in the current draft to update and revise this Board's Rules and Regulations. A draft of these revisions has been finalized and a public hearing on the Rules and Regulations will be held on October 2. Subsequent to input at that hearing, and ratification of the final document by this Board, we will submit a copy to the ASC office.

We trust the aforementioned responses to your expressed concerns will be sufficient to remove any clouds of doubt that may be hovering over this agency's intent to be in compliance with Title XL If you have further questions regarding this Agency's interpretation or response to your concerns, please do not hesitate to give us a call.

Sincerely,

Reese M. Pearce
Chairman, AAL&CB

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