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Appraisal Subcommittee

Federal Financial Institutions Examination Council

September 27, 2004

Diane Carr, Secretary
Department of Business and
Professional Regulation
1940 North Monroe Street
Tallahassee, FL 32399-2202

Dear Ms. Carr:

Thank you for your August 30, 2004 letter describing the actions taken by the Department of Business and Professional Regulation (“Department”) in response to our many concerns about Florida’s real estate appraiser regulatory program (“Program”) as detailed in our June 7th field review letter.

We are pleased that the Department appears to be making a concerted effort to address our concerns. We offer the following comments regarding your actions and/or proposed actions.

- **The Department’s process for issuing initial appraiser certifications does not have a reliable means of validating qualifying education and experience claims of applicants.**

Our June 7th letter itemized four steps that the Department and/or Board needed to take to address this concern. In your response, you addressed the first, second, and fourth steps, but failed to mention the third step. The third step regarded identifying appraisers who failed to conform to Appraiser Qualifications Board (“AQB”) criteria at the time of initial certification and taking appropriate disciplinary action.

In an affidavit, an applicant for certification attests that he or she has completed the necessary experience and education to qualify for the applicable certified credential. If your audit determines that the applicant failed to have the necessary experience and/or education, that failure generally results from one of two reasons. One reason could be that the applicant made an “honest mistake.” He or she had obtained certain experience and/or education that he or she believed to meet the State’s requirements and AQB criteria. The Department, however, through its audit process, determines that part of the experience and/or education does not meet those requirements. In this situation, resolution usually is achieved by requiring the appraiser to obtain the necessary experience and/or education.

The second reason that an applicant could fail the affidavit audit is more troubling. In these cases, the applicant attested that he or she had obtained the necessary experience and education when, in fact, he or she could not support that claim. This situation calls into question the applicant’s ethics. Because ethical conduct is the essence of appraisal practice, such situations require serious disciplinary action.

In following the third step of our corrective actions, the Department needs to determine into which situation an applicant/appraiser falls and take appropriate action.

Finally, the ASC adopted its proposed Policy Statement regarding State acceptance of affidavits. The Policy Statement revisions become effective January 1, 2005.

- **The Department does not have a reliable means of validating continuing education claims of appraisers applying to renew certified credentials.**

We are pleased that it appears that you will have your electronic tracking system for continuing education implemented in time for your November 30, 2004 renewal cycle. If it works as anticipated, it should provide significant benefits.

Our June 7th letter itemized four steps that the Department and/or Board needed to take to address this concern. In your response, you effectively addressed the fourth step by stating that, beginning November 30, 2004, the Department will not renew a credential unless the Department has documentation to substantiate that the appraiser met the AQB's continuing education criteria.

Regarding the first three steps, however, you stated that neither licensees nor education providers were required by statute or administrative rule to maintain proof of continuing education completion. You proposed that the Appraisal Subcommittee ("ASC") accept prospective 100% continuing education verification as a substitute. In effect, you ask us to waive the Title XI provision requiring certified appraisers to conform to AQB criteria regarding continuing education. We cannot grant such a blanket waiver. We believe it likely that most appraisers would have retained continuing education documentation to support their credential renewal. At a minimum, they probably maintain a listing of courses taken. Also, from our discussions with many education providers over the years, we believe that most providers would have the necessary records to verify whether an appraiser took an education course. Therefore, the Department needs to complete the continuing education affidavit audit as outlined in our June 7th field review letter. We would consider approving a waiver on a case-by-case basis, depending on the circumstances.

- **Florida had not adopted AQB criteria that became effective January 1, 2003.**

We are pleased that the Board adopted the necessary revised regulations on May 25, 2004. During our follow-up review in December, we will review the findings of your investigation of applicants/appraisers who were granted initial certifications or renewals without having taken the necessary 15-hour National USPAP Course or 7-hour National USPAP Update Course.

- **Given the substantial backlog of complaint cases, Florida's complaint investigation and resolution process does not comply with ASC Policy Statement 10.**

We appreciate the efforts the Department and Board are taking to address this concern. We will review this issue further during our follow-up review and hope to see initial indications of success in reducing the backlog of old cases.

- **Florida's regulations and approval process for distance education courses are not consistent with AQB criteria.**

We are pleased that the Board adopted the necessary revised regulations on May 25, 2004. You requested that we authorize a six month grace period for providers to obtain the necessary approval to conform to AQB criteria. Once again, you are asking us to waive a Title XI requirement for certified appraisers. We cannot grant such a blanket waiver. You need to notify identified education providers as quickly as possible. Also, you should notify your appraisers of the changes in approved courses to help prevent them from taking courses that will not be acceptable for renewal.

- **Temporary practice permits are not issued within five business days as prescribed by ASC Policy Statement 5.**

We appreciate your efforts to streamline action on temporary practice applications. We will review this area in more detail during our follow-up review.

Denise Hoage and I will perform a follow-up review of your Program on December 14-15, 2004. Our review will closely re-examine the areas of concern identified in our June 7th letter. To assist in that review, please provide us the following information by December 1st:

1. A listing of individuals issued initial certified credentials on or after August 1, 2001, identifying those individuals audited for compliance with the experience and/or education requirement, including information regarding actions taken against those failing to respond or unable to support their affidavits;
2. A listing of individuals issued renewed certified credentials on or after August 1, 2001, identifying those individuals audited for compliance with the continuing education requirement, including information regarding actions taken against those failing to respond or unable to support their affidavits;
3. A copy of the revised application and experience log, and the estimated date of implementation;
4. A written explanation of the credential renewal process, including a description of any procedures or mechanisms in place to ensure compliance with Title XI and conformance with AQB criteria, such as those regarding the 7-hour National USPAP Update Course, or its equivalent;
5. A copy of the revised regulations as adopted on May 25, 2004; and
6. A complete listing of all open and closed complaints noting the current status of all open complaints.

Upon our arrival, please have available a listing of appraisers placed on inactive status for failing to meet the continuing education requirements by November 30, 2004. Please include a copy of the letter sent to each notifying the appraiser of his or her inactive status.

Again, thank you for your response and your efforts to address our concerns. We look forward to our follow-up review on December 14th and 15th and the opportunity to further explore the outstanding issues. If you have any questions, please contact us.

Sincerely,

Ben Henson
Executive Director