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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

June 7, 2004

Ms. Diane Carr  
Secretary, Florida Department of Business  
and Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-0750

Dear Ms. Carr:

Thank you for your and your staff's assistance in the April 2-6, 2004 Appraisal Subcommittee ("ASC") review of Florida's real estate appraiser regulatory program ("Program"), as well as the cooperation of the Florida Real Estate Appraisal Board ("Board)."

Our review revealed serious weaknesses in Florida's Program, most of which did not exist at the time of our December 2000 field review. As a result, Florida is not in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended ("Title XI"). This letter sets forth the ASC's findings and recommendations to the Department of Business and Professional Regulation ("Department") for bringing the Program into compliance with Title XI.

Florida needs to remedy the identified deficiencies promptly. Otherwise, the ASC will consider initiating a "non-recognition" proceeding under § 1118 of Title XI, 12 U.S.C. 3347, and 12 CFR part 1102, subpart B, thereunder. Beyond specific areas of noncompliance, we also noted that during the last five years the Program has experienced a high level of management and staff turnover, and that efforts to reorganize the Program appear to have introduced a lack of continuity in the Program's administration. To help the State resolve these concerns, ASC staff will return for a follow-up review in approximately four to six months to assess the State's efforts. Also, we plan to schedule a full review of the Program approximately 18 months after our April 2004 review.

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

Since mid-Summer 2001, the Department has allowed applicants for initial certification to provide affidavits attesting to the required hours of education and experience without requiring documentation to substantiate applicants' claims. Of the 68 original and renewal application files that we reviewed, only six contained a complete record supporting the application or renewal. The affidavits did not identify the number of hours of education and experience required of the applicants. Further, most files did not contain the affidavit. In most of these cases, the Department did not have any records supporting the applicants' claims regarding education and experience. The ASC finds that this affidavit approach does not comply with Title XI for certified appraisers because the Department does not verify the applicant's claim of experience and education.

ASC Policy Statement 10 provides that States, at a minimum, should have a reliable means of validating both the education and experience credit claimed for certification or licensing. Also, Section 4.005(1) and (2) of Florida's appraiser regulations requires that the Department conduct an experience audit on ten percent of applicants for initial licensure or certification. ASC staff, however, found no evidence that the Department has performed an experience audit of the required size since 2001.

To address these concerns regarding qualifying education and experience, the Department and/or Board needs to perform the following actions:

1. Prepare a listing of all appraisers who were issued initial certified credentials on or after August 1, 2001;
2. By August 31, 2004, audit the education and experience claims of at least ten percent of the identified appraisers, as specified in Florida's regulations;
3. Identify appraisers who failed to conform to Appraiser Qualifications Board ("AQB") criteria at the time of initial certification and take appropriate disciplinary actions against those appraisers. For certified appraisers who do not currently meet AQB criteria, immediately begin the necessary steps to downgrade the appraisers to a non-certified classification; and
4. Conform your ongoing certified credential issuance practices to the above guidelines until such time as the ASC completes its work on amendments to Policy Statement 10 regarding affidavits.

The ASC has proposed revisions to Policy Statement 10 disallowing the use of affidavits for qualifying education and experience claims of individuals applying for certified credentials. We anticipate adoption later this year. Following adoption of any revisions, the Department will need to conform its Program to comply with Policy Statement 10, as amended. ASC staff will perform a follow-up review after August 31, 2004, to evaluate the audit results and subsequent Department actions.

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

For the November 2002 credential renewal period, the Department allowed certified appraisers applying to renew their credentials to submit affidavits attesting to the required hours of continuing education. As with applications for initial certification, ASC staff found that the Department also lacked a reliable means of validating the continuing education claims of renewing certified appraisers. The ASC finds that this affidavit process for renewing appraiser certification does not comply with Title XI because the Department does not verify the appraiser's claim of continuing education.

We understand that the Department is in the process of implementing an automated system that will link data from education providers with appraiser records. Department staff informed ASC staff, however, that this feature would not be implemented in time for the November 2004 renewal cycle. The ASC is concerned that the Department may be intending to allow renewals to be issued automatically, even when appraisers do not have the required education on file. Such practices would not comply with Title XI because the State would renew

certified appraiser credentials without a reliable means of validating conformance with AQB criteria for continuing education.

To address these concerns about Florida's continuing education validation procedures, the Department and/or Board needs to perform the following actions:

1. Prepare a listing of all certified appraisers whose credentials were renewed on or after August 1, 2001;
  2. By August 31, 2004, audit the continuing education claims of at least ten percent of the identified appraisers, as specified in your regulations;
  3. Identify appraisers who failed to conform to AQB criteria at renewal and take appropriate disciplinary actions against those appraisers. For certified appraisers who do not currently meet AQB criteria, immediately begin the necessary steps to downgrade the appraisers to non-certified classifications; and
  4. Conform your ongoing certified credential renewal practices to the above guidelines until such time as the ASC completes its work on amendments to Policy Statement 10 regarding the use of affidavits.
- **Florida had not adopted AQB criteria that became effective January 1, 2003.**

Although Florida had proposed regulations to incorporate the revised criteria, at the time of our review, Florida had not adopted the AQB criteria changes for certified appraisers that became effective January 1, 2003. Among other things, these criteria require States to implement the 15-hour National USPAP Course, or its equivalent, for initial applications and the 7-hour National USPAP Update Course, or its equivalent, for renewal applications. ASC staff also observed that Florida had not notified appraisers of their need to take the 7-hour National USPAP Update Course, or its equivalent, prior to their November 2004 renewals.

During our review, Department staff informed ASC staff that Florida intends to adopt the proposed regulations shortly and to make them effective on or before June 1, 2004. While this action will correct the regulatory conflict with Title XI, Department staff must implement the AQB criteria for certified appraisers as of January 1, 2003. Therefore, the Department must ensure that all applicants, who were granted certified credentials since January 1, 2003, have taken the 15-hour National USPAP Course, or its equivalent, and passed the associated examination, if the applicant took the USPAP course on or after January 1, 2003. For applicants relying on a qualifying USPAP course taken prior to January 1, 2003, the course does not have to be the 15-hour National USPAP Course.

The Department issues appraiser credentials for two-year cycles with expirations on November 30 of "even" years. Because of varying State renewal cycles, the AQB provided a three-year window, January 1, 2003 through December 31, 2005, in which States could implement the 7-hour National USPAP Update Course criterion. Given its renewal cycle, Florida must implement the 7-hour Update Course requirement for its November 30, 2004 renewal and all subsequent renewals. Florida should notify its appraisers of this requirement as soon as possible.

To address these concerns, the Department and/or Board needs to perform the following actions:

1. Identify all certified appraisers whose initial credentials were issued on or after January 1, 2003;
  2. For appraisers identified in step 1, determine which appraisers relied on a qualifying USPAP course taken on or after January 1, 2003;
  3. For appraisers identified in step 2, determine which appraisers did not take the 15-hour National USPAP Course, or its equivalent;
  4. Notify appraisers identified in step 3, by August 31, 2004, that they must take the 15-hour National USPAP Course, or its equivalent, and pass the associated examination not later than November 30, 2004;
  5. Identify, by December 31, 2004, those certified appraisers who failed to conform to AQB criteria either by not taking the 15-hour National USPAP Course, or its equivalent, or failing the associated examination, and begin the necessary steps to downgrade those appraisers to non-certified classifications;
  6. Adopt, by June 30, 2004, the necessary regulations and implement the January 1, 2003 revised AQB criteria regarding the 15-hour National USPAP Course for initial certification and the 7-hour National USPAP Update Course for renewal; and
  7. Ensure that certified appraisers renewing credentials expiring November 30, 2004, conform to AQB criteria by having taken the 7-hour National USPAP Update Course, or its equivalent.
- **Given the substantial backlog of complaint cases, Florida's complaint investigation and resolution process does not comply with ASC Policy Statement 10.**

At the time of our review, 232 of the 452 open complaint cases had been in process for more than one year. Nine of those cases were over five-years old. The complaint log identified the status of most complaints, particularly the dated cases, as either awaiting investigation or legal action. ASC staff noted that in 35 of the 452 open cases, it appeared that the State needed only to draft the final orders to close the cases. Based on ASC staff analysis of the Department's complaint log and individual complaint case files, and discussions with Department staff, the ASC finds that Florida has failed to administer an effective complaint investigation and resolution program as required by Title XI.

ASC Policy Statement 10 provides that, absent special circumstances, final State administrative decisions regarding complaints should occur within one year of the complaint filing date. The State needs to take the necessary actions to comply with ASC Policy Statement 10. To allow us to review your progress towards this goal, the Department and/or Board needs to:

1. Provide the ASC with a plan to reduce the backlog of outstanding cases and a plan for improving the management of the complaint investigation and resolution process so that most complaints are resolved within one year from receipt; and
2. Provide a copy of the complaint log to the ASC at the end of each calendar quarter to enable ASC staff to monitor your progress in reducing the current backlog.

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

During the review, ASC staff identified a number of Department-approved distance education courses that failed to comply with AQB criteria. Specifically, these courses were not offered by accredited colleges or universities or did not have their delivery methodology approved by the International Distance Education Certification Center and their content approved through the AQB Course Approval Program or by the State.

The Department needs to perform a complete review of approved distance education courses and identify each course that does not comply with the AQB’s distance education criteria for certified appraisers. The Department needs to rescind its approval for these courses.

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

During the review, ASC staff noted numerous instances in which the Department took more than five business days to act on a temporary practice application. ASC Policy Statement 5 identifies taking more than five business days as “burdensome.” Title XI prohibits burdensome provisions or practices regarding temporary practice.

The Department needs to evaluate and streamline its temporary practice application review process to achieve a five-business day processing timeframe, as required by ASC Policy Statement 5.

Unless specifically stated otherwise, please respond to our findings and recommendations within 60 days from the date of this letter. Until the expiration of that time 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.

If you have any questions, please contact us.

Sincerely,

Virginia M. Gibbs  
Chairman

cc: Francois K. Gregoire, Chairman  
Florida Real Estate Appraisal Board  
400 W. Robinson Street  
Suite N801  
Orlando, Florida 32801-1757

Juana Carstarphen Watkins, Acting Director  
Division of Real Estate  
400 W. Robinson Street  
Suite N801  
Orlando, Florida 32801-1757

Michael E. Murphy, Director  
Division of Service Operations  
1940 North Monroe Street  
Tallahassee, Florida 32399-0750

Ashley Dashnaw, Regulatory Specialist  
Division of Real Estate  
400 W. Robinson Street  
Suite N801  
Orlando, Florida 32801-1757