

MINNESOTA DEPARTMENT OF COMMERCE

April 22, 1997

Herbert S. Yolles, Chairperson
Appraisal Subcommittee
2100 Pennsylvania Avenue, N.W., Suite 200
Washington, DC 20037

Dear Mr. Yolles:

Thank you for your letter of March 10, 1997, regarding the report by the Subcommittee staff of the examination of the appraiser regulatory program in Minnesota. We appreciate the professionalism demonstrated by your staff, as well as, your comments on our program. We take a great deal of pride in the quality, efficiency and effectiveness of our appraiser regulatory program. Therefore, it was gratifying to see the Appraisal Subcommittee acknowledge, in large part, the success of our undertaking. Your letter, however, did identify a few concerns to which I am responding.

1. Your first comment identified a concern that our investigators were not sufficiently knowledgeable about USPAP requirements and were not exploring all potential USPAP violations.. You stated that this may arise because it appeared that investigators are limiting their investigations to the specific issues raised by the complainant.

Some background information on the Departments regulatory responsibilities and philosophy may be helpful in clarifying this issue. The Minnesota Department of Commerce, Enforcement Division, licenses and regulates 17 different professions. The "real estate team" consists of 4 investigators and one supervisor, and is responsible for investigating real estate, real estate appraisers, subdivided land, campground memberships, franchises, abstracters, Medicare supplement advertising, toy safety, cosmetology, and viatical settlements.

Your auditors were correct in reporting that we do not attempt (on every file) to identify each and every possible violation of USPAP. With our limited resources and numerous responsibilities, we attempt to address those areas that are most relevant and that would have a substantive impact on the licensees and/or their

work product. It should be kept in mind that the Appraiser Standards Board has recognized the fact that USPAP is an "unwieldy document" which is difficult to use and the Board is currently exploring plans to rectify that problem.

Although we focus our investigations on the overall integrity of the appraisal (e.g. Is the value placed on the property by the appraiser the logical result of the utilization of good appraisal principles?), we do attempt to instruct the appraiser on the applicable law and USPAP provisions. We frequently make use of what we call "warning letters", which are "non-public" letters issued to an appraiser, when s/he commits a first and/or minor offense. We keep records of all "warning letters" and an appraiser who receives more than one, for a similar violation, will be dealt with more severely the second time. We have also made attendance at USPAP training sessions a settlement criteria for appraisers who demonstrate a lack of awareness and/or misunderstanding of USPAP principles.

This Department prides itself on its reputation for providing objective professional investigative services. We further believe that public confidence in the regulatory process is often enhanced when the regulatory agency has no actual or perceived past or present ties to the regulated industry. However, it should be noted that all of the real estate investigators that are assigned to appraisal complaints have taken at least one course which dealt exclusively with the Uniform Standards of Professional Appraisal Practice.. In addition, they have all taken other courses relating to appraisal concepts and practices.. They each have a current copy of USPAP at their desk for use when conducting investigations. Finally, every communication that we receive from the Appraisal Foundation is circulated to each of the investigators (with the exception of exposure drafts; these are revised on a regular basis and until they are finally adopted usually undergo numerous and confusing changes).

Industry experience is an important and helpful component of the regulatory process, however, we believe that "investigative" expertise is even more important. Therefore, while the fact that our investigators are not professional appraisers may occasionally result in their failing to note a technical violation of USPAP, we are confident that they are identifying the most egregious violations and are certainly enforcing the "spirit" of the USPAP.

2. Your second suggestion was to set up a quality control program in which cases closed by an investigator are reviewed.

Each and every case that is closed is placed in my office for my review, and this has been our policy for a number of years. I review the files for a number of things, consistency being only one. The department has for a long time considered consistency of action to be a critical aspect of our regulatory responsibilities and we constantly monitor our level of consistency regarding the imposition of disciplinary sanctions.. In addition, it should be noted that the Minnesota Data Practices Act severely restricts our ability to share investigative and/or complaint data with anyone other than another law enforcement agency. However, we have in the past and will continue in the future, to seek advice and counsel from the Minnesota Appraiser Advisory Board and other recognized experts in the profession.

3. Your third comment was that we do not specifically prohibit Registered Appraisers from independently performing appraisal assignments in connection with federally related transactions..

That comment is correct. We were lead to believe, by Subcommittee and the Foundation staff, that the "official" position on this issues was that Registered Appraisers "probably" could not perform appraisals on federally related transactions.. We are very pleased to hear that the Subcommittee has taken a definitive position on this issue and that Registered Appraisers are now specifically barred from performing appraisals on federally related transactions.. I have already initiated an inquiry to determine whether we can implement this policy through administrative action or whether legislation will be necessary.

4. This comment addressed the fact that, because of some confusion, Minnesota did not collect Registry fees from reciprocal licensees for a period of time We have recently sent a letter to all reciprocal licensees requiring that they submit the fee to our licensing division. Those fees will be forwarded to the Appraiser Registry as soon as they are collected.

5. The final comment concerned the belief that Minnesota's Certified Residential Appraiser educational requirements could impede reciprocity.

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Minnesota raised the educational requirement when the Appraiser Qualifications Board made the recommendation that more education be required. We have already proposed the reduction to 120 hours in this legislative session and we believe that this will be passed into law with no difficulty. We have never allowed that difference to prevent an out of state licensee from obtaining a reciprocal license in Minnesota.

I hope that this letter addresses your concerns. Again, I appreciate the sincerity and professionalism demonstrated by the Subcommittee auditors and this opportunity to address/respond to the concerns they have raised. If you have additional comments or questions after reviewing this correspondence, please feel free to contact me at your convenience.

Sincerely,

DAVID B. GRUENES
Commissioner of Commerce

BY:
BARBARA M. LESSARD
Commerce Enforcement Supervisor
Enforcement Division
(612) 297-3543
BML/dm