



*Montana*  
**Department of Labor and Industry**  
Business Standards Division

Governor Brian Schweitzer

Board of Real Estate Appraisers

June 10, 2005

JUN 15 2005

Virginia M. Gibbs, Chairman  
Appraisal Subcommittee  
2000 K Street, NW, Suite 310  
Washington DC 20006

Dear Ms. Gibbs:

The Montana Board of Real Estate Appraisers has reviewed your letter outlining the findings of the audit on the Montana appraisal regulatory program. The Board appreciates this review and the opportunity to address the Subcommittee's findings. Both the Board and the staff of the Department of Labor & Industry take these findings very seriously. We strive to meet the requirements of the Subcommittee while existing within the structure of a state agency.

Our responses to the areas highlighted in your correspondence are as follows:

- Montana does not investigate and resolve complaints in a timely manner.

We concur with your finding that the Montana Board of Real Estate Appraisers is not meeting the expected one-year timeframe for resolution of some complaints. We propose implementing a new initial review process which will cut down the time from when a complaint is received until an investigation is requested. A complaint will come into the board office. A request for response will be made to the licensee. Upon receipt of that response the file will then be forwarded to a member of the Complaint Screening Committee. They will determine if the complaint warrants an immediate investigation or if the complaint should be held for consideration by the full Complaint Screening Committee at their next regularly scheduled meeting. For those complaints with obvious violations, this new procedure will result in shorter time between receipt of the complaint and completion of the investigation.

The Department is in the process of adopting a new Complaint, Investigation and Disciplinary Procedure. The draft Procedure outlines specific deadlines for carrying out the determinations made by the Complaint Screening Committee. If the Complaint Screening Committee votes to issue a notice of proposed board action against a licensee, the Prosecuting Attorney must draft and serve the notice on the licensee no later than sixty days after being informed of the board's motion. This will result in a reduction of time between a Complaint Screening Committee decision and a notice being issued. Please take note that funding continues to be an issue. Our current financial situation does not allow us to hire additional legal counsel that would improve the time frame between the actual Screening Panel action and the final conclusion of the legal proceedings including the Stipulation and Final Order. We are currently exploring our rather limited options which may include contract attorneys to assist us in clearing our backlog, however this would be a short term solution, and will be limited by our current resources. Any guidance or assistance you have for us on this matter would be greatly appreciated.

All enforcement files will contain, at a minimum, investigator notes concerning the circumstances surrounding the complaint. This will ensure adequate documentation that the board has sufficient information to make a reasonable cause determination or dismiss based on the complaint documents.

The Department has implemented a new procedure for addressing denied applications. They will no longer be automatically logged in as complaints, thus adding to the already backlogged complaint process. The applicant will be notified and informed of their due process rights in a letter from the administrative staff. If the denied applicant pursues their due process rights, it will then be logged in and added to the contested case roster. This will eliminate the delay in notifying the denied applicants of the result of the board determination and will eliminate those complaints that are filed on these denied applications but are not enforcement related.

The Compliance Tech will provide a copy of the complaint log to the ASC following each quarterly board meeting.

- Montana did not report disciplinary actions to the ASC as required by ASC Policy Statement 9.

Montana staff was unaware the ASC was not getting that information in the monthly transfer of data done from the Board to the ASC. Now that we are aware of it we will be forwarding all disciplinary actions to the ASC following each quarterly board meeting.

- Montana's temporary practice regulations do not conform to ASC Policy Statement 5.

We concur. Montana is in the process of amending the application requirements section of the rules. We intend to clarify the difference between the approval process for an application for temporary practice and a license. These rules amendments will reflect the current practice.

- Montana's regulations regarding appraiser education need to be amended to conform to AQB criteria and Board practice.

Montana concurs with the first portion of this finding and agrees to amend the rule to require the 15-hour national USPAP course.

Currently Montana rules do allow for approval of distance education from accredited universities, colleges, junior colleges or community colleges and is the current practice. 24.207.504 Qualifying Education Requirements ARM (3) states "The following may be approved as providers of educational and training courses provided the standards set forth in (3) (a) through (e) are met:  
(a) universities, colleges, junior colleges or community colleges accredited by a regional accrediting body accepted by the appropriate agency of the state of Montana;"

Additionally, continuing education offered by universities, etc, are approved for distance education under 24.207.2 101 Continuing Education, ARM (1) Continuing education courses shall be approved according to the criteria of ARM 24.207.504...

I believe that this will satisfactorily address each of the areas of concern that were identified in your recent visit. If you have any further questions, or can give us any assistance or guidance with the funding issues, please let us know.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Moore", written over a horizontal line.

Tim Moore, Chairman