

□ □ □ □ □ □

Appraisal Subcommittee

Federal Financial Institutions Examination Council

September 12, 2007

Mr. Thomas Andolfo, Chair
Rhode Island Real Estate Appraisers Board
Mr. Michael Marques, Director
Department of Business Regulation
223 Richmond Street, Suite 230
Providence, RI 02903-4230

Dear Mr. Andolfo and Mr. Marques:

Thank you for your July 6, 11, 25, 30, and August 22, 2007 letters responding to our June 27, 2007 field review letter. We appreciate your efforts to bring Rhode Island's real estate appraiser regulatory program ("Program") into compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, ("Title XI").

As discussed in more detail below, it appears that Rhode Island has made substantial progress towards resolving our concerns.

- **Rhode Island's complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10.**

In our June 27th field review letter, we noted that Rhode Island's complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10 E because complaints were not investigated and resolved in a timely fashion and the entire system for processing and investigating complaints was not administered in a well-documented manner. We also cited Rhode Island for not investigating and resolving complaints in a timely manner in our August 25, 2004 field review letter.

To resolve these concerns, the Department of Business Regulation ("Department"), Division of Commercial Licensing & Regulation ("Division"), and Rhode Island Real Estate Appraisers Board ("Board") needed to take certain corrective actions.

Rhode Island has taken the following actions to address our concerns by providing us:

1. A "Plan to Reduce Case Backlog and Process Complaints" (with your July 30, 2007 letter);
2. A revised complaint tracking report (with your July 30, 2007 letter);
3. An amended State Records Retention Schedule (with July 30, 2007 letter); and

4. Further confirmation in your August 22, 2007 letter that the Board will maintain well-documented copies of complaint records, including Board decisions.

We appreciate your efforts and hope that they will bring your complaint investigation and resolution program into compliance with Title XI and ASC Policy Statement 10 E. We expect to see a substantial reduction in the number of aged complaints when we return for our follow-up review in the near future. Please continue to follow the curative steps in our June 27th field review letter.

- **Rhode Island's temporary practice procedures did not conform to Title XI and ASC Policy Statement 5.**

In our June 27th field review letter, the ASC found that Rhode Island failed to comply in two ways with the temporary practice provisions of Title XI and ASC Policy Statement 5. The State charged a temporary practice fee in excess of \$150 and had no procedure to provide temporary practitioners with a way to obtain an effortless extension of time to complete their assignments. To resolve this situation, the Department and Board needed to take certain corrective actions.

ASC Policy Manager Kristi Klamet received email correspondence from Jeff Greer on May 31, 2007, stating that the State's temporary practice regulations had been revised to comply with Title XI and ASC Policy Statement 5 through emergency rulemaking. Your August 22nd letter confirmed that appropriate rule amendments were adopted and implemented.

- **Rhode Island approved continuing education courses that were inconsistent with AQB criteria.**

In our August 24, 2004 field review letter, we identified several real estate sales courses that the State had approved for appraiser education but did not meet AQB criteria for continuing education. At that time, we directed the Board and Department to rescind approval for any courses that did not conform to AQB criteria and to refrain from approving such courses in the future. In April 2005, Rhode Island notified the ASC that the Board had reviewed and deleted the courses it believed were inconsistent with AQB criteria. During our April 2007 field review, we found that only some of those course approvals identified in 2004 were rescinded. It appeared that the Board only rescinded nonconforming courses being offered by the Rhode Island Association of Realtors. To resolve this concern, the Department and Board needed to take certain corrective actions.

In response, Rhode Island:

1. Reviewed all currently approved continuing education courses to ensure their conformance to AQB criteria and rescinded approval for nonconforming courses;
2. Provided a revised list of approved continuing education courses (with your July 11th letter);
3. Provided a list of 91 appraisers that the Board identified as not having sufficient AQB-compliant continuing education (with your July 25, 2007 letter); and

4. Forwarded a sample copy of the letter sent to each identified non-conforming appraiser, noting the number of hours of continuing education that must be taken within 60 days (by October 9, 2007) to maintain the appraiser's credential (with your July 25, 2007 letter).

As a result, Rhode Island appears to have satisfactorily completed steps one through four above of our corrective actions. We look forward to your timely completion of steps five and six.

- **Rhode Island regulations allowed continuing education credit that did not conform to AQB criteria.**

Board regulations provided that an appraiser could receive up to one hour of continuing education credit for attending a Board meeting, provided that the meeting for which credit is sought was at least one hour long. The regulations also allowed appraisers to obtain a maximum of 12 hours of continuing education credit per year from attending Board meetings. In August 2004, the AQB determined that a State could award continuing education credit to appraisers who attended a State Board/Commission meeting under the certain circumstances. The Board's regulations did not conform to the AQB's criteria.

We identified this concern during our 2004 field review, and directed Rhode Island to amend its regulations to conform to AQB criteria. In April 2005, Rhode Island petitioned the AQB to reconsider its position. The AQB did not grant the relief requested by Rhode Island.

As noted in our June 27, 2007 field review letter, the AQB recently adopted an Interpretation on this subject that becomes effective January 1, 2008. Under the new Interpretation, State agencies may award continuing education credit to credentialed appraisers attending State agency meetings, under certain circumstances. To qualify, continuing education credit may be awarded for a single meeting per continuing education cycle, the meeting must be public, and must be at least two hours long. The total credit cannot exceed seven hours. Finally, the State agency must ensure that the appraiser claiming the credit actually attended the meeting for the required time period.

During our 2007 field review, ASC staff found that continuing education credit had been granted to several appraisers for multiple Board meetings within one continuing education cycle. Mr. Greer advised us in his May 3rd letter that emergency regulations would conform the problematic rule provisions to the AQB's soon-to-be effective Interpretation. The only aspect missing from the draft regulations was the requirement that the State agency ensure that the appraiser claiming the credit actually attended the meeting for the required time period. To resolve this concern, the State needed to take certain corrective actions.

In response, Rhode Island:

1. Stated in a May 31, 2007 email from Jeff Greer to ASC Policy Manager Kristi Klamet that curative emergency regulations were adopted. Your August 22nd letter confirmed that appropriate rule amendments were adopted and implemented;
2. Provided the ASC with a list of five appraisers that the Board identified as having relied on continuing education credit granted for attendance at more than one Board meeting during a continuing education cycle (with your July 25, 2007 letter); and

3. Provided the ASC with a sample copy of the letter that was sent to the identified appraisers noting the number of hours of continuing education that must be taken within 60 days (by October 9, 2007) to retain their credentials. The letter also provided each appraiser with the number of hours of unacceptable continuing education (with your August 22, 2007 letter).

As a result, Rhode Island appears to have satisfactorily completed steps one through four of the corrective actions. We look forward to your timely completion of steps five and six.

- **Rhode Island's statute and regulations allowed the Board to grant up to a six-month extension of an appraiser credential for good cause.**

AQB criteria states that waivers or deferrals may not be granted to credential holders who have failed to meet continuing education requirements. Rhode Island's statute and regulations allowed the Board to grant up to a six-month extension of an appraiser credential for good cause. The Board usually applied this provision when an appraiser failed to meet continuing education requirements. When the Board granted such an extension, the appraiser's credential remained valid for the extension period. Therefore, the appraiser remained eligible to appraise for federally related transactions. We cited the State for this deficiency in our 2001 field review letter and instructed the Board not to grant extensions to certified appraisers who failed to meet the AQB's continuing education criteria, or for any other purpose that would conflict with Title XI's requirements (including AQB criteria and ASC Policy Statements). However, our 2007 field review revealed that the Board continued to grant renewal extensions. To address this concern, the Board and Department needed to take certain corrective actions.

Rhode Island has taken the following steps to address this concern:

1. Stating in a May 31, 2007 email from Jeff Greer to ASC Policy Manager Kristi Klamet that curative emergency regulations were adopted to cure this deficiency. Your August 22nd letter confirmed that appropriate amendments were adopted and implemented;
2. Notifying the ASC in your July 11, 2007 letter that you intended to downgrade non-compliant certified appraisers to non-certified status;
3. Providing a list of three appraisers that the Board identified as having been issued a current renewal extension (with your July 25, 2007 letter); and
4. Advising the ASC in your July 25th letter that these three appraisers were changed to "Inactive" status on the National Registry.

The Board has taken the appropriate actions to remedy this situation. We appreciate your efforts to bring your statute and regulations in to compliance with AQB criteria.

- **Rhode Island did not remit payment for invoices within 45 days in accordance with Policy Statement 8, and did not report all disciplinary actions pursuant to Policy Statement 9 A.**

ASC Policy Statement 8 requires that States submit appraiser data to the ASC no less frequently than monthly and pay invoices within 45 days from the invoice date. The ASC issued 31 invoices to Rhode Island since our previous field review in 2004, and the State did not remit payment for 16 of the 31 invoices within the 45-day requirement.

ASC Policy Statement 9 A requires State Agencies to expeditiously report to the ASC any disciplinary actions taken against appraisers. At the time of our review, the National Registry reflected that Rhode Island had taken disciplinary action against 13 appraisers. However, when ASC staff reviewed the Board's meeting minutes, they discovered at least six disciplinary actions that were not listed on the National Registry.

To resolve these concerns, the Board and Department needed to take certain corrective actions.

Rhode Island has taken the following steps to address this concern. The State:

1. Notified the ASC that procedures were put in place to assure payments within 45 days (in your August 22, 2007 letter); and
2. Confirmed in your July 25th letter that you are reporting all disciplinary actions to the ASC in accordance with Policy Statement 9 A, and that all disciplinary actions were currently reflected on the National Registry.

As directed in our June 27th field review letter, please forward to ASC staff a copy of the procedures referenced in item one above.

- **Implementation of 2008 AQB criteria changes.**

Rhode Island approves qualifying and continuing education courses for three-year periods. Some of these course approvals extended beyond the January 1, 2008 effective date of the revised AQB criteria. Many of these courses will not conform to 2008 AQB criteria or will require substantial modification. To ensure proper implementation of the 2008 AQB criteria changes, the Department and Board needed to take certain actions.

In response, Rhode Island:

1. Provided the ASC with a "Action Plan Regarding the Implementation of the 2008 AQB Criteria" (with your July 25, 2007 letter);
2. Notified the ASC in your July 11th letter that correspondence has been sent to each affected course provider, indicating that if the provider does not reply or resubmit a new course approval application, their courses will removed from the list of approved courses; and

3. Notified the ASC in your August 22nd letter that the Board plans to review all courses to assure compliance with the 2008 criteria.

Please provide the ASC as soon as possible with the results of your review of all affected approved qualifying education courses.

Again, thank you for your efforts to resolve our concerns and bring your Program into compliance with Title XI. Our field review letter, your responses, and any other correspondence between us regarding this field review are now public information and will become publicly available on our Web site.

Please contact us if you have any questions.

Sincerely,

Ben Henson
Executive Director

cc: Richard Berstein, Executive Counsel, Department of Business Regulation
Jeffrey Greer, Associate Director, Division of Commercial Licensing & Regulation