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**WISCONSIN DEPARTMENT OF
REGULATION & LICENSING**



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March 5, 2007

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Ms. Virginia M. Gibbs
Chairman
Appraisal Subcommittee
Federal Financial Institutions Examination Council
2000 K Street, NW, Suite 310
Washington, DC 20006

**Re: Wisconsin Real Estate Appraisers Regulatory Program - Response to
the Appraisal Subcommittee's October 2006 Field Review Findings**

Dear Ms. Gibbs:

I am writing in response to your letter, dated January 5, 2007, in which you informed the Department and the Wisconsin Real Estate Appraisers Board ("Board") of the Appraisal Subcommittee's findings based upon its October 18-19, 2006 field review.

First, on behalf of the Department and the Board, I would like to take this opportunity to thank Vicki Ledbetter and Denise Graves for their assistance during the field review. Their presentations during the opening and exit conferences were excellent! We especially appreciated the professional manner in which they conducted the field review.

Second, as you know, Wisconsin's Real Estate Appraisers Regulatory Program is administered jointly by the Department and the Board. In early February, a copy of your January 5, 2007, letter was mailed to each Board member. In addition, I met with the Board members at their February meeting to discuss the Appraisal Subcommittee's findings; to find out if they had any specific concerns; to share our proposed resolutions to the Appraisal Subcommittee's concerns, and to obtain their recommendations. Based upon discussions with the Board, it can be concluded that the Board concurs with the resolutions proposed by the Department.

Third, in reference to the specific concerns raised by the Appraisal Subcommittee, I will respond to those concerns in the order in which they were presented.

Wisconsin's complaint investigation and resolution program does not comply with Title XI and ASC Policy Statement 10.

The Appraisal Subcommittee found that Wisconsin's complaint investigation and resolution program does not comply with Title XI and ASC Policy Statement 10 because complaints are not investigated and resolved in a timely manner. To address this concern, the Appraisal Subcommittee indicated that the Department and Board need to:

1. Develop and implement a plan to eliminate the backlog of outstanding complaints and to ensure that new complaints are investigated and resolved in a timely manner consistent with ASC Policy Statement 10; and
2. Provide a copy of this plan to the ASC within 60 days from the date of this letter.

Department and Board's Response:

We agree with the Appraisal Subcommittee's conclusion that some complaints were not investigated and resolved in a timely manner. As noted in your letter, the Department and the Real Estate Appraisers Board have implemented a number of changes to the complaint investigation process over the past several years. Although, not to the extent desired by the Appraisal Subcommittee, we believe those changes have had a beneficial effect on our efforts to resolve complaints in a timely fashion. Having said that, we have taken a number of steps, which are outlined in Appendix I, that are designed to eliminate the "backlog" by July 2007, and to improve the existing complaint handling process to the extent that it will enable us to resolve a substantial number, if not all, of the existing and future complaints in a timely manner. Many of these steps were implemented during the summer of 2006; others steps are being implemented at this time. We are confident these changes will enable us to satisfy the Appraisal Subcommittee's concerns relating to our complaint handling process.

The Department reinstated appraiser credentials in a manner inconsistent with Appraiser Qualifications Board ("AQB") criteria.

As noted in your letter, in September 2005, the AQB issued an Interpretation stating that, prior to reactivation of an inactive credential, the credential holder must complete all continuing education that would have been required if the credential had been active, including the most recent edition of the 7-hour National US PAP Update Course, or its equivalent. **I.** The Department recently amended s. RL 87.02 of its rules, effective December 1, 2006, to conform to the AQB Interpretation. Prior to the Department's amendment of its rules, inactive appraisers returning to active status were required to demonstrate only 28 hours of continuing education, notwithstanding the length of the inactive period.

1. The AQB has confirmed that its Interpretation became effective in October 2005.

The Appraisal Subcommittee found that 10 appraisers, eight certified and two licensed, reinstated their expired credentials after September 1, 2005, the effective date of the AQB Interpretation. Of the eight certified appraisers, one reinstated his or her certification within two years of lapse and properly demonstrated 28 hours of continuing education. The other appraisers with reinstated credentials had been inactive more than two years and did not have the necessary amount of continuing education as required by the Interpretation. To address this concern, the Appraisal Subcommittee stated that the Department needs to:

1. Within five days from receipt of this letter, notify the appraisers that they must submit to the Department, within 60 days, evidence of having completed the necessary continuing education hours;

2. Within 75 days from receipt of this letter:

a. Begin the process to downgrade to a non-certified credential any certified appraiser failing to provide such evidence under step one, or recall the appraiser's certified credential and reissue that credential with the phrase, "Not Eligible to Appraise Federally Related Transactions" conspicuously over stamped on its face; and

b. Change the "AQB Compliant" field in the State's National Registry data submission from "Yes" to "No," for any licensed appraiser who fails to document completion of the necessary continuing education hours; and

3. Within 90 days from receipt of this letter, provide the ASC with a written report identifying each appraiser and confirming that steps one through three have been completed.

Department's Response

With this response, the Department confirms that steps one through 3 above have been completed. As noted previously, the Appraisal Subcommittee found that 10 appraisers, eight certified and two licensed, reinstated their expired credentials after September 1, 2005, the effective date of the AQB Interpretation. Of the eight certified appraisers, one reinstated her certification within two years of lapse and properly demonstrated 28 hours of continuing education (Certification #699-09). The other appraisers with reinstated credentials had been inactive more than two years and did not have the necessary amount of continuing education as required by the Interpretation.

As requested by the Appraisal Subcommittee, the Department has taken the following steps:

1. At the exit conference that was held on October 19, 2006, Ms. Ledbetter indicated that it was likely the appraisers in question would be required to complete additional continuing education and that, if they did not complete the additional education, they would need to be downgraded. On November 9, 2006, the Department sent a letter to 9 of the 10 appraisers (one appraiser satisfied the education before the field review), as well as, 6 additional appraisers identified by the Department after the audit, informing them of the preliminary results of the Appraisal Subcommittee's field review. The appraisers were given until January 31, 2007 to complete the additional continuing education hours. Certified letters were sent to those appraisers who did not respond to the first letter.

2. Below is a chart that identifies the 16 appraisers in question and shows the status of their compliance with the continuing education requirements as of February 8, 2007.

Credential Number and Type	Total CE Required at Reinstatement	Compliance Status
ASC identified during the Field Review.		
Certified General Appraisers		
1. 234-10 (WI)	56	Cert mail confirmed receipt. No response.
2. 700-10 (WI)	56	Complete.
3. 1027-10 (FL)	56	Complete
4. 1177-10 (MN)	56	Complete
Certified Residential Appraisers		
5. 603-09 (WI)	56	Complete. Reinstated prior to the October, 2005 effective date of the interpretation. (Initially, September 2005 was reported to be the effective date, but that was corrected by AQB in later correspondence.)
6. 699-09 (WI)	-0-	Complete. Incorrectly identified as not being in compliance. Demonstrated compliance prior to the October 2006 field review.
7. 706-09 (France)	84	Regular and Certified mail sent. No Response.
8. 795-09 (WI)	56	Called to discuss options. No decision received.
Licensed Appraisers		
9. 282-04 (WI)	56	Not currently practicing. Will submit required CE in September 2007.
10. 1137-04 (GA)	56	Cert mail confirmed receipt. No response.
Department identified after the Field Review.		
11. 944-09 [Certified] (WI)	84	No response.
12. 1008-09 [Certified] (IL)	84	Complete.
13. 1074-09 [Certified] (WI)	56	Evidence of 28 hrs received. Needs 56 total
14. 1144-09 [Certified] (MN)	84	Complete
15. 98-04 [Licensed] (WI)	56	Cert mail confirmed receipt. No response.
16. 1110-04 [Licensed] (WI)	84	Evidence of 28 approved CE's including USPAP; needs 56 more. Not received to date.

3. The following steps were taken relating to those licensed and certified appraisers who failed to complete the additional continuing education hours by January 31, 2007:

a. On February 15, 2007, the Department recalled the credentials of the licensed and certified appraisers in question and reissued new credentials with the phrase, "Ineligible to Appraise Federally Related Transactions" conspicuously printed on the face of the credentials.

b. On February 15, 2007, the Department notified the Appraisal Subcommittee that the licensed and certified appraisers in question did not comply with the AQB continuing education requirements for the type of credential that they held and that the National Registry should be updated to change the AQB Compliant data field from "Yes" to "No".

c. On February 15, 2007, the Department updated its website, which provides public access to credentialing information, to reflect that the licensed and certified appraisers in question are "Ineligible to Appraise Federally Related Transactions".

Wisconsin issued a credential to a certified appraiser that was supported by an outdated examination.

The Appraisal Subcommittee found that one certified residential appraiser whose credential was granted more than 2 years after he passed the examination. The Appraisal Subcommittee requested that the Department take the follow actions:

1. Require the certified appraiser who failed to meet the AQB Interpretation to complete the appropriate examination successfully within 90 days from the Department's receipt of this letter; and

2. Take the necessary steps expeditiously to downgrade the appraiser's certification to the licensed level, if the appraiser fails to take or pass the examination within the 90-day period.

Department Response:

As stated in the Appraisal Subcommittee's findings, the Department audited the examination records of all appraisers credentialed on or after July 1, 2000. In a letter, dated February 14, 2006, the Department "self-reported" to the Appraisal Subcommittee that it had determined that no certified appraisers had been improperly credentialed.

During the October 2006 field review, Ms. Ledbetter requested and was given the audit materials supporting the Department's audit findings. Based upon a review of the Department's audit materials, Ms. Ledbetter concluded that, of the total numbers of certified appraisers who had been credentialed after July 1, 2000, one certified appraiser had been granted a credential more than 2 years after he passed the examination. The Department agrees that a certified residential appraiser passed the examination in April 1999 and was granted a credential in December 2003 (Credential #1325-09). The Department initially concluded that because the certified residential appraiser passed the examination (over a year) before the effective date of the AQB interpretation, he had been properly credentialed.

In response to the Appraisal Subcommittee's request, the Department took the following actions:

1. At the exit conference that was held on October 19, 2006, Ms. Ledbetter indicated that it was likely that the certified residential appraiser in question would be required to re-take the examination or be downgraded to a licensed appraiser credential. On November 13, 2006, less than a month after the exit conference, the Department sent a letter to the certified residential appraiser informing him of the preliminary results of the Appraisal Subcommittee's field review. The appraiser was given until January 31, 2007, to re-take and pass the national examination. The appraiser was also given the option of renewing his licensed appraiser credential. The appraiser elected to renew his licensed appraiser credential. He elected not to retake the examination at this time.

2. On February 15, 2007, the Department received proof that the appraiser had completed the appropriate number of continuing education hours required for renewal of his licensed appraiser credential. His licensed appraiser credential was renewed on February 15, 2007. On February 15, 2007, the Department reported to the Appraisal Subcommittee that the appraiser's licensed appraiser credential status should be changed from "inactive" to "active", and that the data field should be changed from "non-AQB compliant" to "AQB-compliant".

3. On February 15, 2007, the Department mailed a new certified residential appraiser credential to the appraiser with the phrase "Ineligible to Appraise Federally Related Transactions" printed conspicuously on the face of the certification.

4. On February 15, 2007, the Department updated its website, which provides public access to credentialing information, to reflect that the certified appraiser is "Ineligible to Appraise Federally Related Transactions".

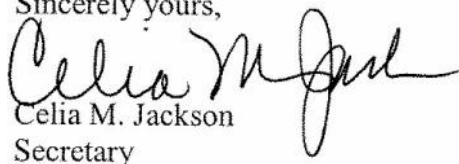
5. On March 2, 2007, the Department notified the Appraisal Subcommittee that the certified appraiser did not comply with the AQB examination requirements for certified residential appraisers and that the National Registry should be up-dated to change the AQB Compliant data field from "Yes" to "No".

Conclusions:

In conclusion, I am confident that the resolutions proposed by the Department and the Board will satisfy the Appraisal Subcommittee's concerns about our procedures for granting and renewing credentials and our complaint resolution process.

If you have any questions, please contact me at (608) 266-1352 or the Legal Counsel for the Real Estate Appraisers Board, Ruby Jefferson-Moore, at (608) 266-3679.

Sincerely yours,


Celia M. Jackson
Secretary

cc: Vicki Ledbetter
Appraisal Policy Manager

APPENDIX I

STATE OF WISCONSIN DEPARTMENT OF REGULATION AND LICENSING

MARCH 5, 2007

RESPONSE TO ASC OCTOBER, 2006 FIELD REVIEW FINDINGS

In your January 5, 2007 correspondence concerning the handling of complaints involving real estate appraisers, the Subcommittee reached the following conclusion;

- **Wisconsin's complaint investigation and resolution Program does not comply with Title XI and ASC Policy Statement 10.**

I agree with the ASC's conclusion that some complaints are not investigated and resolved in a timely manner. However, as noted in your letter, the Department and Real Estate Appraisers Board have implemented a number of changes to the complaint investigation process over the past several years. We believe those changes have had a beneficial effect on our efforts to resolve complaints in a timely fashion.

The State of Wisconsin has a long, rich, and progressive history of providing substantial due process rights to citizens who are facing deprivation of property rights or freedoms at the hands of the government. The concern for the due process rights of our citizens is deeply ingrained in our statutes and administrative proceedings. The complaint resolution system developed for *real* estate appraiser cases reflects the Wisconsin tradition of valuing due process rights. The complaint resolution system is consistent with the system used for approximately 56 other professions within the state.

At the same time we are faced with shrinking resources and increasing demands, the number of professions the Department of Regulation and Licensing is responsible for continuously grows. The Department has been unable to add resources to address that caseload growth and time commitment. We are doing what we can to handle the complaint cases as quickly as possible, but we must do so within the staffing resources available to the Department. With that background we are taking a number of steps that we are confident will enable us to satisfy the Subcommittee's concerns about the complaint handling process. Those steps follow:

ELIMINATING THE BACKLOG OF COMPLAINTS

The Department staff recognizes that there were a number of pending complaints against Real Estate Appraisers that were pending for more than one year ("backlog") when the ASC audit staff conducted its field audit on October 18 and 19, 2006. The Subcommittee's January 5, 2007 letter identified 54 complaints that were pending for more than one year at that time and 141 complaints outstanding as of the audit date. For purposes of clarification, a review of the data considered by the auditors show that the numbers 54 and 141 are a count of the number of credential holders (Respondents) involved rather than a count of the number of the actual

complaint cases involved. The Department's automated complaint handling system generates information by either the credential holders (Respondents) or the number of complaints filed. We make that point to eliminate any confusion caused by the use of different numbers. We have attached a chart (*ATTACHMENT 1*) identifying the 54 Respondents that constituted the "backlog" (i.e., complaints pending for more than 1 year) which we believe will help clarify that point.

Our review of the data shows that as of the date of the audit, there were 54 Respondents involved in the backlog and the backlog consisted of 43 separate complaints against those Respondents. Furthermore, 4 of the 54 Respondents (involving 3 complaint files) were closed by the Real Estate Appraisers Board on October 18, 2006, so the actual number of Respondents involved in the backlog was 50 and the number of complaints involved in the backlog was 40. In addition, it should be noted that during the last field review, the Appraisal Subcommittee counted the number of complaints pending following the Board meeting, not the complaints pending the day before the Board meeting. Furthermore, it should also be noted that 3 of the 54 Respondents were identified by the auditors as involving "special documented circumstances" due to pending hearings. We believe that the number is actually 5 rather than 3 because the same Respondents were involved and whether matters were listed as being in hearing or some other stage, the hearings will resolve all of the matters and all 5 would qualify for "special documented circumstances". Those matters are all identified with an asterisk in Attachment 1. In conclusion, we submit that as of October 18, 2006, there were only 50 Respondents involved in 40 cases that had been pending more than 1 year and 5 of those Respondents involve special documented circumstances because they are in hearing or will all be resolved as a result of the hearing.

We are moving to resolve the remainder of the 50 Respondents and 40 complaint files that were a part of the identified backlog. As can be seen by in the first chart (Attachment 1), 24 of the Respondents involving 22 of the 40 backlog complaint files were closed by the Real Estate Appraisers Board on February 28, 2007. In addition, the cases on the list that involve Respondents that were in hearing were considered, but tabled by the board until its May 16, 2007 meeting. Furthermore, we anticipate that the remainder of the backlog will be resolved at either the Real Estate Appraisers Board's May 16 or July 11, 2007 meetings, and the projected dates for the board to act on those complaints are also set forth in the attached chart. That will eliminate the cases that were identified as being in the backlog on October 20, 2006.

Of course, the age of the complaints received is not static, so the number of complaints that will be pending for more than one year is always changing. As the January 5, 2007 ASC letter noted, there were 141 complaints outstanding on October 19, 2006. That included the 54 complaints in the backlog. Department staff has also been working to resolve all of those complaints as quickly as possible.

Attached (*ATTACHMENT 2*) is a chart that shows the outstanding complaints that were pending on October 20, 2006 but had not been pending for more than one year. These were the remainder of the 141 complaints pending that were noted in the January 5 letter. As can be seen, there are 87 Respondents and 81 complaint files identified. Of those, cases involving 6 Respondents and 6 complaint files were closed on October 18, 2006. A complaint file involving 1 Respondent was closed on October 25, 2006. Finally, 8 complaint files involving 8 Respondents were closed by the Real Estate Appraisers Board on February 28, 2007. Projected dates for board meetings at which we are projecting the remainder of the cases on that list will be

resolved are set forth in the document. In addition, all of the other pending cases are being actively pursued. Of course, if the complaints cannot be resolved and Formal Complaints must be issued, that will add considerably to the time that it takes to resolve the complaints. We are, however, optimistic that the vast majority of the complaints can be closed without Formal Complaints being issued, which is in accordance with the Board's past practice.

In addition to eliminating the backlog of Real Estate Appraiser complaints pending for more than one year and those included in the 141 complaints identified in the January 5th audit letter, Department staff must process the other more recent pending cases with receipt dates that approach the one year time frame. Staff is handling those cases, too, and will be completing them for the board's consideration prior to the lapse of one year whenever possible.

Of course, the handling of Real Estate Appraiser complaints cannot be addressed without considering the other demands on Department staff. The Real Estate Appraiser complaints are handled by the Business Team in the Department's Division of Enforcement. That team consists of 6 investigators (1 of them works less than full-time); 1 auditor; 2 paralegals; 5 attorneys; and 2 supervisors. In addition to handling Real Estate Appraiser complaints, the Business Team is also responsible for handling complaints for 24 other occupations or professions. As can be seen, the team's responsibilities are many, so meeting the one-year timeline set by the ASC will be a major challenge, but will achieve compliance with ASC Policy Statement 10.

We have identified a number of improvements that we believe will help us move Real Estate Appraiser complaints faster. Before we identify those improvements, it may be helpful to the Subcommittee if we include a document that explains the case handling process. That document is included (*ATTACHMENT 3*). Our proposed improvements follow.

IMPROVEMENTS TO THE COMPLAINT HANDLING PROCESS

The following points address changes and improvements that will ensure the quick and effective resolution of Real Estate Appraiser complaints.

- The Department's Division of Enforcement uses a 1-2-3 priority system, with priority 3 cases being the lowest priority and priority 1 being the highest priority. All incoming Real Estate Appraiser complaints are now being assigned the highest case handling priority, which is a # 1 priority. In addition, all pending Real Estate Appraiser complaints were reviewed and **if** they did not have a # 1 priority already, were reassigned that priority to reflect the need to handle them as quickly as possible. This recognition that the complaints are assigned the highest case handling priority will expedite the handling of Real Estate Appraiser complaints.
- Progress of Real Estate Appraiser cases is being monitored monthly by the Department's Division of Enforcement Management Team. Supervisors are meeting with staff assigned to the cases and reviewing the progress of the cases to identify and remove any roadblocks that prevent the cases from moving as quickly as possible. This regular monitoring will continue.

- A monthly written report on the status of all pending Real Estate Appraiser complaints is being prepared by the Enforcement Management Team for review by the Division of Enforcement Administrator in consultation with the Deputy Secretary.
- The Department has revised the intake and screening process of Real Estate Appraisers complaints. Currently, the Board has members who sit on a panel with a Division of Enforcement attorney and they screen incoming complaints once a month. At the request of the Department, the Board agreed to eliminate the screening function and open all incoming complaints. This change will save valuable time at the front end of the complaint handling system.
- The turnaround time for processing incoming complaints so they are ready for investigation will be within two weeks from when the complaint was received in the department.
- In cases in which an appraisal is central to the complaint, intake and investigative staff will request a copy of the relevant real estate appraisal and the entire work file from the appraiser who is the subject of the investigation (the Respondent) at the same time as the request is made for an initial response to the complaint from the Respondent.
- In circumstances where information is requested from a Respondent the request shall include a reference to Wis. Admin. Code § RL 86.0 I (10). That rule provides that disciplinary action can be taken against an appraiser:

"After a request for information made by the board, a certified or licensed appraiser shall cooperate in a timely manner with the board's investigation of a complaint filed against the licensed or certified appraiser or of a complaint filed against an individual who practiced real estate appraising under the supervision of the licensed or certified appraiser. There is a rebuttable presumption that a licensed or certified appraiser who takes longer than 30 calendar days to respond to a request for information by the board has not acted in a timely manner under this subsection."

- Upon a failure to respond within 30 days as required by the rule, the attorney assigned to the case will alert the Respondent that the attorney intends to commence formal disciplinary action for failing to comply with the rule if no response is received within 10 business days. In the event the response is not received as requested, the attorney will file a Notice of Hearing and Formal Complaint and commence formal disciplinary action against the Respondent for failing to adhere to the rule. Routine and consistent enforcement of this rule will expedite the gathering of necessary information in complaint cases.

- In addition to forcing adherence to Wis. Admin. Rule §. RL 86.01 (10), at the request of the Department, the Real Estate Appraisers Board has agreed to support a change in the rule to reduce the response period from 30 calendar days to 10 business days within which to respond to a request for information from the board. Reducing the period for a response to complaints from Respondents will further expedite the handling of appraiser complaints.
- The Division of Enforcement (DOE) investigative staff will operate under an expectation that a pending case will advance from the Open for Investigation (OF!) stage to the Open for Legal Action (OLA) stage within 3 months (12 weeks) of receipt of the complaint by the investigator. Once the case is in the OLA stage the case is with the assigned attorney and that person is primarily responsible for action in the case.
- Administrative Warnings will be used in most cases in which minor violations of the law have occurred. An Administrative Warning is a tool that the Real Estate Appraisers Board can use to resolve a pending complaint against a Real Estate Appraiser when there is evidence of minor misconduct by a credential holder. Administrative Warnings can only be used if the Respondent only had no previous complaint of the same or similar nature. Its use must meet certain requirements and it is not deemed a disciplinary action. However, it is an effective way to resolve cases and put the Real Estate Appraiser on notice that what the appraiser did was a violation of the law. Administrative Warnings will be used whenever appropriate by the attorneys handling the appraiser complaints.
- Division of Enforcement attorneys shall have formal complaints filed and cases transferred to the Hearing Stage within 4 months (16 weeks) of placement in the Open for Legal Action (OLA) stage of the complaint handling process. Efforts will be made to issue Administrative Warnings or obtain signed stipulations to proposed Final Decisions and Orders but if that is not possible, a formal complaint will be filed timely.
- A pool of experts will be developed so they are readily available to review complaints or testify as expert witnesses when needed.
- Additional telephone conference meetings of the Real Estate Appraisers Board to address complaint cases will be considered on an as needed basis. This will allow cases to be closed promptly instead of waiting several months for the next Board meeting. This will be especially true as the department seeks to reduce the number of cases that are pending for more than one year. At the request of the Department, the Board has already agreed to add a telephone conference meeting in September 2007.
- Timelines for all stages of the complaint handling process, including the hearing stage, will be reviewed and changes will be made as needed to ensure that the complaints are being resolved as quickly as possible.

It may be useful to consider the stage of the complaint handling process in which most complaints are closed. The closures from 2004-2006 follows:

Complaint handling stage at which complaint was closed	Number closed	Percent of total closed
Closed after screening	48	20.6 %
Closed after investigation or Open for Legal Action	74	31.8 %
Closed after formal action	111	47.6 %
TOTAL CLOSED	233	100 %

Of the complaints closed after formal action, only about 7 % of those are closed following the issuance of a Formal Complaint. Furthermore, the cases in which Formal Complaints were issued were almost all involving license denial cases and not disciplinary actions. During that 3 year period only 2 Real Estate Appraiser complaints were closed involving disciplinary action in which Formal Complaints were issued.

An Attachment (*ATTACHMENT 4*) provides us with a framework showing the turnaround time policies and current practices compared to the turnaround times based on the changes we are making. It assumes, based on our past experience, that the vast majority of complaints that are closed with disciplinary action being taken are closed without the issuance of a Formal Complaint. If a Formal Complaint must be issued, considerable actual time is needed to resolve the matter and that is why the hearing stage of the process is identified separately on the turnaround chart.

The improvements identified will all help the Department and Real Estate Appraisers Board address the concerns of the Appraisal Subcommittee and expedite the handling of Real Estate Appraiser complaints from this point forward so that the Department is in compliance with Policy Statement 10.

In conclusion, I am confident that the many actions that the Department is seeking to take to address the turnaround time for handling Real Estate Appraiser complaints will be very responsive to the Subcommittee's concerns.

**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
DIVISION OF ENFORCEMENT
REAL ESTATE APPRAISERS BOARD**

COMPLAINTS PENDING FOR MORE THAN ONE YEAR ON OCTOBER 18, 2006

[DELETION]

STATE OF WISCONSIN

DEPARTMENT OF REGULATION & LICENSING
DIVISION OF ENFORCEMENT

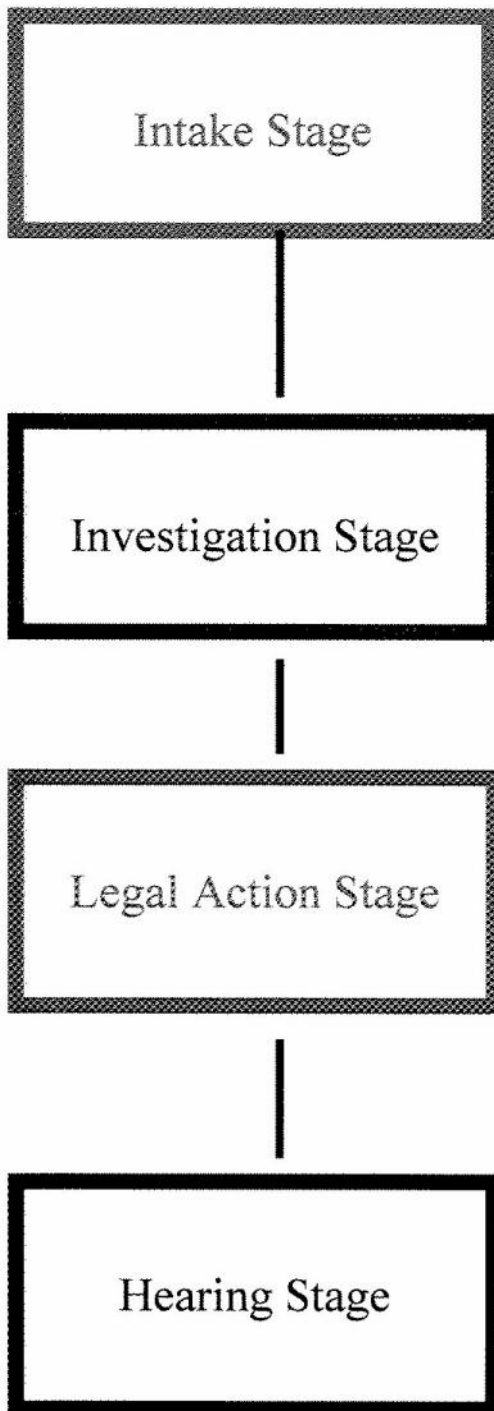
THE
CASE HANDLING
PROCESS



(Revised 04/12/2006)

[Attachment 3]

Outline of the Case Handling Process



The Intake Stage is the first stage in the case handling process. Complaints are received in the Division of Enforcement (DOE) and processed.

Copies of the complaint and related information are then **screened** by Board Screening Panels and DOE staff to determine if an investigation is warranted. Complaints that do not warrant investigation are closed. Complaints that appear to have merit, or require further investigation, are identified for investigative action and a case is opened.

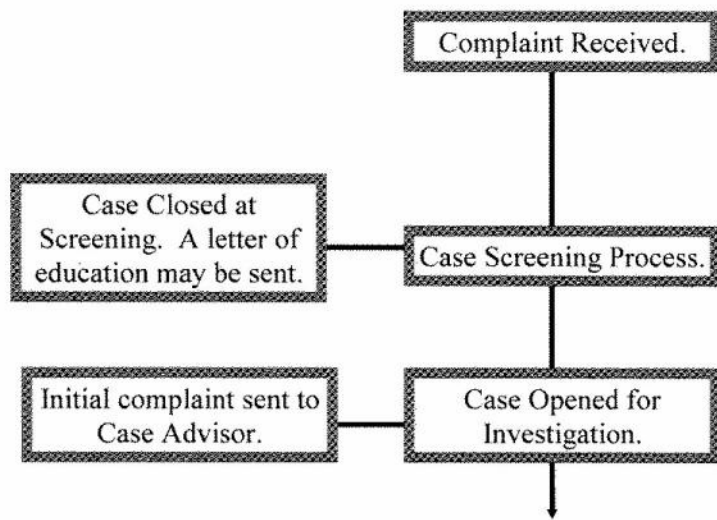
The **Investigation Stage** is the next stage in the case handling process. The assigned DOE investigator and attorney develop an investigative plan. Investigative staff gather necessary evidence and make contacts with witnesses as needed. The case advisor is consulted on issues requiring professional expertise. The results of the investigation are provided to and discussed with the case advisor. Cases that do not warrant professional discipline are closed. Cases with violations proceed to the next stage for legal action.

The third stage is the **Legal Action Stage**. In this stage, DOE prosecuting attorneys review the results of the investigation and pursue disciplinary action when appropriate. Cases may resolve by means of stipulated agreements, informal settlement conferences or administrative warnings. The case advisor will be asked for assistance on matters involving professional expertise and for their opinion on appropriate case resolution.

The fourth stage is the **Hearing Stage**. This is a formal legal process and results if no satisfactory resolution is available at the Legal Action Stage. The DOE attorney litigates the case before an administrative law judge (ALJ). The ALJ issues a proposed decision which is reviewed by the credentialing board. If a violation is found, discipline may be imposed. Disciplinary orders may include reprimand, limitation, suspension and revocation.

Orders are **monitored** for compliance by the DOE monitoring staff.

Intake Stage



The Intake Stage is an essential part of the case handling process. If good decisions are made at this stage, then cases without merit can be promptly closed using a minimum of resources and cases with merit can be identified for action.

Case proceeds to the Investigation Stage

Detailed Description of the Intake Stage

Complaints may be received from any source. All complaints are logged into the computer system by a Complaint Intake Program Assistant. Records may be obtained to assist in the evaluation of the complaint.

The complaint is then routed to a screening panel consisting of members of the credentialing authority and an attorney from the Division of Enforcement. The panel brings together the professional expertise of the board members and the case handling expertise of the department staff.

Since the implementation of the screening panel process, approximately 50% of the 2,000 plus complaints received each year are closed at screening. The panel may close a complaint for no violation, lack of jurisdiction, administrative closure or screening decision.

When discretion is exercised to close a complaint based on a screening decision, the panel may consider the seriousness of the allegations, the harm or threat of harm, the prior complaint history, the past handling of prior similar cases, whether the complaint is a fee dispute, whether the matter if taken as a whole is trivial, whether the dispute is already resolved, whether the matter is primarily a civil or private dispute, whether a letter of education may be sufficient and any other relevant factors identified by the panel.

If a complaint is closed at the **Intake Stage**, the parties are notified in writing of the closure of the complaint. If the complaint is opened for investigation, then it is routed to the investigator supervisor and the attorney supervisor to assign Division of Enforcement staff to the case. Cases are then distributed to the appropriate staff for investigation. The panel may note special instructions regarding the case and may identify the case as a priority. A copy of the initial complaint is sent to the case advisor by the Complaint Intake Program Assistant.

Investigation Stage

During the Investigation Stage, evidence regarding the alleged violations is obtained and evaluated.



Detailed Description of the Investigation Stage

An investigator and attorney are assigned to each new case. A member of the board acting as a case advisor is also assigned. Upon receipt, the case advisor should review the initial complaint and should contact the assigned investigator if it is apparent that the case should be closed, if the advisor has a conflict or if there are any special circumstances the advisor may wish to communicate to the investigator.

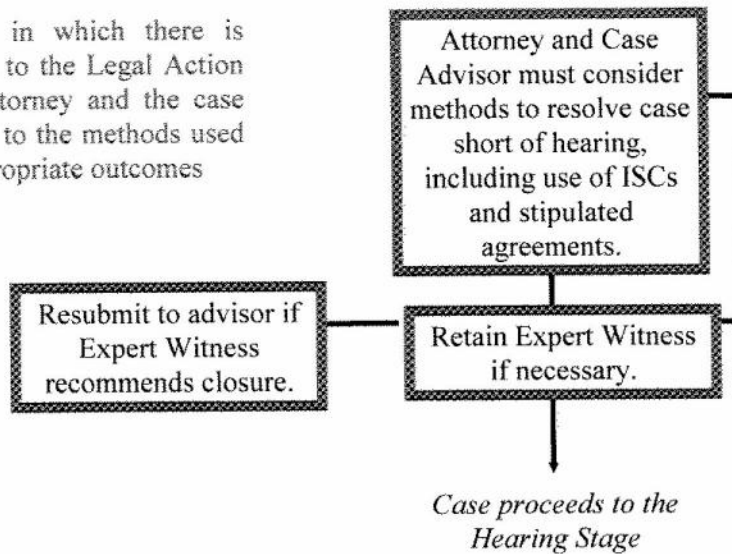
The investigator consults with the attorney on the investigation plan and then proceeds with the investigation by collecting necessary evidence and making witness contacts as needed. Throughout this process it is essential that the investigator and the attorney have a clear understanding of the intended course of the investigation. An investigation that is not focused will waste time and the evidence needed to make a recommendation may not be obtained. The case advisor will be asked for input on issues related to professional expertise.

When the most significant evidence has been obtained, the investigator summarizes the case and sends the evidence and a recommendation to the case advisor. If the case advisor agrees with a recommendation for closure, then there should be agreement on specific rationale and reasons for closure. Closure is accomplished by presenting the case to the board. If the advisor agrees with a recommendation for formal action, then the issues warranting formal action should be agreed on and identified, as should a range of discipline.

In some instances more investigation may be requested.

Legal Action Stage

Only the more serious cases in which there is evidence of a violation proceed to the Legal Action Stage. It is critical that the attorney and the case advisor make good decisions as to the methods used to resolve the case and as to appropriate outcomes



Detailed Description of the Legal Action Stage

Only the more serious cases in which there is evidence of a violation to progress to the **Legal Action Stage**. The critical step in this stage is the communication between the DOE attorney and the case advisor. The attorney must inform the advisor of the legal basis for pursuing the case and the advisor must assist by providing input on matters related to professional expertise. These two must make every effort to agree on an appropriate method to resolve the case and, if formal discipline is recommended, on a range of desired outcomes.

There are a number of ways to resolve a case short of a formal administrative hearing. Methods of resolution include a stipulated agreement, an Informal Settlement Conference or an Administrative Warning. When formal discipline is recommended a range of desired outcomes should be identified. Clear and precise communication between the DOE attorney and the case advisor is essential.

In some cases an expert witness must be retained. An expert is necessary in cases where the case advisor is unable to render an opinion on a matter of professional expertise and in cases where an agreement to resolve the case is unlikely to result. If an expert witness provides an opinion that no violation of practice standards has occurred, then this information is resubmitted to the advisor for review and potential closure.

If a case can not be resolved in this stage by agreement of the parties, then the case must proceed to resolution through a formal administrative hearing.

Hearing Stage

Cases that do not resolve by agreement of the parties progress to the Hearing Stage. A small percent of cases are resolved through this formal process. The procedures followed in this stage are defined in the administrative rules and the statutes.

Filing of formal
complaint and
beginning of formal
hearing process.

Detailed Description of the Hearing Stage

When a case can not be resolved through agreement of the parties, it proceeds to the **Hearing Stage**. Only a small percent of cases progress to this stage. However, the cases that are resolved through formal hearings often represent the most serious cases pending before each of the boards.

Most of the procedures followed in this stage are set out in Wisconsin Administrative Code Chapter RL 2. This is a very formal process. The first step in the process is the filing of a Formal Administrative Complaint by the DOE attorney. A response to this complaint, called an Answer, is then filed by the Respondent. The Respondent has a right to be represented by an attorney.

After the complaint and answer are filed, an administrative law judge will set a prehearing conference to talk about resolving the case and to set deadlines for various steps to be completed. The administrative law judge is a department attorney and serves the function of presiding over the formal hearing process, including the actual hearing.

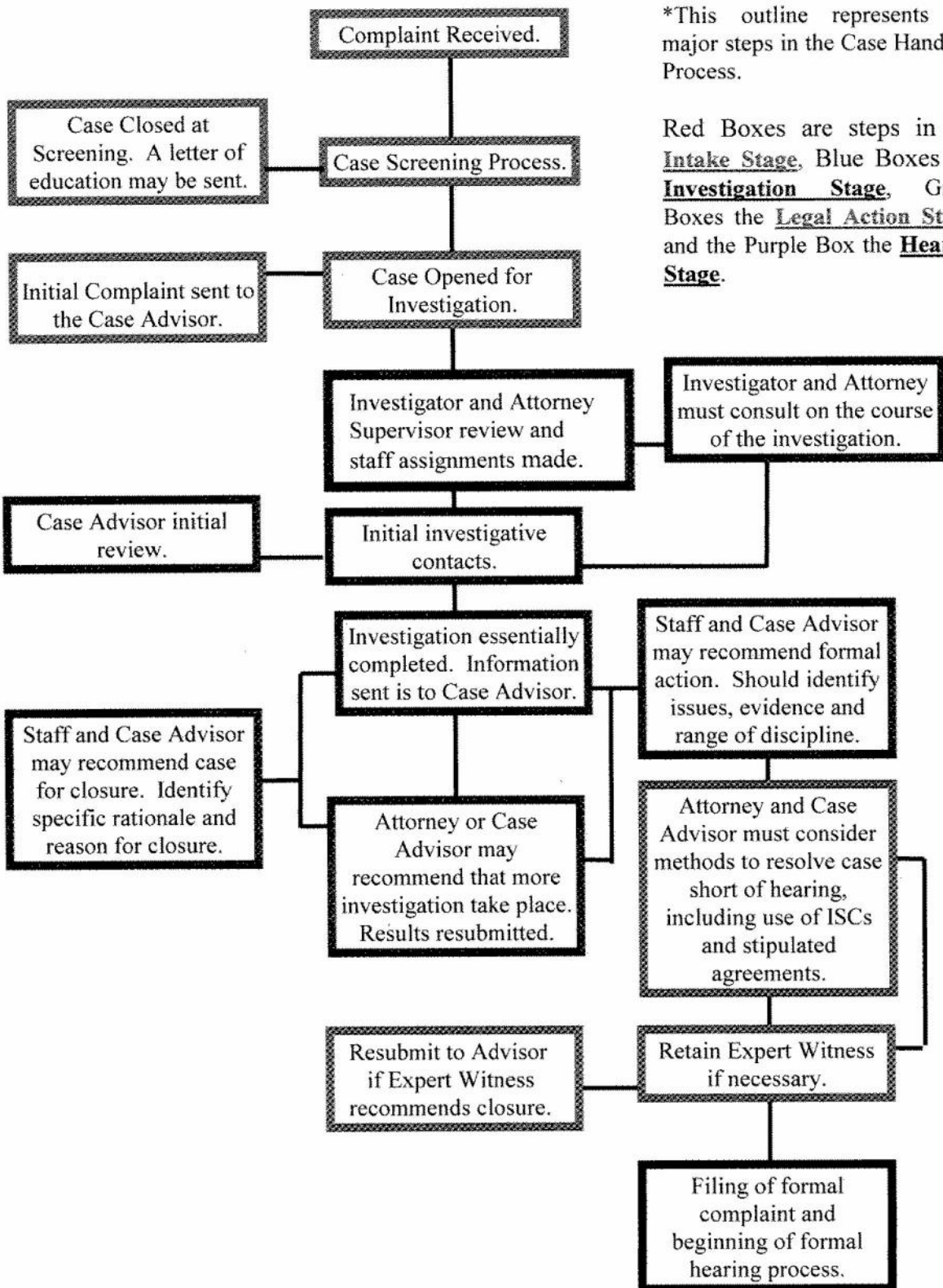
Both the Complainant and the Respondent have the right to engage in discovery, such as taking depositions of the witnesses that may be called to testify at the hearing. Both parties also have the right to file motions and briefs for the purpose of arguing legal issues relevant to the case.

Sometimes during this process a case will still resolve through a stipulated agreement. However, if no such agreement results, a hearing will occur. At this hearing, which is presided over by the administrative law judge, the parties will call witnesses and present evidence in support of their positions. The state has the burden of proving that some violation of a rule or statute occurred.

Following the hearing, the administrative law judge prepares a Proposed Decision, which is submitted to the board. The parties may file objections to the proposed decision. The board considers the record in the case and issues a Final Decision and Order. The Final Decision and Order may be appealed to the Circuit Court.

The allowable purposes of discipline are protection of the public, rehabilitation of the credential holder and deterrence. Punishment is not an allowable purpose. Disciplines include reprimand, limitation, suspension, revocation and monetary forfeitures. Costs of the proceeding may also be assessed.

Steps in the Case Handling Process*



*This outline represents the major steps in the Case Handling Process.

Red Boxes are steps in the Intake Stage. Blue Boxes the Investigation Stage. Green Boxes the Legal Action Stage. and the Purple Box the Hearing Stage.

**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

REAL ESTATE APPRAISERS BOARD

CASE HANDLING TIMELINES

COMPLAINT HANDLING STAGE OR POINT IN PROCESS	CURRENT DEPARTMENT POLICY ASSUMING MAXIMUM NUMBER OF WEEKS	CURRENT NUMBER OF WEEKS IN STAGE FOR APPRAISERS	PROPOSED TURNAROUND TIME IN WEEKS PURSUANT TO REVISED POLICY	REDUCTION IN WEEKS FROM CURRENT PROCESS	PERCENT REDUCTION FROM CURRENT PROCESS
Intake and screening	8	7	2	5	71.43%
Investigative	26	28	12	16	57.14%
Open for Legal Action	26	16	16	0	0.00%
Board Action	16	12	4	8	66.67%
TOTAL WEEKS:	76	63	34	29	46.03%

Hearing*	33	54	26	28	51.85%
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[*The hearing stage data was based on a limited sample because there were only 2 disciplinary cases in which formal complaints were issued from 2004-2006.]