

Appraisal Subcommittee

Federal Financial Institutions Examination Council

June 14, 2010

Ms. Maureen C. Olson, Deputy Secretary
Department of Business and Professional Regulation
1940 North Monroe Street
Tallahassee, FL 32399-0783

Dear Ms. Olson:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of Florida's appraiser regulatory program (Program) on December 3-8, 2009. This is the final ASC Compliance Review Report (Report) on that Review.

The ASC has considered the staff's preliminary findings regarding the Review and the State's response. The ASC has determined the Program is not in substantial compliance with Title XI of the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI). The ASC identified the following concern:

- Florida should resolve all complaints filed against appraisers within one year, except for special documented circumstances.¹

The State's response indicated it has taken corrective actions, which are detailed in the attached Report. During the Follow-up Review in December 2010, ASC staff will confirm these corrective actions have taken place and are appropriate. Please also be advised this letter and the attached Report are public record and available on the ASC website in accordance with the Freedom of Information Act.

Please contact us if you have any questions.

Sincerely,



Deborah S. Merkle
Chairman

Attachment

cc: Mr. Thomas O'Bryant Jr., Director
Mr. Mike Rogers, Chair Florida Real Estate Appraisal Board

¹ Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.

ASC Compliance Review Report

Finding: Not In Substantial Compliance

Report Issue Date: June 14, 2010

Florida Appraiser Regulatory Program (Program)

Florida Real Estate Appraisal Board (Board)	ASC Compliance Review (Review) Date: December 3-8, 2009	Review Period: December 2007 to December 2009
Umbrella Agency: Department of Business and Professional Regulation, Division of Real Estate (Department)	PM: V. Ledbetter	Number of State credentialed appraisers on National Registry: 7883
		Issue: FINAL

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
Florida Statutes, Regulations, Policies and Procedures:	X							
States must adopt and/or implement all relevant AQB Real Property Appraiser Qualification Criteria. (Title XI § 1116 (a), 12 U.S.C. 3345; Title XI § 1118 (a), 12 U.S.C. 3347; AQB Real Property Appraiser Qualification Criteria.)				<p>A review of the State's regulations revealed several inconsistencies with AQB Real Property Appraiser Qualification Criteria (AQB Criteria):</p> <p>(1) § 61J1-4.001(6) allows experience credit for teaching courses. This was eliminated from the AQB Criteria in 1998;</p> <p>(2) § 61J1-4.003(6) does not limit the amount of continuing education that may be award for teaching an appraisal related course to 50% of that required for the continuing education renewal cycle, in accordance with current AQB Criteria; and</p> <p>(3) § 61J1-4.001(3) allows a 10% absence from a course and § 61J1-4.003(3) requires a minimum of 90% attendance of a course. AQB Criteria defines a classroom hour as 60 minutes of which at least 50 minutes are instruction attended by the students. § 475.617(3)(b) of the State statute correctly defines classroom hour as 50 minutes in a 60-minute hour.</p> <p>Despite the conflicting provisions, we found no incidents where these regulations were applied to any aspect of the Program. The Board reviewed regulatory amendments that would cure these inconsistencies at its December 2009 meeting.</p>	<p>On April 26, 2010, the Board reported to ASC staff the following:</p> <p>(1) At its March 2010 meeting, the Board approved draft language to correct § 61J1-4.001(6). This proposed rule was noticed in the Florida Administrative Weekly, and will now move through the rulemaking process.</p> <p>(2) A proposed rule regarding § 61J1-4.003(6) was published in the Florida Administrative Weekly, and is now open for the public comment. This proposed rule is proceeding through the rulemaking process.</p> <p>(3) A final rule corrected § 61J1-4.001(3) and cured the deficiency noted. A notice of proposed rule regarding § 61J1-4.003(3) was published in the Florida Administrative Weekly.</p>	None	None	Upon adoption, please provide ASC staff with copies of these regulatory changes.

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Umbrella Agency: Department of Business and Professional Regulation, Division of Real Estate (Department)		PM: V. Ledbetter		Number of State credentialed appraisers on National Registry: 7883	Issue: FINAL

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
Temporary Practice:	X			No compliance issues noted.	N/A	None	None	None
National Registry:	X			No compliance issues noted.	N/A	None	None	None
Application Process:	X			No compliance issues noted.	N/A	None	None	None
Reciprocity:	X			No compliance issues noted.	N/A	None	None	None
Education:	X			No compliance issues noted.	N/A	None	None	None

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Florida Real Estate Appraisal Board (Board)

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Review Period: December 2007 to December 2009

Umbrella Agency: Department of Business and Professional Regulation, Division of Real Estate (Department)

PM: V. Ledbetter

Number of State credentialed appraisers on National Registry: 7883

Issue: FINAL

Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
Enforcement:		X						
States should resolve all complaints filed against appraisers within one year, except for special documented circumstances. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				<p>Florida had 603 unresolved complaints; 218 (225 less 7 special documented circumstances) have been unresolved for longer than one year. This represents 34% of open complaints. This is significantly worse than prior Reviews. It is noted that during this Review Period, the State received approximately 200 more complaints (33%) per year than it had during the previous Review Period (645 complaints per year during the prior Review Period as compared to 856 complaints per year during the current Review Period).</p>	<p>On April 26, 2010, the Board reported to ASC staff that they agree an effective and timely complaint investigation and resolution program is critical to the State's effective supervision as required by Title XI. They share the desire of the ASC to resolve complaints in a timely manner.</p> <p>At the same time, the Board reported there are factors impacting timely resolution of these complaints which are outside the control of the Department. As noted by ASC staff, Florida has seen a 33% increase in complaint filings per year during this Review Period over the last Review Period. During the same time period, the Department has not had an increase in investigative staff. Additional staffing resources are not expected for the Department during the coming fiscal year. The Department remains committed to the timely resolution of all complaints and will continue to work towards alternative solutions to ensure the timely resolution of cases.</p>	<p>The Board must:</p> <p>(1) Within 60 days of receipt of this Report provide a written plan on how the Department and Board will revise its complaint process to address the State's significant backlog of outstanding complaints and facilitate more timely complaint disposition in the future; and</p> <p>(2) send quarterly complaint logs to ASC staff to allow monitoring of the Board's progress towards addressing this situation.</p> <p>The ASC Policy Manager assigned to Florida will work with Department staff to determine the timing and content of the complaint log.</p>	None	<p>In the State's response, the Board reported that despite increased work load, additional staffing resources are not expected during the coming fiscal year. The Department is reminded that pursuant to Title XI, States must have sufficient legal and administrative resources to perform its Title XI- related duties. (Title XI § 1118 (b), 12 U.S.C 3347.)</p> <p>During the Follow-up Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10E.</p>