

□ □ □ □ □ □

Appraisal Subcommittee

Federal Financial Institutions Examination Council

May 11, 2011

Ms. Linda York, Chair
Real Estate Appraiser Licensing and Certification Board
2110 Kanawha Blvd East, Suite 101
Charleston, WV 25311

RE: ASC Compliance Review of West Virginia's appraiser regulatory program

Dear Ms. York:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of West Virginia's appraiser regulatory program (Program) on September 8-9, 2010. This is the final ASC Compliance Review Report (Report) on that Review.

The ASC has considered the preliminary findings regarding the Review and the State's response. Although the attached Report references an area of concern, the ASC has determined the Program is in substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended.

Please 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: Ms. Sandy Kerns, Executive Director

ASC Compliance Review Report						Finding: In Substantial Compliance		
						Report Issue Date: May 11, 2011		
West Virginia Appraiser Regulatory Program (Program)								
West Virginia Real Estate Appraiser Licensing and Certification Board (Board) / Decision Making		PM: V. Ledbetter-Metcalf		ASC Compliance Review Date: September 8-9-2010		Review Period: August 2008 to September 2010		
Umbrella Agency: Independent				Number of State Credentialed Appraisers on National Registry: 594		Issue: FINAL		
Requirement/Guidance	ASC Finding			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	Compliance (YES/NO) Areas of Concern (AC)							
	YES	NO	AC					
West Virginia Statutes, Regulations, Policies and Procedures:			X					
States must adopt and/or implement all relevant AQB Real Property Appraiser Qualification Criteria (AQB 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 West Virginia Appraiser Licensing and Certification Board Legislative Rules revealed the following inconsistencies with the Appraiser Qualifications Board's (AQB) Real Property Appraiser Qualification Criteria (AQB Criteria):</p> <p>(1) AQB Criteria requires that, for a partial year of licensure or certification consisting of 185 days or more, appraisers must demonstrate 14 hours of continuing education. However, Legislative Rule §190 3-4.1.c states that a licensee is not required to complete continuing education if the time between the effective date of the initial license or certification and renewal is less than 9 months.</p> <p>(2) AQB Criteria requires appraiser credential holders returning to active status to complete all required continuing education hours that would have been required if the credential holder was in an active status. However, Legislative Rule §190 4-10.1 does not require continuing education prior to reactivation for those returning to active status after a revocation or suspension.</p> <p>Despite the conflicting provisions in the Legislative Rules, ASC staff found no incidents where these provisions were applied to any aspect of the Program.</p>	On February 4, 2011, the Board reported to ASC staff that it agrees with these findings and will begin the process to amend the regulations the March 10, 2011 Board meeting.	None	To strengthen the Program, West Virginia should continue the process of amending its rules to reflect what is required in practice and in AQB Criteria.	Upon adoption, please provide ASC staff with copies of these rule changes.

ASC Compliance Review Report						Finding: In Substantial Compliance		
						Report Issue Date: May 11, 2011		
West Virginia Appraiser Regulatory Program (Program)								
West Virginia Real Estate Appraiser Licensing and Certification Board (Board) / Decision Making		PM: V. Ledbetter-Metcalf		ASC Compliance Review Date: September 8-9-2010		Review Period: August 2008 to September 2010		
Umbrella Agency: Independent				Number of State Credentialed Appraisers on National Registry: 594		Issue: FINAL		
Requirement/Guidance	ASC Finding			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	Compliance (YES/NO) Areas of Concern (AC)							
	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
Enforcement:	X							
States must regulate, supervise and discipline their certified and/or licensed appraisers. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10A.)				ASC staff found that by policy, the Board closed complaints involving appraisals that were five or more years old when the complaint was received. ASC staff was informed by Board members and the Board attorney that the five-year limitation practice is based on the Record Keeping section of the Ethics Rule of the Uniform Standards of Professional Appraisal Practice (USPAP), which specifies that appraisers must retain their workfile for at least five years.	On February 4, 2011, the Board reported to ASC staff that the policy of not processing complaints involving appraisals where the date of the report was five or more years old at the time the complaint was received was not a formal policy or rule, and did not require a formal rule change. The Board agreed that in the future, complaints involving appraisal reports that are greater than five years old will be investigated.	None	None	The Board's resolution addresses the concern. During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10A.

ASC Compliance Review Report						Finding: In Substantial Compliance		
						Report Issue Date: May 11, 2011		
West Virginia Appraiser Regulatory Program (Program)								
West Virginia Real Estate Appraiser Licensing and Certification Board (Board) / Decision Making		PM: V. Ledbetter-Metcalf		ASC Compliance Review Date: September 8-9-2010		Review Period: August 2008 to September 2010		
Umbrella Agency: Independent				Number of State Credentialed Appraisers on National Registry: 594		Issue: FINAL		
Requirement/Guidance	ASC Finding			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	Compliance (YES/NO) Areas of Concern (AC)							
	YES	NO	AC					
Enforcement:	X							
States must ensure that the processing and investigating of complaints, and the sanctioning of appraisers is administered in an effective, consistent, equitable, and well-documented manner. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				ASC staff found one enforcement case involving a Board member that was handled in a manner not consistent with how similar matters were addressed for those who are not Board members. Documentation in the file failed to support the final disposition. The complaint was dismissed without providing an analysis or reasoning.	At its December 2010 Board meeting, the Board established written policies and procedures on how it will handle complaints involving Board members. In addition, the complaint involving a Board member was sent to an outside reviewer on September 21, 2010. The Board is awaiting the results of that review. The Executive Director will review the results with an independent attorney (one not assigned to the Board by the Attorney General's office). The findings and recommendations will be given to the Board at a future Board meeting.	None	None	The Board's resolution addresses the concern. During the next Review, ASC staff will review the Board's reconsideration of this complaint and will pay particular attention to this area for compliance with ASC Policy Statement 10E.