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Appraisal Subcommittee

Federal Financial Institutions Examination Council

August 10, 2011

Ms. Elissa Runyon, Chair
Virgin Islands Real Estate Appraisal Board
Department of Licensing & Consumer Affairs
Property & Procurement Building
#1 Sub Base, Room 205
Charlotte Amalie, St. Thomas, USVI 00802

RE: ASC Compliance Review of the Virgin Islands' appraiser regulatory program

Dear Ms. Runyon:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of the Virgin Islands' appraiser regulatory program (Program) on December 8-10, 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. 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. The ASC identified the following areas of non-compliance:

- States must maintain sufficient documentation.¹
- States should resolve all complaints filed against appraisers within one year, except for special documented circumstances.²

In its response, the State indicated corrective actions were taken. During the next Review, 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

Enclosure

cc: The Honorable John P. de Jongh, Jr., Governor
Mr. Louis Penn, Governor's Chief of Staff
Ms. Michelle Meade, Governor's Counsel
Mr. Wayne L. Biggs, Jr., Commissioner

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

² 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: August 10, 2011

The Virgin Islands Appraiser Regulatory Program (Program)

Board of Real Estate Appraisers (Board) /
Decision Making

PM: J. Tidwell

ASC Compliance Review Date:
December 8-10, 2010

Review Period:
December 2008 to December 2010

Umbrella Agency: Department of Licensing and Consumer Affairs (Department)

Number of State Credentialed Appraisers on National Registry: 27

Issue: FINAL

Requirement/Guidance	ASC Finding Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
Virgin Islands Statutes, Regulations, Policies and Procedures:			X					
States must have sufficient legal and administrative resources to perform Title XI-related duties. (Title XI § 1118 (b), 12 U.S.C 3347.)				<p>Virgin Islands' statutes require four of seven Board members attendance at meetings to constitute a quorum. The Board has had three member vacancies for several years. Therefore, all four members must attend in order to conduct business.</p> <p>As discussed below, ASC staff found 42% of temporary practice applications were not processed within five business days of receipt. Department staff attributed delays from March 2010 to July 2010 to being short of staff to one staff member taking leave. Delays were also attributed to Board Chair inaccessibility, and staff being focused on other areas or other Boards they manage.</p> <p>As discussed in more detail below, Legal Counsel does not attend all Board meetings to counsel the Board on proper complaint management procedures. Currently Legal Counsel attends meetings if invited or if asked to answer specific questions regarding complaints, but due to the fact that he is assigned to multiple Boards, he is not able to attend all Appraisal Board meetings.</p>	<p>On April 5, 2011, the Board informed ASC staff that they have submitted a list of persons interested in serving on the Board to the Governor's office.</p> <p>The Governor approved a new fulltime Licensing Officer in the St. Thomas Office. This individual will be updating the Department's database, issuing renewals and preparing applications for Board review in the absence of the other staff member.</p> <p>Both General Counsel on St. Thomas and District Counsel on St. Croix are more accessible and accommodating to the Board's requests and are present when requested at Board meetings if not preoccupied with other legal matters.</p>	None	To strengthen the Program, the Board and Department should continue to monitor the appointment process and encourage the appointment of members to the three vacant positions.	Through off-site monitoring and during the next Review, ASC staff will pay particular attention to this area for compliance with Title XI.

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	YES	NO	AC					
Temporary Practice:	X							
States must issue temporary practice permits within five business days of receipt of a completed application. (Title XI § 1118 (a), 12 U.S.C. 3347; Title XI § 1122 (a), 12 U.S.C. 3351; ASC Policy Statement 5.)				ASC staff reviewed 19 temporary practice permit application files and found 8 (42%) were not processed within five business days of receipt of a complete application.	On April 5, 2011, the Board informed ASC staff that Department staff is currently handling applications for temporary practice permits as time sensitive. Once an application is received, it is scanned and emailed to Board members for comments and approval. This step takes no longer than one day. Once an approval is received, the staff issues the temporary practice credential and the application is ratified at the next Board meeting.	None	Board and Department staff should monitor the new procedures for temporary practice permit processing to ensure compliance with Title XI and ASC Policy Statement 5.	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 5.

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Temporary Practice continued:	X							
States should rely on the National Registry to verify license history on applicants for temporary practice. (Title XI § 1118, 12 U.S.C. 3347; ASC Policy Statement 5.)				Department staff did not use the National Registry to verify an applicant's license history.	On April 5, 2011, the Board informed ASC staff that Department staff implemented a procedure to obtain and print credential and disciplinary action information from the National Registry prior to submitting the application to the Board for approval. This process has shortened turn-around time and temporary practice permit applications are now processed timely.	None	Board and Department staff should monitor the new procedures for temporary practice permit processing to ensure compliance with Title XI and ASC Policy Statement 5.	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 5.
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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	YES	NO	AC					
Enforcement:			X					
States must have sufficient legal and administrative resources to perform Title XI-related duties, including resolution of 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>During the ASC's Priority Contact visit in December 2009, ASC staff noted that several complaints were discussed in the meeting minutes but no official action had been taken towards processing the complaints. Additionally, complaints were instigated based on phone calls or emails to Board members. ASC staff reviewed proper complaint management and documentation procedures with the staff and Board members at that time, including: documenting copies of complaints; documenting conversations or emails between Board members, complainants and respondents; and maintaining copies of relevant appraisals, appraiser work files and/or appraisal reviews.</p> <p>During the 2010 Compliance Review, ASC staff found that the Board had not followed ASC staff instructions regarding complaint management and documentation procedures. There were no complaint or enforcement files. The only evidence of complaints was discussions in the meeting minutes and a few documents that had been placed in respondents' licensing files. ASC staff recommended that the Board consult Legal Counsel to assist with the processing and disposition of complaints.</p>	<p>On April 5, 2011, the Board informed ASC staff that both General Counsel on St. Thomas and District Counsel on St. Croix are more accessible and accommodating to the Board's requests. Currently they are moving the hearing process along as it pertains to the two aged complaints.</p> <p>The Board also reported that a complaint file is now maintained, separate and apart from the licensing file, to document and track the progress of a complaint.</p>	None	Board and Department staff must monitor the revised complaint management and documentation process procedures to ensure compliance with Title XI and ASC Policy Statement 10.	Through off-site monitoring and during the next Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 10E.

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Enforcement continued:		X						
States must maintain sufficient documentation. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				<p>As already noted, six complaints had been investigated by the Board but there were no enforcement files. The only evidence of the complaints were discussions in the meeting minutes and a few documents that had been placed in respondents' licensing files. ASC staff found the following documentation to be missing: copies of complaints; documentation regarding conversations or emails between Board members, complainants and respondents; appraisals; appraiser work files; and appraisal reviews.</p> <p>Department staff had maintained a complaint log, but it was not complete; it listed only three of the six complaints that the Board had investigated. Two of the cases had been disposed of with a Letter of Warning, two with a Verbal Warning, and two were still pending action by the Board. The two pending cases involved unlicensed activity and were received some time during or before 2009.</p>	<p>On April 5, 2011, the Board informed ASC staff that Department staff now maintains a complaint file, separate and apart from the licensing file, to document and track the progress of a complaint.</p> <p>The Board's response did not address the complaint log.</p>	<p>Within 30 days of receipt of this letter, Board and Department staff must submit to ASC staff an updated and corrected complaint log.</p>	<p>Board and Department staff should monitor the revised complaint management and documentation process procedures to ensure compliance with Title XI and ASC Policy Statement 10.</p>	<p>Through off-site monitoring and during the next Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 10E.</p>

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	YES	NO	AC					
Enforcement continued:								
		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.)				Virgin Islands had two outstanding complaints of which two (100%) were unresolved for more than one year.	On April 5, 2011, the Board informed ASC staff that General Counsel on St. Thomas has advised the Board that the administrative complaints are completed and that they are scheduled for hearings in May 2011.	Within 30 days of receipt of this letter, and then quarterly, Board and Department staff must submit to ASC staff an updated and corrected complaint log. The ASC Policy Manager assigned to Virgin Islands will work with the Department staff to determine the content of the complaint log.	To strengthen the Program, State should employ ways to process complaints of appraiser misconduct or wrongdoing on a timely basis to ensure compliance with Policy Statement 10E.	Through off-site monitoring and during the next Review, ASC staff will pay particular attention to this area for compliance with Title XI and ASC Policy Statement 10E.