

Appraisal Subcommittee
Federal Financial Institutions Examination Council

March 14, 2012

Ms. Keali'i S. Lopez, Director
Department of Commerce and Consumer Affairs
Professional and Vocational Licensing Division
P.O. Box 3469
Honolulu, HI 96801

RE: ASC Compliance Review of Hawaii's appraiser regulatory program

Dear Ms. Lopez:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of Hawaii's appraiser regulatory program (Program) on August 8-10, 2011. This is the final ASC Compliance Review Report (Report) on that Review.

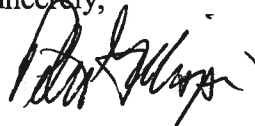
The ASC has considered the preliminary findings regarding the Review and the State's response. The ASC has determined the Program is not in substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended. The ASC identified the following area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

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

In its response, the State indicated corrective actions were taken. Hawaii will remain on a two-year Review Cycle. During the next Review, ASC staff will confirm these corrective actions have taken place and are appropriate. Please also be advised that 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,



Peter Gillispie
Acting Chairman

Attachment

cc: Mr. Alan C. Taniguchi, Executive Officer, Real Estate Appraiser Program
Ms. Jo Ann Uchida, Complaints & Enforcement Officer, Regulated Industries Complaints Office

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

ASC Compliance Review Report

ASC Finding: Not In Substantial Compliance

Final Report Issue Date: March 14, 2012

Hawaii Appraiser Regulatory Program (Program)

Hawaii Real Estate Appraiser Advisory Committee/Advisory

PM: K. Klamet

ASC Compliance Review Date: August 8-10, 2011

Review Period: August 2009 to August 2011

Umbrella Agency: Department of Commerce & Consumer Affairs, Professional & Vocational Licensing Division, Real Estate Appraisers Section (Department)

Number of State Credentialed Appraisers on National Registry: 592

Review Cycle: Two Year

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					
Hawaii 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 Hawaii Real Estate Appraiser Administrative Rules (HAR) revealed the following inconsistencies with the Appraiser Qualifications Board's (AQB) Real Property Appraiser Qualification Criteria (AQB Criteria):</p> <p>(1) AQB Criteria does not allow qualifying education credit for teaching. HAR 16-114-21 (4) states that credit may be granted for teaching a course, provided the course is an approved course.</p> <p>(2) AQB Criteria does not allow education credit for challenge examinations. HAR 16-114-21 (10) (b) states that an applicant for state licensure may be granted educational credit by challenge examination provided: (1) the course has been approved by the director; and (2) credit by challenge examination was obtained prior to July 1, 1990.</p> <p>Despite the conflicting provisions in the regulations, ASC staff found no incidents where these regulations were applied to any aspect of the Program.</p>	On November 10, 2011, the State reported to ASC staff that the rules will be amended to ensure compliance with AQB Criteria.	None	To strengthen the Program, Hawaii should continue the process of amending its regulations consistent with AQB Criteria.	Upon adoption, please provide ASC staff with copies of the adopted regulation changes.

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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.)				The Program failed to process requests for appraiser temporary practice permits within five business days of receipt of a completed application.	On November 10, 2011, the State reported to ASC staff that Program staff met with its Licensing Branch to emphasize the importance of processing temporary practice permits in a timely manner to meet the five business day deadline.	None	To strengthen the Program, Hawaii should implement an effective process to ensure that temporary practice permit applications are processed timely in accordance with ASC Policy Statement 5.	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 5.
Temporary Practice continued:			X					
States should issue temporary practice permits designating the date of approval, not the date requested by the applicant. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 5.)				The Program issued temporary practice permits with backdated effective dates. A visiting appraiser cannot legally appraise in Hawaii until he/she receives the temporary practice permit. Backdating of permits gives the false impression that the appraiser may begin the assignment prior to the issuance of the permit. Backdating of temporary practice permits was also cited in the Compliance Review conducted in 2009.	On November 10, 2011, the State reported to ASC staff that the Program has instituted a policy to date the temporary practice permit using the date of approval and not the date requested by the applicant.	None	None	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.)				Program staff utilizes the National Registry to verify the license history on applicants for temporary practice. However, Program staff failed to use their assigned username and password. Therefore, Program staff did not access a complete license history prior to approving an application for a temporary practice permit.	On November 10, 2011, the State reported to ASC staff that the Program will use its assigned username and password when verifying the license history on the National Registry for all temporary permit applications.	None	None	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 5.
National Registry:			X					
States must submit all disciplinary actions to the ASC for inclusion on the National Registry. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 9A.)				ASC staff identified one sanction during the review period that had not been reported to the ASC for inclusion on the National Registry. Failure to submit all disciplinary actions to the ASC for inclusion on the National Registry was also cited in the Compliance Review conducted in 2009.	On November 10, 2011, the State reported to ASC staff that all missing disciplinary actions were identified and reported to the ASC for inclusion on the National Registry. Program staff also indicated that all future disciplinary actions will be reported to the ASC.	None	To strengthen the Program, Hawaii should implement an effective process to ensure that disciplinary actions are reported to the ASC for inclusion on the National Registry in accordance with ASC Policy Statement 9A.	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 9A.
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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Requirement/Guidance	Compliance (YES/NO) Areas of Concern (AC)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
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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.)				Hawaii had 8 outstanding complaints of which six (75%) were unresolved for more than one year. None of those six fall under the exception for special documented circumstances.	<p>On November 10, 2011, the State reported to ASC staff that the Regulated Industries Complaint Office (RICO) have or will adopt the following procedural changes:</p> <ol style="list-style-type: none"> 1) RICO will conduct a preliminary case review within ten working days of the received date of the complaint and determine a specific timetable for case processing designed to facilitate case completion within the one-year benchmark; 2) RICO will prepare a specialized complaint form for real estate appraiser complaints to assist in providing specific documents relevant to the complaint; and 3) RICO staff will initiate discussions with the Executive Officer of the Program to evaluate the feasibility of consulting with members of the Hawaii Real Estate Appraiser Advisory Committee to assist RICO in various aspects of case review. 	Hawaii must monitor its revised processes to ensure timely processing of complaints to reduce the backlog of aged complaints, and to ensure that the complaints of appraiser misconduct or wrongdoing are resolved in a timely manner as required by ASC Policy Statement 10E.	None	Through off-site monitoring and during the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10E.

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	YES	NO	AC					
Enforcement continued:			X					
States must maintain sufficient documentation. (Title XI § 1118 (a), 12 U.S.C. 3347; ASC Policy Statement 10E.)				ASC staff requested to review ten complaint files. Three of those files (30% of the requested sample) had been destroyed in accordance with Hawaii's general records retention schedule and therefore were not provided for ASC staff review.	On November 10, 2011, the State reported to ASC staff that RICO has revised its internal procedures and will maintain appraiser complaint files at least until the next compliance review.	None	None	During the next Review, ASC staff will pay particular attention to this area for compliance with ASC Policy Statement 10E.