

**OFFICE OF REAL ESTATE APPRAISERS**1102 Q STREET, SUITE 4100
SACRAMENTO, CA 95811-6539

February 11, 2009

FEB 23 2009

Ms. Virginia M. Gibbs, Chairman
Appraisal Subcommittee
Federal Financial Institutions Examination Council
1401 H Street, NW, Suite 760

Re: Response to Findings and Recommendations – July 2008 Audit

Dear Ms. Gibbs:

The Office of Real Estate Appraisers (“OREA”) appreciates the opportunity to respond to the findings of the review of California’s appraiser regulatory program (“Program”), conducted July 29-31, 2008, by staff of the Appraisal Subcommittee (“ASC”). The information provided below should adequately address the concerns raised in said review, and demonstrate that OREA is enacting appropriate measures to ensure that the Program is substantially in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended.

The ASC review found that California’s Program does not comply with Title XI, and states that OREA failed to: (1) investigate and resolve complaints in a timely manner; (2) issue temporary practice permits for a minimum of six months with an easy extension; (3) ensure that appraiser credentials issued to tax assessors are supported by experience that conforms to Appraiser Qualifications Board (“AQB”) Qualification Criteria; and (4) report all disciplinary action to the ASC for inclusion on the National Registry. Please see below for OREA’s response to each issue.

Issue 1 – California’s complaint investigation and resolution process does not comply with Title XI and ASC Policy Statement 10.

The comment in the review letter that OREA has failed to assign cases in a timely manner is incorrect. Cases are assigned to an investigator immediately upon opening, and sometimes reassigned to maximize efficiency. Case “assignment” has no bearing on the time it takes to complete a case; it’s the excessive caseload and lack of available staff resources that has caused our case completion timeframe to exceed one year. It

is common for a number of months to pass before an investigator actually begins work on an assigned case; this is the timing problem that OREA needs to address.

Policy Statement 10 provides that final administrative decisions regarding complaints *should* occur within one year of the complaint filing date, *absent special documented circumstances* (italics added). The word "should" is not as affirmative as "must" or the phrase "is required to," and OREA questions if the one-year requirement is absolute or definitive; this issue was briefly discussed with ASC staff in July. Further, OREA interprets the term "special circumstances" to include the judicial process that results from a disciplinary case wherein there is a referral to the Office of the Attorney General ("AG"). Disciplinary cases that result in going through the Administrative Law Process require a significant amount of time for final adjudication of the proposed discipline, and closure of an enforcement action. The case has to be pleaded by the AG, and if a Notice of Defense is filed, the case is subject to the Office of Administrative Hearings' scheduling process. Every effort is taken by OREA to reduce the period required for case resolution; however, final legal adjudication of cases within one year is not always feasible. As we discussed with ASC staff in July, there should be consideration of an amendment to Policy Statement 10 that would extend the mandated one-year timeframe for any case that results in referral to the AG.

OREA's outstanding caseload is excessive, with many cases exceeding one year in duration. Although the Enforcement Unit resolves a large number of cases each year (214 cases in 2007, 231 cases in 2008), this was accomplished with an investigative staff of only 8 Property Appraiser Investigators ("PAI"), 1 Supervising PAI, and the Chief of Licensing of Enforcement. This staffing level clearly is not sufficient to effectively administer the enforcement program.

In order to improve upon the timeframe for case closure and to reduce the open case backlog, OREA has requested approval for the addition of 3 PAI positions and a staff legal counsel for fiscal year 2009-10. These additional positions will be permanent, full-time. This proposal has the support of the Department of Finance and the Governor's Office, and we are optimistic that it will be adopted in the final budget for FY 2009-10. Depending upon the volume of enforcement complaints that OREA receives, the average length of time that passes from when an investigation is opened to when the investigative report is completed should be reduced through the addition of these positions. We have also implemented improved efficiencies by more clearly defining the scope of the investigative process, directing staff on the main focus of each investigation, and by initiating a telecommute program for several of our investigators. The telecommute program provides uninterrupted time to focus on investigative report writing, and has resulted in a 50% increase in the average number of investigative reports completed by the staff taking part in this program.

As requested, OREA will also provide an electronic quarterly complaint log to the ASC.

Issue 2 – OREA’s temporary practice procedures do not conform to Title XI and ASC Policy Statement 5.

OREA’s policy is to issue Temporary Practice Permits for one year, or for the remaining term of the license in the appraiser’s home state. If said license expires in less than one year, the applicant is required to provide a copy of any renewed license that is issued by the appraiser’s home state in order to extend the permit to a full year. This policy is not a burdensome requirement, and conforms to ASC Policy Statement 5. Further, it is consistent with the review letter’s comment that “...OREA should permit an appraiser to renew without excessive burden after he/she demonstrates renewal of the home state credential.”

Upon issuance of a Temporary Practice Permit, OREA does not collect an additional fee for submission of a renewed license from the home state after an initial submission of fees has been remitted. Although there have been a few isolated instances where additional processing fees were erroneously collected, this issue has been appropriately communicated to OREA’s licensing staff, and we do not anticipate any further occurrences of this problem. The review letter states that OREA issues Temporary Practice Permits for a fee of \$150. That contention, however, is incorrect, perhaps due to a miscommunication during the ASC’s July review. The fee for a Temporary Practice Permit is \$80. An additional \$10 support obligor fee is collected, resulting in a total fee of \$90. The OREA policy for Temporary Practice Permits is consistent with ASC Policy Statement 5, and is detailed in OREA policy number 95-3019. We acknowledge, however, that a revision of the OREA policy is required to reference the correct California Code of Regulations section and to clarify that the permit is valid for one year; such revision is in process.

Issue 3 – California’s practice of allowing tax assessors to be granted appraiser credentials without documented conformance to AQB experience Criteria is inconsistent with ASC Policy Statement 10F.

Prior to 2005, OREA’s policy on appraiser license applicant experience (codified in California Code of Regulations, Title 10, Section 3542.a.2 and 3542.a.9) was to grant experience for employees of tax assessor’s offices, based on a letter verifying mass appraisal experience from a manager within the assessor’s office. The policy was changed, effective January 1, 2005. Since that time, all applicants employed by assessor’s offices must submit experience logs and work samples in compliance with the Uniform Standards of Professional Appraisal Practice (“USPAP”).

OREA’s Chief of Licensing & Enforcement is not aware of the exceptions to policy referenced in ASC’s review letter. There may have been applications in which licenses had not yet been issued. In such cases, the work experience would be a deficiency, and the applicant would not receive a license unless and until such deficiency were cured.

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OREA currently is examining all appraiser licensing files to identify those licensees that were credited the experience qualification by affidavit. Those that received their experience through affidavit will receive a letter requesting a log of appraisal experience to conform with the requirements for their license level, from which OREA will select work samples.

OREA's staff will determine the licensing actions that will result from review of the submitted work samples, and will inform all licensees that fail to meet the AQB and USPAP requirements that they will be listed on the ASC National Registry as "non-AQB compliant." Certified level licensees will additionally be informed that they are no longer eligible to appraise real property for federally related transactions, and that their record on the National Registry will be changed from "Active" to "Inactive." California is not a mandatory appraisal licensing state, and this action should satisfactorily resolve the issue.

No later than June 30, 2009, OREA will provide the ASC with the requested spreadsheet, identifying all appraisal licensees that have qualified for appraisal credentialing by relying on mass appraisal experience, and noting each appraiser's status relative to OREA's action plan.

Issue 4 – OREA did not report all disciplinary actions to the ASC for inclusion on the National Registry.

No later than April 30, 2009, OREA will provide the ASC with an updated list of all disciplinary actions taken against California appraisal licensees, past and present, for inclusion on the confidential portion of the National Registry.

I appreciate the opportunity of working with ASC staff to effectively administer and improve upon California's appraiser regulatory program. Should you have any questions or comments regarding the issues referenced herein, please contact me in writing at the above address or call me at (916) 440-7878.

Sincerely,

Bob Clark
Director