



85 7th Place East, Suite 500
St. Paul, Minnesota 55101-3165
www.commerce.state.mn.us
651.296.4026 FAX 651.297.1959
An equal opportunity employer

FEB 23 2009

February 19, 2009

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

Re: April 2008 Field Review

Dear Ms. Gibbs:

I am writing in response to your December 22, 2008 correspondence in which you outlined the results of the Appraisal Subcommittee's (ASC) April 28-29, 2008 field review of Minnesota's real estate appraiser licensing and regulatory program.

I would like to thank Kristi Klamet and Denise Graves for their guidance and the professionalism they showed us during the review process.

The Department's response to the issues and concerns raised in your correspondence is as follows:

- **Minnesota's complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10 E.**

I agree with the ASC's conclusion that the Department had approximately 20% of its complaint files outstanding for more than one year after receipt. However, the number of complaints pending for more than one year has improved from past years and as you noted, the appraiser complaints has more than doubled from the past several years.

I would like to note that in order to comply with ASC Policy Statement 10G relating to reviewing applicant work product I authorized the hiring of two (2) temporary appraiser positions. I am pleased to report that with the assistance of the temporary staff the Department successfully completed all applicant work product reviews submitted between March – December 2008 in accordance with ASC Policy Statement 10G.

Minnesota continues to receive allegations of mortgage fraud and these cases involve allegations that appraisers inflated the value of the property. As you know, mortgage fraud cases are complicated, labor intensive, and involve multiple licensees. Mortgage fraud cases will take longer than a typical appraiser complaint based on the complex nature of the allegations and the number of involved parties that must be investigated. The appraiser investigators have diligently pursued each appraiser involved in these fraudulent activities. In fiscal year 2008, Minnesota initiated 36 disciplinary actions against appraisers. In the first 6 months of fiscal year 2009 we initiated another 36 appraiser disciplinary actions.

Ms. Virginia M. Gibbs
February 19, 2009
Page Two

Minnesota is currently facing a 4.8 billion budget deficit and the Department may be forced to lay off staff. I do not anticipate that appraiser complaints will decrease in the near future but I am fully committed to reduce the backlog of outstanding appraiser complaints and to continue with our efforts to process complaints on a timely basis.

The following steps will be taken to reduce the backlog of outstanding complaints and to process all complaints on a timely basis:

- 1) I have authorized that the two temporary positions be extended from December 31, 2008 until June 30, 2009. I have requested that the temporary and full-time appraiser staff concentrate on appropriately concluding any files that have been outstanding for more than one year.
 - 2) I have instructed that the supervisor complete a monthly review of the pending appraiser complaint files with each appraiser staff member. This monthly review will continue until all files over one year old and files approaching one year is resolved.
 - 3) A quarterly report of the appraiser complaint log will be sent to the ASC. Unless the ASC advises the Department otherwise, our complaint log will be sent to you at the end of March 2009. Thereafter, the Department will send the ASC a complaint log every three months.
- **Minnesota statute regarding reinstatement of the credential for military personnel returning from active military duty did not conform to AQB criteria.**

Minnesota Statutes Chapter 326, Employments Licensed By State, includes the following section (emphasis added):

326.56 LICENSES, CERTIFICATES OF REGISTRATION; RENEWALS.

Subdivision 1. Definitions.

For the purposes of this section the terms defined in this subdivision shall have the meanings ascribed to them.

- (1) "Active military service" has the meaning given in section 190.05, subdivision 5.
- (2) "Employment essential to the prosecution of a war or to the national defense" means employment by the federal government of the United States of America, or any of its agencies, or by a federal government contractor or subcontractor in work connected with the prosecution of a war or for the defense of the United States or its allies.
- (3) "Outside of the United States" means outside of the territorial limits of the 50 states of the United States and the District of Columbia.

Subd. 2. License or registration, renewal; exemption for military service.

- (a) Notwithstanding any other provision of statutes, any person required by law to be licensed or registered by the state of Minnesota in order to carry on or practice a trade, employment, occupation or profession within this state who is also required by law to renew the license or certificate of registration at stated intervals and to pay a fee for such renewal on or before a specified date, or be subject to revocation of the license or certificate or other penalties, and who has

been ordered into active military service, or who has been engaged, or shall hereafter be engaged, in employment outside of the United States essential to the prosecution of a war or to the national defense, whose license or certificate of registration was effective at the time of the person's entry into active military service or engagement in the employment, is hereby exempted from the payment of all renewal fees and from the filing of any application for renewal, which but for this section would have been required as a condition of the renewal of the license or certificate, during the time the person has been in active military service or that employment, and from any penalties for nonpayment or late payment, and is hereby exempted from further payment of such renewal fees and from the making of any application for renewal during the period the person shall remain in active military service or the employment, and for six months thereafter. The license or certificate in the meantime shall remain in full force and effect, and if it has been canceled or revoked solely on the basis of nonpayment of renewal fees or failure to apply for a renewal, it shall be reinstated upon the application of the licensee or registrant or by anyone on the person's behalf without the payment of any penalties or costs. Any such person may within six months from the date of release from active military service, or from the date of return within the boundaries of the United States if the person has been engaged in the essential employment, make application for a renewal of the license or certificate without penalty and in the same manner as if the person had made application therefore at the time or time specified by existing laws, irrespective of whether the license or certificate has expired or is due to expire within that time period.

(b) The phrase "license or certificate of registration" in paragraph (a) includes, but is not limited to, a license or certificate of registration for a trade, employment, occupation, or profession for which the state requires firearms and use of force training. Any compensatory job-related education or training considered necessary by the licensee's or registrant's employer must be provided and paid for by the employer and must not be permitted to delay the licensee's or registrant's reemployment.

The italicized provision conflicts with AQB criteria. To remedy this concern, we are introducing legislation this year to amend Minnesota Statutes Section 82B.19, subdivision 1, to read:

Notwithstanding Chapter 326.56, subd. 2, a licensed real estate appraiser returning from active military duty may be placed in active status for a period of up to 90 days pending completion of all continuing education requirements.

- **Minnesota statute regarding the number of continuing education hours required to be completed in a partial year of a continuing education cycle did not conform to AQB criteria.**

Minnesota Statutes Chapter 82B, Real Estate Appraisers, currently provides that an applicant for license renewal does not need to have completed any continuing education if the applicant's immediately preceding term of licensing consisted of less than 12 months. This conflicts with AQB criteria. To remedy this concern, we are introducing legislation this year to amend Minnesota Statutes Section 82B.19, subdivision 1, to read:

Mrs. Virginia M. Gibbs
February 13, 2009
Page Four

License renewals. A licensed real estate appraiser shall must present evidence satisfactory to the commissioner of having met the continuing education requirements of this chapter before the commissioner renews a license.

The basic continuing education requirement for renewal of a license is the completion by the applicant either as a student or as an instructor, during the immediately preceding term of licensing, of at least 30 classroom hours of instruction in courses or seminars that have received the approval of the commissioner. Classroom hour credit must not be accepted for courses of less than two hours. As part of the continuing education requirements of this section, the commissioner shall must require that all real estate appraisers successfully complete the seven-hour national USPAP update course every two years. If the applicant's immediately preceding term of licensing consisted of ~~42~~ six or more months, but fewer than 24 months, the applicant must provide evidence of completion of 15 hours of instruction during the license period. The credit hours required under this section may be credited to a person for distance education courses that meet Appraiser Qualifications Board criteria.

We will keep you advised about the status of these amendments as they go through the legislative process and give you a copy of the statute as finally adopted. In addition, we will ensure that individuals reinstating or renewing their licenses meet AQB criteria.

Sincerely,

Glenn Wilson
COMMISSIONER