

# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

July 30, 2009

Thad Lavar  
Interim Division Director  
Utah Division of Real Estate  
Department of Commerce  
P.O. Box 146711  
Salt Lake City, Utah 84114-6711

Dear Mr. Lavar:

The Appraisal Subcommittee (ASC) staff conducted an ASC Compliance Review (Review) of the Utah real estate appraiser regulatory program (Program) on February 23-25, 2009. This is the final ASC Compliance Review Report (Report) on that Review.

The ASC has considered the staff's preliminary findings regarding the Review and the State's response. The ASC has determined that the Program is not in substantial compliance with Title XI of the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI). Details regarding the ASC staff observations, the State response, and required/recommended State actions are included in the attached Report. The ASC identified the following concerns:

- ASC Policy Statement 10E - States must appropriately document enforcement files and include rationale. The Review revealed that closed complaint files did not include adequate documentation. Utah must ensure that appropriate documentation relative to the facts and determinations are included in the complaint files.
- ASC Policy Statement 10E - Enforcement dispositions must be consistent, appropriate and equitable. Due to a lack of appropriate documentation in the closed complaint files, we were unable to determine whether enforcement was consistent, appropriate, or equitable. Utah must ensure that its entire system for processing and investigating complaints and sanctioning appraisers is administered in an effective, consistent, equitable, and well documented manner.
- ASC Policy Statement 10E - States should resolve complaints within 1 year, except for special documented circumstances. Due to the number of aged (over one year old) complaints, Utah must submit a complaint log to the ASC staff every six months. After analyzing each log, if improvement is not noted, we will direct Utah to submit a quarterly log to us.

In response, the State indicated it has taken corrective actions, which are detailed in the attached Report. The reported corrective actions appear to be appropriate. ASC staff will confirm that these corrective actions have taken place during the next Review. 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,

Deborah S. Merkle  
Acting Chairman

Attachment

## ASC Compliance Review Report

**Utah Appraiser Regulatory Program (Program)**

**Utah Real Estate Appraiser Licensing and Certification Board (Board)**

**ASC Compliance Review (Review) Date: February 23-25, 2009**

**Review Period: 02/07 - 02/09**

**Umbrella Agency: Utah Department of Commerce, Division of Real Estate**

**Number of Utah credentialed appraisers on National Registry: 1396**

**Issue Date: July 30, 2009**

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Requirement/Guidance	Compliance (YES/NO)			ASC Staff Observations	State Response	Required State Actions	Recommended State Actions	General Comments
	YES	NO	AC					
<b>Statutes, Regulations, Policies and Procedures:</b>	X			No compliance issues noted.	N/A	N/A	N/A	N/A
States must adopt and/or implement AQB certification Criteria and required AQB approved exam ( <i>Title XI, ASC Policy Statement 2</i> ).				ASC staff reviewed Utah's statute and administrative rules and made comments regarding areas that were not in compliance with AQB certification criteria. In practice, the Board was complying with AQB criteria.	During its April 2009 meeting, the Board adopted rule changes to bring all areas into compliance with AQB certification criteria.	No further action required.	N/A	N/A
<b>Temporary Practice:</b>	X			No compliance issues noted.	N/A	N/A	N/A	N/A
<b>National Registry:</b>	X			See below.	N/A	N/A	N/A	N/A
States must submit all disciplinary actions for inclusion on the National Registry ( <i>ASC Policy Statement 9A</i> ).				Not all disciplinary actions taken by the State were reported to the ASC for inclusion on the National Registry.	During the Review, the Board staff corrected all discrepancies for inclusion on the National Registry and implemented procedures to ensure all future disciplinary actions are reported to the ASC timely and accurately.	No further action required.	N/A	N/A
<b>Application Process:</b>	X			No compliance issues noted.	N/A	N/A	N/A	N/A
<b>Reciprocity:</b>	X			No compliance issues noted.	N/A	N/A	N/A	N/A
<b>Education:</b>	X			No compliance issues noted.	N/A	N/A	N/A	N/A

Utah Appraiser Regulatory Program								
Utah Real Estate Appraiser Licensing and Certification Board				Compliance Review Date: February 23-25, 2009		Review Period: 02/07 - 02/09		
Umbrella Agency: Utah Department of Commerce, Division of Real Estate				Number of Utah credentialed appraisers on National Registry: 1396		Issue Date: July 30, 2009	Page 2 of 2	
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					
<b>Enforcement:</b>		X	X	See below.	See below.	See below.	N/A	See below.
States must appropriately document enforcement files and include rationale (ASC Policy Statement 10E).  Enforcement dispositions must be consistent, appropriate and equitable (ASC Policy Statement 10E).				<p>During this Review, ASC staff reviewed 42 closed complaints that were received between January 2003 and June of 2007. The majority of those files did not contain adequate documentation relative to the facts and determinations to support the conclusions in the complaint files.</p> <p>Due to a lack of appropriate documentation in the closed complaint files, ASC staff were unable to determine whether enforcement was consistent, appropriate, or equitable.</p> <p>Complaints that were received or that resulted in a disciplinary action after June 2007, appeared to be processed timely and contained appropriate documentation and rationale.</p>	<p>During the ASC Compliance Review, Utah's investigative staff explained their rationale and decisions and agreed to appropriately document the files.</p>	<p>Utah must ensure appropriate documentation relative to the facts and determinations of the case are included in the complaint files.</p> <p>Utah must ensure that its entire system for processing and investigating complaints and sanctioning appraisers is administered in an effective, consistent, equitable, and well-documented manner.</p>	<p>To strengthen the Program, Utah should implement an effective process to ensure that its entire system for processing and investigating complaints and sanctioning appraisers is administered in an effective, consistent, equitable, and well-documented manner. "Well-documented" means that relevant documentation pertaining to a matter exists, and will enable readers to understand the facts and determinations in the matter and the reasons for those determinations.</p> <p>Absent documented facts or considerations, substantially similar cases should result in similar dispositions. States must analyze each complaint to determine whether additional violations, especially those relating to USPAP, should be added to the complaint.</p>	<p>During the next Review, the ASC expects to see an improvement in Utah's complaint investigation and resolution program.</p>
States should resolve complaints within 1 year, except for special documented circumstances (ASC Policy Statement 10E).				<p>During this Review, Utah had 106 outstanding complaints; 30 of those complaints had been open for over one year.</p> <p>Note: During the 2007 Review, Utah had 107 outstanding complaints; 72 of those complaints had been open for over one year.</p>	<p>Since the 2007 Review, the State concentrated its resources on resolving the cases with the most serious allegations. This resulted in approximately 47 disciplinary actions imposed during this Review Period compared to approximately 10 disciplinary actions taken during the prior 3-year review period.</p>	<p>Utah must submit a complaint log to the ASC staff every six months. Staff will analyze each log. If progress is not being made, the ASC may place additional reporting and/or data collection requirements upon the State.</p> <p>The ASC Policy Manager assigned to Utah will work with the Board staff to determine the timing and content of the complaint log.</p>	<p>To strengthen the Program, Utah should explore ways to process complaints of appraiser misconduct or wrong doing on a timely basis to ensure compliance with Policy Statement 10E.</p>	<p>During the next Review, the ASC expects to see an improvement in Utah's complaint investigation and resolution program.</p>