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Appraisal Subcommittee

Federal Financial Institutions Examination Council

September 15, 2008

Linda York, Chair
West Virginia Real Estate Appraiser
Licensing and Certification Board
2110 Kanawha Blvd. East, Suite 101
Charleston, WV 25311

Dear Ms. York:

Thank you for the cooperation and assistance of the West Virginia Real Estate Appraiser Licensing and Certification Board (“Board”) in the August 20-21, 2008 Appraisal Subcommittee (“ASC”) review of West Virginia’s real estate appraiser regulatory program (“Program”). Based on our review, West Virginia needs to address four concerns to bring the Program into substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”).

- **The Board’s legislative rules did not reference the most current version of the Uniform Standards of Professional Appraisal Practice (“USPAP”).**

West Virginia legislative Rules §§ 190-2-14.1 and 190-3-8.1 recognize the 2005 edition of USPAP and § 190-4-12.1 recognizes the 2004 edition of USPAP. The 2006 version, which became effective July 1, 2006, was never adopted and now the 2008 version which became effective January 1, 2008 has not been adopted. This concern was previously cited in our November 15, 2006 field review letter. To address this concern, the Board needs to:

1. Take the necessary action to immediately update its Legislative Rules to reflect the 2008 edition of USPAP, and if possible, work with legal counsel to explore the Board’s options to have this issue addressed as an emergency rulemaking measure or on a priority basis in the 2009 legislative sessions;
2. Work with its Assistant Attorney General to develop, propose, adopt, and implement statutory and/or regulatory language that would allow incorporation of the most current edition of USPAP by reference; and
3. Provide us a copy of the Legislative Rules as finally adopted.

- **The Board’s legislative rules regarding reinstatement of an appraiser from Inactive status did not conform to Appraiser Qualifications Board (“AQB”) criteria.**

The Board’s legislative rules currently allow an appraiser to place his or her credential into Inactive status for an unlimited amount of time, provided the appraiser pays the annual fees. The regulations require that to reactivate a license or certification from Inactive to Active status, the appraiser must take 14 hours of continuing education. Also, any appraiser who has been on Inactive status for more than two years must take the 7-hour National USPAP Update Course.

In September 2005, the AQB adopted an Interpretation regarding waivers and deferrals of continuing education. That Interpretation provides that, prior to reactivating an Inactive credential, the credential holder must complete the most recent edition of the 7-hour National USPAP Course and all continuing education that would have been required had he or she not been Inactive, meaning 14 hours for each year lapsed. While the Board's rules are inconsistent with AQB criteria, in practice, Board staff enforces the September 2005 Interpretation. ASC staff did not find any Inactive appraisers who had been re-activated inappropriately.

To address this concern, however, the Board needs to initiate the necessary amendments to Board legislative rules to ensure compliance with AQB criteria. Provide us a copy of the Legislative Rules as finally adopted.

- **West Virginia Legislative Rules 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.**

West Virginia Legislative Rules state that credential holders issued a credential with a continuing education cycle of 270 days or less are not required to complete the required continuing education for that renewal cycle. In May 2006, the AQB adopted an Interpretation to its criteria that states that credential holders who are issued a credential with a continuing education cycle of 185 days or less are not required to complete the required continuing education for that renewal cycle.

In practice, Board staff enforces the May 2006 Interpretation. We reviewed several renewal application files and confirmed that each appraiser submitted the required hours of continuing education, including completion of the most recent 7-hour National USPAP Update Course, to comply with the AQB's criteria Interpretation.

To address this concern, the Board needs to:

1. Initiate the process for amending the Legislative Rules as soon as possible to ensure that the State's regulations conform with the AQB Interpretation noted above;
 2. Keep us advised about the status of the amendment as it goes through the legislative process; and
 3. Provide us a copy of the Legislative Rules as finally adopted.
- **West Virginia's complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10.**

West Virginia's complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10E. Some complaints were not investigated and resolved in a timely manner. ASC Policy Statement 10E provides that State agencies need to process complaints on a timely basis, and that, absent special documented circumstances, final State administrative decisions regarding complaints should occur within one year of the complaint filing date.

At the time of our field review, there were 25 outstanding complaints. Of these, eleven had been outstanding for more than one year. Of these eleven cases, one had been outstanding for more than two years. The eleven cases that are more than one year old involve seven appraisers. At the time of our field review, four cases were scheduled for hearings, four cases were at the Assistant Attorney General's office for drafting of formal charges, and three cases were in negotiations for the final terms of a consent decree.

We understand that the Board shares our concern and recently initiated actions to address the weaknesses in the complaint process. We understand that a Board subcommittee known as the Standards Board has begun to meet monthly instead of quarterly to review and process complaints. In addition, we recognize that the Executive Director has begun to submit complaints directly to the Standards Board instead of waiting to present them to the full Board at its quarterly meeting. Given these procedural changes, the Board believes that it will be able to reduce the backlog of aged complaint cases and address new cases in a timely manner. If these changes fail to allow the Board to properly address this concern, the Board will need to take other appropriate actions to ensure that complaints are investigated and resolved in a timely manner.

Please respond to our findings and recommendations within 60 days from the date of this letter. Until the expiration of that period or the receipt of your response, we consider this field review to be an open matter. After receiving your response or the expiration of the 60-day response period, whichever is earlier, this letter, your response and any other correspondence between you and the ASC regarding this field review become releasable to the public under the Freedom of Information Act and will be made available on our Web site.

Please contact us if you have any questions.

Sincerely,

Virginia M. Gibbs
Chairman

cc: Sharron Knotts, Executive Director