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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

November 19, 2008

Clinton P. Sayers, Chairman  
Texas Appraiser Licensing and Certification Board  
P.O. Box 12188  
Austin, Texas 78711-2188

Dear Mr. Sayers:

Thank you for your cooperation and your staff's assistance in the October 15-17, 2008 Appraisal Subcommittee (ASC) review of Texas' real estate appraiser regulatory program (Program). As discussed below, the Texas Appraiser Licensing and Certification Board (Board) needs to address two concerns to bring its Program into compliance with Title XI of the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989, as amended (Title XI).

- **The Texas complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10 because complaints were not investigated and resolved in a timely manner.**

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

We cited the state for this deficiency in our 2002 field review letter; 2004 follow-up review letter; 2005 field review letter; 2006 follow-up field review letter; and 2007 field review letter. In general, during previous field reviews, we found that the Board's lack of resources and significant increases in the number of complaints contributed to these delays.

Since our 2005 field review, the average number of complaints received per year has more than doubled from 101 per year to 248 per year (146% increase). The number of outstanding complaints increased from 114 to 255 (124%), and the number of complaints outstanding for more than one year increased from 53 to 91 (72%).

During this review, we found that Texas continued to make progress in improving its complaint investigation and resolution program. Of the 91 cases over one year old, all were investigated and were pending settlement or hearing. Although Texas' enforcement program still was not in compliance with Title XI and ASC Policy Statement 10, we believe that given the state's actions described below and its cooperative attitude, the state is making progress towards attaining full compliance with ASC Policy Statement 10E.

Several changes have occurred that have contributed to the state's progress in improving its complaint investigation and resolution program. Complaint cases were reassigned to investigators using a geographic system, and each investigator was assigned complaints within a particular area that the investigator was most familiar. The Board hired a full-time attorney.

Within the last year, the Board made the two part-time investigators full-time and hired three additional full-time investigators, for a total of five investigators dedicated to the Program. The Board held several peer review committee meetings, chaired by Board members, to assist the Board staff in analyzing complaints; and the Board was authorized to informally settle disciplinary cases. A new sanction matrix included in a recent regulatory amendment has helped to promote consistent disciplinary actions for informal settlements.

We are encouraged by the state's actions to remedy our longstanding concern in this area; however, more time is needed to see whether the new changes will fully address our concerns. We expect to see a significant decrease in the number of complaints over one year old when we perform our priority contact visit in the fall of 2009.

- **Texas statute and regulations regarding the review of appraisal work product for applicants for certification did not comply with ASC Policy Statements 10G.**

Currently, Texas statute and regulation provide that the Board may audit no more than 5% of appraiser applications. In accordance with ASC Policy Statement 10G, generally, for appraisal experience to be acceptable under Title XI and AQB criteria, the experience must be USPAP compliant. The only acceptable method for states to make this determination is by reviewing appraisal work product for each applicant. For most states, the most reasonable approach would be to review specific work products and/or to require the applicant to perform appraisals of specified properties and prepare corresponding appraisal reports (*e.g.*, demonstration reports).

In practice, Texas requires all applicants to submit experience logs. Further, since January 15, 2008, staff began selecting and reviewing sample appraisal reports from the logs of applicants for certification to assess compliance with USPAP. Staff continues to review sample appraisal reports from only 5% of applicants for the License level credential. Therefore, in practice, Texas is conforming to ASC Policy Statements 10 F and G, and will need to amend its statute and its regulation to be consistent with practice. We understand that the Board intends to seek the necessary changes during the next legislative session. Please keep us informed about the status of the changes.

Please respond to our findings and recommendations within 60 days following the receipt 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 further questions.

Sincerely,

Virginia M. Gibbs  
Chairman

cc: Timothy Irvine, Board Administrator