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Appraisal Subcommittee

Federal Financial Institutions Examination Council

December 22, 2008

Mr. Glenn Wilson, Commissioner
Minnesota Department of Commerce
85 7th Place East, Suite 600
St. Paul, Minnesota 55101

Dear Mr. Wilson:

Thank you for the Minnesota Department of Commerce's ("Department") and Minnesota Real Estate Appraiser Advisory Board's ("Board") cooperation and assistance in the April 28-29, 2008 Appraisal Subcommittee ("ASC") review of the Minnesota real estate appraiser regulatory program ("Program"). Based on our review, Minnesota needs to resolve an ongoing concern regarding its complaint investigation and resolution process and address two other 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"). We will closely monitor your efforts in resolving these concerns.

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

Minnesota's complaint investigation and resolution process did not comply with Title XI and ASC Policy Statement 10 E as complaints were not investigated and resolved in a timely manner. ASC Policy Statement 10 E 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.

We note that the majority of the complaints outstanding have been in process for less than one year, yet approximately 20% remain unresolved more than one year after receipt. In addition, we note that the number of complaints received more than doubled during the last year.

Since our last review, the Department assigned an additional investigator to the Appraisal Program. However, pursuant to the adoption of ASC Policy Statement 10G, Minnesota began the process of applicant work product review. The Department assigned this review to the Investigative Section and ultimately to the new investigator. The majority of this investigator's time is spent reviewing applicant work product; therefore, the Department had not been able to utilize these additional resources towards the complaint investigation and resolution program.

To address the concerns discussed above, the Department needs to:

1. Develop and implement specific plans to reduce the backlog of outstanding complaints and to process all complaints on a timely basis, and to inform the ASC, in writing, of those plans no later than 60 days after receiving this letter; and
2. Provide a copy of the complaint log to the ASC quarterly.

- **Minnesota statute regarding reinstatement of the credential for military personnel returning from active military duty did not conform to AQB criteria.**

Minnesota statute permits credential holders returning from active military duty to make application for renewal within six months from their date of release. In May 2006, the AQB adopted an Interpretation to its criteria that states that State appraiser regulatory agencies may allow credential holders returning from active military duty to be placed in active status for a period of up to 90 days pending completion of all continuing education requirements.

While on site, ASC staff discussed this deficiency with the Department, Board, and Program staff. They did not realize that the statute was not AQB compliant. We understand that, the statute that exists is a blanket statute pertaining to any professionally licensed or registered person in the State who is required by law to renew a license or certificate. The Department agreed to promulgate a statute and/or rule to exempt real estate appraisers from this blanket provision. Program staff confirmed that they did not receive any requests for relief under this provision. Our review of application files also failed to identify any person inappropriately credentialed on this basis.

To remedy this concern, Minnesota needs to:

1. Initiate the process for amending the statute and/or rule as soon as possible to ensure that the State's regulations conform with the AQB Interpretation noted above;
 2. Ensure that individuals reinstating their certificates meet AQB criteria;
 3. Keep us advised about the status of the amendment as it goes through the legislative and/or rulemaking process to resolve the inconsistency with AQB criteria; and
 4. Provide us a copy of the statute and/or rule as finally adopted.
- **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 statute states that credential holders issued a credential within one year or less of the first scheduled renewal are not required to complete 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 continuing education for that renewal cycle.

While on site, ASC staff discussed this deficiency with the Department, Board, and Program staff. They did not realize that the statute was not AQB compliant. The Department agreed to revise the statute to comply with AQB criteria. Since the implementation of the Interpretation, Program staff did not renew any credential holder under this provision as Minnesota's renewal cycle is based on a two-year period expiring on August 31. Therefore, any credential holder certified or licensed after May 2006 had not yet renewed. The Department stated that they will ensure that credential holders are renewed in accordance with AQB criteria.

To remedy this concern, the Department needs to:

1. Initiate the process for amending the statute as soon as possible to ensure that the State's regulations conform with the AQB Interpretation noted above;
2. Ensure that individuals renewing their credential meet the AQB criteria;
3. Keep us advised about the status of the amendment as it goes through the legislative process; and
4. Provide us a copy of the statute as finally adopted.

Unless otherwise noted above, 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: Manny Munson-Regala, Deputy Commissioner
Peter Bratsch, Licensing Director
Bonnie Polta, Enforcement Supervisor