



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Sarah Palin, Governor
Emil Notti, Commissioner

Division of Corporations, Business and Professional Licensing

November 21, 2007

Virginia M. Gibbs, Chairman
Appraisal Subcommittee
2000 K Street, Suite 310
Washington, D.C. 20006

Dear Ms. Gibbs,

This letter is a partial response to the Appraisal Subcommittee's (ASC) letter to Board Chair Steven MacSwain (Alaska Board of Certified Real Estate Appraisers), dated August 9, 2007 regarding the ASC's review of Alaska's real estate appraiser regulatory program. I was asked to respond to the section of the letter regarding complaints and investigations, as I am the investigator assigned to the Alaska Board.

ASC policy has a requirement that state agency administrative decisions in investigative cases should occur within one year of the complaint filing, absent any special circumstances. The ASC has charged that in two circumstances, the State failed to meet that standard.

In regards to the aged cases (respondent:) in which a hearing was conducted in December 2005, a proposed decision was finally issued on May 24, 2007. The Board addressed the proposed decision at a teleconference on June 14, 2007, at which time the decision was rejected and remanded back to the administrative law judge to receive additional evidence and reconsider the proposed sanctions. A revised proposed decision was issued on October 3, 2007 and will be addressed by the Board on November 29, 2007.

While the Division acknowledges that the cases are aged and have exceeded the ASC's time limit policies, once an investigation proceeds to litigation, the Division has no control over the timeline of those events that occur in that process. Unfortunately, the Division did not receive a proposed decision in this case for approximately 17 months following the hearing as the original hearing officer who heard the cases left state employment without issuing a decision.

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In regards to the case that was placed on hold while the civil case was being litigated in Superior Court, your letter erroneously states that the Division received that complaint in 2005. The complaint in that case was received by the Investigation Unit in May 2006. A review of the complaint at that time revealed the matter was pending a second jury trial and consisted primarily of a dispute between two appraisers regarding the methodology employed in calculating just compensation in the taking of property for the purpose of highway construction.

Because the case did not involve any allegations of fraud or deliberate misconduct but consisted primarily of a philosophical dispute, the Division decided to allow the matter to be determined through the judicial process rather than duplicate the process that was already occurring and had been ongoing for years prior to the complaint being filed with the Division.

The case proceeded to a second jury trial in January 2007 and a settlement was reached in March 2007. The settlement reached was based on the analysis and conclusions put forth in the respondent's appraisal. Although the investigation case was open for a time period exceeding one year, in this case the Division's decision to allow for the litigation process to conclude was warranted in the interests of preserving limited resources. It should also be noted that the decision to wait for the outcome of the court proceedings was only made after it was determined that the case did not involve a situation where the respondent's continued practice would pose a threat to uninformed consumers.

I hope I have satisfactorily addressed the issues pertaining to resolving complaints and/or investigations in a timely manner raised in your correspondence. It is my understanding that either the Board Chair or a Division staff member will also be issuing a response addressing the other matters raised in the Appraisal Subcommittee's August 9, 2007 letter.

Please contact me if you need any additional information.

Sincerely,

Margo Mandel
Investigator
Alaska Board of Certified Real Estate Appraisers

cc: Steve MacSwain, Board Chair
Jan Mays, Licensing Examiner