

# ARKANSAS



## APPRAISER LICENSING & CERTIFICATION BOARD

101 East Capitol - Suite 430  
Little Rock, Arkansas 72201

September 1, 2006

SEP 15 2006

Mrs. Virginia M. Gibbs, Chairman  
Appraisal Subcommittee  
Federal Financial Institutions Examination Council  
2000 K Street, NW  
Suite 310  
Washington, DC 20006

Dear Mrs. Gibbs:

This is in response to your July 19, 2006, letter regarding the review of Arkansas' real estate appraiser regulatory program. Your letter indicated that the Appraisal Subcommittee had two concerns regarding our substantial compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended. The two concerns expressed were: (A) Arkansas' regulations, policies, and practices regarding appraiser reinstatement from inactive status do not conform to Appraiser Qualifications Board ("AQB") criteria and (B) Arkansas' regulations, policies, and practices allow tax assessors to become certified appraisers without conforming to AQB experience criteria and in a manner that is inconsistent with ASC Policy Statement 10 F.

### **A. Reinstatement from Inactive Status**

We are currently in the process of amending our rules to address the reinstatement issue. The following rule was put out for public comment pursuant to the Arkansas Administrative Procedure Act on July 30, 2006: "Prior to reinstatement, a minimum of 14 hours for each year of inactivity (the equivalent that would have been required if the license was on active status) in refresher courses plus any continuing education hours which were delinquent before the inactive status." The rule will in be reviewed by the Arkansas General Assembly and probably become effective January 1, 2007.

We have also reviewed our records regarding appraisers who reactivated their certified credentials since September 2005, and have identified two individuals that were reactivated during that time period. One individual was reinstated in March, 2006 and will be contacted to

determine the number of hours of continuing education that he has completed. The second individual was a State Licensed appraiser who met the existing rule requirements as of July 1, 2006 and reactivated her license.

(It appears that one of the files reviewed (DELETION) by the ASC staff during their audit was a reinstatement that took place on renewal prior to September, 2005. (See attached summary of those on inactive status for '05 & '06 and this individual again went inactive as of July 1, 2006 - Exhibit 1.)

It is unknown at this time whether the above individuals will need additional hours under this application of the Inactive Status rule. It is, however, our contention that it is improper to retroactively conclude that additional hours are necessary. The appraisers in question took inactive status based upon the regulation as it existed and returned to active status in full compliance with that regulation. To retroactively alter the conditions for reinstatement may be contrary to state law and beyond the authority of the Arkansas Appraiser Licensing and Certification Board. This is particularly true in light of the fact that the reinstatement provision of the Inactive Status rule has been in place since 1994 and there has been no finding of noncompliance in the three previous audits. (See enclosed excerpt - from compliance letters Exhibit 2)

#### B. Tax Assessors / Mass Appraisers

As a result of a diligent search of the Board's active and inactive certified appraisers' files, since December 1991, we have determined that a total of 29 appraisers currently hold certified credentials based on mass appraisal or mixed (fee) experience. (Exhibit 3 is a listing of the names of the appraisers in question.) We have reviewed the files of each of these appraisers to determine if the file contains documentation to support conformance to AQB criteria and, if the appraiser was certified on or after January 1, 2005, ASC Policy Statement 10 F.

Upon review of the identified appraisers' files, sixteen (16) of the twenty-nine (29) were certified based entirely on experience claimed prior to January, 1992. It is our position that there were no standards of practice prior to the implementation of appraiser licensing in Arkansas in late 1991. Therefore, there was no basis on which to require USP AP compliant experience. Consequently, any and all experience (fee, ad valorem, or consulting, etc.) claimed under the Board's experience rules was acceptable by affidavit. Quality or adherence to a non-existent Standards of Practice was not a consideration and the individual was only required to establish 2,000 hours of experience. Even today, if someone applied for certification based on experience prior to January 1991 we think the Board would be "remiss" in not granting credit for that experience. Even in cases where the experience was not ad valorem tax appraising and records were not available, the experience would be credited if the individual provided documentation acceptable to the Board. Upon review of the remaining thirteen (13) appraisers, two (2) were determined to have claimed sufficient mass appraisal experience that encompassed appraisal assignments prior to January, 1992 but were not certified until after January 1, 1998. Another appraiser certified after 1998 also had pre '91 mass appraisal experience plus additional fee hours. (See Exhibit 3 "Pre '92")

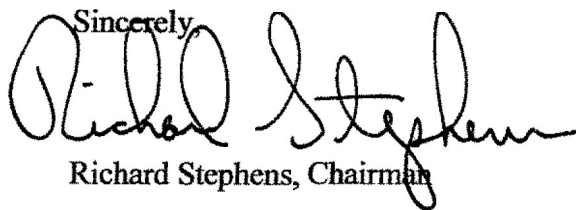
Accordingly, it is the opinion of the Board that these appraisers have documented compliance with the then existing AQB criteria, sufficient experience for the credential held. (See Exhibit 4)

Further review indicates that from 1992 to January, 1998 there were four (4) appraisers credentialed on the basis of experience solely performed during that time frame as documented by either an affidavit, mass appraisal log or a mixed log or by combination. (See Exhibit 2 as to in place criteria and Exhibit 3\*.) Major changes took place in January '98 in regards to qualifying criteria. (See Exhibit 5 as per Board's newsletter articles.)

Finally, our records indicate that from January 1998 to date, this Board has credentialed, to the best of our knowledge, only six (6) appraisers whose total mass appraisal experience was in part based on work performed after January 1, 1998. (See Exhibit 3\*\*) This was the effective date of revised criteria establishing the requirement that mass appraisal experience must be USP AP compliant.

It is unknown at this time whether some or all the appraisers credentialed after January 1998 will be able to document sufficient AQB-qualifying experience for the credential held. It is, however, our contention that it is improper to retroactively conclude that additional experience is necessary. The appraisers in question were licensed pursuant to state laws and regulations. To retroactively alter the conditions for licensure may be contrary to state law and beyond the authority of the Arkansas Appraiser Licensing and Certification Board. This is particularly true in light of the fact that the timed log regulation regarding mass appraisers has been in place since 1998 and there has been no finding of noncompliance in the two previous audits.

Sincerely,

A handwritten signature in black ink that reads "Richard Stephens". The signature is written in a cursive, flowing style. The first name "Richard" is written in a larger, more prominent script, and "Stephens" follows in a similar but slightly smaller script. The signature is positioned above the printed name.

Richard Stephens, Chairman