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# Appraisal Subcommittee

*Federal Financial Institutions Examination Council*

April 15, 2005

Mr. James L. Collins, Director  
Division of Professional Regulation  
Cannon Building, Ste 203  
861 Silver Lake Blvd.  
Dover, DE 19904

Dear Mr. Collins:

Thank you for your cooperation and assistance in the January 18-19, 2005 Appraisal Subcommittee (“ASC”) field review of Delaware’s real estate appraiser regulatory program (“Program”).

As discussed below, we identified four areas that need your attention. These areas related to: (1) processing temporary practice applications in a timely manner, (2) investigating and resolving complaints in a timely manner; (3) incorporating into State law the Appraiser Qualifications Board’s (“AQB”) 2003 certification criteria changes; and (4) upgrading the status of one licensed appraiser’s credential to certified residential without conforming to AQB criteria. These concerns need to be resolved before we can consider Delaware’s Program in full compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended (“Title XI”).

- **The Division of Professional Regulation (“Division”) does not process some temporary practice requests within the five-day period stated in ASC Policy Statement 5.**

The Division does not process all completed temporary practice applications within five days of receipt as required by Title XI and ASC Policy Statement 5. At times, the Division took as long as one month to process applications. Some of the processing delays were caused by the Division obtaining letters of good standing from temporary practice applicants. Delaware’s statute requires letters of good standing, and the Division believes it cannot use license history reports obtained from our Web site. Many of the delays, however, were not related to the receipt of letters of good standing.

Proposed Delaware legislation contains provisions that would allow the Delaware Council of Real Estate Appraisers (“Council”) and/or Division to use our Web site’s license history report feature and to remove the need to obtain letters of good standing. Therefore, the proposed legislation would remove one cause of processing delays. Should that legislation fail to pass, the Division and Council need to find a way to process completed temporary practice applications within five business days under the existing regulatory framework.

To address this concern, the Division and Council need to:

1. Determine the reasons for the delays in processing temporary practice applications;
2. Inform us of the steps they will take to ensure that all completed temporary practice applications are processed in a timely manner;
3. Process all completed temporary practice applications within five business days of receipt; and

4. Continue your efforts to adopt curative legislation, and inform us in writing about the status of the legislation as it moves through the legislature. Please provide us with a copy of the final adopted legislation.

- **Delaware does not always investigate and resolve complaints in a timely manner.**

Delaware receives ten or fewer complaints per year. At the time of our review, five complaints had been outstanding for more than one year. The Division had scheduled formal hearings for three of the five stale complaints, to occur in February and March 2005. The remaining two cases were in the consent order negotiation process. Our review disclosed that the delays appeared to occur in the Attorney General's Office, not within the Division or the Council.

The Division and Council need to work with the Attorney General's Office to eliminate the delays in processing real estate appraiser related complaints, and inform us in writing of how they plan to accomplish this goal.

- **Delaware has not adopted the January 2003 AQB criteria changes.**

*The State has not incorporated into State law the AQB Criteria changes that became effective on January 1, 2003.*

As noted above, Delaware has failed to incorporate into its statutes and/or regulations the AQB's 2003 criteria changes. We advised you of the need to make the necessary amendments in our 2002 field review letter. While on-site during the current field review, we determined that the Council and Division, in practice, conformed to these AQB criteria changes. The State's application forms, instructions, and other files reflect the 2003 criteria. Nevertheless, the State's failure to adopt them formally could expose the State's Program to adverse consequences.

We understand that the Division, on the Council's behalf, tried to incorporate the 2003 AQB changes into its enabling legislation during the State's 2003 and 2004 legislative sessions. The Division will be resubmitting this bill containing the necessary statutory amendments during this year's session. We understand that the bill now has a primary sponsor. We were given a copy of the new bill, and it includes language that will enable the Division and Council to take appropriate regulatory action to incorporate the 2003 AQB changes, as well as the upcoming 2008 criteria changes.

*Other regulatory actions not supported by State law.*

During our review, we identified additional activities that were not supported by the State's statutes or regulations. For example, the Division reinstates expired credentials consistent with procedures that were contained in bills that failed during the 2003 and 2004 sessions. We learned that the legislature's Joint Sunset Committee performed an audit of the Program in 2000 and made similar findings. We understand that the proposed bill, if adopted, will resolve these inconsistencies.

The Division and Council need to continue their efforts to have the curative legislation adopted. Please inform us in writing about the status of the legislation as it moves through the legislature, and provide us with a copy of the bill as finally adopted.

- **A licensed appraiser was upgraded to the certified residential status without conforming to the AQB's certification criteria.**

A Licensed appraiser, who was identified during our field review, was upgraded from the State Licensed to Certified Residential classification without taking and passing the Certified Residential examination. We understand that the appraiser believed that he passed the Certified Residential exam in 1993, when he became State Licensed. He believed he was given the "wrong" exam at that time, and believed this mistake should exempt him from further examination. At its April 16, 2002 meeting, the Council agreed with the appraiser and upgraded his credential to Certified Residential status without requiring him to pass the Certified Residential examination.

The Council's action failed to conform to AQB certification criteria. The appraiser became a Certified Residential appraiser without taking and passing an AQB-approved Certified Residential examination. The examination that the appraiser passed in 1993 was the appropriate examination for the Licensed Classification. The AQB approved a separate examination for the Certified Residential classification in 1995. The appraiser upgraded to the Certified Residential classification in 2002 and should have been required to take and pass the Certified Residential examination that was approved by the AQB in 1995.

The Council and Division must:

1. Require the appraiser to take the certified residential examination within 90 days from the Division's receipt of this letter; or
2. Promptly downgrade the appraiser's credential to the licensed level should he fail to take or to pass the examination.

Unless specifically noted above, please respond to our findings and recommendations within 60 days. 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: Charles Witt, Chairperson  
Delaware Council of Real Estate Appraisers